

DEPARTMENT OF SOCIOLOGY

UNIVERSITY OF GHANA, LEGON

**CRIMINALISATION OF MARITAL RAPE IN GHANA: THE
PERCEPTIONS OF MARRIED MEN AND WOMEN IN
ACCRA**

By

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(INDEX NO. 10239060)

**THIS DISSERTATION IS SUBMITTED TO THE UNIVERSITY OF GHANA,
LEGON IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE
AWARD OF THE MASTER OF ARTS DEGREE IN SOCIOLOGY**

JULY, 2015

DECLARATION

I declare that this dissertation is the result of my own research work carried out in the Department of Sociology under the Supervision of Dr. Akosua Keseboa Darkwah and Professor Chris Abotchie.

All references cited in this work have been duly acknowledged.

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ABSTRACT

Up until June 2007, spouses in Ghana had immunity from the criminal consequences of (non-consensual sexual acts) marital rape, a phenomenon which until recently was viewed as too private to be probed. In 2003, a coalition of individuals and Human Rights Advocates in Ghana fronted the repeal of Section (42)g which exempted spouses from marital rape prosecution. Consequently marital rape is prosecutable under: The 732 Act of the Parliament of the Republic of Ghana entitled- Domestic Violence Act, 2007- Section 1 b(ii) *sexual abuse, namely the forceful engagement of another person in a sexual contact which includes sexual conduct that abuses, humiliates or degrades the other person or otherwise violates another person's sexual integrity or a sexual contact by a person aware of being infected with human immunodeficiency virus (HIV) or any other sexually transmitted disease with another person without that other person being given prior information of the infection.* As such there is no explicit law on marital rape in Ghana's statute books. Grounded on the theory of *classic rape* and marital rape researches; this study analyses whether spouses conceptualise non-consensual sexual acts in marriage as rape and a crime and their attitudes towards its criminalisation. This study employed both quantitative and qualitative approaches to explore respondents' perceptions of marital rape. Affirmatively, 3% of males and 18% of females perceive non-consensual sexual acts in marriage as rape and this may be attributable to the private institution of marriage, payment of bride price, patriarchy, the privatization of marital sexual abuse, weak economic stance of women, religious and especially the Ghanaian socialisation which is a far departure from equating non-consensual sexual acts in marriage to rape. Consequently, a perception of marital rape as factual does not necessarily translate into the acceptability of the criminalisation of the phenomenon.

DEDICATION

This dissertation is dedicated to my beloved parents: the Rev. Christian Amamu and Deaconess Peace Awo Kofi-Awadzi. Space and time will not permit me to recount your priceless inputs. Thank you my Daddy and my Mummy, I LOVE YOU.



ACKNOWLEDGEMENT

I am grateful to Jehovah Jireh my maker and great provider for how far He has brought me. Indeed, your name is Alpha and Omega. In unison with the song writer I say; “To God be the glory great things He has done...”

I am grateful to my beloved husband, Rev. Anthony Kofi Adodo Samani for his relentless support devoid of insecurity and spurring me on with his prayers. Much gratitude to my brother in-law; Mr Emmanuel Foli Attiogbe for sending me very good and expensive books on sex crimes from America, God richly bless you.

To my beloved siblings: Michael, Christian, Jake, Magdalene and Solomon Kofi-Awadzi. Thank you for your priceless inputs into my life. I appreciate your relentless efforts.

To my friends: Rev. Alexander Attiogbe of the School of Nursing, University of Ghana, Legon, Lady Pastor Mrs. Rita Naa Momo Sika-Nartey of the Renal Unit, Korle-Bu Teaching Hospital and Mrs. Bertha Baffoe-Bonnie Mensah of USAID Ghana, for your continuous encouragements in my very low moments and for being friends in deed. My thanks goes to Lady Pastor Mrs. Grace Fleischer for touching my life with grace, the good Lord abound all graces towards your posterity. Love you always

My untold gratitude to my supervisors: Professor Chris Abotchie and Dr. Akosua Keseboa Darkwah for their great intellectual input, relentless concern for me in the face of many difficulties. To Prof. Abotchie thanks for your fatherliness and to Dr. Darkwah for the quickest response to my entreaty. To both, for the great interest in my work, critique, interventions and guidance till this work got a sound footing and is done.

To my teachers: Prof. Chris Abotchie; Dr. Kofi Ohene-Konadu; Dr. Dan-Bright Dzorgbo; Dr. Akosua Keseboa Darkwah; Rev. Fr. Dr. M. P. K. Okyerefo; Dr. Stephen Afranie; Dr. Peace Mamle Tetteh; and Dr. Ezekiel Nii Noi Nortey, I owe you great debt of gratitude and respect your great teachings and impartations. God richly bless you. Prof. Nii Noi Dowuona of the Soil Science Department, University of Ghana deserves special mention for his great encouragements and useful comments on earlier drafts of this study.

I am indebted to The Ark Foundation; the executive director and all staff members for your profound interest in my work and encouragement in whatever way possible and also involving me in other profitable interactions.

To my key informants: Domestic Violence and Victim Support Unit (DoVVSU) of the Ghana Police Service (GPS), Accra. Thank you for your contributions to this study through in-depth interviews.

I wish to also thank Survivors of Domestic Violence and Non-Survivors and Forbearers for making time and availing yourselves to respond to my in-depth interviews. Thank you my sisters for opening up and pouring out your hearts to me, you gathered courage to speak to me about your painful experiences; I shall continue to pray for you. To my focus

group discussants and respondents to my questionnaire, your participation has helped me fulfill a partial requirement for a master's degree.

Thanks to SP Lawrencia Akorli; National Head, DoVVSU, Ghana Police Service for giving me the opportunity to interact with you and giving me information very relevant to this study and on issues bordering on domestic violence during the “National Policy Forum on Institutional Strengthening: Focus on Domestic Violence and Victims’ Support Unit (DoVVSU) of The Ghana Police Service (GPS)” organized by The Ark Foundation. Thank you to all the faceless persons who in one way or the other; directly and indirectly helped with this study. May God who knows you richly bless you.

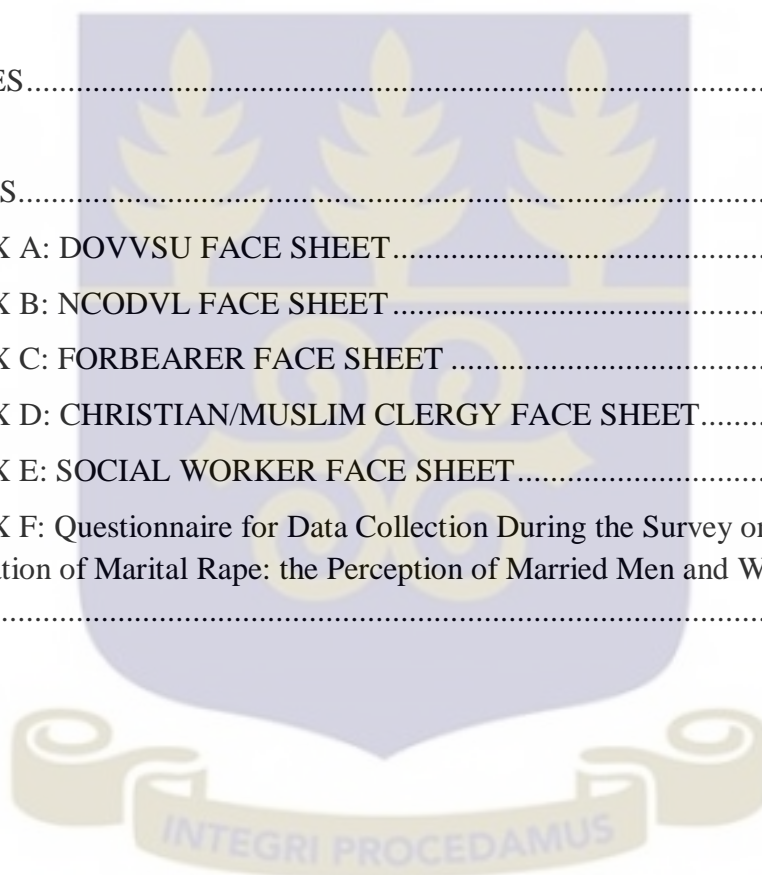


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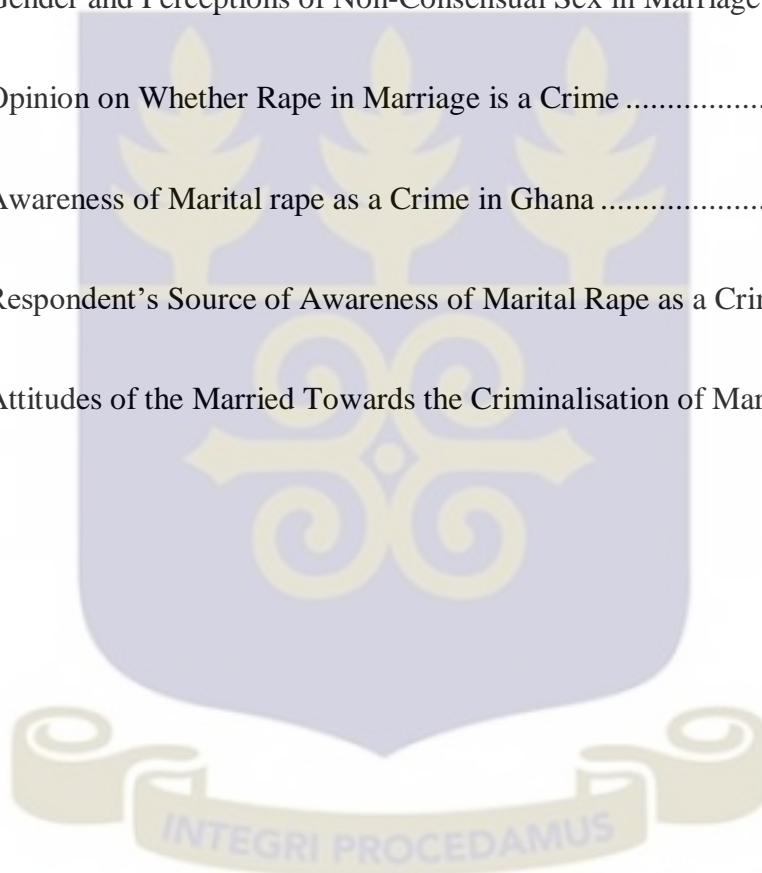
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LIST OF ABBREVIATIONS

BPFA	Beijing Platform for Action
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CHRAJ	Commission on Human Rights and Administrative Justice
DEVAW	Declaration on the Elimination of Violence Against Women
DOVVSU	Domestic Violence and Victims Support Unit
DVA	Domestic Violence Act
DV	Domestic Violence
GPS	Ghana Police Service
HIV/AIDS Syndrome	Human Immunodeficiency Virus / Acquired Immune Deficiency
MOWAC	Ministry of Women and Children Affairs
MSA	Marital Sexual Abuse
NCODVL	National Coalition on the Domestic Violence Legislation
NGO	Non-Governmental Organisation
STIs	Sexually Transmitted Infections
UN	United Nations
VAW	Violence Against Women
WHO	World Health Organisation

CHAPTER ONE

GENERAL INTRODUCTION

1.0 Introduction

As early as the 90s, Ama Ata Aidoo, in her fictional novel *Changes: A Love Story*, gives a vivid description of a marital rape scenario as presented below drawing attention to the existence of non-consensual sexual acts in marriages:

Oko flung the bedcloth away from him, sat up, pulled her down, and moved on her. Esi started to protest. But he went on doing what he had determined to do all morning. He squeezed her breast repeatedly, thrust his tongue into her mouth, forced her unwilling legs apart, entered her, plunging in and out of her, thrashing to the left, to the right, pounding and just pounding away. Then it was all over. Breathing like a marathon runner at the end of a particularly gruelling race, he got off her, and fell heavily back on his side of the bed. He tried to draw the bed cloth to cover both of them... (1991, p. 13).

The scenario described by Ama Ata Aidoo above is typically between a married couple.

Marriage is a union between a man and a woman by which they obtain recognition as husband and wife. As a universal social institution, it is also an integral part of Ghana's social structure and the most cherished basic unit. The marital union imposes duties, responsibilities and also provides each spouse with specific rights. Sexual intercourse remains an essential subtext and is nonetheless accepted as the primary conjugal obligation of couples in the certified marriage institution. (Abotchie, 2008c; Nukunya, 2003).

Ghanaian marriages are structurally patriarchal in nature: men as superordinates and women as subordinates in every aspect of the union with sex not being an exception (Adomako Ampofo, 2008; Manuh, 2007b, Sossou, 2007). Commoditisation of women is central to the customary endorsement and certification of a marriage contract. Therefore price tagged brides sold out to prospective husbands in the form of *bride price*, a socio-cultural value has culminated into the supposed ownership of wives (Archampong &

Baidoo, 2011; Dwumah & Abubakar, 2013; Fuseini & Dodoo, 2012; Ofei-Aboagye, 1994). Implicitly, wives thereby become their husbands' acquired sexual property among others upon marriage.

Traditionally, as pertaining to Ghana, bride price payment serves as a buffer in addition to the certificate/marital license (Archampong & Baidoo, 2011; Awedoba, 2005, Fuseini, 2013). According to Finkelhor & Yllo (1995), the marriage licence presumes and endorses marital rape. Additionally, a husband's sexual abuse of his wife is covertly supported by social norms; gender role socialization which can translate into participating in non-consensual sexual acts (Bennice & Resick, 2003; Manuh, 2007b; Sossou, 2007). When "...women are ...sexually abused within conjugal relations, it is not regarded as unusual" (Adomako Ampofo, 2008, p. 404) *determined rape*. In effect, marital sexual abuse (MSA) in Ghana has been 'winked' at i.e. condoned: socio-culturally; religiously and legally as a husband's prerogative even when marital sexual acts are non-consensual.

Globally, movements in the late 1960s and on have been challenging Violence Against Women (VAW) and questioned the exemption of spouses from marital rape prosecution (Palmer, 1988; Bergen, 1996). This led the United Nations (UN) to establish the "Declaration on the Elimination of Violence Against Women" (DEVAW, 1993) which among others, explicitly sanctioned marital rape (non-consensual sexual acts) as a human right violation. "Violence against women shall be understood to encompass, but not be limited to, the following: Physical, sexual and psychological violence occurring in the

family, including... *marital rape*... ”¹

Similarly, human rights advocates in Ghana were not apathetic when the need arose to have non-consensual sexual acts in marriage explicitly criminalised as required by UN member nations that have ratified DEVAW (1993) with the ultimatum that: “*States should...exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons*”²

Central to the process of pushing for the passage of a draft domestic violence bill (DVB) into law, coalesced groups and individual advocates in Ghana seized the opportunity to demand for the repeal of Section 42(g) of Ghana’s criminal code, 1960 (Act 29). The section seemingly sanctioned marital rape (Adomako Ampofo, 2008; Archampong & (2010); Attafuaah, 2005³; Manuh, 2007b; Sampson, 2010). Advocates required that it be replaced with a proposed Section 1(b) (ii) (Fallon & Aunio, 2010; Sampson, 2010) which will explicitly sanction marital rape. As fate may have it, the historical serial killings of women powered the demands (Fallon, 2008) as explicated below.

Between 1998 and 2001, Ghana experienced serial killings of women (Adinkrah, 2011; Cawthorne, 2007; Manuh, 2007a) including “anecdotal evidences”⁴ of Sexual Violence Against Women (SVAW). Invariably, it boosted advocates’ call for the repeal of the

¹ On December 20, 1993, the UN General Assembly adopted (DEVAW). This landmark document is to address VAW. Retrieved October 10, 2013 from <http://www.un.org/documents/ga/res/48/a48r104.htm>

² *ibid* 1 (Article 4).

³ Nana Oye Lithur (2005, November 1). Challenges of Proving Rape in Ghana. “Dr. Ken Attafuaah’s presentation at the Institute of Economic Affairs on October 27, 2005... Dr. Attafuaah addressed the issue on whether a husband could rape his wife in Ghana and answered ‘no’ to this question. He said that was by virtue of Section 42(g) of the Criminal Code of Ghana, Act 29”. *Daily Graphic*, p. 11.

⁴ Personal communication with a representative of the National Coalition of Domestic Violence Legislation (NCODVL) May, 5 2014.

section 42(g) of Ghana's criminal code believing that there is enough evidence (Amoakohene, 2004; Coker-Appiah & Cusack 1999; Ofei-Aboagye, 1994) justifying the call to explicitly criminalise marital rape in Ghana.

The bone of contention, Section 42(g)⁵ states that: “...*consent given by a husband or wife at marriage for the purposes of marriage, cannot be revoked until the parties are divorced or separated by a judgment or decree of a competent court*” (emphasis added). This section basically impeded the recognition of non-consensual sexual acts in marriage as rape and a crime (Adomako Ampofo, 2008; Ataffuah, as cited in Lithur, 2005; Cantalupo, Martin, Pak, & Shin, 2006) and consequently hindered spouses from preferring charges against each other for prosecution (Adinkrah, 2011; Manuh, 2007a). This gave rise to advocacy and persistent calls for its repeal and replacement with a proposed Section 1(b) (ii) (Fallon & Aunio, 2010; Sampson, 2010).

The proposed new section was carefully calculated to explicitly criminalise marital rape (Adomako Ampofo, 2008) despite Ghana's socio-cultural leanings. Undoubtedly, it became embroiled in an unprecedented controversy and a problematic contention (Archampong & Sampson 2010; Manuh, 2007b; Stafford, 2008). The recommended replacement of Section 42(g) was worded thus:

Sexual abuse, namely the forceful engagement of another person in any sexual contact *whether married or not* which includes sexual conduct that abuses, humiliates or degrades the other person or otherwise violates another person's sexual integrity *whether married or not* or any sexual contact by a person aware of being infected with HIV or any other STD with another person without the other person being given prior information of the infection (Fallon & Aunio, 2008, p. 23, emphasis added).

⁵ Acts of Ghana First Republic Criminal Code, 1960 (Act 29). Retrieved January 18, 2014 from <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88530/101255/F575989920/GHA88530.pdf>

The above proposed Section 1(b) (ii) was rejected by the executive arm of government (Fallon, 2008; Sampson, 2010). The rejection resulted in its non-inclusion in Ghana's criminal code which therefore meant that marital rape is not explicitly criminalised in Ghana (Hodzic, 2009). Eventually, on the 21st of February 2007, the DVB was passed into law without the precise repeal of Section 42(g) (Adinkrah, 2011; Sampson, 2010; Tsikata, 2009) but instead amended thus: *"A person may revoke a consent which that party has given to the use of force against that person, and the consent when so revoked shall not have effect or justify force"*⁶.

The above amendment dissatisfied advocates because it did not explicitly criminalise marital rape as demanded. Categorically, (Stafford, 2008, p. 1) states that "the DV Act, as passed, fails to proscribe... marital rape". Also, according to Archampong and Sampson (2010, p. 517) "...Ghanaian law does not criminalise marital rape in an effective or comprehensive way".

Notwithstanding, in June of 2007, the bone of contention, Section 42(g) which supposedly endorsed marital rape was expunged from Ghana's criminal code (Adomako Ampofo, 2008; Manuh, 2007c; Sampson, 2010; Tsikata, 2009). At the blind side of parliament, Justice VCRAC Crabbe as part of the Statute Revisions Act (Adomako Ampofo, 2008, Archampong & Sampson, 2010, Fallon & Aunio, 2010) did the yeoman's job by the repeal.

Also, inferring from below is the authentication of the fact that despite the repeal of Section 42(g), non-consensual marital sexual acts which translates into marital rape has not been explicitly criminalised (Sampson, 2010). "Ghanaian law does not provide for marital rape

⁶ Acts of Ghana First Republic Criminal Code, 1960 (ACT 29). Retrieved January 18, 2014, from <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88530/101255/F575989920/GHA88530.pdf>

specifically” (Archampong & Baidoo, 2011, p. 11). It is implicit in relation to the “Criminal Offences Act (revised in 2007)”. Marital rape is therefore not classified as a crime in Ghana as reiterated below:

Although the Domestic Violence Act does not explicitly mention marital rape, the act is linked to the Criminal Offences Act (revised in 2007) under which marital rape is an offence in Ghana... Marital rape is criminalised in pursuant to the repeal of section 42(g) by the Statute Revisions Act. Under section 32 of the Domestic Violence Act, where an act committed within the domestic setting is an offence...⁷

Below is the Criminal offences Act revised in 2007⁸, under Section 32 of the DVA.

(ii) sexual abuse, namely the forceful engagement of another person in a sexual contact which includes sexual conduct that abuses, humiliates or degrades the other person or otherwise violates another person's sexual integrity or a sexual contact by a person aware of being infected with human immunodeficiency virus (HIV) or any other sexually transmitted disease with another person without that other person being given prior information of the infection.

Conspicuously in the above Act is a deafening silence on the marital status of a victim and perpetrator in the event of criminal sexual conduct. Despite, the neutral stance inherently makes way for the courts to equally prosecute both *marital* and *non-marital* sexual abuses without fear or favour. Implicitly, marital status or relationship ceases to be a cover up for marital sexual abuses from henceforth.

In opposition, Lithur is dismayed at the fact that although rape is supposed to be rape with the repeal of Section 42(g), under the domestic violence act (DVA), the sentencing of a husband for raping his wife is discriminatory.⁹

“...Ms Oye Lithur also criticised the disparity between the punishment for rape and marital rape, arguing that “we need to have a sentencing regime that is consistent”.

⁷ This statement was made by Nana Oye Lithur, minister for Gender, Children and Social Protection. Nana Oye Lithur stated it as Ghana addressed the 59th session of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW). Retrieved August 27, 2014, from <http://www.ghanaweb.com/>

⁸ Domestic violence means engaging in the following within the context of a previous or existing domestic relationship: (a) an act under the Criminal Code 1960 (Act 29) which constitutes a threat or harm to a person under that Act; (b) specific acts, threats to commit, or acts likely to result in (ii), above.

⁹ Retrieved May 25, 2014 from <https://www.modernghana.com/news/124703/you-can-now-rape-your-wife.html>

Under Ghana's Criminal Code rape carries a minimum sentence of 7 years and a maximum of 25, whilst under the new provisions of the Domestic Violence Bill husbands convicted of marital rape could only receive a maximum jail sentence of 2 years, which is tantamount to “discrimination with regards to married women.”

Significantly, the possibility of marital rape prosecution (Archampong 2010) as in the above did not gone down well with some Ghanaians even when marital sexual acts are non-consensual. The law stipulates that non-consummation in marriage is a just cause for divorce¹⁰ (Adomako Ampofo, 2008; Manuh, 2007b). Therefore willful non-consummation renders marriage voidable.

Noteworthy is the fact that in furtherance of the repeal of Section 42(g), Ghana has only partially obliged to the UN's mandate to explicitly criminalise marital rape, applicable to United Nations (UN) member countries that have ratified DEVAW to which Ghana is a signatory (Adomako Ampofo, 2008).¹¹ America, Britain, Canada and some African nations such as Namibia, South Africa, and Zimbabwe have explicitly criminalised marital rape.

The inspiration to carry out this study can be traced to a seminar paper I presented at my graduate class; (Sociology of Deviant Behaviour) on *Rape and Defilement* in Ghana which led me to discover that there was such a phenomenon as marital rape. Discoveries made during the review of literature for my graduate term paper prompted me to listen to the views of married persons on the dynamics of sexuality in Ghanaian marriages.

¹⁰ Matrimonial Causes Act 1971 (ACT 367) Section 1- Petition for Divorce “(1) a petition for divorce may be presented to the court by either party to a marriage. Section 13-Nullity (a) that the marriage has not been consummated owing to the willful refusal of the respondent to consummate it”. Retrieved February 15, 2014 from www.africanchildforum.org/clar/Legislation/ghana/ghana_matrimony_1971en.pdf

¹¹ In 1993, the United Nations General Assembly adopted (DEVAW). This landmark document was... to address violence against women it explicitly includes *marital rape* (Article 2-a) amongst other sex related crimes. Retrieved October 10, 2013 from <http://portal.unesco.org/education/en/files/37319/11024176493Declaration-Elimination-Violence-Women.pdf/Declaration-Elimination-Violence-Women.pdf>.

Furthermore, to establish the gender differences between perceptions of non-consensual sexual acts in marriage as being rape; investigate the extent to which the married consider non-consensual sexual acts in marriage as being a crime; ascertain the awareness level of marital rape being a crime in Ghana; and then examine married persons' attitudes towards marital rape criminalisation as prescribed by UN's DEVAW (1993) since it is imperative for ratifying member nations. Additionally, Bergen & Barnhill (2006); Bowman (2003); and Yllo (1996) have called on sociologists to study marital rape as a single phenomenon.

1.1 Statement of the Problem

Cultural values, beliefs and socialization restrain Ghanaians from labelling non-consensual sex in marriage as rape. This is corroborated in a national study by Gadzekpo (1999a) rendering it critical for research (Boakye 2009; Dwamena-Aboagye, 2004; Ofei-Aboagye, 1994). According to Mahoney and Williams (1998, p. 1) "...an area worthy of separate study is sexual violence in marriage".

Very little work focuses on issues of marital rape in Ghana and it is rarely and succinctly discussed (Amoakohene, 2004; Ardayfio-Schandorf, 2005; Dwumah & Abubakar, 2013). According to Adinkrah (2011) much of the discussion in the literature today is highly westernized and this has left issues relevant to marital rape unexplored and underexplored (Biney, 2010) leaving many questions unanswered. It is in this context that I seek to explore the extent to which citizens' perceptions on marital rape matches the state's understanding of it.

Spousal socialization obliges the wife to be virtually sexually available: "...I surrender you to your husband... Do not flirt with other men, for that leads to death...I don't want to

receive any negative report about you... [a mother's admonition to a daughter after a marriage ceremony]" (Spieth (2011, p. 242). This obligation, Yllo (1996, p. 4) has called "social coercion". Therefore, marital sex is without regard to: menarche; threatened pregnancy; post-natal constraints; interruption of gynaecological or general surgery which can lead to haemorrhage; sickness; recuperation from sickness; child spacing and safer sex negotiations. "Indeed, one of the pieces of advice often given to a new bride is that she should not refuse her husband's sexual advances" (Adomako Ampofo, 1993, p. 108).

Researchers believe that society has successfully passed on to their women and children mind-sets that have translated into entrenched values such as tolerance for abuses (Ardayfio-Schandorf, 2005). Gadzekpo (1999a, p.73) admits that "*if husband ask for sex women have no say...*". Marital rape may occur without the use of safer sex devices and may therefore precipitate sexually transmitted infections (STI's) without justifiable options to negotiate safer pleasurable sex. The only proscribed obstacle culturally may be menstruation which may even be brushed off because of urbanization (Abotchie, 2008c; Awedoba, 2007) and social change.

Evidence in Ghana suggests that over the years, marital rape in Ghana has been successfully shelved (Akurang-Parry, 2004; Archampong & Baidoo, 2011; Biney, 2010; Odoi, 2013). Rendering it, Aniwa (1999, p. 71) says "When asked very specifically if their partners force them to have sex sometimes, over one in four (28%) women affirm that they are forced". These [forbearers] never reported sexual abuse to any law enforcement agency.

1.2 Objectives

The broad objective:

To understand the perception of non-consensual sexual acts in marriage as rape and a crime and the need for its criminalisation.

Specific Objectives:

1. Establish the gender differences between perceptions of non-consensual sexual acts in marriage as rape;
2. Investigate the extent to which the married consider non-consensual sexual acts in marriage as a crime;
3. Ascertain the awareness level of marital rape being a crime in Ghana;
4. Examine the attitude of the married towards the criminalisation of marital rape;
5. Indicate policy implications of the study.

1.3 Hypothesis

- There is a significant relationship between gender perceptions of non-consensual sexual acts in marriage being rape.

1.4 Theoretical Framework

Until four decades ago, rape theories and researches across board ignored rape in marriage (Brownmiller, 1975; Russell, 1982) because sexuality in marriage has been shrouded in great secrecy though its abuse abounds (Cheal, 2008; Finkelhor & Yllo, 1985). In addressing the concept of marital rape, I did adopt the *classic* rape theory propounded by Williams (1984) as the framework for this study. It examined and attempted to explain why spouses will not label any form of sexual abuse in marriage as rape or accede to its criminalisation.

Classic rape is rape by an assailant unknown to the victim (Williams, 1984, p. 459). It is

synonymous with: “aggravated rape” (Estrich, 1987, p. 4); “real rape” (Burt & Alvin, 1981, p. 213); “blitz rape” (Lees, 2000, p. 9). According to Burt & Alvin (1981), classic rape is stereotyped (an over-generalized impression of what characterises something especially one that does not allow for individuality or variation) by the general public, police and judges.

Classic rape’s circumstances and characteristics are that, the victim must be a total stranger to the perpetrator (not ever acquainted); the victim should not: have led the rapist on in any way (sexy, sexual situation, way of dressing); have been drunk in his presence or company. The victim should have: gotten pregnant after the rape; been infected with sexually transmitted venereal diseases; been abducted and raped. There must be evidence of: physical injuries that have been sustained; weapon use; enough active resistance; degree of force used- choked, tied, locked up, gagged, drugged, blindfolded. Some of the indications must lead to hospitalization- beaten, extrinsic violence; sudden attack; multiple assailants- gang rape. These serve as a stereotype of rape generally and known to attract great active sympathy (Basile, 1999; Burt & Alvin, 1981).

Ultimately, if rape does not have features of classic rape, it is not rape. Yet, “contrary to prevailing stereotypes, most victims of rape are not raped by total strangers” (Cheal, 2008, p. 78). The inability to accept rape as rape when it is not ‘classic’ may largely be attributable to the conception of what fits to be rape because legal definitions across board have been ignored.

Classic rape’s characteristics are usually mind boggling and widely attract sympathy from the society to the judiciary for immediate sanctions. The assumption is that victims also

share these notions because they also belong to the general public (Williams, 1984), thus the conventional wisdom pertaining to marital rape.

Additionally, stereotyped classic rape does not feature most of the characteristics of marital rape. For example, a husband is privy to his wife's nakedness unconditionally which will certainly lead him on to force sex on his non-consenting wife. For these reasons, marital rape is less likely to attract any sympathy and action at all because it is a far departure from the socio-cultural schema of classic rape. The thin line between rape and consented sex is consent which only couples can define in relation to their relationship.

Ghana is not at all immune to the classic rape stereotype. Cusack (1999c) confirmed the classic rape theory featuring intimates in a nationwide survey: "...regard to rape, the female was perceived to be ... unmarried... rape was most often viewed as an offence committed by strangers" (p. 28-29). In discussing issues centered on sexual violence, rape to the respondents was acquaintance rape. The husband is nowhere labelled a rapist (Dwamena-Aboagye, 2004). It will even be a taboo leading to estrangement and divorce.

1.5 Definition of Key Concepts

Marital Rape: a situation in which a spouse has had certain sexual acts: unwanted penile-vaginal penetration, anal, or oral sex with threats, force, and sadism with a spouse who cannot consent or against his or her will.

Coercion: (an action/inaction) persuading an unwilling person to do something. "Obtaining sex by coercion (psychological, emotional, financial threats)" (Painter, 1991, p. 4).

Consent: explicit or implicitly given permission for the engagement in any sexual activity.

Forbearer: an individual who has suffered sexual abuse in an intimate relationship but has abstained from both talking about it and not also willing to exercising a legal right.

Survivor: an individual, who has experienced domestic violence/marital rape (traumatisation), endured and has come out to willingly talk about it and also sought legal redress (Bergen, 1996).

1.6 Significance of the Study

Globally, there is paucity of data on sex crime doubly because, it is underreported and an under researched form of gender based violence. Sub-Saharan Africa and Ghana is no exception to this predicament (Adinkrah, 2011; Boakye, 2009; Biney, 2010).

Led by Mary Koss, researchers discovered that there are numerous hidden victims who do not report their victimization either to the police or to health officials, making them invisible in official statistics”, sometimes they [researchers] receive “hate mail and threats” (Schwartz, 1997, p. X).

This study seeks to explore the divergent views of married persons on marital rape and the consequent criminalisation of non-consensual sex by spouses in marriage. The outcome of the study will help to establish whether advocates’ call for the explicit criminalisation and the prosecution of marital rape are in consonance with spouses’ views.

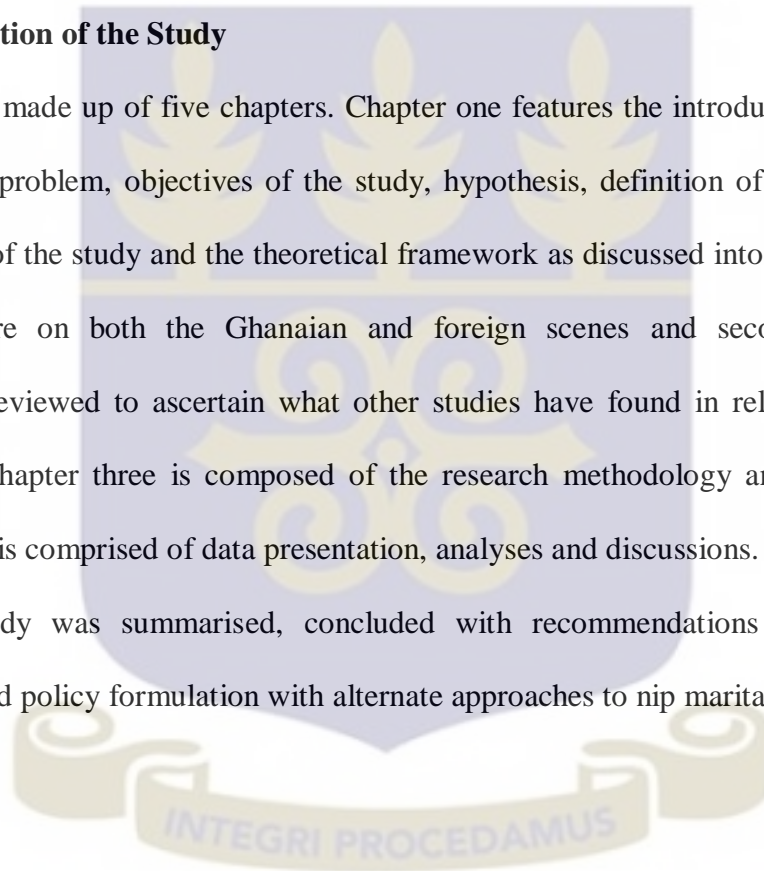
Additionally, this study seeks to add to the scanty literature on marital rape research in Ghana by providing data to facilitate proactive and evidence-based remedial approaches. This will in turn serve as reason to strengthen advocacy that will reawaken policy makers to well understand the phenomenon to guide in the design of time tested interventions.

Due to the sensitivity of the issue of marital rape, it is imperative to explore its unique characteristics, the differing attitudes, beliefs and opinions from no other less than the

married themselves on the implication, impacts and consequences of marital rape criminalisation. This has necessitated calls for research especially into sexual assault in marriage for the acquisition of empirical data to serve as grounds for policy direction and the enforcement of laws already in place for the sanctioning of perpetrators accordingly. The findings would be useful for research and policy recommendations on the literature on domestic violence in general and sexual violence among intimate partners.

1.7 Organisation of the Study

This study is made up of five chapters. Chapter one features the introduction of the study, statement of problem, objectives of the study, hypothesis, definition of key concepts, the significance of the study and the theoretical framework as discussed into details. In chapter two, literature on both the Ghanaian and foreign scenes and secondary data were extensively reviewed to ascertain what other studies have found in relation to the study objectives. Chapter three is composed of the research methodology and the tools used. Chapter four is comprised of data presentation, analyses and discussions. Finally, in chapter five, the study was summarised, concluded with recommendations made for future researches and policy formulation with alternate approaches to nip marital rape in the bud.



CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

Research has established that marital rape is embedded in VAW. This is a gender related phenomenon that is as old as the institution of marriage found across all cultures (Pracher, 2010) and disconcerting in contemporary times. Furthermore, research has indicated that marital rape is the commonest form of sexual abuse against women (Aniwa, 1999; Bergen, 1996; Brownmiller, 1975; Cusack, 1999c; Finkelhor & Yllo, 1985; Groth, 1979; Russell, 1990). Nevertheless, what constitutes VAW has seen dramatic change over the years (Merry, 2001). “Each time a rape law is created or applied, or a rape case is tried, communities rethink what rape is” (MacKinon, 2006, as cited in Sampson, 2010, p. 4).

Additionally, civic discourses and academic researches into rape generally and its prevalence in marriage has brought it into the limelight “...revealing the inner lives of families” (Cheal, 2008, p. 78). As such, the phenomenon of marital rape has only recently begun to be recognized as a crime worthy of punishment (Levinson, 2002). However, “...the first question one asks in surveying African women’s studies is why there are so few studies of sexuality” (Mama, 1995, p. 39). The dearth of literature pertaining to sexual assault in marriage in Ghana (Adinkrah, 2011; Dwumah & Abubakar, 2013) has rendered this study to be heavily dependent on materials from the foreign scene. Consequently, the bulk of the literature reviewed below is from scholarly publications from the Western world.

2.1 Definition of Marital Rape

Ghana’s Criminal Code, 1960 (Act 29), section 98 p. 57 defines rape as: *the carnal*

knowledge [sexual intercourse] of a female of sixteen years or above without her consent (emphasis added); an exemption for spouses. According to Burt & Albin, “all coerced sex is rape, whether the coercion used be physical, psychological, or economic” (1981, p. 213). Marital rape therefore is non-consensual sexual acts between couples.

2.1.1 Types of Marital Rape

There are three main types of marital rape: Force-only; Violent and Sadistic (Dwamena-Aboagye, 2004). These may be carried out on a spouse who is sound or incapable of valid consent: unconscious, disabled, mentally retarded, intoxicated, drugged (Levine & Roberts, 2005, p. 176).

Women who are raped by their partners frequently experience a wide range of violence. Far from the popular depiction of “a marital tiff between husband and wife,” marital rape often involves severe physical violence, threats of violence, and the use of weapons by men against their partners (Bergen & Barnhill, 2006, p. 3).

Force-only/Non-physical Coercion- Use of physical strength, threats, begging, bothering, manipulation and pressuring (Basile, 1999, Bergen & Barnhill, 2006; Miller, 2008) to stabilize a spouse in a sexual position in order to have easy access to sexual intercourse.

Violence- Employment of physical violence for example: beatings; kicking; punching which may be anger inspired to inflict pain and injury before, during or after sex.

Sadistic/Obsessive- In addition to violence, before, during and after sexual intercourse, additional deeds like urinating on a spouse and penetration with objects. The victim may suffer sexual degradation and humiliation from the perpetrator without recourse to onlookers (Finkelhor & Yllo, 1985) ...often influenced by or involving pornography (Flowers, 2006, p. 46). Pleasure is derived by the perpetrator from the sufferings of the victim, be it psychological or physical and the victim’s resistance excites and urges the perpetrator on. McKibbin et al. (2008, p. 89) have called him the “specialized rapist”.

2.2 History of Marital Rape

Rape is as antiquated as humankind; an untold part of human history and notoriously known to take place within any relationship, be it: acquaintance; bisexual; cohabiting; dating; familial; heterosexual; homosexual/lesbian and the marital¹². Notwithstanding, rape was not recognised as a crime against the victim but the father or guardian of the unmarried (HLR, 1986) i.e. the desecration of another's property- damaged goods. In the event that an unmarried girl is raped; her father or guardian is paid compensation for having lost her daughter's virginity which had mouth-watering monetary value.

Women were commoditised and sold for financial gains to prospective husbands "bride purchase" (Levinson, 2002, p. 1346). After purchase, she becomes an acquired property. For example in antiquity Germany, brides were auctioned and sold to the highest bidder and not a lover (Levinson, 2002). Also, a man who wanted a particular woman to marry will just have to abduct and rape her because the culture of the time obliged both the victim and perpetrator to marry each other as non-virgins hardly got suitors. Therefore; 'abduct, rape and marry' was a conventional way of wife acquisition (Pracher, 2010).

Upon marriage, a wife becomes an acquired property and her husband can do with her sexually as he so craved. If a wife is raped by another man, her husband is duly compensated or she pays the ultimate price with her life (Warnock, 2009). Upon marriage, ongoing sexual consent is presumed as inherent. Most importantly, non-consensual sexual acts are private which does not warrant state intervention and as per the Hale; the dominant renowned legal proclamation concerning marital rape and Blackstone doctrines¹³, a rapist

¹² Retrieved January 6, 2014 from

http://www.janedoe.org/site/assets/docs/Curriculum_SSSA_2012/03_Marital_Intimate_Partner.pdf

¹³ Commentaries on the Laws of England (1765-1769). Sir William Blackstone Commentaries, Of Husband and wife. Retrieved December 13, 2013, from <http://www.lonang.com/exlibris/blackstone/bla-115.htm>

husband is immune from prosecution.

Husbands had from time immemorial been shielded or exempted from prosecution for having non-consensual sexual acts with their wives. The exemption is the situation wherein a husband cannot be prosecuted for having non-consensual sex acts with his wife. The legal origin is credited to Sir Matthew Hale¹⁴ says: “*But the husband cannot be guilty of a rape committed by himself upon his lawful wife for by their mutual matrimonial consent and contract, the wife hath given up herself in this kind unto her husband which she cannot retract*” (Vol. 1, p. 69, emphasis added). This doctrine became a justification in modern jurisprudence that indemnified a husband, stamped by William Blackstone’s ‘Unities doctrine’. Finkelhor & Yllo, (1985) assert that, the English speaking world did fully imbibe the exemption.

Blackstone’s ‘Unities’ doctrine is derived from the feudal doctrine of coverture. It states that upon marriage, the legal existence of a woman is incorporated into her husband through conjugal consent.

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated [into that of her husband: under whose protection and cover, she performs everything... and her condition during her marriage is called her coverture. [Sir William Blackstone, commentaries on the laws of England (1765) at 430]] (Burgess-Jackson, 1998, p. 3).

The import of this doctrine is that, marriage births one new legal body comprised of both husband and wife but normally this new entity is overshadowed and subsumed by a

¹⁴ Sir Matthew Hale was a British Chief Justice of the 17th century who ruled in a classic marital rape case brought before him: Regina v Clarence [1886-1890] in which he gave the above ruling which became a legalized principle that indemnified husbands. He focused on the contractual terms of the marriage agreement by advocating that the marriage contract presumed irrevocable consent to sexual relations in marriage. The quotation is taken from “The History of the Pleas of the Crown”, first published posthumously in 1736. Retrieved December 13, 2013 from www.uky.edu/CRVAW

husband's identity with the basic understanding that legitimises a wife thereafter as the husband's property devoid of any civil identification (Burgess-Jackson, 1998; Zaher, 2002). Thereafter the husband has total control of their joint being. This grants the husband the exclusive privilege of ongoing sexual consent as long as the marriage is in existence (Cardyn, 2004). Burgess-Jackson (1998) summarised it as: "it is strictly speaking impossible—a legal oxymoron, if you will—for a man to rape his wife. One cannot steal from oneself; one cannot assault and batter oneself; by the same token, one cannot rape oneself" (p. 3). So arises the question; can a husband steal his personal property or rape his own body? Non-consensual sex then means a husband taking what legally is his 'though forcefully' and not rape.

Up until the 1960's, non-consensual sex in marriage *was not* traditionally, socially, religiously and legally equated to rape the world over, this therefore indemnified husbands (Ardayfio-Schandorf, 2005; Basile, 1999; Bergen & Barnhill, 2006; Groth & Birnbaum, 1979; Palmer, 1988). But from the 1960's on, the feminist movement resorted to radical political actions on the international scene to unveil the unbearable pain women suffer because of skewed gender stratification (Bergen, 1996; Cheal, 2008; Palmer, 1988). Additionally, public debate and academic research into rape generally and its prevalence in marriage has uncovered it.

As such, the phenomenon of marital rape has only recently begun to be recognized as a crime worthy of punishment (Levinson, 2002). One main demand during the feminist uprising was drastic changes to rape laws and the elimination of spousal rape exemptions (Ardayfio-Schandorf, 2005; Ferro, Cermele & Saltzman, 2008; Purdy, 2004) as opposed to the status quo. They demanded that rape laws should be reformed to accommodate the

humane treatment of victims, broadening of the definition of rape laws and an increase in the conviction rate of perpetrators (Wriggins, 1998).

2.2.1 Historical Perspectives on Marital Rape as a Crime

From time immemorial, social scientists have portrayed rape as an expression of sexual passion: lack of legitimate means-*disadvantaged male*; (McKibbin, Shackelford, Goetz & Starratt, 2008, p. 89, emphasis original) or mate deprivation (Laluminere, Chalmers, Quinsey & Seto, 1996). Evolutionary psychologists, Thornhill & Thornhill (1990) posit sexual gratification and male adaptive sexual strategy, as the indispensable motivation as against the feminist and conflict perspectives of masculinity, power imbalances, exploitation and domination (Niarchos, 2006).

On the International front, the revolution against rape in marriage was birthed through a series of historical events: the emergence of radical feminist and anti-rape movements of the 60's and 70's (Palmer, 1988; Bevacqua, 2004); organized groups of women internationally and locally; successive researches about VAW and a number conferences by the UN in the 1990's such as: Vienna, 1993; Cairo, 1994; and Beijing, 1995 (Coomaraswamy, 2000). The latter made it to gain much intensity. In a follow up, clarion calls have been made the world over to also quantify forced sex in marriage as rape, criminalise and prosecute it to serve as a deterrent to perpetrators of sexual assault of any form in the domestic setting. Consequently, marital rape is listed as a human rights violation, repudiated and criminalised by international consensuses such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹⁵ and the Declaration on the Elimination of Violence Against Women (DEVAW).

¹⁵ CEDAW is the body of [independent experts](#) that monitors implementation of the [Convention on the Elimination of all Forms of Discrimination Against Women](#). Retrieved October, 10, 2013 from <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

For more than three centuries, Hale's doctrine endorsed marital rape but soon saw challenge. Prior to the challenge, the legal definitions of rape were deficient of the marital situation. The challenge required the same protection for women in any rape situation. The doctrine of the exemptions legality and legitimacy was questioned in *R v Clarence* case in England¹⁶. The fact of the case was that, Clarence knowingly infected his wife with gonorrhoea. His wife cried wolf with the explanation that if she knew that he had acquired a venereal disease, she would not have consented to having sex with him. The judges unanimously used the Hale's doctrine to acquit and discharge the husband; a justification in modern jurisprudence and therefore indemnified a husband. The doctrine explains that a woman gives consent to the act of sexual intercourse upon marriage and intractable except after divorce. The judgment further strengthened the marital rape immunity because though *Clarence* was convicted; his conviction was reversed on appeal.

However in 1991, in the judgment of *R v R* case¹⁷, Hales doctrine was rebuffed. The fact of the case was that the accused's wife had separated from him with her intention of divorce communicated to him. Whiles apart, he forced his way into her parents' home where she was domiciled and forced sex on her. In the attempt, he brutally assaulted her; "He was charged on indictment with rape and assault occasioning actual bodily harm"¹⁸. The judges ruled that a husband is criminally liable for raping his wife which led to the abolishing of Hale's doctrine. From thereon in England, a husband could not rape his wife and marital status no more endorsed forced sex, thereby marital rape was outlawed explicitly.

¹⁶ Retrieved January 5, 2014, from <http://www.e-lawresources.co.uk/R-v-Clarence.php>

¹⁷ "On appeal by the defendant: -Held, dismissing the appeal, that there was no longer a rule of law that a wife was deemed to have consented irrevocably to sexual intercourse with her husband; and that, therefore, a husband could be convicted of the rape or attempted rape of his wife where she had withdrawn her consent to sexual intercourse; that section 1(1) of the Sexual Offences (Amendment) Act 1976 did not give statutory recognition to and perpetuate the former rule; and that, accordingly, the defendant's conviction would be upheld (post, pp. 616D, 617F-618B, 621C,

623B, D-F)". Retrieved January 5, 2014, from <http://www.leeds.ac.uk/law/hamlyn/rvr.htm>

¹⁸ *ibid*

Before America explicitly criminalised marital rape in all fifty states on the 5th of July 1993, Daniel Morrison of New Jersey was found guilty of raping his estranged wife (Kiffe, n.d). However, shock waves were sent down the spine of Americans in October, 1978, when Greta Rideout reported her husband John Rideout whom she was still living with to the police that he had raped her (Finkelhor & Yllo, 1985; Kiffe, n.d; Purdy, 2004). He went through trial but was acquitted anyway: “Despite Rideout’s eventual acquittal, the publicity surrounding the case helped to further raise consciousness about marital rape...All of these efforts have been instrumental in raising public awareness of marital rape” (Bennice & Resick, 2003, p. 230-231). These two incidents brought to the fore the fact that marital rape is criminal.

In Africa, most countries have not yet taken the step to criminalise rape in marriage.¹⁹ Sampson’s comparative studies on Ghana, Kenya, and Malawi reflected that, of the four, who are also members of Africa Canada Women Human Rights Project (ACWHRP) member countries, only Ghana has repealed the marital rape exemption.

In Malawi, there has never been an explicit legislative marital rape exemption; In Kenya, there is an explicit exemption for marital rape; In Ghana it was recognized the marital rape exemption violated constitutional equality guarantees, so the exemption was abolished in 2007...” (2010, p. 24).

Cameroon is neutral on the issue of marital rape “...the doctrine is divided” and the court will not rule in either camps favour.²⁰ Akurang- Parry (2004) “There is a paucity of statistical information on rape in Africa...” (p. 8). Classic rape statistics is warped, how much more marital rape! But Namibia in 2000; South Africa in 1993; and Zimbabwe in

¹⁹ 3. Retrieved from http://www.unifem.org/gender_issues/violence_against_women_facts_figures.php on UN Women (2001). Facts and Figures on VAW. General Assembly Resolution 48/104 of 20 December 1993. Retrieved November 5, 2014 from <http://www.unifem.org/>

²⁰ Violence Against Women in Cameroon: A Report to the committee against Torture and submitted to the United Nations Committee against torture. Retrieved October, 24, 2013 from www.omct.org/files/2004/07/2409/eng_2003_03_cameroon.pdf

1997 did explicitly criminalised rape in marriage.²¹

Ghana up until June 2007 could not prosecute a husband for forcing non-consensual sexual acts, no matter how inhumane, on his wife. The exemption was sanctioned by Section 42(g) of Ghana's criminal code, 1960 (Act 29). Since February 2007, Ghana's domestic violence law has categorized domestic violence into four types²²: physical; sexual; economic and emotional/ psychological abuses but the sexual, has remained eclipsed (Adomako Ampofo, 1993; Osam, 2004). Aniwa (1999) suggests that approximately "1 in 4 women; 28%" (p. 71) in intimate relationships have had sex forced on them. She further asserted that though Ghanaians do not want to label non-consensual sexual acts in marriage as rape, the above figures then suggests that it is the commonest form of rape in Ghana.

Assessing the true incidence of rape is difficult, as we know that many women are too ashamed, traumatised or frightened to tell anyone... the extent of rape has been underestimated, and that rape by intimates – fathers, husbands, uncles and ex-boyfriends- is far common than the reported reflect (Lees, 1996, p. 70).

In Ghana, between January 2010 and July 2012, research revealed that there were reported cases of fifty three (53) spousal murders: "...many of the cases were accompanied by motives of... infidelity or belief of infidelity, separation or ending of a relationship (or refusal to re-establish a relationship) or ongoing arguments" (Lithur, 2012, p. 3). According to Lithur (2012), where the wife killed the husband, it was in self-defense but some of the reasons given by husbands for killing their wives were "suspicion" for infidelity (Lithur, 2012, p. 3) but not caught in the very act, in other words; "...imagined unfaithfulness" (Adomako Ampofo, 1993, p. 105). Gadzekpo (2009, p. 272), also documented the case of a

²¹ Scott, Long (2003). More than a Name: State sponsored Homophobia and its consequences in South Africa. Human Rights Watch and the International Gay and Lesbian Human Rights Commission. Human Rights Watch USA. Retrieved October 29, 2013, from- <http://www.kubatana.net/docs/legislation/sexoff010817>

²² The 732 Act of the Parliament of the Republic of Ghana Entitled Domestic Violence Act, 2007. An Act to provide protection from domestic violence particularly for women and children and for connected purposes.

couple who died as a result of the husband killing his wife (uroxicide) “upon suspicion ...that the wife had received a telephone call from her lover” and thereafter committed suicide.

About a decade and a half ago, women’s right activists suggested that a law be passed to prosecute marital rape (Dwamena-Aboagye, 2003). The trajectory of Ghana’s reform efforts on domestic violence law was birthed after the UN African Platform for Action in Dakar in 1994 and the 1995 Beijing Platform for Action (BPFA) (Fallon & Aunio, 2010) and the ratification of the protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa by all member states which explicitly included marital rape and other sex crimes (Manuh, 2007b & 2007c). These forums focused on areas impacting negatively on women’s ability to fully access their human rights bringing out perceptions that marital rape is criminal.

By the late 1990s in Ghana, escalating skewed gendered VAW alarmed donor agencies necessitating research (Fallon, 2008). Research to that effect by various human rights organisations; FIDA, Gender Centre and UNIFEM did not prove otherwise (Fallon, 2008; Tsikata, 2009), for example (Coker-Appiah & Cusack, 1999). Additionally, Adomako Ampofo (2008) and Manuh (2007b) asserts that a 1997 nationwide study on gender-based violence triggered the call for the passing of the DVB.

Therefore in 2002, Ghana’s Attorney General Department drafted domestic violence legislation for passage into law. The bill’s passage was stagnated when demand was made on the repeal of the Section 42(g) of Ghana’s Criminal Code, Act 29 which was purported to have sanctioned marital rape (Manuh, 2007a & 2007b). Alongside, there were the

successive killings of thirty plus women between 1998 and 2001 (Adinkrah, 2011; Boas, 2006; Cawthorne, 2007; Dwamena-Aboagye, 2004; Fallon, 2008; Hodzic, 2009; Manuh, 2007b). At the scene of some of the murders: used condoms, torn under garments were found strewn around and bruises on the naked victims giving indications of some sexual assault before the gruesome murders (Quist-Arcton, 2000)²³ which reignited interest in VAW. These bolstered the calls to nip it in the bud through legislation. Activists rode on the back of 2004 as an electioneering year to also press for the explicit criminalisation of marital rape (Boas, 2006).

At the forefront of the Gendered Violence Revolution was the National Coalition on Domestic Violence Legislation (NCODVL)²⁴; made up of over a hundred human rights groups (Adomako Ampofo, 2008; Manuh, 2007a); the Commission for Human Rights and Administrative Justice (CHRAJ); and the Domestic Violence and Victim and Support Unit (DoVVSU) of the Ghana Police Service. The call was further heightened by publications in the electronic and print media (Fallon, 2008). A repeal of Ghana's Criminal Code, (Act 29), section 42(g) which indemnified a husband against marital rape was primarily sought to take action spousal abuse in Ghana (Manuh, 2007b) highlighting the perception that marital rape is criminal.

In 1993, the UN by DEVAW established marital rape as a human rights violation.²⁵ The UN's definition of violence is grounded in the Declaration of Elimination of Violence

²³ Quist-Arcton, O. (2000). Thirtieth Woman Dies in Three-Year Series of Mystery Killings. Retrieved January, 14, 2014, from <http://www.theperspective.org/mysterykillings.html>

²⁴ The National Coalition on Domestic Violence Legislation (NCODVL) organized from 2003 on consisted of individuals, Civil Society Organisations (CSOs) non-governmental organisations such as: The Ark Foundation; Advocates for Gender Equity; LAWA Ghana Alumnae Incorporated; the Ghana Centre for Democratic Development and Living Education Aid Teaching and Counselling Centre. They coalesced to canvass support for the passage of the domestic violence bill.

²⁵ DEVAW (Article 2) explicitly criminalised *marital rape* amongst other sex related crimes. Retrieved October 10, 2013 from <http://www.un.org/documents/ga/res/48/a48r104.htm>

Against Women (DEVAW) that UN General Assembly adopted in 1993. “Violence against women shall be understood to encompass, but not be limited to, the following... *marital rape*”. The UN’s grave concern about sexual violence stems from both the short and long term implication on the physical and mental health of womankind: physical injury, mental health, sexual and reproductive health problems, sexually transmitted infections, HIV infection, murder- occurring during a sexual assault or as a murder of “honour” and ultimately death. The social well-being of the victim can be jeopardized, stigmatization and ostracisation by one’s very family or others (WHO, 2007, p. 149). To protect this vulnerable group, the UN expects member nations to adhere to the laws and conventions that uphold the woman’s dignity and their safety.

2.2.2 Perceptions on the Existence of Marital Rape

Varying perceptions have surrounded the concept of marital rape because of the different socio-cultural approaches attached to contracting marriages. In the West, marriages come into existence by a couple acquiring a license. In most African societies, marriages are legitimised by exchanges (brideprice) as per the prevailing custom (Awedoba, 2005; Manuh, 2009).

Legally (Groth & Birnbaum, 1979) and traditionally, a marital union licenses couples to engage in sexual intercourse (Abotchie, 2008c; Manuh, 2009; Nukunyah, 2003). Socio-culturally, brideprice duly paid by a man entitles him to his wife’s sexuality and reproduction (Manuh, 2009). Nukunya (2003) notes that the exchange duly transfers to the husband rights in both “*Genetricem* and *Uxorem*”²⁶ (p. 42, emphasis original). As such,

²⁶ Nukunya (2003). Rights-in-Genetricem: the rights a husband acquires over the reproductive services of his wife. After marriage, any children born by the wife are automatically the man’s in spite of their biological

traditionally and legal, if sex is not had- ‘non-consummation’ within a legal time frame after a marriage ceremony, the union risks the chance of annulment by a spouse (Collins & Scott, 1991).

Effectually, sexual intercourse traditionally and legally brings marriage into existence. This emphasises views of opponents to the criminalisation that sex is a conjugal right and obligatory in marriage as sanctioned by law and custom and even when forced, it is because women are not forthright when it comes to sex (Adomako Ampofo, 1993). In Ghana, the law stipulates that non-consummation amounts to the marriage being null and void or good grounds to obtain divorce²⁷ (Adomako Ampofo, 2008). Manuh 2007b asserts that “...refusal to engage in sexual relations can be ground for divorce” (p.1).

According to Manuh (2007a) “...there are no local words ...but this does not invalidate such concepts” (p. 131). The validity of non-consensual sex in marriages cannot be overemphasised, though consciously shelved. According to Dwumah & Abubakar (2013) “...sexual violence in marriages and relationships is based on casual observation” (p. 93). In the heat of events following the proposal of criminalising marital rape, some prominent Ghanaians spoke against the proposal.²⁸ Orhin, (2003)²⁹ said the sitting president; John Agyekum Kuffour evaded a question he asked him at the People’s Assembly in Cape Coast in relation to marital rape. Additionally, his brother, Honourable Addo Kufuor the then minister of Defence “chided me in a friendly manner... Basically he thought it had been

paternity. Rights-in-Uxorem: the sole right a husband acquires over the domestic and sexual services of his wife.

²⁷Matrimonial Causes Act 1971 (ACT 367) Section 1- Petition for Divorce “(1) a petition for divorce may be presented to the court by either party to a marriage. Section 13-Nullity (a) that the marriage has not been consummated owing to the willful refusal of the respondent to consummate it”. Retrieved February 15, 2014 from www.africanchildforum.org/clar/Legislation/ghana/ghana_matrimony_1971en.pdf

²⁸ Orhin, I. G. (2003). Politics-Ghana: Marital Rape Under the Spotlight. Retrieved December 5, 2015 from <http://www.ipsnews.net/2003/07/politics-ghana-marital-rape-under-the-spotlight/>

²⁹ *ibid*, 28

disrespectful on my part to ask such a question”. According to Fallon (2008), his Excellency president Kuffour remained dead silent, neutral and passive³⁰ on the whole marital rape saga while the government pushed Gladys Asmah³¹ to face the wrath of opposing Ghanaians.

Stafford (2008) categorically cited Professor John Evans Atta-Mills,³² and Dr. Edward Mahama³³ as saying “if we talk about marital rape, it means we are going into the bedroom, and we have no right to go there...you cannot legislate on such issues”. The former also called for the “sanctity” of the marriage institution to be held in high esteem. Some chiefs who met in the Upper East Region said the marital rape law will be suitable for “urban dwellers”, emphasizing that the proposed law on marital rape was “anti-Ghanaian” (p.1). A chief in the Central Region of Ghana, Nana Kofi Abbeyquaye II had this to say in relation to the repeal of the DV bill: “In our setting once a woman consents to marriage, it means the man has sexual rights over her all the time.”³⁴ Aidoo (1991) confirms this position in her novel as such: “Sex is something a husband claims from his wife as a right. Any time. And at his convenience” (p.16).

³⁰ Retrieved July, 2, 2014 from <https://www.coursehero.com/file/p4k2ec3/The-debate-of-the-passage-of-the-bill-revolved-solely-around-this-topic-The/>

³¹ The late Mrs. Gladys Asmah was a Member of Parliament of Takoradi from Jan 1997 to Jan 2009, a Minister of Women and Children Affairs from 2001 to 2005 and Minister of Fisheries from 2005 to 2009. Retrieved from <http://graphic.com.gh/news/general-news/25889-gladys-asmah-is-dead.html#sthash.6yFFAWF7.dpuf>

³² The late Professor John Evans Atta Mills was a Law Professor and third President of the 4th Republic of Ghana from 7 January 2009 – 24 July 2012. In 2000, Mills became the National Democratic Congress’ (NDC) candidate for the [2000 presidential election](#). He made this statement when he was the opposition leader of the NDC. Retrieved May, 14, 2014 from <http://www.ghanaweb.com/GhanaHomePage/people/person.php?ID=137>

³³ Dr. Edward Mahama, a medical doctor is currently the president and director of Superior Medical Center, Accra. Also a lecturer and Consultant of the Korle Bu Teaching Hospital. A onetime presidential candidate of the People’s National Convention. Retrieved December 23, 2013, from <http://www.ghanaweb.com/GhanaHomePage/people/pop>

³⁴ Orhin, I. G (2003). Politics-Ghana:Marital Rape Under the Spotlight. Retrieved December 5, 2015 from <http://www.ipsnews.net/2003/07/politics-ghana-marital-rape-under-the-spotlight/>

Also in June 2006, Mr. Kwame Osei Prempeh³⁵ said of the repeal of the marital rape exemption: “It is legally desirable but when it comes to the social and cultural life of our people, it can create a lot of problems... it will be culturally unacceptable to walk to a police station and tell the charge officer that I have been raped by my husband”.³⁶ His perception was that charging no other person than a husband with rape will send explosion into the foundation of Ghanaian marriages and family alike. On the whole, once a wife is married to a man customarily or legally, he cannot be charged with rape. Divorce; legally or customarily obtained is the only basis for which a husband will cease to have right in ‘Uxorem’.

Also, Nana Oye Lithur³⁷ cited Dr. Ken Attafuah³⁸, a renowned legal brain and criminologist in Ghana as saying an emphatic “NO” when he was asked if a man could rape his own wife. In 2003, Kwaku Ansa-Asare, a pro-government legal brain, and widely acclaimed opponent of the proposed domestic violence bill discouraged government from incorporating the law into Ghana’s legal system. He is known to have:

developed four propositions to undercut the validity of the Bill: (1) the Bill was a foreign imposition; (2) it posed dangers to the Ghanaian family and culture at large; (3) domestic violence was best adjudicated privately (outside the system of civil law); and (4) traditional authorities should mediate and adjudicate domestic violence problems (as cited in Hodzic, 2010, p. 337).

Judge Abdul Fatawu’s concern for the institution of marriage and family not to see supposed disintegration in Ghana featured as:

³⁵ An MP, Kwame Osei Prempeh at the time of making this statement on the floor of the Ghanaian parliament was a nominee as Deputy Minister of Justice and Attorney General. Retrieved October 25, 2013, from www.ghanaweb.com/GhanaHomePage/crime/artikel.php?ID=105263

³⁶ Retrieved July 7, 2014 from <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=105263>

³⁷ Nana Oye Lithur is a Ghanaian barrister and politician and current [Minister for Gender, Children and Social Protection](#) in [Ghana](#). Retrieved May 5, 2014 from http://en.wikipedia.org/wiki/Nana_Oye_Lithur

³⁸ Prof. Kenneth Agyemang Attafuah is a private legal practitioner with Kulendi @ Law, barristers and solicitors specializing in human rights, constitutional, commercial and criminal litigation. He is also the Executive Director of the Justice and Human Rights Institute. Retrieved May 5, 2014 from <http://www.perscoba.com/news.php?nid=195>

[F]or instance if a married woman reported a case of marital rape against her husband the man could receive a prison term of between five and 25 years, just as any man who raped another woman . . . if a man refused to speak to his wife for a specific number of days, the wife could take the husband to court and if he is found guilty he would be punished (cited in Dovlo, 2005:629).

The proponents of the criminalisation of marital rape in Ghana featured: individuals, “over a hundred” Human Rights NGO’s (NCODVL); Domestic Violence and Victim Support Unit (DoVVSU) and Commission for Human Rights and Administrative Justice (CHRAJ). The icing on the cake was the support of the Ghana Medical Association. These have been in the fore front to eliminate the “marital rape exemption” Manuh, (2007b, p. 133) crying, no marital exemption to the law of rape. They were of the view that the repeal will encourage the long overdue mutual gender respect and the regaining of a woman’s bodily integrity.

One controversy or ambiguity surrounding the concept is the name; *marital rape* has not got even a synonym. The inexistence of an indigenous Ghanaian name or phrase (Cusack, 1999a; Fallon 2008) to qualify non-consensual sexual acts in marriage puts it into oblivion and difficult to conceptualise. Aidoo (1991) in a romantic fiction portrayed an intellectual, Esi the heroine as having been raped by her husband. Esi in an all-time dilemma after her husband had had non-consensual sexual intercourse with her, knowing definitely that there is no name for her experience, names it as marital rape. Her definition, she is fully aware is a redefinition of marriage (Olaussen, 2002) because “Sex is something a husband claims from his wife as his right. Anytime. And at his convenience” (p. Aidoo, 1991, 16). Akurang-Parry (2004) tags it as “... assumed patriarchal rights over female sexuality” (p. 9). Aidoo after narrating Esi’s experience asked:

“...how would you describe “marital rape” in Akan?’ ... ‘Igbo? ...Yoruba?’ ... ‘Wolof?’ ... or ‘Temne?’...Kikuyu?...or Ki-Swahili?’...Chi-Shona?’...‘Zulu?...or

Xhosa?'Or... But marital rape? No. The society could not possibly have an indigenous word or phrase for it.

Cusack (1999a) asserts that “where a society has neither named nor accepted the existence of violence against women and children, those experiencing the violence are unable to name it” (p. 3-4); and without a name, the term cannot be conceptualised.

Sociologists have asserted that for example; “...the goal of the family [marriage] has continued primarily to be the satisfaction of the sex drive of married couples...” (Abotchie, 2008b, p. 50). Legally (Groth & Brirnbbaum, 1979), a marital union licenses couples to have sexual intercourse (Manuh, 2009). Traditionally, when the exchanges have been duly formalised in contracting a marriage, the assumption by the giver of the bride-price is that he has acquired a private sexual property (Manuh, 2009; Bowman, 2003). In effect, sexual intercourse traditionally and legally brings marriage into existence.

In all parts of Ghana, the transfer of bridal wealth from one family to the other under customary marriage tends to reduce women from active participants to passive recipients... In Ghanaian society where bride price is unsympathetically high, the man after painfully paying this price is likely to treat the wife more as a possession than a partner in marriage³⁹.

Notwithstanding the controversies surrounding bride-price payments as a prerequisite for marriage in certain societies, its persistence (Horne, Dodoo & Dodoo, 2013) shows that, it distinguishes between marriage and cohabitation (Awedoba, 2007; Manuh, 2009) just as the marriage certificate does in the Western world; “...a husband retains immunity from prosecution from the moment his wife says “I do” until the ink dries on the divorce decree... the marriage license can indeed be called a “license to rape” (Finkelhor & Yllo,

³⁹ Orhin, I. G. (14, December 2002). High Bride Price Aiding Marital Violence. Public Agenda. This statement was made by one time Commissioner for Human Rights and Administrative Justice (CHRAG), Ghana; Francis Emile Short at the launching of “Break, the Silence” an advocacy campaign aimed at encouraging women to report domestic violence by the African Women Lawyers Association (AWLA) in Accra.

1985, p. 1-2). In some societies, so long as all or part of the brideprice has not been returned to either family to formally annul the marriage, the husband's sexual entitlement still holds good. The perception of a man's ongoing sexual entitlement despite adverse circumstances in an intimate partner relationship manifested when on May 30th 2015⁴⁰, at Samenye in the Jomoro of the Western Region. Ghana's ear tingled with the news that forty year old *Emu Kwao* strangled his girlfriend to death her for refusal to have sex with him.

The brideprice payment obligates the wife to household chores and exclusively meeting the sexual needs of her husband with or without consensus "Normalised perceptions of unlimited access to wives...are exacerbated where dowry (brideprice) is exchanged for a wife (Cusack, 1999c, p. 29). As such, the perception is that it is impossible for a husband to rape his wife synonymous with the Blackstone doctrine. "In marriage... women are restricted to one male partner each, transgressions risks severe punishment. In some cultures even the wife who was raped would be forced to pay – sometimes with her life" (Warnock, 2009, p. 29). On November 27, 2014, Ghanaians had shock waves going through their spine when Nelson Abudu Baani⁴¹, a sitting MP suggested on the floor of parliament that adulterous women should be stoned to death. This requirement of female monogamy and chastity impress complete ownership of a wife's sexuality and therefore the perception is that you cannot rape what is exclusively yours as per the wife as a property rationale.

Undisputedly, Ghana with its cultural and social dispositions manifests as highly

⁴⁰ Aklorbortu D. K. (2015). "Man Strangles Girlfriend for Denying him sex" Retrieved June 1, 2015 from <http://www.graphic.com.gh/news/general-news/43847-man-strangles-girlfriend-for-denying-him-sex.html>

⁴¹ Nelson Abudu Baani is MP for Daboya/Mankarigu constituency in the Northern Region of Ghana. He made this statement during a debate on the Intestate Succession Bill. A member of the ruling National Democratic Congress and a Muslim. Retrieved November 30, 2014 from www.parliament.gh/parliamentarians/387

patriarchal (Archampong, 2010). Rich (1976) defined patriarchy as:

The power of the fathers: a familial social, ideological, political system in which men by force, direct pressure, or through ritual, tradition, law, and language, customs, etiquette, education, and the division of labour, determine what part women shall or shall not play and in which the female is everywhere subsumed under the male (p. 57).

Opponents of marital rape exemption from criminalisation uphold patriarchy, a social system that perpetuates gender stratification. Men are the principal authority at all levels from: family; economy to government (Brownmiller, 1975; Niarchos, 2006; Jackson et al, 2002) as inherent of marital rape.

Rape myths are erroneous ideas, downright wrong beliefs, and unsubstantiated tell tales widely and notoriously held for trivializing a claim of sexual assault, excusing perpetrators, entrenchment of negative cultural stances, encouraging victim self-blame and overall, leading to an endorsement of sexual aggression generally. Burt (1980) has defined rape myths as “prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists” (p. 217). Burt & Albin (1981) believes that myths have greatly influenced the definition of rape negatively. There are myths that have worked negatively against women’s sexuality. ‘*Token resistance*’ is one that both men and women have internalized. For men, it means ‘press on’; and for women it means ‘you are hard to get’. Token resistance is a value system (Monson et al, 2000) in Ghana.

The Ghanaian female has been socialized to be hesitant- ‘play hard to get’ towards sexual advances from even a husband (Archampong, 2010; Armstrong, 2003) nonetheless to initiate sex; for that reason, ‘men initiate’, ‘women resist’. It also means that spontaneous response even to a husband may give a wrong cue of previous and present promiscuity

(Armstrong, 2003; Gadzekpo, 1999a). Refusal meant a wife's infidelity; suspicion that she seeing another man (Cusack, 1999c). Dovlo (2005) corroborates this myth by saying that among the Ewes, one of the ethnic groups in Ghana, this notion is literally translated to mean that, "Women do not say 'yes' at the first instance" (p. 653). The import of this myth has translated into a man not accepting his assaultive or coercive interaction with his wife as rape- 'assumed consent'; justifying a husband. Schwartz (1997) posits that women have lost their credibility as they have used it to manipulate impressions about them.

Marital rape rebuff is founded on the adherence to unbridled socio-cultural philosophies; the woman first of all as her father or guardian's property; transferable to a husband, the highest bidder upon marriage (Brownmiller, 1975). In the marriage setting therefore, a sexually violent husband was seen and hailed as exacting prepaid sexual intercourse (Horne, Dadoo & Dadoo, 2013; Mahoney & Williams, 1998). The expectation from a wife therefore was that, she must submit to her husband's demands for sex because a husband through purchase obtained a 'conjugal right' to sexual intercourse; with violent means if need be. To most women; marital rape as a criminal offence was unheard of because of their socialization (Groth & Birnbaum, 1979). This construction is confirmed in a nationwide survey in Ghana by Gadzekpo (1999a) where even the victims (forbearers) who confessed to having been ever forced to have sex in their intimate relationships did not accept that forceful sex in marriage is equivalent to rape.

In Ghana, Cultural undertones have blurred the visions of even the law enforcement agents and agencies about marital rape. Prah (1999) cited a policeman saying this about sexual violence against women. *"When a man is in heat, hot like frying pan, and a woman refuses him sex it is brutal. The man will by all means force the woman to have sex with him even*

when it involves beating to get it (p. 110, *emphasis original*).

In the UK, *R v R* marital rape prosecution case and that of John Rideout in the US featured sexually abused wives who run to seek redress in the law courts drawing attention to the existence of rape in marriage. In Ghana, Ofei-Aboagye's: *Altering the Strands of the Fabric: A Preliminary Look at Domestic Violence in Ghana*; Ama Ata Aidoo's: *Changes: A Love Story*; Coker-Appiah & Cusack's: *Breaking the Silence and Challenging the Myths of Violence Against Women and Children in Ghana*; Amoakohene's: *Violence Against Women in Ghana: A Look at Women's Perceptions and Review of Policy and Social Responses* and proponents' unbridled call for the criminalisation of marital rape; the first of its kind in Ghana, Victoria Hammah⁴² reported her intimate partner to the police for sexual abuses though she quickly withdrew the case before hell broke loose on her is a wakeup call to the reality of marital sexual abuses existing in marriages.

The point of departure for opponents in Ghana is the labelling of non-consensual sexual acts in marriage as rape and a crime. It sounded very foreign to the opponents and was tagged as an introduction of a foreign culture into the Ghanaian society and law (Archampong & Sampson 2010) as confirmed thus: "...Western notions such as marital rape" (Gadzekpo, 1999a, p. 73). The insertion of the marital rape exemption clause (Hodzic, 2009) is cited as a threat to Ghanaian socio-cultural values and sovereignty. They strongly contended that it is foreign to our culture and its insertion into Ghana's legal framework may defeat the supposed traditional peace that Ghanaian marriages have enjoyed for decades (Manuh, 2010). These supposed conservatives also said it reflects too much Western values which might contaminate Ghana's cultural norms and values.

⁴² Ibid 47

Further, to the opponents, the proposed amendment will also mean a neo-colonialisation of the Ghanaian marriage institution; a re-emergence of cultural imperialism basically as the idea was of Western import granting the prosecution of marital rape as an impossibility.

The varying perceptions on the concept of marital rape point to the fact that, the two paradigms: opponents and proponents are not disagreeing about the nonexistence of non-consensual sexual acts in marriages. Opponents' stance is against distinguishing it as a type of rape and charging it as a crime. In reviewing: *Changes: A love story*, Bryce & Dako (2000) are of the view that "...in its iconoclastic explicitness, the text itself, like its heroine is deviant" (p. 162) in reference to Esi the heroine whose husband forced sex on her and she naming it as rape and thereafter divorcing him. Prah (1999) reiterates that "...low rate of reported sexual violence does not necessarily mean that it does not occur much in the country... due to social attitudes towards victims of sexual coercion..." (p. 100). Goode (1996) notes that the construction of rape (what it is) differs extremely from person to person; culture to culture. Time has also greatly influenced the definition of rape (Amoakohene, 2004; Bevacqua, 2004; Merry, 2001).



CHAPTER THREE

METHODOLOGY

3.0 Introduction

Methodology serves as the philosophical framework of a research. Ideally, studies follow a systematic and scientific approach in the study of a particular phenomenon. This chapter is a presentation on the various scientific approaches adopted in the study of marital rape in Accra. It outlines the following: research design; target population; sampling design; sample size; sampling technique; sampling procedure; data collection instruments; data sources; data management; ethical considerations and delimitation of the study. Additionally, the methods used in the analyses are included.

3.1 Research Design

The study was carried out by the use of both qualitative and the quantitative approaches to research i.e. triangulation. Though the two approaches differ, the triangulation method complements each other by ensuring that any weakness (Creswell, 2009; Neuman, 2007) inherent in any one of these approaches is compensated for by the other. The integration of both methods helped to provide a more accurate picture leading to the generation of new knowledge (Bryman, 1992).

The quantitative aspect featured the structured interviews- pre-set questions. It was a systematic empirical survey that asked three hundred married persons specific questions in the collection of information for numerical data. This helped in making inferences about the incidences of marital rape through measurement of attitudes, opinions, thoughts and beliefs for the purposes of generalisability. Therefore in a bid to explore the divergent views on marital rape; the triangulation approach best suited the study because Ghanaians'

socialization hardly allows for favourable and open discussions of sexuality. This led to the amalgamation of the findings by listening to differing voices and manifold perspectives on a single phenomenon (Gilbert, 2008). The use of questionnaires granted anonymity which gave the respondents the freedom to express their opinions. Subsequently, it enhanced the ability to put on paper opinions that they may have felt embarrassed about in a face to face interview (Spencer, 1981).

The study featured both forbearers of sexual assault in marriage from an NGO who were directly interviewed and non-victims of marital sexual abuses as respondents. This aided in the exploration of the phenomenon of marital rape through information gathered from the lived experiences of participants as they explained and described the nuances of their sexual abuses. It further necessitated detailed understanding and patterns of the phenomenon studied. Furthermore, it aided the entering into the conceptual world of subjects through the in-depth-interview i.e. meaning was easily derived from (Creswell, 2009; Kumekpor, 2002) subjects as they narrated their lived sexual experiences in their marriages.

Data were collected for the qualitative phase of the study using face-to-face in-depth interviews, and focus group discussions. Some respondents availed themselves for the interview after the first contact/- interaction with the researcher after the objectives of the study has been explained to them in details. Others too, availed themselves for interviews at an agreed date, time and venue. The face-to-face in-depth interviews were used so that the research could deeply explore the objectives of the study. It allowed the researcher to probe deeply the responses of the interviewees. It also enabled the researcher to clarify some issues that emerged from the surveys.

Additionally, to overcome the sensitivity issues with discussions on sexuality; "...sexuality is generally treated with discreet silence" (Bryce & Dako, 2000, p. 162), the questionnaire was useful as the medium that explored the awareness level of Ghanaians on the criminalisation of marital rape, incidence, and perceptions on the criminalisation of marital rape in Ghana. This made it possible for married persons not necessarily victims' views on the nitty-gritty of marital rape to be captured. The incorporation of open-ended questions permitted the inclusion of unanticipated factors. It led to open discussions which respondents felt affected their decision making in answering the questions which went a long way to capture their way of thinking. Its flexibility (Spencer, 1981) made way for clearing misunderstandings and allowed for detailed discussions.

Focus group discussion (FGD) was also employed in collecting data for the study. FGD is known to put together people of the same characteristics to discuss an issue common to them in an informal manner (Neuman, 2007). Due to the reluctance of some respondents when they were approached, the researcher adopted FGD as way of getting respondents to be at ease about discussing the issue of marital rape. In addition, the fact of being in a group to discuss matters of sexual intercourse/intimate issues made it easier for the participants felt at ease about it. Using this method helped the respondents who partook in the FGD to be at ease and open up to the discussion whereas in the interview, the subject might have felt put out on the spot. Additionally, there was a natural flow of conversation akin to one on one interview.

For the focus group discussions, twenty four participants; twelve married men and women each were purposively selected into two groups with ages ranging from 25-56 years for both male and females. The focus group discussions gave a glimpse into Ghanaians

outspokenness on sexuality in the midst of others and the frank expression on the subject of marital rape generally.

The researcher was aided by an NGO which focuses on the protection of women and children and thus deals with domestic violence matters among others. The researcher participated in an organised forum by the NGO for some survivors of domestic violence who did come to their unit providing the researcher with a unique opportunity to interact with the survivors and creating the quintessential rapport before the interview. This made it possible for the recruitment of respondents who fit the characteristics of the respondents needed for the study.

3.2 Study Area

The sampling frame for this study was limited to Accra, the capital town of Ghana. Specifically, the study was narrowed down to the campuses of the: University of Ghana; Methodist University College Ghana; and the Central University College of Ghana. First and foremost, the universities were chosen because of the centrality of some level of education that the researcher required in the target population so that questions will not be misinterpreted by the respondents which may lead to senseless answers (Neuman, 2007) in spite of the fact that 9.7% of the respondents who are staff of the universities did not have tertiary education. And secondly, the convenience of locating married persons needed for the study.

Accra was the focus of the study because in recent times, there has been proliferation of all forms of media- both print and electronic for information gathering and awareness creation on a wide range of issues. The proliferation of the electronic media, some of which

broadcast in Ghana's local languages are believed to be keeping the citizens informed more than ever. Conducting the study in Accra helped to explore how the media has impacted participants' knowledge of marital rape and the underlying issues. This was also taken advantage of to assess the level of information married persons in the Accra metropolis had concerning the Domestic Violence Bill that was passed in February 2007 in relation to the implicit criminalisation of marital rape.

3.3 Target Population

The target population studied comprised persons who were: married; separated; divorced; widowed; socially defined as married and those persons in consensual relationships-cohabiting (self-defined married persons), non-victims of domestic violence and forbearers of Marital Sexual Abuse (MSA). An official from the Domestic Violence and Victim Support Unit (DoVVSU) of the Ghana Police Service, advocates for the explicit criminalisation of marital rape and persons with background knowledge in domestic violence issues critical to the study also participated in the study.

3.4 Sample Size

A total number of 338 respondents participated in the study, that is, three hundred (300) respondents for the quantitative and thirty eight for the qualitative phases respectively. The three hundred (300) respondents comprised one hundred and fifty (150) married men and women each selected from each of the three institutions of higher learning: University of Ghana; Methodist University College Ghana and the Central University College of Ghana. The research ensured that for each institution, a total of fifty (50) married men and fifty (50) married women were selected to ensure that there was a balance in the views expressed on the phenomenon understudy. As part of the qualitative component to the

study, the respondents for the qualitative phase composed six (6) survivors of domestic violence from the Ark Foundation, and two (2) non-victims of domestic violence from the University of Ghana, all of whom were women.

I also held discussions with two focus groups with each group comprising twelve (12) men and women. In addition to key informants constituting: a police officer with the Domestic Violence and Victim Support Unit (DoVVSU); two (2) advocates for the repeal of the DV Law; a criminologist; a reverend minister from a charismatic denomination and a counsellor of victims of domestic violence.

3.5 Sampling Technique

A combination of sampling techniques and procedures were employed in the selection of respondents which made it easier in eliciting the needed information for the study. Having conducted a pilot study prior to the main study, the researcher became accustomed with who exactly to contact for the needed information for the study. As this study used mixed methods in the data collection, non-probability sampling techniques were used in the qualitative phase of the study. Due to the nature of the study, married persons were targeted from whom information was relevant, thus purposive sampling technique was employed to get this distinctive group. As Kumekpor (2002) explicated, purposive sampling is the intentional selection of units in situations where the characteristics of the units are not randomly distributed in the population.

Applying the purposive sampling technique helped the researcher to pick out the sample directly related to the study; it helped in selecting non-forbearers and forbearers of marital sexual abuse to have a deeper insight into the phenomenon (Neuman, 2007). Some

respondents were also recruited to be part of the study through the use of the snowballing technique; a referral system that made easy classification of same characteristics. An NGO assisted with the referral by directly linking the researcher to the survivors of domestic violence.

Accidental sampling was used in the quantitative phase of the study. This was due to the difficulty in having access to a central database that has the marital status of all students and employees of the three institutions in order to use a probabilistic sampling technique. As a result the researcher had to resort to accidental sampling; where questionnaires were administered to undergraduate, graduate students and employees of the three institutions who were married at the time of the study and were readily available on the campuses where the questionnaires were distributed. Applying this sampling technique enabled the researcher to recruit respondents who fitted the characteristics of the respondents needed for the study.

3.6 Data Collection Instrument

Semi-structured interview guides (See appendices A to E) were used for the qualitative phase of the study. This was developed based on the objectives of the study and it enabled the researcher to draw out detailed and relevant information in line with the objectives of the study. A digital audio recorder was used in recording all the in-depth interviews and the focus group discussions in addition to notes that were manually written.

For the quantitative phase, self-administrated questionnaires and interviewer-administered questionnaires were used as the instrument for the collection of data (*See Appendix F for Details*). Each questionnaire was divided into five sections. Section A, focused on the

socio-demographic characteristics of the respondent. Section B sought to establish the gender differences in the perception of non-consensual sexual acts in marriage as rape. Section C, investigated the extent to which the married consider non-consensual sex in marriage as a crime. Section D ascertained the awareness level of marital rape as being a crime in Ghana and, Section E, examined married persons' attitude towards the criminalisation of marital rape in Ghana.

The questionnaires included both close-ended questions with answer options from which the respondent chose an answer and open-ended questions for writing an intended answer. The essence of the open-ended questionnaire was to allow both respondents and participants to freely express their opinions on the phenomenon.

3.7 Data Management

The Statistical Package for Social Scientists (SPSS) and excel was used as the primary tool to analyse the quantitative data. The qualitative data were collected by note taking, recording and manually analysed thereafter in a thematic fashion.

3.8 Ethical Considerations

Ethics in research largely concerns the most appropriate manner of handling subjects as one seeks information and the right of subjects (Neuman, 2007). Therefore when human subjects are the focal point of a research work, their rights and dignity must be upheld in as much as the researcher is hungry for objectivity, knowledge and truth (Gilbert, 2008). Subjects must not be subjected to a more grievous experience than that which they have suffered already despite their willingness to share their views on their lived experiences (Giddens & Sutton, 2009).

Given that the discussion on issues concerning sex is highly flammable in Ghana (Cusack, 1999) and human beings were the principal subjects, the study followed generally established principles in relation to informed consent; willingness to participate and provision of information, confidentiality and anonymity (Kumekpor, 2002). The above was done to minimise any negative aftermaths and maximise benefits to the subject of the study, the researcher and to society at large, and to cash in on scientific benefits. The researcher ensured that no harm came to respondents by informing the study subjects of the intended purpose of the study devoid of deception.

A pilot study was conducted to help discover issues of possible marginalisation in order to aim at the most appropriate respondents. Oral informed consent was sought from respondents prior to their participation followed by debriefing the subject on the aims, objectives, purposes, and intended use of the study. With knowledge of the embarrassment and social stigma attached to women's experiences of sexual violence, the privacy of the information gathered was ensured in order not to expose them to further abuse and re-traumatisation which can endanger their very existence. This was done to ensure data quality and the researcher's own safety because researchers are also prone to possible harm as established by literature (Schwartz, 1997, p. X).

Throughout, the researcher established rapport with the participants which put them at ease and ensured they were comfortable especially so that forbearers of sexual abuse were not re-traumatized. Pseudonyms have been used to represent names of participants; anonymity of data has been ensured. The researcher was and remained very sensitive to the emotional consequences for the participants in order for them not relive their experiences.

3.9 Limitations of Study

Since human sexuality is shrouded in great secrecy and the pronounced sensitivity and volatility associated with it culminating into the inability of doing a survey in our context and getting the numbers, I had to work with self-identified victims. Also, due to the use of accidental sampling technique in the selection of the study sample, it is not possible to generalise the findings of the study.



CHAPTER FOUR

PRESENTATION AND DISCUSSION OF DATA

4.0 Introduction

This chapter is a presentation of analysed data and research findings drawn from my study which was a composition of: semi-structured questionnaire survey; in-depth interviews; focus group discussions in addition to some secondary data. The study also conducted some tests of relationships of non-directional and directional hypotheses namely: The relationship between gender and differences in perceptions of marital rape and the more frequently a spouse is coerced into having sex, the higher will be the spouse' predisposition to have marital rape criminalised respectively.

The broad objective was to understand the perception of marital rape and the need for criminalisation. The specific objectives were to: establish the gender differences between perceptions of non-consensual sex as marital rape; investigate the extent to which the married consider non-consensual sex as marital rape; ascertain the awareness level of marital rape being a crime among married persons in Ghana; examine the attitudes of the married towards the criminalisation of marital rape; and to indicate some policy implications regarding ways to curb incidences of non-consensual sex in marriages.

4.1 Socio-Demographic Background of Respondents

Socio-demographic variables are crucial in the analyses of data in any sociological study (Kumekpor, 2002). In exploring the perspectives of married persons on the criminalisation of marital rape in Ghana, socio-demographic features could influence knowledge, attitude and perception about marital rape. It is believed that "...demographic characteristics of the participants continue to be important factors in statements that that people make about rape,

rapists, and victims (Ferro et al 2008, p. 777). In this wise, it defines the relationship between the demographic variables and the character of respondents. The following subsections give detailed descriptions of the socio-demographic characteristics of the respondents in Accra.

4.1.1 Gender

Gender is socio-culturally generated to institute the relationship between males and females. The choice of gender is necessary to reveal equity in the disparity of perceptions and attitudes. The socio-demographic characteristics of respondents in the study reflect the fact that there is an equal number of males as there are females constituting 50% and 50% respectively (*See Table 4.1.2 below for details*).

Table 4.1.2: Sex of respondents

Sex	Frequency	Percentage (%)
Male	150	50
Female	150	50
Total	300	100

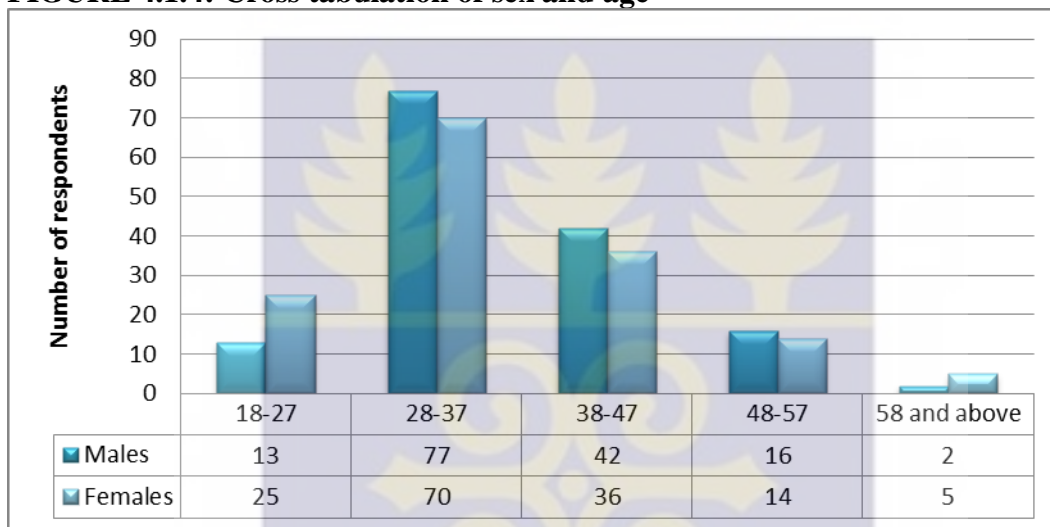
Source: Field data, 2014.

The basis for choosing sex stemmed from the assertion that vast differences exist in the perpetuation of sexual violence among the sexes (Spencer, 1981). For example, some studies assert that women the world over have experienced more measure of sexual violence than men (Adomako Ampofo, 1993; Bergen, 1996; Obaid, 2010; Russell, 1984). Hence out of the 300 respondents to the questionnaires, 50% were females and 50% males. Equal number of males and females were selected so as to get an even and unbiased distribution of responses among both sexes.

4.1.3 Age of Respondents

In Ghana, the lawful age for marriage is 18.⁴³ This study needed the age of respondents in order to know who to assess. Knowing the age of a respondent helped in collating the breakdown into meaningful groups as can be observed from the graph below. (See Table 4.1.4 below for details).

FIGURE 4.1.4: Cross tabulation of sex and age



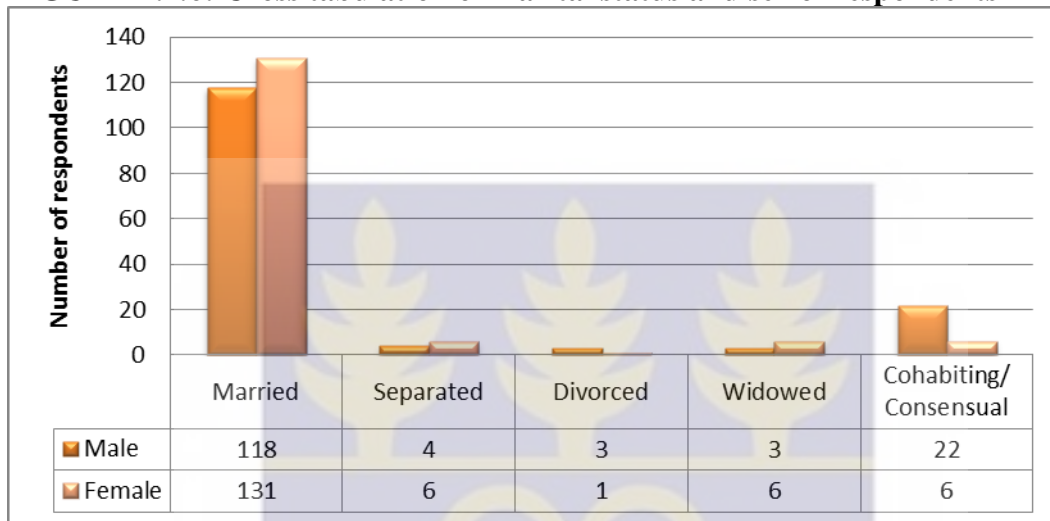
The graph above shows the various age ranges among males and females. Out of the total number of 300 respondents: between ages of 18-27 were 13 males and 25 females (12.7%); the ages of 28-37 had 77 males and 70 females, adding up to 147 (49%) being the majority. A total of 42 males and 36 females (26%) were in the 38-47 age groups. There were 16 males and 14 females (10%) in the 48-57 age groups. The least of the respondents made up the 58 and above age group, are represented only 5 females and 2 males (2.3%).

⁴³ Under the laws of Ghana, the relevant laws are the Marriages Act 1884-1985 and the Children's Act 1998. The Children's Act 1998 provides in section 13(2) that a person of 18 years and above may legally enter into marriage. Retrieved June 2, 2014 from <http://www.ghanaweb.com/GhanaHomePage/regional/Legal-age-for-marriage-Ministry-against-change-280654>

4.1.5 Types of Marital Relationship

The marital status was obligatory because the study mainly had to do with a respondent ever being in a type of intimate relationship.

FIGURE 4.1.6: Cross tabulation of marital status and sex of respondents



The literature reviewed for this study incorporated the legally married, separated, divorced or cohabiting. Studies have indicated that the dynamics of sexual violence are similar in all intimate relationships (Mahoney & Williams, 1998; Yllo, 1996). The graph above (*See Table 4.1.6 above for details*) shows a cross tabulation of the marital status and sex of the respondents. A total of 249 respondents were married, out of which 118 (39.3%) were males and 131(43.7%) were females. Of the respondents, 10 (3.3%) were separated, 4 males and 6 females. There were 4 (1.3%) divorced respondents, 3 males and 1 female. The widowed group consisted of 9 (3%) respondents, 6 females and 3 males and finally the cohabiting group was made up of 22 males and 6 females (9.3%). This means that in the study more females were married, separated and widowed than men while more males were divorced and cohabiting than females.

4.1.7 Education of Respondents

Increased years of formal education are connected to exposure to information and the acquisition of knowledge. It is in this regard that the educational background of respondents was considered very necessary in understanding the perspectives of married women and men about marital rape.

Table 4.1.8: Educational level of respondents

Educational Level	Males (%)	Females (%)
No formal education	0 (0.0)	3 (2.0)
Primary	0 (0.0)	0 (0.0)
Junior High School/Middle School	3 (2.0)	2 (1.3)
SHS/Technical/Vocational	17 (11.3)	4 (2.7)
Tertiary	130 (86.7)	135 (90.0)
Non-response	0 (0)	6 (4.0)
Total	150 (100)	150(100)

Source: Field data, 2014

Education is vital for empowerment and increased choices which then translate into the rejection and abandoning of any form of violence. Knowledge helps to identify violence in any form. Thus, education is important because it helps individuals to make informed decisions that impact their very well-being including sexuality (Yeboah & Batse, 2009). “Women who are empowered [albeit educated, wealthy and employed] have been found to be more assertive on their sexual and reproductive rights, and better at negotiating for safer sexual intercourse than their counterparts who are less empowered” (Tenkorang & Owusu, 2012, p. 170). The table above shows that majority (88.3%) of the respondents had some form of Tertiary education.

4.1.9 Religion of Respondents

The religious background of the study participants are diverse spanning across the three major religions in Ghana. However, majority (98%) of the respondents were Christians, while a minority (0.3%) categorised as other is constituted by Eastern religions (*See Table*

4.1.10 below for details).

Table 4.1.10: Religious affiliation of respondents

Religion	Males (%)	Females (%)	Total (%)
Christian	140 (93.3)	148 (98.7)	288 (96)
Muslim	5 (3.3)	2(1.3)	7 (2.3)
Traditionalist	4 (2.7)	0 (0.0)	4 (1.3)
Other	1(0.7)	0 (0.0)	1(0.3)
Non Response	0 (0)	0 (0.0)	0 (0)
Total	150 (100)	150 (100)	300 (100)

Source: Field data, 2014.

Religion has been used as a strong basis for the validation of beliefs including domestic violence (Ammah-Koney, 2009; Oduyoye, 2009; Roberts & Roberts, 2005; Yeboah & Batse, 2009). The distributions of religious affiliations indicated (*See Table 4.1.9, above for details*) shows that males and female Christians accounted for more than (90%) of the respondents with the majority being females. There were no female traditionalists among the respondents. Tenkorang & Owusu (2012) suggests that traditionalists have minimal education and commonly reside in rural areas which may account for their scarcity in the study areas which are educational hubs.

4.1.11 Ethnicity of Respondents

The phenomenon of rape is as old as the institution of marriage without cultural boundaries.

Table 4.1.12: Ethnic background of respondents

Ethnicity	Men (%)	Women (%)
Ga/Adangme	22 (14.7)	32(21.3)
Akan	54 (36)	75(50)
Ewe	49 (32.7)	22(14.7)
Guan	22 (14.7)	14(9.3)
Gur/Northern	3 (2)	5(3.3)
Other	0 (0)	2(1.3)
Non Response	0 (0)	0(0)
Total	150(100)	150(100)

Source: Field data, 2014.

“In most Ghanaian societies, ethnicity is the source of customs and family laws that regulate among others, marital and sexual relationships...” (Yeboah & Batse, 2009, p. 80). In this study, respondents were composed of, Males: Akan (36%); Ewe (32.7%); Ga/Adangme (14.7%); Guan, (14.7%); Gur/Northern 2%; Other (0%) and Females: Akan (50%); Ewe (14.7%); Ga/Adangme (21.3%); Guan (9.3%); Gur/Northern (3.3%); Other (1.3%). (See Table 4.1.12, above for details).

4.2 Gender Differences Between Perceptions of a Non-Consensual Sexual Act in Marriage as Rape

The hypothesis in this study, tested to see if there is a significant relationship between gender perceptions of non-consensual sexual acts in marriage as being rape. Results from (Table 4.2.1 below) is used in testing the hypothesis.

Table 4.2.1: Gender and perceptions of non-consensual sexual acts in marriage as rape

Gender	Consideration of forced sex in marriage as rape.				Total (%)	χ^2 (df)	P value
	Yes (%)	No (%)	*NS (%)	**NR (%)			
Male	5 (3.33)	118 (78.67)	0 (0.0)	27 (18.0)	150 (100)	47.975(3)	0.000*
Female	27 (18.0)	65 (43.3)	13 (8.67)	45 (30.0)	150 (100)		
Total	32 (10.67)	183 (61.0)	13 (4.33)	72 (24.0)	300 (100)		

Source: Field data, 2014. *NS – Not Sure. **NR – Non Response

Significant at alpha 0.05*

Consequently, the findings reveal that, majority of the respondent approximately (79%) of males and (43%) of females respectively opined that forced sex in marriage is *not* equivalent to rape (See Table 4.2.1 above for details). With regard to male and female differences in perceptions of non-consensual sexual acts in marriage as constituting rape, the study recognised that (18%) of women and (3%) of men consider non-consensual sexual acts in marriage as rape. Clearly, this findings establishes a significant difference between gender based perception in terms of non-consensual sexual acts as constituting

rape in marriage ($p < 0.05$) as shown in *Table 4.2.1* above. On the basis of this, I fail to reject the hypothesis that *there is a significant relationship between gender based perceptions and non-consensual sexual acts in marriage as being rape*. This is because the critical value (CV) is less than the P value which is 0.000.

The first specific objective for this study: required establishing the perceptions of non-consensual sexual acts in marriage as rape based on gender. This is very relevant since sexual violence victimisation is commonly tilted towards women (Adomako Ampofo, 1993; Bergen, 1996; Obaid, 2010; Russell, 1984).

4.2.2 Women's Perception of a Non-Consensual Sexual Act in Marriage as Rape

A woman's socialisation has largely influenced her perception of sexuality as a whole. The findings from (*Table 4.2.1 above*) indicates that (18%) of women are of the view that a non-consensual sexual act in marriage is rape and (43%) opined that it is *not* rape. Some women, (9%) were *not sure* if a non-consensual sexual act is rape and (30%) of the women did not respond. From the questionnaire, female respondents' answers to the attribution of non-consensual acts to rape in the open ended question is captured below. The answers by the women indicate a suggestion that there is a recognition of non-consensual sexual acts in marriage as rape as have been described below as to what they believe marital rape is:

When your partner does not agree and it comes with violence; when the husband subjects wife to beatings before having sex; when the woman is not ready and he forces her by beatings and violence; when violent sex against the spouse's will; when there is too much violence; when the female is manhandled; when it is associated with molestation; when the partner uses violence or threat of punishment to force the spouse to have sex; when inhuman treatments are involved; beatings during sex; when a man beats you so you get weak before having sex; when my husband forces me into bed most often; when the force is so much that there are injuries; when refusal results in assaults; when inhuman treatment is used to get the other's consent (Female respondents).

In a 1999 nationwide study of VAW; Cusack (1999c, p. 30) notes that “...women indicated that they have sexual needs independent of their husbands [but] it is not acceptable for them to openly initiate sex”. In effect, a wife’s sexual needs hang in the balance until her husband comes making sexual advances even to which she may exhibit some token resistance. This can be applied to both marital and cohabiting relationships where women are also expected to remain monogamous.

Below, Kay a forbearer detailed how her husband did not take kindly to any excuse for not being able to allow him to have sex with her.

Anytime I refuse him sex, he will retort angrily, the difference between you and my sister is that, customarily, I can have sex with you and not my sister. Sex with you is lawful but sex with my sister is incest. I spent so much money in the process of asking for your hand in marriage, the brideprice I paid is comparatively higher... Now when I want sex, you tell me you are not in the mood. Either you are tired or you are menstruating... Did the families not tell you that I will be having sex anytime I needed it? Remember you are not my sister and I paid the price for ongoing sex (Kay, female respondent of MSA, 2014).

Women are socialized to be gatekeepers of their sexuality. The bride price is the key that therefore opens the gate for the aggressor to enter. “...the wife consents at the time of marriage to all future sex with her husband” (Holstrom & Burgess, 1983, p. xxii). After entry, he is no more tagged an aggressor but the rightful key holder to her vagina and other perceived sexually stimulating parts. An experienced social worker reiterated that:

Those who believe and still think that there is nothing like marital rape strongly hold on to the mentality that once they have paid the bride price it is the duty of their wives to unconditionally give them access to sex whenever and wherever and this must not be subject to neither negotiations nor discussions (Social worker/counsellor, 2014).⁴⁴

Some women also hold a contrary view to the concept of marital rape. In Ghana, “A group of women leaders in Nkawie district disagreed with one group member who cited rape in

⁴⁴ Personal communication with a social worker with an NGO from where the forbearers of MSA were recruited on the 28th March, 2014.

marriage as a form of sexual violence” (Adomako Ampofo & Prah, 2009, p. 117). Additionally, another women’s leader said “...if the proposed DVB was passed into law without changing some aspects, it would go contrary to Islamic beliefs and that no Muslim woman would be prepared to send her husband to court because of marital rape”.⁴⁵ The Muslim women grouping opposed the marital rape exemption from the rape laws because it contradicts their religious beliefs.

Some respondents in the focus group discussion also opposed the suggestion that there is rape in marriage. Opinions expressed by some members and responses to the open ended questions in the questionnaires were no different which reiterated the surprises of women to the equation of non-consensual sexual acts to rape. A female focus group discussant pointed out that a non-consensual sexual act was not rape but “*misbehaviour*” another said it was *some way* to name it rape. Playing the devil’s advocate, when I asked her to give it a name then, she reluctantly said, “*then it is love rape*” with the explanation that if an intimate forces to have sex even when you are not interested, that rather means he really loves you.

The responses above support Dwamena-Aboagye (2003) assertion that when women are raped, they do not want to label it so and men blatantly ignore its existence. Russell (1984, p. 27) cited a victim she interviewed as saying in relation to her husband, “...he was clearly not apologetic after the rape. He appears to have felt that he was simply taking what he was owed when it came to sex”. A female discussant compares her classic rape experience to that of non-consensual sexual acts which mostly ended up in consensual sex below:

⁴⁵ Hajia Hajara Telly, Northern Regional President of Muslim Women Association of Ghana (MOWAG) Retrieved February 9, 2014, from <http://www.modernghana.com/newstthread2/67939/1/>

If you label non-consensual sex in marriage as rape, I do not agree with you because I have been raped by a stranger before. When my husband forces me he does not hurt me but instead I end up taking over the ‘match’ [sexual activity]. You know the excitement is greater when there is some level of force (female discussant, 2014).

Warshaw (1994) postulates that when women are raped by strangers, they immediately cry wolf but are very uncertain about their reaction when it is an intimate. This perception further proves the myth that spousal rape is not as severe as stranger rape (Bergen & Barnhill, 2006; Fischer & Lab, 2010; Williams, 1984, p. 465). Some also are of the view that token resistance is an essential part of intimate sexual relations as asserted above so ‘force only’ is an inherent part of sexual activities.

I was always adamant when it came to sex with my late husband, but he forces and when he starts and I begin to enjoy it then I get on top, I take it to the world cup level. Usually, I got rewarded for scoring goals so it cannot be rape. How I miss those times (widowed female discussant).

The contention of the widow in the focus group proves further that women’s *no* when sex is initiated has lost credibility (Koss & Cleveland, 1997; Levinson, 2002). Some discussants openly expressed shock and misgivings about the fact that non-consensual sex within marriage has been equated to rape. They have accepted ‘force-only’ non-consensual sex as usual and appreciate it as part of their marital sexual interaction as recognised below:

When he forces because he is in need, it does not amount to rape. First of all I must ask myself why I married him. If we were not married, I will never have sex with him so marriage is primarily for sex. If I think of stories that I hear that some big men do have sex with their female aides the first thing when they get to the office then I will be exposing my husband to this risk when I deny him sex. In the end he will bring me AIDS on a silver platter because I would have exposed him to it through denial. (Ray, female key informant on MSA, 2014).

In seeking covert views, female respondents were asked to indicate what a non-consensual sexual act in marriage is, if it is not rape; to state but a few, some respondents to the open ended questions in the questionnaire indicated that non-consensual sex in marriage is not

rape but:

Selfish action; trying to get your partner into the mood; abuse; it is normal for married people; mutual affection; silent love; any form of sexual violence; misunderstanding each other; spousal abuse; husband trying to seduce his wife; part of the romantic move to turn me on; higher feeling; shows that your husband loves you (females).

Koss & Cleveland (1997, p. 15) asserts that for a woman to consciously apply “*rape*” to herself or label herself as having been raped after victimization, the relationship between her and the perpetrator is a determining factor. This may be as a result of the fact that on several occasions in the same relationship, consensual sexual acts have been compromised prior to victimisation and non-consent has never been contested in the very relationship but only when it turned sour. Hence, “...a higher level of intimacy is expected between married couples thus making it harder for participants to believe that rape occurs in a marriage relationship” (Ferro et al, 2008, p. 773).

More women, (30%) did not respond. The non-response may be attributable to both explicit and implicit gender role socialization which to a greater extent shapes male and female sexuality as ‘unspoken of’. According to Amaro, Navarro, Conron & Raj (2002), by the time a female menstruates, she is well aware that sex is dirty and dishonourable. Thus she must refrain from having sex by keeping the gate closed and not subjecting it to discussion either. In no uncertain terms, women’s sexuality is always under siege in any arena of life they find themselves. The woman is always under the threat of sexual exploitation and violence at any age, from the cradle to the grave and in any sphere of life, be it in: the home- supposed safe haven; formal and informal organisations; educational institutions; the church; in times of peace or times war and even after death; in the mortuary⁴⁶ (Agrawal,

⁴⁶ “Mortuary attendant admits having sex with 100 corpses” Retrieved January 15, 2015 from <http://www.myjoyonline.com/news/2014/August-18th/mortuary-attendant-admits-having-sex-with-100-corpses.php>

2011) name it!

4.2.3 Men's Perception of a Non-Consensual Sexual Act in Marriage as rape

From the cradle, men have been socialized to internalize conceptions that sexual intercourse is their prerogative even out of wedlock (Greenberg & Campbell, 1992). The boy in childhood is nurtured to be aggressive even sexually, which presupposes that he has sexual rights over any female. It is therefore not surprising for men to oppose the equalisation of non-consensual sexual acts in marriage to rape. The findings from (*Table 4.2.1 above*) indicates that only (3%) of men are of the view that a non-consensual sexual act in marriage is rape and (79%) opined that it is *not* rape. No man was *unsure* if a non-consensual sexual act is rape and (18%) of the men did not respond.

In seeking covert views from the open ended questions in the questionnaire, male respondents were asked to indicate what non-consensual sexual acts in marriage is, if it is not rape. To state but a few, some respondents indicated that it is:

Occupational hazard (part and parcel of marriage life); lustful desire; a misunderstanding and lack of self-discipline...but if it becomes habitual, then it is rape; satisfying her sexual needs; she was in the mood but needed assistance (males).

Men's understanding then is that, a wife can be unquestionably raped. This understanding is confirmed by California's Senator Bob Wilson, who retorted: "if you can't rape your wife, who can you rape?"⁴⁷ (as cited in Estrich, 1987, p. 74). In Ghana, Dr Edward Mahama, a onetime presidential hopeful and Professor John Evans Atta Mills, a onetime president of Ghana also reminded advocates for the criminalisation of marital rape that the bedroom of the married is an out of coverage area for the legal lens and too sacred for non-adherents to

⁴⁷ The quotation popularly referred to as 'a crude joke' is attributed to Wilson by the Women History Research Center of Berkeley, California, to him speaking in the Spring of 1979.

venture and the sacredness of the marriage bed must be maintained (Stafford, 2008).

During the pilot phase of the study, after explaining the study to a husband, he exclaimed in consequence: “*then I am a rapist ooohh! hahahahaha*” [he laughed out loudly] making light of the concept of marital rape; peculiar to men’s attitude of downplaying marital rape (Boakye, 2009) as validated by Bennice & Ressick (2003) research reviews. Thornhill (1994) posits that imperatively, men’s sexual behaviour is enclosed in some measure of force though, but normally composing a mixture of consensual, non-consensual and physical violence. Bercovitch et al, explains that “Human rape seems to be an outcome of status assertion by males which acts as a form of power domination used to copulate with a female who could not be attained with conventional methods” (as cited in Palmer, 1988, p. 515).

A male discussant stated that because he cannot go and *chase* (have sex with) another woman because of his religious beliefs, he will force her and if she goes to report him to the police that very day he will *cut her ticket for her* [divorce]. Another male discussant angrily retorted “*you come into my room as an intimate after sex you call it rape! Why then did you come? So that I will be looking into your face? chuuuuum* [a chuckle] *and then give you money after looking into your face?*” observations have been made by (Mckibbin et al., 2008; Koss & Cleveland, 1997; Warshaw, 1994) that once an intimate bears the cost of a date, he believes sex is a fair reciprocity.

Another discussant also emphasised that he would throw his wife and her belongings out to go and marry a man who will have sex with her only when she is willing so that he can be free to visit brothels without anybody having to accuse him of adultery/bigamy. An

octogenarian social scientist came out bluntly: *ekpotefea?* [Were you a witness?] making reference to me the researcher. Another man apathetically whispered, *women are not forthcoming, they are always pretending they do not need sexual intercourse so what do you do, I will force her, come and catch me*. A woman discussant also added that “*if I go and report my husband to the police that he has had non-consensual sex with me, then the day a stranger will rape me what would I do? I will take him to the Hague [International Criminal Court] bye bye*”. A consistent finding from the studies implies that marital rape is too sacred to warrant studies and discussions proving why it is relatively under researched among DV variables (Amoakohene, 2004; Bergen, 1996).

Under no circumstance will I consider it as rape because taking what belongs to you doesn't make you a rapist or a criminal. However, mutual consent will be better than using force as in 1 Corinthians 7:5 but when the other is not responding to your needs it become difficult seeking for consent at all (male respondent to open ended question).

Similarly,

She forces me and I also force her as long as we have been married! We force ourselves! So force plus force is equal to what? Marital rape? Then DoVVSU will become our second home. There is absolutely no rape in marriage (male discussant, 2014).

The foregoing quotes indicate that labelling non-consensual sexual acts as rape is dependent on the prevailing content and the relationship with the individual involved.

I am a man so I don't want to sound biased. If you are sexually hungry and your wife will not feed you where else will you go especially if you are not a 'play boy'? When my wife is not in the mood I coerce her and I do have my way; that cannot be rape! If a man assaults his wife for sexual purposes, the law should take its course but not when you have romantically forced her. My wife also coerces me some of the time, should I say she has raped me? Oh no! (Day, male key informant on MSA, 2014).

The above story establishes husbands' frustration when they do not get sexual intercourse. This confirms Frieze (1983) assertion that men use force to justify and explain non-consensual sex as they became sexually frustrated. McKibbin et.al also (2008) posits that,

the length of time between a couples last sexual intercourse can motivate rape. The concept of classic rape did rear its head proving that non-consensual sexual intercourse can only be rape when the perpetrator has never been intimately acquainted and not a husband. A non-consensual sexual act in marriage does not attract any sympathy at all as relationship status is useful in its determination.

From the information gathered, (*See Table 4.2.1 above for details*), no man was unsure if non-consensual sexual acts in marriage was rape because if they have performed the customary rites required of them and have also gone ahead to register their marriages with the state, then where from the suggestion of rape? “Normalized perceptions of unlimited sexual access to wives... are exacerbated where dowry is exchanged for a wife” (Cusack 1999c, p. 29). Ruth (1998) argues that most often men are greater beneficiaries of marital sex and will therefore not classify forceful sex as rape. This may help them to clear their consciences of any wrongdoing.

The ongoing debate on non-consensual sexual acts in marriage being rape, an institution supposedly acceptable for unquestioned intercourse (Abotchie, 2008c & 2008d; Nukunya, 2003) is rife because every sexual activity is supposed to be limited to marriage. As Williams (1984) have posited, marital rape victims themselves live in absolute denial when raped by an intimate. This is because, even when the characteristics of the stranger type of rape feature in their marriages, they ignore it because they also find the marriage setting also as providing intimacy which interactionists and behavioural scientist posit that humans crave for and is one of the keys to human existence (Broderick, 1988; Maslow, 1943; Spencer, 1981).

While some advocates and authorities believe that force-only sexual intercourse in marital sexual interaction does not constitute rape; for example, Kippley (2005) and Painter (1991) do not believe that all forced sex within marriage is rape. Others believe that all three: Force-only; violence and sadism/obsessive constitutes rape. "...radical feminists would maintain that *all* coerced sex is rape" (Burt & Albin, 1981, p. 213, emphasis original). It is no wonder that the concept sprung surprises on some faces throughout this study, a signal that, equating non-consensual sexual acts in marriage to rape was incomprehensible to them and a contradiction in terms.

In conclusion, the results signifies that it is more likely that women would perceive non-consensual sexual acts in marriage as constituting rape than men would (Fischer & Lab, 2010; Schwartz, 1997). This does not come as a surprise given that researches (Adomako Ampofo, 1993; Akpabli-Honu, 2014; Boakye, 2009; Manuh & Bekoe, 2010) have shown that women often tend to suffer from sexual violence.

As per the results establishing the gender differences between the perception of non-consensual sexual acts in marriage as rape for both males and female views equals to the *classic rape* perspective for this study which is reiterated by the submissions made by the respondents; 'if it is not a stranger, it is not rape'. As such, women should not be blamed for not labelling non-consensual sex in marriage as rape because stereotypically, stranger rape is what is rape in Ghanaian lexicon and this has largely influenced their perceptions. Odoi (2013) study in the Cape Coast municipality of Ghana reiterates the refusal of Ghanaians to name non-consensual sexual acts as rape in marriage though her respondents said that there was forced sex in marriage but relationship wise it cannot be equivalent to rape "...forced sex in marriage exists but cannot be called rape because the man involved is

your husband” (Odoi, 2013, p. 11). Thus as per (*Table 4.2.1 above*), the results indicate that more men (79%) were of the view that forceful sex in marriage cannot be equated to rape, compared to that of females (43%) while non-response in this context constitutes (18%) for women and 30% for women. Other studies (e.g. Pagelow, 1988, p. 207) asserts that the “gender-neutral” language such as spousal rape is for the sake of “political” expediency concerning the difficulty of garnering support for legislation identified as women’s issues therefore she posits that wife rape is the most appropriate terminology in the study of non-consensual sexual acts in marriage.

4.3 The Extent to which the Married Consider Non-Consensual Sexual Acts in Marriage as a Crime

The second specific objective of this study required an investigation into the extent to which the married consider non-consensual sexual acts in marriage as a crime.

Table 4.3.1: Opinion on whether rape in marriage is a crime

Response categories	Male (%)	Female (%)
Yes	44 (15.3)	86 (57.3)
No	54 (50.0)	30 (20.0)
Non response	52 (34.7)	34 (22.7)
Total	150 (100)	150 (100)

Source: Field data, 2014.

In addition to (*Table 4.3.1*) above, testimonies from the six forbearers of DV as per their experiences: 33% indicated that a non-consensual sexual act is a crime; 50% are not sure (mixed feelings); this view is also noted by Sussman, Steinmetz & Peterson (1999) and one, 17% is neutral on non-consensual sexual acts being criminal.

The marital relationship is undoubtedly sexual in nature, as in the words of Pracher (2010); “sexual intercourse is an integral part of marriage” (p. 728). Therefore the absence of

sexual relations within marriage is a precursor for dysfunction in this institution. Chisholm (2000, p. 130) also reiterates that: “If couples get to the point where there is no sexuality anymore, the relationship is pretty much dead”. To some, the phrase ‘marital rape’ is ambiguous because of the varying definitions (Barzhaw, 2008; Gelles, 1977). Defining sexual abuse within marriage has varied widely thus impeding what is generally acceptable as marital rape (Rodenbury & Fantuzzo, 1993). This has largely contributed to non-consensual sexual acts not being seen as a crime.

4.3.2 Respondents who Believe that Non-Consensual Sexual Acts in Marriage is a Crime

An exploration on whether rape in marriage is a crime elicited a yes response of (15%) for males and (57%) for females (*See Table 4.3.1 above for details*). Characteristically, the males failed to own up in the labelling of non-consensual sexual acts as criminal. Even though more males (50%) believe that rape in marriage is not criminal than females, (57%) of females i.e. wives admitting that marital rape is criminal is significant enough to assert that some level of recognition for sexual abuse in marriage is present. The confession emphasises the assertion by Koss & Cleveland (1997) that “...women are more likely to label unwanted sex as rape as they develop and become more sexually knowledgeable” (p. 15). Their knowledge helps them to tag it as criminal if only it is perceived as such.

A focus group member believed that non-consensual sexual acts in marriage equals a crime but only had challenge with the name. She supposed that an appropriate name to make it distinct was desirable though she could not suggest one when I humbly asked her to.

I think every act of sex should be consensual if not it qualifies as rape and rape is criminal but why don't you give it a suitable name. I know that rape of a child is defilement and rape of a relative is incest so rape of a wife should have a name that makes it distinct so that we can easily identify with it and accept it as criminal (female discussant, 2014).

Cusack (2009, p.6) citing Marilyn Frye explicates the difficulty that has been encountered in naming non-consensual sexual activities for what they are. Of the six forbearers, two of the forbearers (33%) recounted their experience as related to the sexual abuses they suffered in the hands of their husbands as they assert that non-consensual sexual acts in marriage is without a shadow of doubt, criminal.

There is rape ‘papapa’ (emphasis) in marriage; if it is rape, it is criminal. See! My husband has three wives in addition to me but he will force me till he has got it despite the fact that he is a premature ejaculator. Sometimes we have sex amidst beatings and threats of withholding our ‘chop money’ (money for upkeep). Violence is a crime by all standards (Hay, female forbearer of MSA, 2014).

Equally,

At my age [menopausal] most of the time, it is difficult for me to get lubricated naturally. My husband will get angry at me because penetration was difficult for him. He always accused me of having a lukewarm attitude towards sex. In the event, he will slap and kick me saying that will make me tune my mind into wetness. So for me it is rape, therefore a crime because that is how strangers (rapists) have sex and rape is a crime (Kay, female forbearer of MSA, 2014).

Additionally, the percentage of women, (57%) who were of the view that a non-consensual sexual act is a crime significantly suggests that though women are hurting in their marriages, they seem voiceless. The silence may be attributable to social, economic disadvantages, cultural, agency and other untold factors as a follow up with my in-depth interview with the forbearers of MSA revealed above.

Below, the social worker indicated that, her day-to-day work interaction with victims of DV confirms without a shadow of doubt that, marital rape is rife in marriages. If non-consensual sexual acts equal rape, then there is no delineation between it and a crime. But she also maintained that marital rape does not include the main reason why victims visit their outfit [an NGO] because they do not associate it with a crime.

There is so much rape in marriage as per my work experience. Though the victims of DV do not talk about it when they come to ‘us’ [NGO], several signs and off the

cuff statements have unearthed the presence of marital sexual abuses. Especially, MSA have been the underlying factor for other domestic abuses (Social/ worker counsellor).

Admitting that non-consensual sexual acts in marriage is criminal, she also made reference to the effects it had had on the victims she has worked with not being different from other acquaintance rapes which are criminal.

4.3.3 Respondents who Believe that a Non-Consensual Sexual Act in Marriage is not a Crime

Ascribing crime to rape has differed widely from person to person. Of the males (50%) and of the females (20%) asserted that marital rape is not criminal (*See Table 4.3.1 above for details*). This is an indication that some women for whom advocates are supposedly intervening for in order to be spared sexual abuses in marriage are not enthused with the concept. Else they see it as a contradiction in terms considering the fact that traditionally, all premarital obligations (payment of bride-price) were met before the actual marriage and effectually, sex with a husband even if non-consensual cannot be a crime.

In her research, Amoakohene (2004) notes that her respondents were repugnant towards the discussion on the subject of sexuality and this may be as a result of mixed feelings or seeing marital rape being criminal as a contradiction in terms. A forbearer Vay, felt that the concept was hazy therefore she could not conceptualise its criminality. She professed as follows:

I was married to a bush man [unromantic]. My husband does not ask for sex he takes it, he claims he prepaid for it through the dowry, so you can imagine it is force all the way. When I question his inability to introduce romance he answers back by saying he is in a hurry so I should just position myself. It is very painful especially when I am not ovulating and natural lubrication is unavailable but I am also not sure if it is a crime if he uses force because it is a norm in my marriage (Vay, female forbearer of MSA, 2014).

I did not know that the non-consensual sex my husband had with me qualifies as a crime. If that is what the law says it is, then how can I say it is not. It is not easy discussing it with a third person though. I cannot also put my husband whom I love in the same category as criminals. Eiiiiiiish! (*Sighs*) (Say, female forbearer of MSA, 2014).

Every marriage has challenges but in different ways. It is just like the rainbow colours. If mine is a different colour from someone else why should I compare. Crime heh! crime paaa [rape really] hmmm. My husband forces me most of the time because there is not joy enough for me to be thinking of sex but when he does I give in to avert unnecessary quarrels and retaliation for me and our children (Tay, female forbearer of MSA, 2014).

We were legally separated but when he comes to remit me, he forces sex on me. During one of the court proceedings I told the judge about it and my husband got very angry, thereafter, the alimony ceased but I did not consider it then that the forceful sex was a crime. Even now I don't know if it is a crime (May, female forbearer of MSA, 2014).

This group of forbearers above also shows that there is another paradigm to the marital rape saga being a crime. Even if it is rape, it is not as serious as the classic which is equivalent to a crime. Even if marital rape is a crime, as much as this group is concerned it not their beef.

4.3.4 Respondents' Non Responses to the Question of Non-Consensual Sexual Acts as Being Criminal

In profiling spousal consideration of non-consensual sexual acts criminal; non responses yielded (35%) for males and (23%) for females. Essentially, sexual matters in general are a sensitive issue in most societies across the world (Finkelhor & Yllo, 1985) including the African (Bowman, 2003). Socio-culturally, marital matters are believed to be confined to the private sphere of marriage and the family. On the other hand, non-consensual sexual intercourse is synonymous with marriage (Cusack, 1999) i.e. *determined* so it may not be likened to a crime. A respondent of this study wrote that marital rape is comparable to an *occupational hazard*. In effect, women also believe that once the bride price is paid, non-consensual sexual acts are imperative and not criminal.

The reasons for the silence may also include: a reflection of the respondents trying to distance themselves from the concept of non-consensual sex in marriage being tagged criminal; the definition of force within sexual relationships has been hotly contested (Mahoney & Williams, 1998); indifference or ambiguity about the concept of marital rape; contempt for daring research into a concept as sensitive as marital sexuality or better still, too sensitive an area to be discussing with people who may be perpetrators but have refused to own up. Russell (1984) sums it up by stating that: “the unwillingness of some respondents to disclose their experiences provides reason to believe it is still an underestimation of the problem” (p. 47).

In the light of this study, the findings show that significantly, more than 57% of women equating non-consensual sexual acts in marriage to a crime is thought provoking. Also non-consensual sex with a woman in the marital context as perceived by some as not constituting a crime reflect the Ghanaian socio-cultural and religious beliefs in addition to Ghana’s legal stance on marital rape, buttressed by (Armstrong, 2003; Gadzekpo, 1999). Indeed, some find the concept of marital rape being a crime unimaginable because of traditional values ever apparent within the institution of marriage. Such societal beliefs are imbedded in notions such as the idea that a woman’s sexuality is controlled by a man. “The use of relationship status to determine whether a crime has occurred reflects the ways in which our attitudes about rape vary depending on the victim–offender relationship” (Ferro, Cermele & Saltzman, 2008, p. 765). The reactions of the respondents reveal that the context of non-consensual sexual acts and the victim perpetrator relationship does truly determine the categorization of non-consensual sexual acts as a crime of rape (Mahoney & Williams, 1998; Warshaw, 1994).

4.4 Awareness Level of Marital Rape Being a Crime in Ghana

The third specific objective of this study aimed at finding out if respondents were aware that marital rape is a crime punishable in Ghana under the DVA, 2007.

Table 4.4.1: Awareness of marital rape as a crime in Ghana

Responses	Men (%)	Women (%)
No	9 (6.0)	75 (50)
Yes	2 (0.7)	14 (9.3)
Non response	139 (93.3)	61(40.7)
Total	150 (100.0)	150 (100.0)

Source: Field data, 2014.

In the (Table, 4.4.1 above), nine males (6%) and half of the female respondents (50%) are unaware that marital rape is a punishable crime which shows that grossly, awareness is rather on the low side. Males, (93.3%) and females (40.7%) did not respond to the question which may connote disgust for the question, taking into consideration Ghanaian covert socialisation on sexuality.

Recently in Accra, the capital of Ghana has boomed with both electronic and print media. These discuss contemporary and very sensitive issues which hitherto would have been a taboo confirming the assertion that “media attention raises public consciousness on any social issue” (Gorman, 2004, p. 124). In America, the media played a pivotal role in raising citizens’ consciousness on non-consensual sex in marriage as rape and a crime during the feminist uprising of violence against women (Gorman, 2004).

The proposed criminalisation of marital rape enraged some Ghanaians though strides have been made in expunging section 42(g) of the criminal code which apparently sanctioned marital rape (Adomako Ampofo, 1998; Archampong & Sampson, 2010). It is said that ‘ignorance of the law is no excuse’! By this adage, I sought to know if Ghanaians knew that

by the repeal of Section 42(g), and the passing into law of the draft DVB into an act in 2007, makes one culpable to criminal prosecution for non-consensual sexual acts in marriage.

In ascertaining the sources of awareness, I found as shown in table 4.4.2 below that:

Table 4.4.2: Respondent's source of awareness of marital rape as a crime

Source of awareness of marital rape as a crime	Males (%)			Females (%)		
	No	Yes	NR	No	Yes	NR
Have you heard any discussion regarding rape in marriage as a crime on any electronic media?	103 (68.7)	39 (26.0)	8 (5.3)	109 (72.7)	30 (20.0)	11 (7.3)
Have you ever read anything in the print media regarding rape in marriage as a crime?	105 (70.0)	32 (21.3)	13 (8.7)	93 (62.0)	47 (31.3)	10 (6.7)

Source: Field data, 2014. *NR= Non response

Males (26%) and females (20%) had heard some discussion regarding rape in marriage as a crime on an electronic media. While men were more informed on marital rape than women, via electronic media, the reverse was true for print media. Males (21%) and females (31%) responded in the affirmative (*See Table 4.4.2 above for details*). Through the print medium, women were more informed on marital rape as a crime than men.

Out of the 24 participants in the focus group, only 3 men and 2 women knew for sure that marital rape was a crime in Ghana though they could not remember their source of knowledge. Additionally, 7 men said they faintly remember that some few years ago there were demonstrations in Accra in relation to something “like that” but couldn’t recollect exactly what came out of those hullabalos. In relation to the print media, 4 participants said they had read something relating to marital rape as a crime. None of the forbearers of MSA interviewed knew that marital rape was a crime and that it could be prosecuted in the courts as such.

Lack of awareness on marital rape as being a crime in Ghana may be ascribed to the fact that there has not been a single test case put on trial. A personal encounter with DOVVSU revealed that since the repeal of Section 42(g), they had not received a single case in connection with marital rape. According to Archampong & Baidoo (2011), four years on after the repeal, “no reported case is as yet available on marital rape in Ghana... Also, research undertaken for this paper did not yield any case of marital rape in the Supreme Court Ghana Law Reports and the Ghana Law Report” (p.11).

A test case therefore will raise victims’ consciousness to use the law. Finkelhor & Yllo (1985) attributed lack of public awareness to the furtive cautiousness: shame; reproach; guilt; self-blame; cultural stigmatisation; separation and rejection that comes with it. Ursula Owusu⁴⁸ an advocate for the criminalisation of marital rape is optimistic that, victims will seek redress from the law courts which will set the precedence that will later guide other prosecutions but this prediction is yet to materialise.

Marital rape was explicitly criminalised in the United States of America (USA) on July 5, 1993, in all fifty states (Bergen & Barnhill, 2006). However, before its criminalisation in all fifty states, shock waves were sent down the spine of Americans in October, 1978, when Greta Rideout reported her husband John Rideout whom she was still living with to the police that he had raped her (Finkelhor & Yllo, 1985; Kiffe, n.d; Purdy, 2004). In the USA, the first test case, Daniel Morrison of New Jersey was found guilty of raping his estranged wife (Kiffe, n.d). Though the second, the Rideout case was legendary, they “...became a true national spectacle” (Finkelhor & Yllo, 1985, p. 172). Since then marital

⁴⁸ At this time of writing, Ursula Owusu is the sitting MP of Ablekuma North constituency. She is a known advocate of the criminalisation of marital rape in Ghana. Retrieved March 29, 2014 from <https://www.modernghana.com/news/124703/1/you-can-now-rape-your-wife.html>

rape cases have been successfully prosecuted in the USA (Kiffe, n.d.).

Because of the “novelty” of the Rideout case, ample attention was paid to it within the media. The case received national news coverage and was picked up by publications such as *The New York Times*. Walter Cronkite even discussed the trial on *The CBS Evening News*. Because of the sensationalism caused by the trial, the press publicized every aspect of the case (Bazhaw, 2008, p. 3, *Emphasis original*).

These cases became a source of awareness creation on marital rape being criminal which sparked debates throughout the nation of America bringing to the fore the conception that rape does exist in marriage (Benedict 1993; Cuklanz, 1996; Kiffe, n.d). “Despite Rideout’s eventual acquittal, the publicity surrounding the case helped to further raise consciousness about marital rape... All of these efforts have been instrumental in raising public awareness of marital rape” (Bennice & Resick, 2003, p. 230-231. Laura X is a known advocate for marital rape prosecution; X is widely credited with many single handed efforts to the raising of awareness and the push for legislative reforms (Bazhaw, 2008; Bennice & Resick, 2003).

4.5 Married persons’ attitude towards the criminalisation of marital rape in Ghana

The fourth specific objective of this study sought to discover the attitude of married persons towards the criminalisation of marital rape. Despite the fact that it is no more subject to negotiations, I tested the pulse of the respondents to see how they feel about the possibility of prosecuting a spouse for rape in Ghana.

Table 4.5.1: Attitudes of the married towards the criminalisation of marital rape

In favour of the criminalisation of marital rape in Ghana	Men			Women		
	Yes (%)	No (%)	NR (%)	Yes (%)	No (%)	NR (%)
	9 (6.0)	113 (75.3)	28 (18.7)	33 (22)	95 (63.3)	22 (14.6)

Source: Field data, 2014

Inferring, (See Table 4.3.1 for details) even though (15%) of males accepted that rape in marriage is a crime, only (6%) (See Table 4.5.1 above for details) favour its

criminalisation. Also, for females, increasingly, (57%) accepted that rape in marriage is criminal, only (22%) favour its criminalisation. Again, (*See Table 4.4.1 for details*) significantly, (75%) of men and (63%) women said *no*, they do not favour the criminalisation of marital rape in Ghana. Additionally, the study corroborates other findings (Amoakohene, 2004; Ampofo & Prah, 2009) that suggest that stereotypes, shame, stigmatisations and misunderstandings characterise notions and the criminalisation of non-consensual sexual acts in marriage. A key informant expressed his views as to the dire need for the criminalisation as follows:

The fact that narratives abound about marital rape proves its existence. One story is as valid as a thousand. There is nothing cultural about indignity [marital rape], rape is rape regardless of your status! You do not change your human upon marriage. Our socialisation is no excuse and it does not take away our decision making for sexual intercourse. We have evolved in the midst of knowledge that point to the contrary... we must respect the decision of women and the criminalisation of marital rape is long overdue (Key informant, 2014).⁴⁹

Traditionally, Ghanaians are not socialised to see sexual violence as a crime either in or out of marriage (Tenkorang et al. 2013) “What is understood to be sexual violence narrows considerably” (Cusack, 1999c, p. 28) to stranger sexual violence. In relation to this, even acquaintance rape which is commonly committed (Aniwa, 1999, Akurang- Parry, 2004) is remedied unorthodoxly when it comes to light. This strengthens the classic rape theory as debunking rape in intimate relationships.

Say’s admission below is also a confirmation of what Kiffe (n.d) fears that if counsellors do not handle victims of marital rape cautiously they may in turn begin to defend the husband and will not speak ill of him. *“Despite everything, I still love my husband. I can’t imagine him being imprisoned for forcing a sexual act on me. What*

⁴⁹ Personal communication with a representative of the National Coalition on Domestic Violence Legislation (NCODVL) on May, 5 2014.

will I tell the children? My in-laws will hate me the more because they opposed his marriage to me". In spite of the ills she suffered sexually, she does not favour marital rape criminalisation strengthened by social coercion. Finkelhor & Yllo (1985) points to this very end that the victim of marital rape may detest the abuse but love the abuser; a deterrent for preferring charges.

Human beings as social animals are seen to dance to the tune of societal coercion. Again and again, decision as pertaining to the favouring of the criminalisation of marital rape has hovered around societal beliefs and socialisation. The respondent below also wants to look non deviant.

It is good that marital rape has been criminalised because many wives are being raped. But I don't think it is worth the criminalisation because I will look like a fool telling the world that my husband has been having non-consensual sexual acts with me knowing that we are properly married (Kay, female forbearer of MSA, 2014).

The respondent below as per her experience as a victim of domestic violence does not trust the judicial system to plead her cause in the event that she decides to seek for redress for marital rape. As such she does not see reason for enacting a law for enacting sake. So for her, neither does she favour nor disfavour the criminalisation of marital. In effect, what is law if it does not work!

It has been criminalised though but it just for the sake of it. It won't work. Even this one (physical) I reported which is not sexual I have regretted it because of the 'go, come, go, come'. I am spending a lot of money and my relations are not ready to help me with the legal fees. Going to court is time wasting (Tay, female forbearer of MSA, 2014).

This male respondent below believes that marital rape is a less serious issue as the victim is his wife. He dares to compare marital rape as less important than putting of electricity without notice to power outages that had bedevilled the nation of Ghana at the time of conducting the research. "*Electricity Corporation of Ghana (ECG) can put*

off our lights for days without any prior notification but nobody has criminalised their deeds, is it me having non-consensual sex with my own wife that is criminal? You are not serious (male focus group discussant)”.

Likewise, the respondent below strongly believes that the criminalisation of marital rape makes even armed robbers freer than husbands because, they may find a way of escaping from the grips of the law but husbands cannot dare as per the criminalisation.

Armed robbers are walking freely on our streets and you people have gone to make a law that when you have sex with a wife who is unwilling, you should be put into prison. Then we will not marry oh! We will go for ‘ashawo’ (a sex worker) and pay anytime we feel like having sex and also I will have children out of wedlock so that I will take the children to my mother to look after. I left my first wife because of everyday excuses ‘my here, my there’ is paining me ‘abaah’ [exclaims] (male focus group discussant).

A prominent criminologist⁵⁰ below blatantly does not favour the criminalisation of marital rape and describes it as a “crude presentation”. He believes Ghana should focus steadily on long term preventive measures of rape in its entirety that than curative.

I do not think that criminalizing marital rape will solve the problem of spouses having non-consensual sex. Education should be an unending and an ongoing process. Crude presentation will lead to a high rate of divorce which is against the Christian doctrine as it is being witnessed in Western nations which is rather frightening high. The church must feature it in its general sermon. The church and NGO’s should be the vanguard of education on sexual violence. (Key informant, 2014).

The female respondents below believe that, at one time or the other, they have also forced their husband so in favouring the criminalisation of marital rape, they themselves may become culprits.

I like sex very much. What are you talking about? It is my husband who will not have peace when we do not have sex regularly because my libido is high. He can go and have sex behind me but I cannot so I make sure I get my regular heavy dose

⁵⁰ Personal communication with a professor of criminology and the current dean of the Law faculty of a prominent University College of Ghana.

'yenkorkuaaaaaa' (no restrictions) amidst exciting and contagious laughter (female focus group discussant).

Equally,

I force my husband most of the time against his will. I show him what to do most of the time because he is lazy when it comes to sex. Does it mean he should go and report me? When he gets to the police station I am sure they will laugh him to scorn for his supposed foolishness. I don't think any man in Ghana can report his wife for rape. It will be funny oh! The police will insult him *'wuegyimi o'* [you are stupid] are you not a man? Anyway he also started forcing me when we separated (May, female forbearer of MSA, 2014).

May's response above is similar to a story Thio told of a sailor who reported to the police that he had been raped by a woman "The police in the station thought he must be drunk, out of his mind, or simply weaving a good tale. They laughed him out of the door" (1996, p. 108-109). Again May, a forbearer, does not take to account sexual abuse as warranting criminalisation not because she was the perpetrator but because of her socialisation.

Reasons for not favouring the criminalising of marital rape can be multi-dimensional, economically, a husband may be the main or only source of income for the family and if he is incarcerated as a result of a marital rape charge, the wife and children will be found wanting. This concern was shared by Gladys Asmah⁵¹ "Do you know what will happen if women start accusing their husbands of rape and start taking them to court? It will destroy marriages and more children will be thrown on the streets" (as cited in Archampong & Sampson, 2010, p. 511).

Britain, Ghana's colonial master, from whom the marital rape exemption law was inherited, outlawed the exemption of husbands from claims of sexual abuse in 1991. Hodzic (2009)

⁵¹ The late Mrs. Gladys Asmah was a Member of Parliament of Takoradi from January 1997 to January 2009, the minister of; Women and Children Affairs now; (Ministry of Gender and Social Protection) from 2001 to 2005 and minister of; Fisheries from 2005 to 2009. Retrieved from- <http://graphic.com.gh/news/general-news/25889-gladys-asmah-is-dead.html#sthash.6yFFAWF7.dpuf>

and Stafford, (2008) notes that a proposed repeal law gained notoriety for great contention and controversy in Ghana. The Criminalisation of marital rape in Ghana and other African countries (such as Kenya and Malawi) has not seen much celebration (Archampong, 2010). The findings in this study support other studies that show that, entrenched internalized sociocultural beliefs have been associated with these efforts to achieve the successful criminalisation of marital rape (Archampong, 2010; Sampson, 2010; Stafford 2008).



CHAPTER FIVE

SUMMARY, CONCLUSIONS AND POLICY IMPLICATION OF THE STUDY

5.0 Introduction

This study entitled criminalisation of marital rape in Ghana: The perspective of married men and women; aimed at basically understanding the perception of marital rape and the need for criminalisation. The specific objectives of the study included the; investigation of the extent to which married persons consider non-consensual sex in marriage as rape and also to find out the attitude of the married to the criminalisation of marital rape. This chapter summarises the findings, draws conclusions and outlines some recommendation akin to policy implications and suggestions for future studies.

5.1 Summary of Findings

Throughout this study and in the light of the findings, it is evident that the criminalisation of marital rape in Ghana is rather on the blind side of many Ghanaians. This is attributable to the historical, socio-cultural, religious and legal exemptions from rape charges it has enjoyed over the centuries rendering it as an unpopular and disregarded sex crime. To some, it is no crime at all because out of the 330 participants in this study, only 15% of males and 57% of females were of the view that a spouse could rape. Findings from this study also demonstrates that those who have engaged in non-consensual sex; both victims and perpetrators do not necessarily consider themselves as either having been violated or have committed violations.

Without a shadow of doubt, marital rape has been conceptualized as a Western concept despite the numerous advocacies that has aimed at re-orienting the Ghanaian on the right to the autonomy of one's body. The westernised notion of marital sexual abuse in marriage as

rape has become possible because of Ghanaian gender based beliefs and value systems; an indication that sexual abuse constitutes a tip of an iceberg of stratified gender based violence. This is manifest in literature where prominent Ghanaians, including some legal brains have uncompromisingly perceived the criminalisation of marital rape as an infiltration of Western culture that seeks relentlessly to adulterate the Ghanaian value system within the marriage institution.

Due to an extreme sense of shame, stigmatisation, inferiority complex, low self-esteem and humiliation, it is difficult for the disclosure of the existence of rape by an intimate partner even under anonymous circumstances. It is therefore apparent that though a ‘necessary evil’, criminalisation of marital rape is insufficient to deter perpetration and a means of resolving sexual abuse disputes. This is reiterated from facts gathered from DoVVSU and other researches that since the passage of the law in 2007, they are yet to have a single report from a victim accusing a spouse of sexual abuse.

Laudably, the implicit criminalisation of marital rape in Ghana is symbolic because ‘every thousand miles begins with a step. It is an indication that Ghana is beginning to tread in the footsteps of her colonial master Britain and other Western nations as far as DV issues are concerned. Additionally, Ghana can also be in the good books of the UN.

5.2 Conclusions

The word rape explicitly points to the details of stranger rape and this has largely affected spouse’ acceptance of marital sexual abuse as rape. Not many married persons are aware that marital rape has been criminalized in Ghana. This may be as a result of the dormant nature of the advocating body the NCODVL after the passage of the DV bill in 2007. The

Respondents in this study do not come to terms with equating non-consensual sex to rape. More males, (50%) the known perpetrators of MSA according to this study do not believe there is marital rape largely because of the Ghanaian mode of sexual socialization. Also, perpetrators of MSA do not perceive themselves as criminals but rightfully enjoying what is theirs, their preferred way when they do have sex non-consensually, a proof that such has the Ghanaian been socialized. It was also obvious that sexual activities among married people were not always consensual but to them it is not a crime to be subjected to prosecution.

The victims will also not report non-consensual sex because it is widely believed to happening in the private sphere. This means that that so far legislation has failed because after nine years of putting a law in place to help deal with the phenomenon in Ghana, a perpetrator is yet to be reported. This is because married persons do not favour the criminalisation of marital rape also because our socialization as Ghanaian sees sexual acts whether consensual or non-consensual as no crime worthy of prosecution in the marital context.

5.3 Recommendations and Policy Implications

The aim of this section is to provide some policy directions regarding how to curb the menace of marital rape in Ghana. In following in the footsteps of the West, Ghana must recognise that their successes were not only chalked by explicitly criminalising marital rape but the successive and successful prosecutions to date are because both legal and social intervention systems are firmly in place to cushion victims in the event of resorting to the law enforcement agencies.

Ghana's socio-cultural system far differs from that of the West which must be taken into consideration in the search for solutions to curbing marital rape. So remedial strategies must be very sensitive to the Ghanaian situation where family ties form the fundamental basis of most decisions taken unlike the West where at age eighteen, an individual is free to cut ties even with the nuclear family because social systems are in place to cushion the defector.

Domestic violence based researches must be of great interest to the government of Ghana. The only national DV study which is two and a half decades old i.e. was undertaken in 1999. As I write, there has not been any national research on DV as a follow up on issues raised by Coker-Appiah and Cusack (eds.) in their nationwide study. The government of Ghana must imperatively fund a periodic comprehensive national study on DV as this will help to identify and be informed about contemporary DV issues and problems that have bedevilled the nation. This will be in view of gaining better knowledge and getting understanding in order to help tackle them more effectively. Applied researches that will seek to inform this kind of study must also be sponsored by government to lead to the generation of custom made interventions that are needed to improve the Ghanaian socio-domestic life as a whole.

An encounter with DoVVSU indicates that since 2007, when the Section 42(g) was repealed not a single victim has formally reported sexual abuse by an intimate partner. Inferring from the study, attitude of respondents, both male and female does not fully support the criminalisation of marital rape. This makes the issue of the criminalisation of non-consensual sex in marriage in Ghana a daunting task. This asks that strategies adopted for advancing the existing law on marital rape must ensure that various potential strategies

for tackling marital rape are discussed under legislation and public education despite the fact that there is no explicit law to that effect. Tackling marital rape elimination as the adage goes among adult Ghanaians would be akin to teaching an old dog a new trick.

Differing from crime minded approaches, I argue that, criminalisation will hardly serve as a remedy for women's sexual emancipation. This gives birth to the urgent need for the reorientation (direction of emotional desires) on sex for the Ghanaian in as much as sexual violence knows no bounds; cutting across all gender dimensions.

- Without education human beings will live their lives by assumptions. Formally and informally, extensive education on human sexuality must be inculcated into the Ghanaian from the cradle because sexual abuse is preventable through general sex education, knowledge, causes and implications.
- Purposefully, the Ghanaian educational curricula must incorporate sex education at all levels from the kindergarten to the tertiary level. Acquisition and modification of attitudes towards sexuality can then be realized to curb sexual abuse not only in the home but in educational institutions, workplaces, market places, churches, mosques, hospitals and anywhere because sexual abuse takes place even in the mortuary (i.e. cadaveric sex).
- From the primary to the secondary level, the physical education curriculum must incorporate instruction manuals on the prevention of sexual abuse. Self-defence lessons then must imperatively be a part of the physical educational instructions.
- The Ghanaian education curricula from primary to the tertiary level must be littered with examinable subjects on gender based violence regardless of the area of study just as African Studies at the university level is a requirement for certification. This may neutralise and counteract societal processes of socialisation which has

especially reduced the female to a second class citizen and a sexual receptacle into which sexual desire must be unleashed without recourse to the autonomy of her body not just in marriage.

- Government approved text and exercise books for all subjects could have teasers of sex education and prevention at the back just as mathematical tables can be found at the back of some exercise books.
- Teacher training colleges must incorporate sexuality education in their syllabi. The institution must train their trainees to first of all be law abiding citizens because some teachers sexually abuse children and even adults who because of shame are not able to report the abuse. They must be empowered to teach safe sexuality as a responsibility.
- Family planning education must be intensified because some women only refuse their husbands sex for fear of unplanned pregnancy which is a genuine fear for a woman as the burden of child care most of the time rests solely on them.
- Midwives must advise mothers as to when it is practically and clinically safe for them to resume sexual activity after childbirth because of the different child birth procedures. Practically, husbands must be invited upon discharge of their wives after childbirth to be educated on when it is safe for them to resume normal sexual activities. This will mitigate traditional beliefs and myths handed down from generation to generation that have characterised sex after childbirth which has degenerated into misunderstandings.

If sexual abuses in our society are of great concern to government, it can share some of its burden on corporate organisations to train their staff on matters of sexuality. The above measure will hopefully re-socialize and re-orient the Ghanaian on human sexuality and the

autonomy of the body each Ghanaian is entitled to as opposed to the status quo of the varying forms of societal socialisation that puts individuals at risk of sexual violence. If the law has changed but societal attitudes towards sexual abuse are not, change will be farfetched for us. If Ghanaians are educated generally on the implications of general sexual violence, rape commission will not transit into marriage. In the long term, there will be a significant reduction in the number of citizens who are at risk of contracting STI's especially HIV/AIDS which has rich pandemic levels worldwide.

The police- DoVVSU, courts, social welfare must be adequately resourced with both personnel and contemporary technologies to tackle or deal with sexual violence related issues. Continual in-service training for staff of any organ who works in collaboration with DoVVSU is imperative to ensure proper coordination of gender issues. A national sexual violence crisis center /intervention services must be provided where victims can seek free psychological counseling and medical interventions. Special toll free telephone lines must be provided at sexual violence crisis response centers; empathic treatment of victims by all and sundry; and government funded research into sexual violence to know where Ghana stands.

The DoVVSU staff must be trained in the art of asking questions pertaining to all facets of DV and specifically about sexual abuse because victims will usually not volunteer such information for the reason that shame and humiliation characterise issues bothering around sexual abuse. The art of asking question is essential as not many women will readily volunteer information if bluntly asked 'has your spouse ever raped you'? Relatedly, what rape is to the Ghanaian is different from what the laws of Ghana stipulate as established throughout the study. The police personnel must be re-oriented and specially trained on

sexual abuse issues the reason being that they are also Ghanaians who have gone through the same processes of socialisation as a victim and will probably not name rape as rape because it involves an intimate partner or acquaintance and as such calls for re-socialisation in the training processes.

Because societal attitudes are slow to change, radically, archaic traditional practices which are gender based must be defied and side stepped to put in place pragmatic policies that shields against DV generally in order to nib it in the bud just as President John Dramani Mahama⁵² defied all traditional cultural stances to appoint Dr Henry Seidu Daanaa a visually impaired lawyer as Minister of Chieftaincy and Traditional Affairs Ministry amidst protest even from the elite in Ghana in the name of culture and tradition.⁵³

Sex is a dire physiological need which cannot be ignored just as thirst and hunger, more especially in the marriage institutional context where it is acceptably a conjugal right for spouses. It is evident from the literature that sexual passivity has varied causes widely ranging from: genetic to medical conditions which may result in non-performance. In trying hard to find solutions to sexual dysfunctions, anecdotal evidence has it that the Ghanaian market has for the past few years been flooded with all sorts of aphrodisiacs. Aphrodisiacs are taken to enhance sexual desires; excitement; drive; performance; increased libido; treatment of impotence and the likes but with its attendant side effects.

⁵² His Excellency John Dramani Mahama is the current president of Ghana.

⁵³ Henry Seidu Daanaa, the first visually impaired lawyer in the country has extensive experience in chieftaincy issues. He obtained a Doctorate and a Degree in Law from the London School of Economics and Political Science between 1986 and 1992, and a Masters' degree in Law from the same University in 1982, after completing undergraduate law program at the University of Ghana between 1979 and 1981. He worked on the codification of chieftaincy lines of succession for 21 paramount stools in the country, and on October 3, 1997, the General Legal Council, conferred a special prize award on him in recognition of his achievement as the first blind man to be trained as a lawyer at the Ghana School of Law. Retrieved April 16, 2014 from <http://politics.myjoyonline.com/pages/news/201301/100223.php>;

These aphrodisiacs range from foreign to local types all in a bid to enhance sexual performance and the achievement of sexual gratification. This projects the need for professional psychotherapists, sex therapists and clinics for therapeutic interventions. It is therefore imperative for government to establish sex therapy clinics to help find solutions to sexual challenges in marriages.

The sex therapy clinics could be affiliated to already established family planning clinics across the nation. When done, these clinics could give professional attention to those who might be having challenges with their sexuality (i.e. dysfunctions) to access therapeutic services. Additionally, supervised medical interventions could be resorted to instead of orthodox and unorthodox self-medications. These interventions if introduced could help reduce the known side effects that come with the use of both orthodox and unorthodox self-medications which may in the long run pose health challenges to Ghana's human resource base which will in turn lead to a drain on the scarce resources in the national purse.

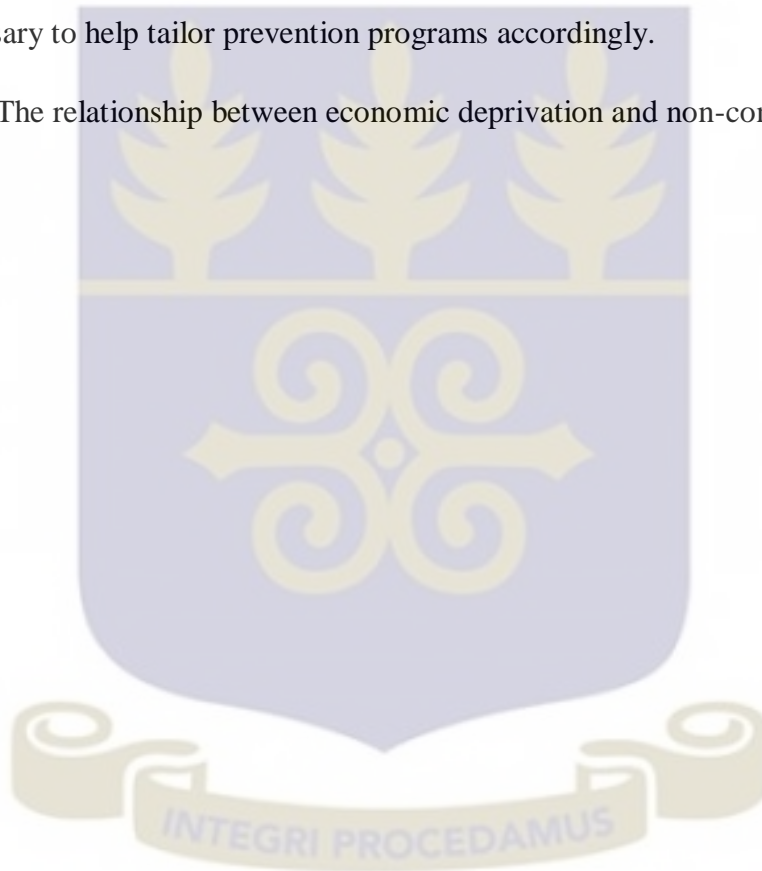
Finally, the findings in this study point to the fact that the war on marital rape cannot be won through legislation only. The criminalisation of marital rape may not necessarily lower its incidence and prevalence because the phenomenon is far complex than assumed. Radically, the shell around marital rape must be tactfully broken in order to salvage the content which has the likelihood to birth corrective measures.

5.4 Suggestions for future research

Research has established and it has also been confirmed in this study with the forbearers of MSA that rape in marriage is more prevalent than thought or assumed than any form of acquaintance rape. It is critical therefore to establish the prevalence, incidence and

consequences of marital rape, in Ghana through research in these areas.

1. Victims/survivors of domestic violence are a critical population for the general study of marital rape as they are likely to speak out with little reservation when the subject is tactfully approached.
2. Research into force only non-consensual sex is needed for which many do not consider as rape in order to establish its prevalence.
3. The need to determine the factors that causes non-consensual sex in marriages is necessary to help tailor prevention programs accordingly.
4. The relationship between economic deprivation and non-consensual sex.



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APPENDICES

APPENDIX A

DOVVSU FACE SHEET

Interview guide a for Dovvsu official during the survey on the criminalisation of marital rape: the perspective of married Men and Women in Accra

Name:

Date:

Time:

Place:

Job Title:

1. What are your primary functions as a law enforcement agent?
2. What presenting problems brought Spouses to your unit?
3. Has couples reported issues relating to marital rape to your unit?
4. Has the criminalisation of marital rape helped in reporting?
5. What are the contributory factors to marital rape?
6. What were the influences of marital rape?
7. Nature of violence- inherent features
8. Causes of violence
9. Types of violence-
10. Forms of violence- a way in which it exists or appears
11. Has any perpetrator ever been prosecuted by the courts?
12. Has a husband ever reported to your agency that his wife has raped him?
13. Why do spouses not report marital rape?
14. Please share experiences you've had with survivors of marital rape if any.

THANK YOU FOR PARTICIPATING

APPENDIX B

NCODVL FACE SHEET

Interview guide for an advocate of the national commission on domestic violence legislation (2003) during the survey on the Criminalisation of Marital Rape: The Perspective of Married Men and Women in Accra.

Name:

Date:

Time:

Place:

Title:

1. What are the major concerns of the commission?
2. Why domestic violence issues?
3. Why should any form of sexual violence in marriage be equated to rape?
4. Why the hue and cry especially about the criminalisation of marital rape?
5. Are you of the view that criminalisation will empower spouses to report incidences of sexual violence to law enforcement agencies?
6. Concerns were raised in some circles about our traditional values and criminalisation of marital rape. What is your take on that?
7. Taking into consideration Ghanaian traditional values, do you think spouses will openly talk about sexual challenges they face in their marriages even to law enforcement agencies?
8. Will a spouse easily want a partner incarcerated for a cause as sensitive and as intimate as sexual Violence?
9. What then happens to the children after the dissolution of the marriage due to the prosecution and incarceration of a spouse especially a husband if he is the breadwinner?

10. Do you think criminalisation of marital rape will help curb the phenomenon?
11. In 2007, marital rape was implicitly criminalised. Are you satisfied?
12. After the criminalisation, what follow up measures are in place to ensure that survivors get justice?

THANK YOU FOR PARTICIPATING



APPENDIX C

FORBEARER FACE SHEET

Interview guide for a forbearer of marital rape during the survey on the Criminalisation of Marital Rape: The Perspective of Married Men and Women in Accra, 2014

Date:

Time:

Place:

SECTION A: Demographic characteristics of a Survivor

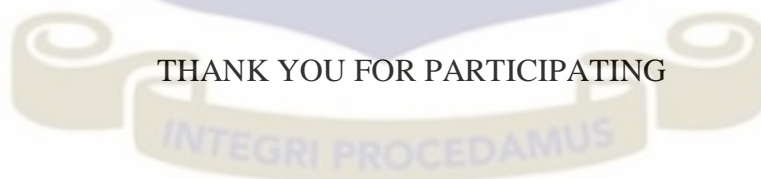
1. Age: 18-27 [] 28-37 [] 38-47 [] 48- 57 [] 58 & above []
2. Sex: Male [] Female []
3. Marital status: Married [] Separated [] Divorced [] Widowed [] Consensual/
Cohabiting []
4. Educational level: No formal education [] Primary [] JHS [] Middle School
Leaving Certificate [] SHS/Technical/Vocational [] Tertiary []
Other specify.....
5. Religion: Christian [] Muslim [] Traditionalist [] Other, specify
6. Ethnicity: Ga/Adangbme [] Akan [] Ewe [] Guan []
Gur/ Northern, (specify)..... Other, specify
7. Profession or Occupation
8. Which type of these marriage relationships are you in? a) Consensual/Cohabiting []
b) Customary c) Ordinance “Wedding” [] d) Mohammedan ordinance []
9. How long have you been married? Please state.....
10. How many spouses do you have?.....
10. If separated, how long were you married? Please state
11. If divorced, how long were you married? Please state.....
12. If widowed, how long were you married? Please state.....
13. If cohabiting, how long? Please state.....

Introductions

Purpose of Study

1. Have you ever been intimate with your partner when you didn't want to?
2. Does your partner ever force you to be intimate?
3. How often does this happen?
4. When did it happen last?
5. Have you ever been intimate with your partner because you were afraid of him / her?
6. Are there times when sex between you or your partner is unpleasant for either one of you? What happens to make it unpleasant?
7. Do you and your partner ever have disagreements about sex: for example, when and how often to have sex? How do you resolve those disagreements?
8. Do you think you and your partner enjoy your sexual relationship equally?
9. Has your partner ever made you have a sexual experience when you had too much alcohol to drink or when you've taken something (drugs, etc.) that made you unable to consent?
10. Has your partner ever forced or pressured you into doing things that you weren't comfortable with? What were they?
11. Has your partner ever forced you to have a sexual experience by using a weapon, or by physically hurting you?
12. Has your partner ever forced you to have a sexual experience by kidnapping you, or by breaking into your home/office/car, etc?
13. Have you ever had sex with your partner because he has threatened, pressured, forced, or hurt you? What happened?
14. Has your partner ever had sex with you when you were physically or mentally unable to say yes or agree to the activity?
15. Have you ever "given in" to a sexual encounter with your partner to avoid fighting or being hurt?
16. Have you ever had a sexual encounter because you felt overwhelmed by your partner's
17. Has your partner ever touched you in a sexual way that has made you feel uncomfortable? Continual arguing and or pressure?
18. Has your partner ever said or done sexually degrading things to you?

19. How long has this sexual abuse / behaviour been occurring in your relationship?
20. How often does the sexual abuse occur?
21. Are there any patterns between the physical and sexual abuse in your relationship?
22. Have you noticed any change in the frequency or severity of abuse in your relationship?
23. Was there ever any force or pressure involved?
24. Have you ever told anyone or received help?
25. Who did you tell or what type of help did you receive?
26. How has the sexual abuse in your relationship impacted you?
27. Have you noticed any physical or medical changes with your body?
28. What has been the emotional or psychological affects you've experienced as a result of the sexual abuse?
29. How can I help you?



APPENDIX D

CHRISTIAN/MUSLIM CLERGY FACE SHEET

Interview guide for a Christian/Muslim clergy during the survey on the Criminalisation of Marital Rape: The Perspective of Married Men and Women in Accra, 2014.

Name:

Date:

Time:

Place:

Title:

1. What are your primary functions as a marriage counsellor?
2. Do spouses come to you with sexual violence challenges?
3. Have you ever mediated between couples with forced sexual intimacy challenges?
4. If yes, what has been the outcome?
5. What are the types of sexual violence cases that come to your attention?
6. What do you believe are the contributory factors to sexual intimacy challenges?
7. What were the influences of forced sexual intimacy?
8. Nature of violence- inherent features
9. Forms of violence- a way in which it exists or appears
10. Why do wives not talk about sexual intimacy challenges?
11. Why would a husband not confide in anybody concerning sexual intimacy challenges?
12. Do you believe that there is rape in marriage?
13. Should a spouse report to law enforcement agencies when having challenges with forced sexual intimacy?
14. Do spouses always need consent before having sex with each other?
15. Should forced sexual intimacy in marriage be named rape?
16. Should a husband be arrested, prosecuted and incarcerated for having forced sexual sex

With his wife?

17. Please give a general view on the subject.

THANK YOU FOR PARTICIPATING



APPENDIX E

SOCIAL WORKER FACE SHEET

Interview guide for a Social Worker during research on the survey on the Criminalisation of Marital Rape: The Perspective of Married Men and Women in Accra, 2014

Name:

Date:

Time:

Place:

Job Title

1. What are your primary functions as a social/worker counsellor?
2. Does your spouse always need your consent before having sex with each other?
3. What brought women to your agency?
4. What are the contributory factors to marital rape?
5. What presenting problems brought survivors to your institution?
6. What were the influences of marital rape?
7. Nature of violence- inherent features
8. Causes of violence
9. Types of violence-
10. Forms of violence- a way in which it exists or appears.
11. Why do wives not report marital rape?
12. Who is a common law husband?
13. Please share your experience you've had with survivors.

THANK YOU FOR PARTICIPATING

APPENDIX F

QUESTIONNAIRE FOR DATA COLLECTION DURING THE SURVEY ON THE CRIMINALISATION OF MARITAL RAPE: THE PERCEPTION OF MARRIED MEN AND WOMEN IN ACCRA, 2014.

Section A: Demographic Characteristics

Please tick []; indicate when inapplicable by [N/A]; or provide answer (s) where appropriate.

1. Age: 18-27 [] 28-37 [] 38-47 [] 48- 57[] 58 & above []
2. Sex: Male [] Female []
3. Marital status: Married [] Separated [] Divorced [] Widower/
Widow [] Consensual/ Cohabiting []
4. Which type of these marriage relationships are you in? a) Cohabiting/Consensual []
b) Customary [] b) Ordinance ‘Wedding’ [] c) Mohammedan Ordinance []
5. Educational level: No formal education [] Primary [] JHS [] Middle
School Leaving Certificate [] SHS/Technical/Vocational [] Tertiary []
Other specify.....
6. Religion: Christian [] Muslim [] Traditionalist [] Other, specify
.....
7. Ethnicity: Ga/Adangme [] Akan [] Ewe [] Guan [] Gur/Northern,
(specify)..... Other, specify

SECTION B: EXTENT TO WHICH THE MARRIED CONSIDER NON-CONSENSUAL SEX IN MARRIAGE AS RAPE

8. Do you know what rape is? Yes [] No []
9. If yes, please explain.....
10. Do you consider non-consensual sexual acts in marriage as rape?
Yes [] No [] Not sure []
11. If you do not consider forceful, violent, and sadistic sex in marriage as rape what then is it?.....
12. Who are possible victims of rape?.....
13. Who are perpetrators of rape?.....

SECTION C: SECTION B: EXTENT TO WHICH THE MARRIED CONSIDER NON-CONSENSUAL SEX IN MARRIAGE AS A CRIME

14. Do you consider non-consensual sexual acts in marriage as a crime?
Yes [] No []

SECTION D: AWARENESS OF MARITAL RAPE AS A CRIME IN GHANA

15. Have you ever heard any discussion regarding rape in marriage as a crime on any electronic media? Yes [] No []
16. Have you ever read anything in the print media regarding rape in marriage as a crime? Yes [] No []
17. Are you aware of the laws provided under the domestic violence act for marital rape prosecution? Yes [] No []

SECTION E: MARRIED PERSONS' ATTITUDE TOWARDS THE CRIMINALISATION OF MARITAL RAPE

18. In 2007, Ghana's criminal code criminalised rape in marriage. Are you in favour?
Yes [] No []

THANK YOU FOR PARTICIPATING

INTEGRI PROCEDAMUS