

UNIVERSITY OF GHANA

**IMPLEMENTATION CHALLENGES IN ENFORCING CHILD
MAINTENANCE PROVISIONS IN MADINA**

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DECLARATION

I, Sheila Y.A. Owusu, declare that apart from references to other people's works, which have been duly acknowledged, this work is my original work carried out at the Centre for Social Policy Studies, University of Ghana, Legon under the supervision of Mr. Daniel Doh and that it has not been presented in whole or in part for the award of any degree elsewhere.

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Date:.....

DEDICATION

This thesis is dedicated to all the courageous custodial mothers who brace the odds to secure a great future for their children in spite of all the challenges they experience in their quest to do so.

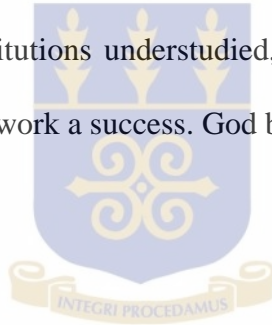
It is also dedicated to all the children of such mothers as well.



ACKNOWLEDGEMENT

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ABSTRACT

The research was birthed out of a critical observation of the high incidence of non-maintenance of children whose parents are separated. It was imperative that a research be conducted to identify the challenges associated with the implementation of child maintenance provisions so that such findings may be used by policy actors to initiate the needed interventions as a proper implementation process will subsequently lead to the curbing of this issue. It was also imperative that this research was conducted along gender lines because our patriarchal way of life which makes fathers bread winners while mothers are care-givers and this arrangement as reinforced by our laws does not change even after separation of the couples. The specific objectives of the study were: (1) To review existing policies and laws on child maintenance, (2) To identify challenges faced by child maintenance institutions, and (3) To identify challenges faced by custodial mothers who assess the various institutions. A qualitative research design was used in this study, which included six key informants interviews with respondents selected from four institutions, namely: The La-Nkwatanang Madina Municipal Assembly, Department of Social Welfare, Panel members of The Family Tribunal of Madina District Magistrate Court as well as Madina, Domestic Violence and Victims Support Unit. These were purposively selected as samples for the study. In addition, fifteen custodial mothers; comprising five women from each of the direct service institutions were also interviewed. Main challenges identified by the study were inadequacy of resource, lack of coordination, lack of capacity building as well as major gaps in the various laws. Based on the findings, it was recommended among others that resources should be made available to facilitate the work of service providers as well as periodic capacity building for service providers.

TABLE OF CONTENTS

DECLARATION.....	i
DEDICATION.....	ii
ACKNOWLEDGEMENT.....	iii
ABSTRACT.....	iv
TABLE OF CONTENTS.....	v

CHAPTER ONE: INTRODUCTION

1.1 Background to study.....	1
1.2 Problem statement.....	4
1.3 Research question.....	5
1.4 Study objectives.....	5
1.5 Significance of the study.....	6
1.6 Conceptual framework.....	7
1.7 Definition of concepts.....	11
1.8 Organization of the report.....	13

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction.....	14
2.2 Legal provisions.....	14
2.3 Enforcement in other jurisdictions.....	17

2.4 Reasons for non-compliance.....	20
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CHAPTER THREE: METHODOLOGY

3.1 Introduction.....	27
3.2 Research Design.....	27
3.3 Profile of the study area.....	27
3.4 Sampling technique.....	31
3.5 Data Analysis.....	35
3.6 Limitations of the study.....	37
3.7 Researcher bias and subjectivity.....	38

CHAPTER FOUR: PRESENTATION OF RESEARCH FINDINGS

4.1 Introduction.....	40
4.2 Examination of Policies and Legal Frameworks for Child Maintenance in Ghana.....	40
4.2.1 The Children’s Act, 1998 (ACT 560).....	41
4.2.2 The Criminal Code, 1960 (ACT 29) as amended by Act 554.....	45
4.2.3 Domestic Violence (DV) Act, 2007 (Act 732).....	48
4.3 Institutional Challenges in Enforcing Child Maintenance Provisions.....	51
4.3.1 Coordination between the institutions.....	52
4.3.2 Administrative Challenges.....	54
4.3.3 Effectiveness of child maintenance provisions.....	62
4.3.4 Monitoring /Accountability Mechanisms.....	63
4.4 Challenges in assessing services from child maintenance institutions in Madina.....	64

CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction.....	80
5.2 Summary of key findings.....	80
5.3 Conclusion.....	86
5.4 Recommendations.....	88
References.....	94
Appendix A.....	97
Appendix B.....	100
Appendix C.....	102

CHAPTER ONE

INTRODUCTION

1.1 Background to study

Any state which places a premium on safeguarding its future respects the rights of children and ensures that both preventive and curative measures are put in place to facilitate the growth and development of the child. In light of this, Social scientists the world over have joined other actors towards a concerted effort to ensure that the broad spectrum of child protection issues are brought to the front burner of both national and global issues.

Ghana's current estimated population of 25 million is largely young, with an estimated 50% of the population below the age of 18 (Ghana Statistical Service, 2010). This implies a huge responsibility on the part of government when it comes to the protection of children. Statistics on issues relating to child protection have however revealed that majority of children are disadvantaged due to variety of reasons. A situation analysis by UNICEF-Ghana (2000) showed that many Ghanaian children were poor, with inadequate access to food, safe drinking water, health and education (Ministry of Health, 1998, 2003; UNICEF-Ghana, 2000).

Children are vulnerable because they mostly depend on adults for their development and survival. Ideally, it is imperative that the first agent of socialization, which is the home/family, provides a conducive atmosphere for the safe development and survival of every child. However, with the changing trends in society, parental separation is on the ascendency. Bumpass and Sweet (1999) noted that because of the increase in the rates of divorce and non-marital

childbearing in the past 30 years, over half of children born during this period will spend some time in a single parent family.

It is noteworthy that while some parents are able to manage such situations very well, others are unable to do so and when this happens, the children involved get affected in various ways. These effects could be physical, emotional, economical or psychological. The survival of children from such homes must be ensured, notwithstanding the issues surrounding the divorce, separation, or termination of either a co-habiting relationship or an intimate relationship which did not result in marriage. In light of the fact that every state has responsibilities to safeguard the rights of such children; laws, and policies are usually formulated and implemented by state institutions to ensure that as much as possible; children, whose parents are separated, do not get adversely affected psychologically, physiologically, emotionally or economically.

This thesis seeks to identify and explain the challenges with enforcing provisions aimed at addressing an effect which results from the separation of child's parents. This issue is the issue of child maintenance. According to the Attorney General of Canada, Child maintenance is the legal right of a child to receive financial support from his or her parents. That right exists whether or not the child's parents were ever married and whether or not they ever lived together. Also, New Zealand Inland Revenue defines Child maintenance as money paid by parents who are not living with their children to help financially support their children. Similarly, The OSCE of United States America defines Child maintenance as the financial support paid by a parent to help support a child or children of whom they do not have custody. Ghana's Children's Act ,560 does not purport to define what constitutes maintenance, however it describes it as encompassing

the provision of the necessities of health, life, education, reasonable shelter and all that is necessary for the welfare of the child.

When children live with both parents, institutions rarely, if ever direct the parents on how to provide financial support for their children. However, when the parents are not together, institutions often order one parent to pay the other an amount set as financial support of the child. This is what is often referred to as child maintenance or child support. In such situations, one parent (the custodial parent) receives child support, and the other parent (the non-custodial parent) is ordered to pay child support. The amount of child support may be set on a case-by-case basis or by a formula estimating the amount thought that parents should pay to financially support their children. Child maintenance includes the financial support of children and not other forms of support, such as emotional support, intellectual support, physical care, or spiritual support.

Support monies collected are expected to be used for the child's expenses, including food, clothing, and educational needs. Courts have held that it is unacceptable for child support payments to be used to directly benefit the custodial parent. Most often than not, mothers take custody of children in an event of separation because of the societal gender stereotyping of the role of the mother as a care giver and the one who has to bring up the children involved. On the other hand, fathers are stereotyped to engage in economic ventures in order to provide funds needed to maintain the family. These societal arrangements continue to exist even after separation. Such arrangements are backed by legal provisions in most jurisdictions where

mothers are granted full custody of the children involved till they reach a certain age. Fathers are however granted access in such cases.

In most cases, fathers become non-custodial parents and are required to pay maintenance fees to whiles mothers who become custodial parents, receive the monies on behalf of the children. Even though mothers do not directly benefit from payment orders, they indirectly benefit from it because the refusal of failure of fathers to make such payments will mean an extra burden on the mothers as they have to combine both care taker and bread winner roles. In most situations, the mothers get affected psychologically, economically and emotionally and these have adverse effects on the welfare of the children involved. It is therefore imperative that child maintenance provisions are properly implemented to forestall such occurrences.

1.2 Problem statement

In spite of the fact that tangible attempts have been made by state machineries through the formulation and implementation of several legal instruments and policies to ensure the provision of maintenance for children whose parents are no longer together, statistical evidence produced by the various child maintenance institutions and personal observation from my work as a Counsellor in a women's rights organization; points to rising incidence of non-maintenance of such children. Below are statistics of a summarized version of reported non-maintenance cases from Domestic Violence and Victims Support Unit (DOVVSU) over a ten year period. Out of the twenty-one types of cases recorded by the same institution, the incidence of non-maintenance was the highest (find attached detailed statistics at appendix)

TABLE 1.1: National statistics of child maintenance from the Domestic Violence and Victims Support Unit (DOVVSU) of the Ghana Police Service from 1999-2008

1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	TOTAL
532	1390	1064	1064	6049	7488	7437	5005	6297	7044	45536

With this increase, the relevance of the systems, structures and institutions mandated to deal with the issue of child maintenance have been questioned (The Ark Foundation, 2003). Coupled with this is the fact that the so called traditional systems of child support and maintenance have been weakened over the years due to modernization and urbanization and hence the need for effective and efficient state institutions to deal with child maintenance.

Surprisingly, current discourse on child maintenance particularly for those children with single parents have had little discussion on both supply and demand side challenges facing the structures and systems put in place by the state to provide such services. It is of importance therefore to investigate the implementation challenges faced by state institutions that have the mandate to implement child maintenance provisions, focusing mainly on explanations given by both institutions mandated to handle child maintenance issues as well as custodial parents who access the services of such institutions.

1.3 Research question

What are the implementation challenges faced by state institutions in enforcing child maintenance provisions in Madina?

1.4 Study objectives

General Objective

The general objective of this study was to examine the implementation challenges in the enforcement of child maintenance provisions under legal and legislative processes in Ghana with specific reference to Madina.

Specific Objectives

1. To examine policies and legal frameworks of child maintenance provisions in Ghana.
2. To identify challenges faced by state institutions in the of enforcement child maintenance provisions
3. Identify challenges faced by custodial parents in assessing services from child maintenance institutions in Madina

1.5 Significance of the study

This research is unique in many ways. First and foremost, one rationale for this qualitative research was to explore challenges in implementing child maintenance provisions from the perspective of the persons who access the services. Although it must be noted that parental custody is not always restricted to the female parent, this research focused exclusively on the female as the custodial parent for two reasons:

- ❖ The high incidence of female custodial parents due to patriarchal socially constructed roles of males as the bread winners and females as care givers

- ❖ Lack of data on implementation challenges experienced by single women in seeking support from state institutions as most of the previous researches focused on the experience of men (Mandell, 1998).

With the introduction of a gender dimension to the issue of child maintenance, it is expected that the findings and recommendations of this research can therefore be used by women and children's rights advocates to set a National agenda for child maintenance policy reforms and interventions.

Secondly, the desired result of this study was to gain an exploratory understanding of the challenges involved in implementing child maintenance provisions from a service provider's perspective. The first hand data collected from the sampled key informants can be considered reliable and a true reflection of what actually pertains on the ground. As such policy actors will find the knowledge gained very useful in improving upon implementation mechanisms. It also has implications for enhancing further research on child maintenance by students of social work, social policy and sociology.

1.6 Conceptual framework

This research is guided by two theories. The first is Connell's Theory of Gender Relations (2002) and the second is Dunleavy's Theory of Public Policy Implementation (1982). The two theories are explained in turns.

The social problem of non-compliance of child support provisions is overwhelmingly constructed as a male dominant act. Thus investigation of issues of challenges related to non-compliance through the lens of gender, offers assistance in understanding the social problem. Connell's theory focuses on 'the processes and relationships through which men and women conduct gendered lives' (2002, 78). He explains that when we refer to masculinity and femininity,

we are talking about configurations of gender practice. Masculinity and femininity are gender projects which are 'processes of configuring practice through time, which transform their starting-points in gender structures' (Connell, 2002, 72). Connell claims these three projects can be used to study culture and society:

- 1) Individual life-course, personality or character
- 2) Discourse, ideology or culture
- 3) Institutions such as the state, schools, or workplace

To consolidate this, Connell describes a three-fold model of the structure of gender:

- a) Power relations: the subordination of women and the domination of men, often referred to as patriarchy. It persists despite resistance.
- b) Production relations: the gender division of labour and its consequences, the benefit that men gain from unequal shares of the product, and the gender character of capital.
- c) Cathexis: the gendered character of sexual desire and the practices that shape that desire which are aspects of the gender order.

Gender configurations are very clearly seen in the individual life course, the basis of the common-sense notions of masculinity and femininity. The configuration of practice here is what he referred to as "personality" or "character". He further noted that post-structuralist critics have emphasized that gender identities are not fixed, because multiple discourses intersect in any individual life and this argument highlights another site, that of discourse, ideology or culture. Here gender takes the form of symbolic practices, made familiar by the family, society, cultural values, societal ideals, mass media and such like. He, like many Social scientists recognized a third site of the gender configuration of practice: institutions such as the state, the workplace and the school. He explains that Educational institutions, for instance, are gendered in several ways. The curriculum tends to divide into "masculine" subjects (physics, mathematics, and technology) and "feminine" subjects (languages, human relations), and some parts of it (technical education for instance) virtually segregate youth on gender lines. Gender relations among children are a constant preoccupation of peer group life, ranging from terms of casual playground abuse to

elaborate dating rituals. These relations are constantly re-negotiated in the changing arenas provided by the school. The pattern that all these relations take within an institution (such as a school or a corporation) may be called its "gender regime". The pattern of gender regimes, together with the gender pattern in culture and personal life, may be called the "gender order" of a society.

Additionally, at the heart of Connell's theory is the concept of Patriarchy. He refers to the term as the institutionalisation of men's power over women within the economy, the polity, household and heterosexual relations. Connell, like most sociologists reject predominantly biological explanations of patriarchy and contend that social and cultural conditioning is primarily responsible for establishing male and female gender roles. According to him, patriarchy is the result of sociological constructions that are passed down from generation to generation and these constructions are most pronounced in societies with traditional cultures and less economic development. ,

In summary, Connell is of the school of thought which asserts that gender messages which largely favour males as having dominant status are conveyed by family, mass media, schools and other institutions. As the oldest social institution, the family is seen as the place where patriarchy originated and eventually reproduced throughout society. Individuals within the societies learn to accept, internalize and normalize these gender messages society teaches because social institutions define our daily lives and shape the way we see the world. Social practice is creative and inventive, but not inchoate. As social beings, we act in response to particular situations, within definite structures of social relations. Gender relations, the relations among people and groups organized through the reproductive arena, form one of the major structures of all documented societies. Gender shaping is a practice at every level of social reality. There is no separate sphere in which gender exists, isolated from other kinds of social relations.

Connell's theory relates to this Study in two ways

1. Due to the belief in male supremacy, people tolerate all forms including of Domestic Violence of which Child Neglect is a component. If a man fails to maintain his child after separation from the mother and leaves the mother has no option than to assume both

care taker and bread winner role alone, it is an exhibition of neglect or abuse, stemming from patriarchy. Society has contributed to that man's internalization of the belief that as a father he holds authority over the mother and children involved. As such it is he the man(who is often the payer of maintenance awards) who determines whether personal or family issues such as paternal disengagement, child custody/access, unresolved misunderstandings between the two partners and such like will affect his decision to comply with child maintenance orders or not. If he makes such personal decisions not to comply with such orders, his actions will contribute to a lack of proper enforcement of child maintenance provisions.

2. Also, in relation to Connell's theory individuals who work with child maintenance institutions receive gender configurations from multiple factors within the society and these affect the way they see themselves as well as the way they relate to members of the both sexes. They have configurations of male supremacy and female subordination stemming from years of socialization from the home/family, educational setting, communities in which they were raised, mass media and society at large. Therefore, such unconscious patriarchal is to a large extent, bound to an effect on how implementers of child maintenance provisions enforce those provisions. As such if conscious and concerted efforts are not put in place to manage such gender configurations, service delivery to the intended beneficiaries could be adversely affected.

Dunleavy's Public Policy Implementation theory is two-fold i.e. the bottom-up and the top-down approaches. The bottom-up approach lays greater emphasis on the fact that local level implementers of policy have discretion on how they execute the demands of government policy. Thus professionals who engage face-to-face with consumers of services have a key role in ensuring policy implementation, as they have responsibilities of control and delivery of services (Dunleavy, 1982).

The major strengths of the bottom-up approach is that it allows for creativity and initiative-taking. It also deals with bureaucratic bottle necks which lead to speedy delivery of service. This approach contrasts with the top-down or rational approach, which is characterized by definition of goals by the top, and the ideas that implementing change is about getting people to do what

they are told and developing a program of control. This system minimizes conflict and deviation from the goals set by the initial policy. It also ensures a high level of uniformity and control of resources from the centre to the periphery. A major disadvantage with this approach however is that it kills initiative at the grass root level. It also slows down the service delivery system because issues of appropriate distribution of resources from the centre may arise if such issues are not well managed.

In relation to the study, the theory could be used to explain the challenges of implementing child maintenance policies. Both approaches have their strengths and weaknesses. From analysis of the administration of the respective child maintenance implementing bodies, it is evident that the top-down approach has been adopted. As already stated, this approach does not allow a high level of autonomy, decentralization and most importantly, adequate allocation of resources; to facilitate the implementation of policies.

The research sought to explore how the adoption of the top-down approach affects child maintenance provisions implementation institutions like Department of Social Welfare and Domestic Violence and Victims Support Unit of the Ghana Police Service.

1.7 Definition of concepts

For the intents and purposes of this study, the following operational definitions are applied:

Child support: Used interchangeably with the concept of child maintenance to mean the financially contribution fathers for the upkeep of their children after separation.

Separation: A situation in which parents have a child/children together and are legally divorced or living apart as a result of a dissolution of customarily marriage or termination of a either a co-habiting relationship or an intimate relationship which did not result in marriage.

Custodial parent: mother of children who lives with the children after separation.

Non-custodial parent: father of children who does not live with children after separation

Complainant: A mother who files a complaint of non-maintenance of child by non-custodial at a child maintenance institution and seeks relief of maintenance.

Respondent: A father who is invited by a child maintenance institution upon the complaint of a custodial parent and is ordered to make maintenance payments to custodial parent.

Payment order: Orders made by all child maintenance institutions to be paid by non-custodial parents for the upkeep of their children.

Compliance: the act of paying all maintenance orders made by child maintenance institutions

Non-compliance: the act of not paying all maintenance orders made by child maintenance institutions

Deadbeat parent: A father who refuses to comply with maintenance orders over a four-month period.

1.8 Organization of the report

The report is structured in five chapters. Chapter One introduces the study with the background to the study, the statement of problem, the research question and study objectives, the significance of the study, conceptual framework, definition of concepts and the organization of the report. Chapter Two is devoted to the review of literature relevant for the study.

Chapter Three focuses on the methodology of the study and it discusses the research design, the study area, the sampling technique employed, the data collection processes and data analysis as

well as limitations of the study. This is followed by Chapter Four, which presents primary data and discusses them thematically in line with the objectives of the study. Chapter Five is the concluding chapter and captures the summary of key findings, conclusion and recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

Children raised in single-parent homes are more likely to experience poverty than those raised in two parent households. Increased emphasis on child support enforcement has been viewed as a means of decreasing poverty rates for single-parent families and thereby lessening the negative effects of single-parenthood. In light of this, the role of a non-custodial parent to provide economic support for his/her children cannot be over-emphasized. Child maintenance paid by the father is an important source of income for mothers and children and is positively associated with a number of child well-being indicators, such as educational attainment, schooling, and cognitive outcomes (Bianchi, 1995; sited in Bloomer et al., 2002).

2.2 Legal provisions

Issues regarding child protection by both States and Parents are issues of global concern. On the international scene, several actions have been taken to ensure that children everywhere; irrespective of factors such as age, colour, ethnicity or the marital status of their parents; enjoy their human rights and freedoms. In 1989, governments worldwide promised all children the same rights by adopting the United Nations Convention on the Rights of the Child (UN CRC). These rights are based on what a child needs to survive, grow, participate and fulfil their potential. The Convention recognizes the human rights of children, defined as any person under the age of 18. It sets out in detail what every child needs to have for a safe, happy and fulfilled childhood.

With regards to the issue of child maintenance, it specifically enjoins member states to take appropriate steps to ensure equality of rights and responsibilities of spouses with regard to

children during marriage and in the event of its dissolution. This implies that member states initiate actions such as the formulation of laws and policies to ensure that no child is deprived of maintenance by reference to the parents' marital status. This is because as far as the Convention is concerned, the safeguarding of the welfare must be realized irrespective of the marital status of the parents. States Parties are also enjoined to ensure a smooth implementation of such policies and laws to secure the recovery of maintenance for the child from the parents' financial responsibility for the child.

Like the UN CRC the African Charter on the Rights and Welfare of the Child (ACRWC) was created to protect children. The Charter spells out the rights that African countries must ensure for their children, and it is the main instrument of the African human rights system for promoting and protecting child rights. Member states are to ensure that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. Additionally, States Parties are to undertake actions to ensure that parents (whether married or not); taking into account the right of the child; provide the basic necessities of life to ensure the protection and care of the child.

Ghana has signed on to all these international documents. It is therefore evident that the State recognizes child maintenance by both parents as one of the fundamental rights every Ghanaian child has to enjoy. Efforts have been made in Ghana to reform laws to make them more responsive to the specific needs of children and to reflect constitutional and international

conventions on children. Statutory laws that deal with the issue of maintenance of children include the following:

- (a) Children's Act 560
- (b) The 1992 Constitution of the Republic of Ghana;
- (c) The Criminal Code, 1960 (Act 29) as amended by Act 554;
- (d) The Matrimonial Causes Act, 1971 (Act 367)
- (e) The Domestic Violence Act 2007, (732)
- (f) The Court Act 1993, (Act 459).

These statutory legal provisions notwithstanding, many Ghanaian children are denied the right to maintenance. Statistics from legal institutions show progressive increase in maintenance cases each year. According to the UN Ghana Report on the Situation of Children and Women for the year 2000 the DSW and CHRAJ were dealing with increasing cases of child neglect. In an earlier work, the Ghana Country Report 1997 on children the fact that many Ghanaian children have to work in order to maintain themselves and the rising incidence of streetism is used as evidence of the fact that the right to maintenance for many children is being denied (Britwum et al,2004).

2.3 Enforcement in other jurisdictions

Regulations and laws on the enforcement of child support orders vary by country and state. In some jurisdictions, such as Australia, enforcement is overseen by a national office; the Child Support Agency. In others, such as Canada and the United States of America (USA), the responsibility to enforce child support orders rests with individual provinces, with financial and logistical assistance from the federal government. In the USA, non-compliant parents who meet

certain criteria, such as traveling across state lines to circumvent orders or owing more than two years of support payments, may be subjected to federal prosecution under the Federal Deadbeat Punishment Act. The Child Support Agency (CSA) which is the delivery arm of the Department for Work and Pensions (Child Maintenance Group) in Great Britain and the Department for Social Development in Northern Ireland is responsible for implementing the Child Support Act 1991 and subsequent legislations.

With regards to calculation of payments orders, several jurisdictions have outlined specific guidelines for calculating payments of maintenance by both parents. Therefore in those countries, amounts for maintenance payments are not left to the sole discretion of judges, mediators or arbitrators. In the USA for example, one of three basic formulas for calculating child support obligations is used: (1) the Incomes Shares model, (2) the Percentage of Income model, or (3) the Melson Formula model.

The Income Shares model determines child support by adding together both parents' income, comparing it to a schedule that sets the child support amount for this level of income and number of children, and then prorates this amount between the parents based on their share of their combined income.

The Percentage of Income model determines child support by applying a pre-determined, flat percentage to the income of the noncustodial parent dependent on the number of children he or she has with the custodial parent.

The Melson Formula determines child support, first by calculating an amount for children's primary support needs based on a pre-determined percentage that is applied to the combined incomes of the parents after allowing for parental self-support reserves, and then prorating this amount as under Income Shares; and second, adding to this amount a standard of living allowance that is a fixed percentage of each parent's remaining income. (Buckley, 2011)

In the United Kingdom (UK), the method for calculating maintenance has been simplified, with a fixed percentage of the non-resident parent's net income being taken, from 15% for one child, 20% for two, and 25% for three or more. Where maintenance is calculated using the basic rate, the amount of maintenance is also reduced if the non-resident parent has children in their current family. Where this is relevant, the Child Support Agency will not take into account: 15% of their net weekly income if there is one child living with them, 20% if they are two children living with them, and 25% for three or more. It must be noted that even though these are very objective, a major limitation is that they can best apply to formal sector workers. (United Kingdom Child Support Agency Policy Document)

Consequences of non-payment vary by jurisdiction, the length of time the parent has been noncompliant, and the amount owed. Typical penalties include wage garnishment and denial or suspension of drivers, hunting and professional licenses. In the United States, noncompliant parents who are more than \$2500 in arrears may be denied passports under the Passport Denial Program. In 2000, for example, the state of Tennessee revoked the driver's licenses of 1,372 people who collectively owed more than \$13 million in child support.

It is instructive to note that non-payment of child support may be treated as a criminal offense or a civil offense, and it can result in a prison or jail term. In New York, continuous failure to provide child support is an E felony punishable by up to 4 years in prison. On a typical day, roughly 50,000 persons are incarcerated in U.S. jails and prisons as a result of child-support debts. In addition, child-support debtors are subject to fines and property seizure. The U.S. law, commonly known as the Bradley Amendment, passed in 1986 automatically triggers non expiring lien whenever child support becomes past-due. The law overrides any state's statute of limitations; disallows any judicial discretion, even from bankruptcy judges; and requires that the payment amounts be maintained without regard for the physical capability of the person owing child support (the obligor) to make the notification or regard for their awareness of the need to make the notification. The custodial parent may however forgive such debts.

In Canada, a dead beat father will be issued an administrative enforcement as well as court enforcement to ensure collection of unpaid maintenance. Administrative enforcement actions include Notices of Attachment, which require the garnishment of wages and other sources of income or the interception of federal payments (such as employment insurance benefits and income tax returns), reporting arrears to the credit bureau, refusing to issue or renew a payer's driver's license, and placing a lien on a payer's land or personal property. Court enforcement mechanisms involve requiring a payer to attend in Court to explain the non-payment of maintenance and ultimately, incarceration for the wilful failure to pay court ordered maintenance. (Attorney General's files-Canada)

2.4 Reasons for non-compliance

Researchers have identified several factors as being responsible for the failure of non-custodial parents to comply with child maintenance obligations. These factors could either be micro (family level) or macro (state level). All these factors could be challenges in implementing child maintenance provisions. Some micro factors identified by previous researchers have been explained below:

Ability to pay/low income levels

Researchers who have investigated the relationship between compliance and ability to pay have mostly been hampered by the inadequacy of available data. As such existing data consisting of surveys and profiling of both custodial and non-custodial parents is often used. Sonenstein and Calhoun (1988) used the 1985 Survey of Absent Parents to examine compliance in divorce and paternity cases, and found that the noncustodial parent's self-reported income level was associated with higher compliance. Similarly, Peters and Argys (1991) found that unemployment among noncustodial parents was associated with substantially lower compliance rates among a sample of recently divorced parents in California and Arizona. Additionally, initial reports from the Parents' Fair Share Demonstration, based on focus groups with noncustodial parents, document a strong desire among noncustodial parents to earn more money to meet their child support obligations (Furstenberg, Sherwood, and Sullivan, 1992).

The main cause of child neglect and parental inability to maintain their children in Ghana is due to inability arising out of poverty caused by low income. This is evidenced in statistics from

legal aid institutions which deal with maintenance cases. This suggests that some parents are finding it increasingly difficult to provide the necessary care for their children (Britwum et al., 2004).

Remarriage of either parent

Also to be considered is the remarriage of either parent. Since remarriage increases the complexity and strains of balancing old and new family relationships, parental involvement may decrease after the new union (Seltzer & Bianchi, 1988). The limited studies available concerning the attitudes of fathers toward parenting suggest that these attitudes depend on their current family arrangements, influence of new spouse or partner which usually strains relationships with their former spouses or partners and children (Seltzer & Brandreth, 1994).

Paternal Disengagement

Seltzer et al (1989) found that there is an association between the level of paternal contact after separation and fathers' provision of financial support. This can be attributed to role issues which include degree of flexibility in the masculine parental role (Friedman, 1980), and various forms of psychological disturbance arising from the threat to, actual loss of, the father - child relationship (Gumann, 1989). These authors indicate that when the spousal relationship ends, the father-child relationship is likely to be affected because of the loss of custody of the children involved. There is therefore a sense of both physical and psychological loss which leads to disengagement of fathers from their children. This is exhibited in the failure of fathers to perform their fatherly roles including failure to maintain their children. Oware-Gyekye et al. (1995) explain that most custody arrangements upon divorce or separation fail to give fathers'

custody of children below a certain age. In such cases, fathers generally refuse outright to meet their responsibilities toward such children

Fathers experience after divorce

Linked to the issue of paternal disengagement is the experience of most fathers after divorce. Research on the impact of divorce on mental health suggests that separation and divorce often produce intense emotional and psychological crisis for men (Jacobs, 1986; Kruk, 1993; Myers, 1988; all cited in Mandell, 1998)

Hetherington, Cox and Cox (1976) were among the earliest divorce researchers to find that changes in self-concept and identity constituted a major area of difficulty for divorced fathers. For them, divorce establishes a destructive dynamic between men and women that leads many fathers to retreat from parenthood. When these men stop living with their wives and children; they no longer see themselves (or are seen by their former wives) as full-fledged fathers. It is as if their license for parenthood were revoked when their marriage ended. The fathers they studied experienced marked emotional distress, including a loss of identity and a disturbing decline in feelings of competence. In addition to unrecognized dependency needs; feelings of loss, anxiety, guilt, and depression were experienced.

Myers (1988) added that among the manifestations of such feelings includes kidnapping of children, violent outbursts, sexual abuse of a child and failure to meet child support obligations. He observed that many of the devastating battles over children, over money, over every detail of life, represent an effort to re-establish control and hence self-esteem.

Oware-Gyekye et al (1995) also place an important premium on the role of the institution of marriage in prompting a greater sense of responsibility in fathers. To them marriage can exercise the minds of men so wonderfully that they take their responsibility seriously. They noted that children born into wedlock have better care than those outside it

Interpersonal relationships between parents

Non-compliance has also been tied to the poor relationship between separated parents (Demo & Ganong, 1994: cited in Mandell, 1998). Johnston and Campbell (1988) suggest that in fact the individual personalities and the interpersonal dynamics of the couple influence each other rather than one being caused by the other in a linear way. These authors postulate the interaction of pre-existing psychological vulnerabilities with the particular stressful circumstances and interpersonal dynamics of the separation. They attribute much of the violence observed in the divorcing couples they studied to "interactionally triggered and sustained" factors related to the marriage relationship or separation experience, rather than "ongoing personal pathology" (1988, p.74).

Ignorance of legal provisions

Women who have custody of children in non-marital relationships as well as those who live apart from their husbands are known to experience difficulties getting males to contribute towards the maintenance of children. Ignorance on the part of the mother however leads to an under-utilization of the statutory legal provisions that could have supported their efforts in getting the fathers of their children to live up to their paternal responsibility of maintaining their children. This ignorance, according Kutsoatsi of the Department of Social Welfare (DSW) is a general problem in Ghana. Most people are unaware of child maintenance laws and as such

provide very little encouragement for women who set out to utilize such legal systems. Newspaper reports expressed concern about the lack of awareness in Ghana about the observance of children's rights and legal provisions that protect them (Britwum et al, 2004).

Macro/Institutional factors

Britwum et al (2004) conducted an action research to assess the effectiveness of child maintenance provisions in the light of Ghana's plural legal system. As part of the research objectives, they explored implementation challenges in five (5) regions of Ghana, namely the Ashanti, Greater Accra, Northern, Volta, and the Western Regions of Ghana. They found that the main problems of child maintenance institutions revealed through the research relate to: the inability of these institutions to enforce compliance with the orders that they make; compelling the parties to appear before them; the high cost of accessing the courts; the speed with which they are able to discharge justice caused mainly by delays and adjournments due to the nonappearance of parties; judges, or panel members; and the competence of mediators; difficulty in accessing the institutions physically; attitudes of the staff; difficulties related to the service of processes which can result in confrontations and scuffles between the parties; extortion of money from complainants/parties by personnel of institutions before carrying out their duties and the insufficient number of institutions to handle child maintenance cases. According to them, all these macro factors have implications on how well child maintenance provisions are implemented or otherwise.

Other researchers, looking for causal explanations and practical solutions to the problem of why fathers often abdicate the provider role, claim that weak and inconsistent policy is the reason for

non-support. Their conclusion is that only clearer, stronger, enforcement-oriented policy can remedy the problem (Myers 1998). From this perspective, any proposed psychological links between support default and limited access to one's children are rejected as irrelevant or even counterproductive

Combination of factors

In actual fact, the above-mentioned factors are not mutually exclusive. Non-Compliance could be attributed to all or a combination of both micro and macro factors. Several researchers have explored how two or more factors affect maintenance payments. Garfinkel and Klawitter (1990), for example, looked explicitly at enforcement and ability to pay as determinants of compliance with issued awards. Using court record data from Wisconsin, they found that withholding child support from income on a routine basis (referred to as immediate income withholding, as compared to income withholding in response to delinquency) increases the compliance rate by 11 to 30 percent. The lower estimate is based on defining immediate withholding at the county level (i.e., whether or not immediate withholding was required in the county at the time the order was issued), while the upper estimate is based on defining immediate withholding at the case level.

Mandell (1998), in a multistate analysis, also found some evidence suggesting that immediate withholding has a positive effect on compliance, although this was not statistically significant

Other researchers have recognized the complexity and multitude of factors that could be potentially salient in child support payments. The question of child support has been taken into the broader context of post-divorce fatherhood in terms of how involved children are affected. Leite and McKenry (2002) use a multi-dimensional approach by incorporating other factors such

as father satisfaction, importance of the role of fatherhood, geographic distance from children, co-parent conflict, and institutional involvement to determine the amount of contact with children. This, in turn, has an effect on child support obligations because it was shown that there is a relationship between father involvement and child support payments.

As evident from the review, researchers have found that there are both micro and macro factors which come to play in implementing child maintenance provisions. These factors when well managed will ensure smooth implementation and vice versa. However, most of these researchers mostly relied on either data from institutional records or surveys on non-custodial parents. Most of the researches reviewed failed to explore the experiences of custodial parents as well as officials who deal with child maintenance cases. This research therefore sought to add to existing knowledge by exploring a combination of challenges experienced by custodial parents and child maintenance officials in implementing child maintenance challenges.

CHAPTER THREE

METHODOLOGY

3.1 Introduction

In this chapter, the method employed in collecting primary data for the study is described. It focuses on the research design, the profile of the study area, the study population, sampling techniques and sample size, data collection, data analysis as well as limitations of the study. The presentation has been done to capture the essential components of research methodology.

3.2 Research Design

A qualitative research approach was used for the study. This was because this approach of was ideally suited to the objectives of the research. More specifically, the purposes of this study indicate a qualitative approach in a number of ways suggested in the qualitative research literature. First, the objective of generating theory in a relatively untheorized area is consistent with the *constructive* aspect of qualitative research h (Goetz & LeCompte, 1984). Second, the *inductive* approach of qualitative theory (Goetz&Lecompte, 1984) allows the development of theory which is grounded in the lived experience of social actors (Smith, 1984). Finally, qualitative research has potential for *bridging research, theory, and practice* (Goetz & Lecompte, 1984).

3.3 Profile of the study area

The description of the study communities below gives the context within which the research was carried out by tracing the specific location of the community; population characteristics and occupational activities, social life among others. The background of the study communities

provides useful insights for appreciating the norms and values as well as the specific situation of child maintenance practices and what opportunities women have to exercise any rights for additional support from male partners for the children in their care.

The research was conducted in Madina the administrative capital town of the La-Nkwantanang Madina Municipal Assembly (LNMMA) of the Greater Accra Region. The vicinity can be described as being urban. The 2000 Population and Housing Census put the Municipality's population at 161,873 with an annual growth rate of 4.2%. The projected population for the year 2010 was therefore 244,226. The Population of Madina is almost half of the population of the Municipality. (LNMMA-profile document)

The Madina market, popularly referred to as the most growing market in Accra, is located within the study area. The market is centrally located and items traded include both perishable and non-perishables such as manufactured commodities, imported goods like cloth, utensils and a variety of spare parts. Other goods are cereals, livestock and second hand clothing. It serves as both an entry and exit point of goods to and from Accra. The presence of the market in the township has resulted in the upsurge of economic activities which goes on around the clock. As such Madina is often referred to as 'the town that never sleeps'.

Apart from trading which is the major economic activity, others include industrial sector work, service sector work, and hospitality businesses among others. It has been observed that the prevalence of economic activities in the township has resulted in a high incidence of migration of

people from the rural areas as well as other West African countries like Nigeria and Mali. These migrants move to Madina in search of greener pastures.

A common sight that welcomes one at the entrance of the market is the presence of innumerable young porter girls (also known as “kayayei” in local parlance). Most of these girls who have come from the Northern Regions of Ghana in search of greener pastures, have no place to lay their heads and have the market and the streets their home.

Statistics from the Municipal Assembly revealed that in term of ethnicity, almost members of all ethnic groups in Ghana migrate to the township to engage in economic activities. However, the Northerners and the Ewes seem to have a slight majority over Ga-Dangbes and Akans in that order. The high incidence of migration has led to increase in population rates in the area year in and year out. Due to this, the Municipal Assembly is saddled with the problem of high unemployment and the youth suffer more in this regard. Most of these migrants find life difficult and adopt several strategies in order to survive. These include head portering, petty thievery, hawking, prostitution and drug peddling among others.

Prior to conducting the research, discussions were held with officials of the Department of Social Welfare in Madina and it was revealed that another major effect of migration in the area is the creation of temporary sexual unions and relations that often result in children. In their opinions, Madina can be referred to as “a child maintenance town” This is because most young women who migrate to the area in search of greener pastures become disillusioned when they face hardships due to unemployed or underemployed. According to one Social Welfare Officer, she

had observed that most of these young women who come from patriarchal backgrounds, resolve to attach themselves with men in order to survive. As a result, they enter co-habiting relationships with men with the hope that such relationships will eventually lead to marriage, especially when they start producing children together. Most of these men are already married and in their bid to sexually exploit such girls, they fail to disclose their marital status to them. As such when they start producing children with them, they quit the relationships and subsequently fail to maintain the children involved. Other married men do actually disclose their marital status to these ladies but some of the ladies decide to quit such relationships when they get to know the truth about the marital status of such men. Other ladies continue to be in such relationships as they are able to get the men to properly maintain both themselves and their children. In most of such cases, a divorce or separation occurs and subsequently, it is the wife and children of the men who do not get maintained by him. Child maintenance issues invariably arise in all of such cases.

In terms of Legal Infrastructure, Madina houses the full set-up of the formal state institutional legal system and its infrastructure. The Department of Social Welfare (DSW), Domestic Violence and Victims Support Unit (DOVVSU) of the Police Service, The Family Tribunal of the Madina District Court as well as the La-Nkwatanang Madina Municipal Assembly, are all child-related state institutions mandated to deal with child-related cases which include child maintenance issues.

The fact that the above-mentioned prevailing factors predisposes Madina to record high incidence of child maintenance issues, coupled with the presence of most child maintenance

institutions in Madina, were the reasons why the researcher chose Madina as a study area for the research.

3.4 Sampling technique

The selection of participants, legal provisions for review, and sample of observation site was consistent with the characterization of qualitative "criterion-based" selection techniques as "appropriate for research designs that focus on generalization to theory, rather than on generalization to populations" (Moon, Dillon & Sprenkle. 1990, p. 360).

Initially, it was expected that after discussions on the criteria for selection, officials from the respective institutions would have assisted the researcher to purposively select a sample of custodial mothers for the study. However, with the exception of officials from the Madina District Court who were extremely co-operative, the other institutions were not willing to assist the researcher with the needed samples. In light of this, a snowballing sampling technique, done with respondents from the Madina District Court was used to select a sample of custodial mothers from DOVVSU and DSW respectively. The same reasons apply for the choice of the Family Tribunal as the site for direct observation of samples involved in proceedings.

In line with objectives of the study, I also selected a purposive sample of child maintenance legal provisions texts to represent the range of texts which constitute the social relations of marital separation and divorce and child maintenance issues. These materials were selected in consultation with a practicing family law expert.

Sampling of custodial mothers

The criteria for inclusion in the sample of mothers were:

- i) Women who had once undergone customary marriage; marriage under the Marriage of Mohammedans Ordinance, Cap 129; marriage under The Marriage Ordinance, (Cap 127), cohabited or had child (ren) with partner as a result of an intimate relationship which is no more.
- ii) Separated for a year and over, with custody of children
- iii) Has lodged a complaint with DOVVSU, DSW or the Family Tribunal, out of which either an arbitration has been made or court order specifying child support obligations
- iv) Child support payments in arrears (unpaid, partially paid, or irregularly paid) for five months or longer.

Sample size (custodial mothers)

In all, **fifteen (15)** women, **five (5)** from each institution (DOVVSU, DSW and the Family Tribunal/Madina District Court) were used as sample for the study.

Locating the sample (custodial mothers)

As already stated, initially, an attempt was made to purposively recruit participants from the three institutions with the assistance of service providers from the three institutions. This approach worked well with officials from the Court which was the first point of call. After receipt of the Letter of Introduction from the Centre for Social Policy Studies, the Registrar assigned a Court Clerk to the researcher to assist in the data collection process. After scrutinizing

the criteria given for the selection process, he was very instrumental in purposively selecting all five samples needed for the study at the District Court. For the purpose of introducing the researcher to the respondents, he contacted all five of them on phone to brief them on the reasons of the study and to seek their consent for to participate in the research.

Officials from DOVVSU and DSW sited the issue of confidentiality and other administrative bottlenecks which they were not ready to disclose as their reasons for not assisting the researcher to purposively select samples to be used. As such a snowballing technique, using respondents from the Family Tribunal had to be used to select respondents who had benefited from those two institutions.

Data Collection from custodial mothers

As already stated, respondents from the Court/Family Tribunal were first to be interviewed. After the initial introduction by the Court Clerk, the researcher contacted all of them on phone again to book an appointment and a venue for the interview. They all wanted the interviews to be conducted in the comfort of their homes as the Court which was the other option was not a conducive atmosphere for the nature of interview to be conducted. Forty-five (45) minutes to one hour interview was conducted with each respondent. The interviews were semi-structured and were followed to the extent that all areas outlined in the interview schedule were covered. These included demographic and circumstantial information, experience of the separation process, contact with children, interpersonal relationships as well as challenges experienced the system. (See *Appendix A*) Every effort was made, however, to allow the participant to tell her story in her own way in order to preserve as much as possible the organization she herself brought to her

lived experience. All interviews were taped and extensive field notes were taken during and following the interview.

Sampling of institutional informants

Key person respondents were to be working in any of the four state child maintenance institutions. Three of them (DOVVSU, DSW and Family Tribunal of the District Court) were selected in their capacity as direct service delivery agencies whilst the last one, being the Municipal Assembly was selected monitory/indirect child maintenance agency. In most cases respondents were experienced senior officers who dealt directly with child maintenance cases in the institutions in which they worked. The minimum level of experience required was two years. They were also to be married with children of their own. Being in this criteria meant that most of them had the opportunity of being parents for a while and therefore in a good position to offer a reliable perspective on childcare and maintenance.

Sample size (institutions)

The sample of key institutional informants was a purposive one, selected to represent the major institutions associated with support determination and enforcement. In all six (6) institutional respondents were sampled. These were a Social Worker on the Panel of the Family Tribunal, A Probation Officer attached to the Family Tribunal, The District Magistrate of the Madina District Court, The Head of the Domestic Violence and Victims Support Unit, Madina (DOVVSU) and the Head of the Department of Social Welfare (DSW), Madina. The Chairperson of the Women and Children Sub-Committee of the Municipal Assembly gave responses pertaining to the role of the Municipal Assembly in dealing with child maintenance issues.

Locating the institutional participants

Each participant was given a brief introduction of the researcher and the study through formal letters they received from the Centre. Each of the institutional informants approached consented to participate and meetings were subsequently arranged and kept. The respondent from DOVVSU however insisted that she could not go through with the process without the permission of her superior who is the National Co-coordinator of DOVVSU. As such, permission had to be sought from the National Secretariat through a written approval, before the session with DOVVSU, Madina could be conducted.

Data Collection (of institutional participants)

Each institutional informant was offered the choice of interview location; each chose his or her own office. With the exception of the Social Worker on the Panel of Family Tribunal, all institutional informants did not allow the interview to be taped for security reasons. On the average, interviews with informants were one to two hours long. Semi-structured interview formats were followed (*See Appendix B.*) and were generally adhered to, although participants were permitted to impose whatever order they chose on the questions and issues covered. Extensive notes were taken throughout all the interviews; notes of the untaped ones were verbatim to the extent possible. Field notes were recorded following each interview.

3.5 Data Analysis

Data analysis was qualitative in nature and utilized the objectives of the research guide the development of themes. The data was grouped under these themes and analysis done along these themes. For the interviews conducted on custodial mothers, the data had to be transcribed before the content analysis was done because they were all done in the local language. As an exploratory study this report presents information that provides some useful insights into the nature of interaction of child maintenance institutions in the study communities

Direct observation

Dawson et al (1991) notes that interviews maybe conducted at the scene in order to understand or gain insights into that which has been observed. With the permission of the District Magistrate, the researcher was allowed to observe child maintenance proceedings on two consecutive occasions under the guise of being a new member on the panel. This afforded me the opportunity to observe on first hand basis, the attitudes, behaviours, body language and manner in which the cases were dealt with. It also made me appreciate the challenges involved in implementing child maintenance provisions at the Family Tribunal, much better. The observation of default proceedings in the courthouse was used in several ways .Exposure to details such as the absence of amenities in the courthouse, the large number of cases on the docket, the informality in the dress and demeanour of individuals appearing before the court in contrast to the highly formal behaviour of legal personnel and such like, helped to give me first-hand grounding in the nature of the family court experience.

Events and conditions observed were used to generate questions directly to the institutional agents present at the site, which was extremely helpful for gaining insights into the way the system works and what some of the issues are from an institutional perspective. The direct observations in the Family Tribunal were generally very consistent with the data gathered from the mothers and the institutional informants, which helped to validate the interview data.

3.6 Limitations of the Study

The study encountered a number of challenges and they are outlined below:

Firstly, for the purposes of broadening the sample size in order to make it more representative, the initial sample size of custodial mothers was eighteen (18), but the lack of cooperation from officials from DOVVSU and DSW, necessitated the need to decrease the sample size as it was very difficult assessing the respondents without the professionals who work with them and know them better.

The administrative bottlenecks which stems from the centralized nature of running most state institutions caused several unnecessary delays to the data collection process and this affected the whole research process.

The cost of the research process was cost intensive. A lot of resources; time, capital and human resources were expended in order to conduct this research successfully. An example is the huge cost that was incurred in travelling to the homes of all fifteen (15) custodial mothers to conduct the interview sessions with them.

Even though it was very imperative to provide statistics of child maintenance cases reported in the study area, this could not be done because of the refusal of officials from the respective institutions to provide such data. Reasons given include the need for confidentiality of case files, a disarray of most of the files and other administrative bottlenecks.

The mothers' awareness of the researcher's background as an academician and a potential social policy analyst, led to references in virtually every interview to the assumption that I would be familiar with particular dynamics, feelings and situations. In addition, the fathers were all drawn to participation by the desire to have their story told. They came hoping that I, in turn, would be 'heard' by those with the power to change things; each expressed the hope that the study report might be influential in bringing to light the problems and solutions they identified. The mothers seemed to view me as a spokesperson for them. In this sense, most of the narratives were undoubtedly shaped by the context in which they were told.

It was also observed that very little research has been done in the area of child maintenance in Ghana. Actually after many searches on library shelves and e-learning sources, only one research was found to have been conducted in Ghana on Plural Legal Systems and Child Maintenance in Ghana. As a result, it was extremely difficult to find information that fit the Ghanaian context. These problems notwithstanding the final information collected from the field provide a useful background for identifying implementation challenges of child maintenance institutions in Madina and the country at large.

3.7 Researcher bias and subjectivity

Among the common concerns about qualitative research, particularly when conducted by a single researcher, are the role of researcher bias and the general lack of 'objectivity' in qualitative methods. In acknowledgment of such concerns, I refer to Van Manen's reconceptualization of objectivity and subjectivity in interpretive qualitative research:

“ [Objectivity means that the researcher is *oriented* to the object, that which stands in front of him or her. Objectivity means that the researcher remains true to the object "Subjectivity" means that one needs to be as perceptive, insightful, and discerning as one can be in order to show or disclose the object in its full richness and in its greatest depth. Subjectivity means that we are strong in our orientation to the object of study *in a unique and personal way* -- while avoiding the danger of becoming arbitrary, self-indulgent, or of getting captivated and carried away by our unreflected preconceptions” (1990, p. 20).

By Van Manen's definition, this research has been conducted with both objectivity and appropriate subjectivity. The biases which I hold as a feminist and a child rights activist have been exposed in several ways, however painstaking efforts were made to make the whole process from conceptualization to recommendations as scientific and objective as possible. Findings of this research can therefore be seen as trustworthy and a true reflection of what actually pertains on the ground.

CHAPTER FOUR

DATA PRESENTATION AND DISCUSSION

4.1 Introduction

This chapter presents the findings of the study which was guided by the following objectives: (1) To examine policies and legal frameworks of child maintenance provisions in Ghana, (2) To identify challenges faced by state institutions in the enforcement of child maintenance provisions, and (3) Identify challenges faced by custodial parents in assessing services from child maintenance institutions in Madina. The presentation is interspersed with perspectives from literature.

4.2 Examination of Policies and Legal Frameworks for Child Maintenance in Ghana

In conducting an examination of the policies and laws that deal with child maintenance, secondary information and information from key informant interviews were used. The examination takes into accounts key national laws and policies and other auxiliary provisions for child maintenance and further examines the opinion of key informants.

The 1992 Constitution of Ghana provides for the legal framework for ensuring the protection of the fundamental human rights of all persons including children. Article 28 of the Constitution sets out guarantees for children and enjoined Parliament to pass appropriate legislation to protect children. Ghana ratified the United Nations Convention for the Rights of the Child, which placed an obligation on the state regarding conformity to international standards in child rights protection.

In 1998, Parliament passed the Children's Act, Act 560, and the Criminal Code Amendment Act in response to the Country's obligations under international law, and to provide the appropriate legal framework for protection of children. All these legal provisions have child maintenance provisions in addition to other child protection issues. Other laws which entail child maintenance include the Matrimonial Causes Act, 1971, Act 367, The Domestic Violence (DV) Act, Act 732 and the Courts Act, 1993, (ACT 459), (The Ark Foundation, 2003). Some of these Acts have been examined below:

4.2.1 The Children's Act, 1998 (ACT 560)

This Act was meant to reform and consolidate the laws relating to children and to provide for the rights of the child, maintenance and adoption, regulate child labour and apprenticeship and other ancillary matters relating to children. It replaced the erstwhile Maintenance of Children Decree 1977 (SMCD 133) which dealt with issues relating to the maintenance of children. The date of assent of the Act was 30th December, 1998. The issue of maintenance of children is specifically dealt with in sections 47-60 of the Act. Institutions to handle child maintenance and related cases are also dealt with in sections 27-38.

Although the Act does not purport to define what constitutes maintenance, it describes it as encompassing the provision of the necessities of health, life, education, reasonable shelter and all that is necessary for the welfare of the child. The duty to maintain a child is a legal obligation which is imposed on a parent by the Act. It enjoins parents to take responsibility of the welfare of the child whether they are married at the time of the child's birth or continue to live together or not. In some instances, however, other persons may be made legally liable to maintain the child.

The Family Tribunal of any District Court is the judicial institution given jurisdiction over child maintenance matters. A Family Tribunal shall be duly constituted by a panel consisting of a Chairman and not less than two or more than four other members including a social welfare officer appointed by the Chief Justice on the recommendation of the Director of Social Welfare. To facilitate access to the court, the Act allows for application fees to be waived.

Other non-judicial institutions whose activities may border on child maintenance are the Department of Social Welfare and the Child Panels. District Assemblies are enjoined to ensure that all these institutions exist and function effectively. They are also to ensure that governmental agencies liaise with each other in matters concerning children.

The scope of a maintenance order is wide and may take the form of a lump sum or periodic payment. In situations of default of payments, a Family Tribunal may order a periodic payment or lump sum payments of arrears for the maintenance of a child and the earnings or property of the person liable may be attached. Considerations for maintenance orders under the Act include

- (a) The income and wealth of both parents of the child;
- (b) Any impairment of the earning capacity of the person with a duty to maintain the child;
- (c) The financial responsibility of the person with respect to the maintenance of other children;
- (d) The cost of living in the area where the child is resident;
- (e) The rights of the child under the Act; and
- (f) Any other matter which the Family Tribunal considers relevant.

In spite of the above mentioned, a Family Tribunal may request that a probation officer or social welfare officer prepare a social enquiry report on the issue of maintenance before it for

consideration. However, such reports may only be considered when orders have to be made and not strictly adhered to by members on the Panel. Sanctions for failing to supply the necessities of health, life, education, and reasonable shelter for a child include a summary conviction to a fine not exceeding Two hundred (200) Ghana Cedis or a term of imprisonment not exceeding six months or to both.

The major shortcoming of the Act as mentioned by the custodial mothers interviewed was the failure of the Act to compute physical care as a contribution to child care and thereby ridding the non-custodial parent of any vested economic interest in the level of care the child enjoys. They explained that non-material inputs for child maintenance, usually provided by the mother – emotional support, character building, training, daily supervision, and other essentials for the proper growth and development of the child – all constitute child care and should have been recognized by the Act as part of child maintenance.

With this revelation, it is evident that ideally, it is not enough to assess maintenance costs in terms of payments that have to be made for feeding the child, payments of hospital and school fees and the provision of other necessities of life such as clothes. One custodial mother who was not happy with this and lamented that:

“They shared the responsibility of maintenance between both of us. He was mandated to only pay monthly allowances; school fees and all other educational expenses while I was ordered to supplement monthly allowance and to supply child’s regular clothing. In light of this, I was left with no other option than to cater for all the other needs of our children. I pay rent charges, utility bills, health

bills in addition to providing all other forms of care and maintenance. My contribution in keeping the children and training them to be responsible adults in future was not considered!”

Additionally, all the custodial parents interviewed, complained about the fact that the considerations to determine maintenance levels awarded as provided by the Act was mostly based on factors none of which addresses the special needs of the child. They explained that criteria such as the income, wealth and financial responsibility of the non-custodial parent were biased and as a result, most non-custodial parents are always reinforced to site financial constraints as an excuse for not complying with maintenance orders.

Ideally, the best option out of this situation would have been the conducting of social enquires to ascertain the true financial capabilities of non-custodial parents (as the Act provides). However, all the service providers interviewed explained that probation officers are not able to conduct such enquires because of unavailability of resources to embark on such initiatives. With these inadequacies, mothers are left with only few options. One will be to accept the little maintenance allowances they receive which are often not based on the true financial capabilities of the fathers involved. Another option will be to quit the system entirely and solely maintain the children involved.

Secondly, the Act provides for blanket sanctions which are applicable to persons who fail to comply with maintenance. Officials of the various institutions revealed that they rarely apply those sanctions as provided for by the Act. This is because they usually take into account the

generally harsh economic conditions in Ghana which makes it impossible for some non-custodial parents to honour all maintenance obligations. In cases like this, they cannot impose fines on deadbeat fathers because they will not be in a position to pay such fines. Furthermore, if such a person is jailed, the problem of non-maintenance will be compounded because the custodial mother will now have to cater for the child alone. All these will not serve the best interest of the child especially in cases where the mothers are economically unstable. As such, one major gap in the Act was its failure to make provisions for circumstances where parents or other persons legally liable to maintain children may have genuine economic reasons for non-compliance.

One other factor raised relates to the enforcement institutions. Only formal courts of law can legally enforce maintenance orders. Other forums for the resolution of child maintenance disputes often have to resort to courts to secure compliance from recalcitrant clients. Officials at the Court complained that this has consequently increased the volume of work on them and it also accounts for delays in the administration of justice to custodial mothers. Also officials at DSW added that another consequence of the failure of this Act to grant the Institution powers to legally enforce maintenance orders; is the general lack of respect, corporation and compliance by non-custodial fathers. With this, it is safe to conclude that this factor explains why custodial mothers complained repeatedly that cases reported at DSW have very low compliance rates.

4.2.2 The Criminal Code, 1960 (ACT 29) as amended by Act 554

The Criminal Code, 1960 (Act 29) is the main criminal legislation in Ghana. It contains a number of provisions aimed at protecting the moral and physical welfare of children. Offences like defilement, rape, forced marriages; female circumcision, procuration and abduction are all

intended to protect children. Provisions for maintenance of children can be found in Chapter 3 of the Act.

Non-maintenance is referred to as failing to provide the necessities of health and life. Necessaries of health and life is defined to include proper food, clothing, shelter, warmth, medical and surgical treatment and any other matters which are reasonably necessary for the preservation of the health and life of a person .Specifically it is provided that a parent is under a duty to give access to the necessities of health and life to his child actually under his control and not being of such age and capacity as to be able to obtain these necessities. It must be noted that whilst this definition is positively broad; the restriction of the duty to children actually under one's control narrows the scope of the duty. Failure to maintain one's child is tantamount to Causing Harm by Omission and culprits could therefore face prosecution.

Unlike the Children's Act, this Act provides for situations where persons mandated to provide maintenance or the necessities of life are not in a position to do so, to take all reasonable steps for obtaining the means from public authority bound to furnish them with the means. For example, the father of a child who has no means of providing the child with food or medical attendance is bound to seek assistance from any officer appointed to relieve the poor.

To facilitate the application of sanctions to offenders, DOVVSU is required to receive complaints, investigate, arrest and prosecute cases where parents fail to provide the necessities of life for their children. However, officials at DOVVSU, Madina admitted that even though they are required by Law to perform such functions to ensure that offenders are punished by Law; they have never undertaken such actions.

In explaining the situation, the Respondent from DOVVSU mentioned that even though the Institution is saddled with a lot of cases to handle as a result of them having to serve residents of two other municipalities, they are very few personnel available to handle the number of cases reported at their outfit at a given time. In view of this fact, they don't have the luxury of time to prosecute non-custodial fathers who fail to comply with maintenance obligations. Rather they try to remedy the situation by applying Alternative Dispute Resolution (ADR) methods such as mediations and arbitrations. If such situations fail, then they refer the case to DSW or the Courts. She had this to say:

“We here at DOVVSU have so many cases to attend to that we cannot afford to add the prosecution of deadbeat fathers to our work! We try to arbitrate on such cases but if it doesn't work, we waste no time in referring the complainants to DSW. This is because comparatively, they don't have much work to do! ”.

It is however important to note that all fifteen women interviewed strongly recommended that with the exclusion of fathers who have genuine economic reasons for failing to comply, all other recalcitrant fathers must be given a jail sentence of a maximum of six months. They were of the opinion that it is the only way to increase compliance rates. With this, it is obvious that the inability of DOVVSU to prosecute as well as that of the court to apply sentences to recalcitrant fathers; reinforces them not to comply with maintenance orders they are given by the respective institutions.

Also, in the case of fathers who have genuine economic reasons for non-compliance, it was revealed that contrary to the provision of the Criminal Code which requires them to seek

assistance from public institutions; nothing at all has been done in this regard. The respondent from DSW explained that funds have not been made available for such fathers.

4.2.3 Domestic Violence (DV) Act, 2007 (Act 732)

The DV Act, 732 is an Act to provide protection from domestic violence for women and children and for connected purposes. The date of assent for the Act was the 3rd of May, 2007. Domestic violence specifically refers to abuse within the context of a previous or exiting domestic relationship (family, intimate relationships, landlord-tenant and co-tenants). The Act defines domestic violence as engaging in the following:

- Acts under the Criminal Code 1960 (Act 29) which constitutes a threat or harm to a person under that Act; which includes a parent failing to provide the necessaries of life for a child.
- Specific acts, threats to commit, or acts likely to result in physical, sexual, economic verbal and emotional forms of abuse.

Physical abuse can be referred to as violence that affects the physical being of any human being. They include battery, physical assault, murder, confinement, starvation and such like. Sexual abuses are also acts which infringe on the rights of one's sexual rights. They include forced attempts to have sex or perform sexual acts against a person's will (rape, defilement), attacking the sexual parts of a partner's body, treating a person like a sexual objects among others. Emotional abuse refers to actions intended to degrade, humiliate and demean, both in public and private, including threats to injure or harm a partner's children and such like. Economic abuse on the other hand includes the deprivation or threatened deprivation of economic or financial

resources which a person is entitled to by law as well as financially neglecting a person one is liable to provide the necessaries of life, Non-maintenance therefore constitutes economic abuse.

Another form of domestic violence is Child Abuse. It occurs when a parent, guardian or caregiver mistreats or neglects a child resulting in injury, significant or psychological harm or serious risk of harm to the child's development and growth, Forms of child abuse are also physical, sexual, emotional and economical. Child neglect which includes withholding love and affection from a child ,failing to provide financial resources for the child's needs such as educational, health, material needs; are all forms of child abuse/domestic violence recognized by the Act.

The Act states that a person who engages in domestic violence commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or a term of imprisonment of not more than two years or both. The Domestic Violence and Victims Support Unit (DOVVSU) of the Ghana Police, is the institution established to deal with issues related to domestic violence. They are to arrest perpetrators, investigate cases reported as well and prosecute arrest and prosecute offenders (if the complainant so desires). They are also required to provide psychosocial support for victims. It must be reiterated that DOVVSU only applies ADRs in dealing with child maintenance cases because their huge volumes of work does not permit them to investigate and prosecute culprits.

The official from DOVVSU revealed that because of the fear of Police, a lot of non-custodial fathers and their family members cajole most custodial mothers to withdraw cases they report to

the Institution with the promise that the issues will be amicably settled at the family level. This is because such issues are seen as family/private issues and as such reporting the matter to court is tantamount to exposing one's personal issue to the public. She however added that from her experience and observations, such cases are never really settled. However, the women feel embarrassed to report the turn out events back at the Institutions and in most cases, the mothers are left with no choice than to maintain the children on their own.

The above mentioned gaps and implementation challenges notwithstanding, the laws on child maintenance are not without some strengths. All the service providers interviewed were of the opinion that the laws on child maintenance were adequate for dealing with problems of child maintenance. In their views, the laws are protective of children, comprehensive and well set out for ease of application. They applauded the Children's Act as being better than the repealed decree because it provided for the payment of arrears of maintenance expenses. Similar views on child maintenance laws were held by most of the custodial mothers. During the interview sessions, ten (10) out of the fifteen (15) interviewed mentioned that even though there did not have an in-depth knowledge about the child maintenance laws, the fact that the respective laws made the care of children the responsibility of both parents, meant that the laws were very good.

In general, respondents indicated an acceptance of the laws on child maintenance because they were written for ease of reference, helpful for guiding both parents and implementers and also very protective of the rights of children. In view of these, they stressed the need for proper enforcement of the respective child maintenance laws.

The issue of child maintenance can be viewed as a family matter which involves a mother, father and child (ren). In Ghana, such issues are often seen as private matters and best solved at the family level. It is for this reason among others why legal provisions such as the ones examined above were formulated to ensure that in all situations, the best interest of the child is paramount and achieved. The fact that society usually does not encourage custodial mothers to assess help from the various institutions mandated to offer such help, all in the name of protecting the integrity of the father of the child, is a clear example of patriarchy as suggested by (Connell, 2002). Ghanaian laws appreciate these sentiments because that is how members of this society have been socialized. As such as can be deduced from the analysis of the above mentioned laws, the issue of child maintenance can be classified as quasi-judicial. Meaning even though criminal sanctions can be applied to offenders, the traditional ways of resolving conflicts such as mediations and arbitrations can also be applied. As such, even though such cases can be tried and culprits incarcerated, an amicable settlement of the issue by the respective institutions is also recognized as a means of settling issues of child maintenance. As a matter of fact, it has been observed that the latter is the most preferred and utilised method of enforcement (Britwum et al, 2004), hence, the reason for the establishment of the Family Tribunal system. This system is required to promote reconciliation by settling child related issues matter amicably between the parties if the complainant so desires. However, as provided for in the various legal documents, sanctions must apply when such avenues fail.

4.3 Institutional Challenges in Enforcing Child Maintenance Provisions

The data used to analyse this section was collected from six representatives of the various institutions mandated to deal with child maintenance. They were the three panel members of the

Family Tribunal of the Madina District Court, An official from DOVVSU and DSW respectively. The last respondent was a member of the Women and Children Committee of the Municipal Assembly; the institution with oversight responsibility of the three direct service delivery institutions, mentioned above.

The main reliefs sought by custodial mothers were mainly financial provision which covered the following: general maintenance orders; specific maintenance orders for the payment of school fees, medical bills; the provision of shelter for the child; and compensation for periods of neglect. In most cases, awards were made payable through the institution making the award. These orders are the easiest to monitor. A few recalcitrant ones avoid paying either to the institutions or to the beneficiary. The institutions are therefore burdened with another task of verifying compliance. The variables examined were: Coordination between the institutions studied, administrative challenges i.e. availability of material resources (funding arrangements, logistics and other infrastructure), and human resource (staff capacity building, motivation for staff, adequate staffing) and monitoring mechanisms, and effectiveness of laws and policies on child maintenance.

4.3.1 Coordination between the institutions

Strengthened and effective coordination leads to the sharing of ideas and the learning among service providers so that they can make efficient use of intellectual and other resources as one service provider could be lacking in an area where the other abounds. This implies the holding of periodic meetings where all practitioners can meet and share knowledge on best practices. The Children's Act enjoins District Assemblies to ensure this by coordinating all of such activities as

well as being a check and balance on the activities of institutions that deal with child maintenance and other child-related issues. Aside knowledge sharing, other processes which enhance the coordination system include proper referrals, feedbacks and follow ups on cases referred. The absence of such mechanisms will lead to poor implementation.

With regards to coordination of such activities, the representative of the La –Nkwatanang Madina Municipal Assembly revealed that the Assembly has not initiated any steps aimed at coordinating the activities of the three respective institutions. She explained that the Assembly has a myriad of developmental functions to perform and as such, it expects DSW, which is a Department under the Assembly, to coordinate all of such activities.

During the interview with the representative of DSW, she also revealed that from her interpretation of the law, it was rather the leadership of Municipal Assembly who is to spearhead such activities. The shifting of responsibility by the representative of the Assembly only means that the leadership of the Municipal Assembly has neglected their supervisory functions and it could also be deduced that there are no immediate plans to initiate such actions. This situation can be attributed to the fact that so far, no premium or attention has been given to the issue of child maintenance. Rather, it was gathered from the interview that attention is given by the Assembly to other child-related issues such as the rescue and rehabilitation of street children, assistance to orphans and other vulnerable children among others. Since the institutions themselves have also failed to initiate such actions on their own, at the moment, nothing has been done to ensure the coordination of activities of the three respective institutions and this inability is bound to have repercussions on service delivery.

It was also evident from the data collected from the Assembly that in general, the issues of women and children which includes child maintenance; are not given the attention they deserve as the Assembly is concerned with other developmental issues such as the construction of lorry stations and expansion of the Madina Market.

The Study further revealed that with the exception of referrals made by the institutions, all other processes involved in the coordination system such as giving of feedbacks, making follow-ups on cases referred and holding of periodic meetings; are not being practiced by any of the institutions. Even with regards to referrals, the most employed modes are verbal referrals given to the complainants by the referral agency. Reasons for this failure is as a result of the huge volume of workloads which does not allow service providers to perform such activities after they have referred cases to the next agency, high level of centralized decision making process which does not allow service providers to initiate such processes at their level and a general apathy on the part of service providers.

The Respondent from DOVVSU in explaining why she had never taken an initiative to follow-up on any of the numerous cases she refers to other institutions in a day had this to say:

“There are no procedures for follow ups and feedback sessions. As far as I am concerned, my work with the complainant ends the moment I refer the case. I barely have the time to follow-up on cases I refer to the Court or the Department of Social Welfare. Everyone around here has plenty work to do so I can’t delegate another Officer to do that for me”.

An admission of this challenge by this officer and all her other colleague service providers who also intimated such sentiments shows that nothing substantial is being done in the area of coordination and this poses a threat to implementation because of child maintenance provisions.

4.3.2 Administrative Challenges

i) Availability of resources

The ability of institutions to deliver to the satisfaction of people who access their services depends to a large extent on the resources available. The research examined the resource base of maintenance institutions for carrying out their responsibilities. Resources in terms of financial, logistics, infrastructure and human resources were examined.

The study revealed that in terms of logistics, all four institutions were seriously under-resourced and under the prevailing circumstances, it is extremely difficult for service providers to successfully implement child maintenance provisions in the study area. The Department of Social Welfare is the worst among the institutions. The others were no better either. Everything from office space, through transport and communication facilities, to major and minor office equipment was either unavailable, in short supply, or in a serious state of disrepair.

To ensure that panel members make informed decisions about maintenance obligations for the non-custodial parent (especially, informal sector workers), The Children's Act, Act 560 provides that social enquiries are conducted by probation officers attached to the Panel of the Family Tribunal. These officials as well as their counterparts at DSW and DOVVSU also require

adequate means of transportation to enable them conduct social enquiries on respondents, make follow-ups, effect arrests of recalcitrant respondents as well conduct investigation. The Study however revealed that none of these institutions have been provided with proper means of transportation. All three do not have either vehicles or motor cycles or even bicycles to facilitate their work. As a result of this lack, it is the complainants who are asked to provide means of transportation for officials. If the complainants are not in a position to provide such means, their cases could either delay or will not see the light of day.

The study also revealed that the various institutions do not have adequate office space. In the case of DOVVSU, the Respondent hinted that until recently when they took it upon themselves to solicit financial support from UT Bank for the construction of a bigger office space, they were saddled with the challenge of having to use the only office space available for both adjudicative and administrative purposes. Even though the newly constructed office is bigger than the old one, it is still relatively small and it still doubles as a staff room and a mediation/arbitration room. With this confidentiality, which is a key ingredient in the arbitration of such issues, is never practiced because as many as five cases are handled by the respective officers at the same time and place.

The Respondent from DSW also complained about the same challenge. She could not hide her dissatisfaction and frustrations about the challenge of having a small, single office space, which serves both administrative and adjudicative purposes. She expressed the following sentiments during the interview with her:

“We face many challenges. For example, we don’t have a vehicle to facilitate the social enquiries we do. We also do not receive any funding for such rounds. But our greatest challenge is that we have only one office space which doubles us both a room for mediation/arbitration purposes and staff office room as well. As you can see, the room is so small that it cannot accommodate all of us and the clients we attend to at the same time. Some of us have to sit outside on the days for mediations/arbitrations because we don’t want our clients to feel intimidated by the number of people in the room during such sessions”.

Even though the various Acts provide for sanctions for deadbeat fathers, the study revealed that these sanctions are not being enforced in the study area and this was attributed to overcrowding in the prisons. Respondents from DOVVSU and the Court said that they have never imposed sanctions provided in the various Acts on any deadbeat dad for the past seven(7) years because even though it is within their mandate, the few prisons in Ghana where such fathers are supposed to be sent to are already overcrowded. As such, since the issue of non-maintenance is quasi-judiciary, they do not see the need for the prosecution, conviction and incarceration of deadbeat dads.

It was observed during proceedings of fifteen (15) maintenance cases at the Family Tribunal that only two (2) recalcitrant non-custodial fathers were sent to the cells at the District Court. However, an informant at the Court whom I interviewed after the court proceedings, informed me that this practice is rarely the case and that she strongly believed that those men were held because of my presence on that particular day. The Magistrate also informed me that even though the practice of taking men to the ‘cooler’ (as the cells is popularly referred to) is only

limited for a day, it is useful because it only takes a single phone call away, for the men to mobilize monies to pay their arrearages.

With regards to funding, it was found that the bureaucratic processes that govern the release of funds for state institutions pose a great challenge to the respective institutions studied. With most state institutions, decision-making regarding disbursement of funds is done centrally. Internally generated funds which could have been retained by the various institutions are required to be sent into centrally allocated accounts. This leads to a lot of wastage because the time and other resources which are expended to have these monies released constitute a complete waste and unnecessary delays.

The representative of DSW revealed that even though we are in the final quarter of the year 2013, the Department had only received funding from the Municipal Assembly just once and even that one was in arrears of the last quarter of last year's payments. She further explained that because they solely depend on funding from the Municipal Assembly's Common Funds, they only have funds made available to them when the Government releases funds to the Assembly.

Again, The Respondent from the Municipal Assembly further revealed that coupled with the fact that funds received from Government is woefully inadequate; there is a need for them to allocate the funds to the various departments under the Assembly in order of priority when needs assessments and disbursements of funds are done. She admitted that even though social services are necessary, they compete with other pressing needs and as such DSW receives lower funding as compared to the other Departments under the Assembly. The same can be said about both the Court and DOVVSU respectively. Respondents from both institutions complained of late

disbursement of funds which are also woefully inadequate. It is very ironical that even though the Court/Family Tribunal is the final institution of redress, it is the place where most interviewees had many issues with. One major contributory factor which kept coming up in all the interviews conducted was the issue of funding. In light of the fact that all the institutions are saddled with the issue of inadequate funding, the Complainants are made to bear most of the cost of services delivered which they should receive for free and funded with funds made available by Government. The Magistrate at the Court/Family Tribunal had this to say during the interview session with him:

“The funds made available to us by the Headquarters of the Judicial Service are woefully inadequate. This poses a huge challenge to implementation because we have no choice than to make the complainants pay for most of the services we render here. Complainants prior to appearing before me would have already spent a relatively appreciable amount of money on filing fees and fees for the bailiff to serve the Respondent on her behalf. The amount increases in situations where the respondent is very stubborn and fails to show up on hearing days because the compliant needs to pay for the services of the bailiff to serve him again .Most often, the cases are not pursued by the women anymore because they are influenced by friends and relatives to withdraw the cases and rather use the monies they use in coming here to maintain the child as they see the whole process as a mere waste of time and resources”.

Similarly, the Probation officer (PO) attached to the panel on the Family Tribunal; who is required by law to conduct social enquires on the income levels of respondents so that panel members can make informed decisions on maintenance obligations had this say:

“I do not receive any funding for my work at all! I collect money from complainants for my transportation both to and from the location of the enquiry. But that is for the other Municipalities I serve. Actually, I have conducted social enquiry on child maintenance cases only once in all the five years that I have been in Madina. This is because most of the women who come here with child maintenance cases cannot afford to pay for my transportation to conduct social enquires. Unfortunately, funds are not made available for these things to be done for free for the women and most of them do not even have money to take care of their children let alone pay for my transportation!”

Officers from DOVVSU and DSW also added that due to inadequate funds, they are also sometimes compelled to use their personal monies to conduct social enquires, buy credits to follow up on deadbeat fathers and such like. These occasions are however rare. In the case of DOVVSU, it was revealed that transportation to arrest respondents is always catered for by the complainant and not the DOVVSU.

The ability of institutions to deliver to the satisfaction of people who access their service depends to a large extent on the resources available. It was found that in addition to lack of funds, child maintenance institutions are generally under resourced, in terms of human resources, equipment and other physical facilities to undertake their responsibilities.

In terms of human resource, the negative effects of socialization along patriarchal lines of the Ghanaian society and how it affects service delivery for custodial parent was very evident in the study. Three out of the six respondents from the institutions exhibited negative gender stereotyping resulting from internalized patriarchal socialization. They were of the view that most custodial parents who assess their services are ***“lazy, demanding, nagging, over-bearing and irresponsible”***. Conversely, they defended the men by stressing that even though most of the men are irresponsible, their irresponsible actions can be justified because of their low income levels and also because of the negative attitudes of custodial parents. A negative consequence of this is that the maintenance obligations referred to in the various Acts as the ‘necessaries of life’, which includes the provision of health; education; feeding and shelter are left to be provided for by only the custodial mothers.

These unfortunate occurrences can be attributed to the lack of capacity building exercises for officials in all three institutions. Officials from all the three institutions of direct service delivery revealed that for the past three years, no training exercises have been held for them. When asked, they expressed the desire to be offered training in gender dynamics, counselling, mediation and arbitration strategies, family life issues as well as conflict resolution methods. Another area where they expressed interest in capacity building was insight on the various legal provisions on child maintenance. Apart from the Children’s Act, Act 560, all six interviewees were unable to mention the provisions of other legal documents on child maintenance. Even with the Children’s Act, Act 560, only two (2) out of the six (6) respondents were able to give in-depth information on provisions of the Act. Also, only two (2) out of the six (6) interviewees were able to produce

copies of the Children's Act upon request. The other four said that they were sure that their institutions had copies but they could not be found.

Another key shortfall the study identified in terms of human resource is poor staffing which is as a result of the low salaries paid in public institutions. Key personnel are simply not attracted to work in such institutions or simply evade service and this subsequently leads to over-burdening of work load on the few staff available. All six institutional respondents complained about this particular issue. They further revealed that their respective institutions serve two or three other Municipalities in addition to the La -Nkwantanag Madina Municipality. They added that sometimes, the high volumes of work coupled with low incentives which does not motivate them, makes them view their work as drudgery.

For example, from direct observations of proceedings at the Family Tribunal, I found that the average number of cases per day for the Magistrate to adjudicate on is between thirty (30) to forty (40) cases per day. On Family Tribunal days (Wednesdays) however, the number of cases increases as he combines both family tribunal cases as well as other civil and criminal matters. Due to his busy schedules, he comes to work as early as 7:30 AM each day and leaves at 8:00 PM.

4.3.3 Effectiveness of child maintenance provisions

The main challenge identified in this regard was the failure of the laws to provide a standard method of calculation as is done in the United States of America where any of the three methods already mentioned in the Literature review session, is used. In the absence of this, several

subjective factors come into play in determining the quantum of maintenance awards. The erring parent's situations with respect to the following are considered before the award: the nature of his employment; his declared income (salaries and benefits); his liability to care for other children; the number of other dependants; whether or not he provides support to other of his relatives.

Other factors such as the income of the other custodial parent, the age of the child, the type of education being received by the child and his medical requirements are also considered. The study revealed that as a result of this, maintenance levels awarded is done subjectively and varied greatly according to the income level of the defendant, and the financial commitment of the defendant in relation to other dependants, which in turn depended on the economy of the locality in which parties lived. Again, it is important to stress here that in the absence of proper means of transportation, no enquiries are conducted to ascertain the true sources of income of the non-custodial parent. With the formal sector workers, it is much easier because they are often asked to furnish officials with their pay slips and other particulars. However, with the informal sector workers, nothing much is being done to ensure that they pay the amount which commensurate their income. As such, in addition to the fact no proper means of calculation is applied, the subjective forms are calculations, are done based on assumptions.

4.3.4 Monitoring /Accountability Mechanisms

Finally, it was evident from the research that there were no proper mechanisms in place for monitoring the activities of the three institutions. When asked, the all six respondents hinted that the only form of monitoring by their respective superiors is the giving of periodic (usually

quarterly) reports to their mother institutions. Even with that, no feedback is given after those reports have been received. This makes one wonder if those reports are actually read.

The above mentioned findings confirm the two theories used by the researcher; namely Connell's Theory of Gender Relations and Dunleavy's Theory of Public Policy Implementation Process. The fact that staff of the respective institutions has negative gender stereotyping which affects how they render services to custodial and non-custodial parents, is a clear indication of the effects of socialization along patriarchal lines as suggested by Connell. The fact that the issues of women and children which are dealt with by DSW, are ranked least when needs assessment for the disbursement of funds are being done in the Municipality supports Connell's Gender Relations as well. Dunleavy's theory of the negative effects of top –down approach of implementation where administration of everything from funds to decisions making and allocation of other resources is done from a central point is evident in this research.

All in all, it was realized that those institutions that had remarkable success in enforcing child maintenance orders were those who went beyond the legal rules for enforcement. Indeed, coercive institutions that stuck to strict legal rules for enforcement realized that defendants who had financial awards for maintenance made against them stopped paying after a while and monitoring was incredibly difficult. As such it takes strong-willed custodial parents and service providers alike, to actually employ other methods such as being sent to the “cooler”, to get deadbeat fathers to honor maintenance obligations.

4.4 Challenges in assessing services from child maintenance institutions in Madina

This section contains analysis of data on interviews with custodial parents. It discusses findings on challenges they encounter in their bid to seek relief for child maintenance from the three direct service delivery institutions. The custodial parents discussed in this study had varied marital statuses prior to separation. Eleven out of the 15 participants co-habited with their non-custodial parents while the remaining four were married to the fathers of their children between a year and 10 years. Out of these, only one was married under the Ordinance; the remaining three marriages were customary. The number of children for which maintenance was being sought for by these custodial parents ranged between one to three children per family and their age range was between 4 years and 12 years.

As already mentioned in the Literature review session, researchers have identified several factors as being responsible for the failure of non-custodial parents to comply with child maintenance obligations. These factors could either be micro (family level) or macro (state level). All these factors could be challenges in implementing child maintenance provisions (Britwum et al, 2004). The micro factors identified by researchers who conducted similar studies on non-custodial fathers include their ability to pay i.e income level of father, remarriage of either parents, Paternal disengagement i.e. psychological disengagement of fathers from their children resulting from the physical absence of children due to the separation, Fathers experience after divorce, Interpersonal relationships between separated parents, Ignorance of legal provisions. Apart from inability to pay which was refuted by the findings of this research, all other factors were confirmed by research participants and they are explained in turns.

Remarriage of spouse of either partner

Seltzer & Bianchi, (1988) noted that since remarriage increases the complexity and strains of balancing old and new family relationships, parental involvement may decrease after the new union. The research confirmed this statement as thirteen out of the fourteen custodial parents whose ex-partners had re-married complained that their partners, defaulted payments not because they were financially unstable but because of the negative influence of the new partners they were involved with. One of them said that:

“Before he left me for another woman, he was a very responsible father and even though our child is disabled, he used to love her and took good care of her. Everything started when he met his new wife. Suddenly, he stopped performing his fatherly duties I got frustrated so I went to report the matter to DOVVSU. Initially, he was complying with all the maintenance obligations until his new wife wouldn’t let him. He told me that his new wife says he will not allow her husband to take care of a disabled child because it is a waste of money and time. The Police people got fed up with him and referred me to court and the case has been pending for four years now because his new wife influences him to default payment” (Interview with a custodial parent).

The above statements and many other similar ones custodial parents and several others buttress the fact that the refusal of most men to honour maintenance obligations is as a result of negative influence of their new partners. In their bid to secure the relationship the new partners of the non-custodial parent is to prevent him from maintaining his children from the previous relationship

because they perceive such actions as unwarranted display of affection which the custodial parent could capitalize on to salvage the relationship lost between the two. From this, it is clear that such unnecessary display of rivalry should be addressed by the respective case workers.

However, due to their huge volumes of work load, they are not able to address such issues and as such, their negative influence on the non-custodial parent influences his willingness to comply with maintenance obligations as expected. Alternatively, the appropriate sanctions should be applied to such men but this is not the practice. I observed that the commonest action taken in such situations is the giving of verbal warnings. In light of such failures, the women experience unnecessary delays because their cases are always adjourned when the men fail to make payments as no sanctions are given to either them or their erring partners.

Paternal disengagement

The various legal provisions have maintained that a child's right to financial support from parents supersedes any issues that crop up between the two parents which may affect their wish not to assume a parenting role. (Seltzer et al, 1989) have however found that there is an association between the level of paternal contact after separation and fathers' provision of financial support. This can be attributed to role issues which include degree of flexibility in the masculine parental role (Friedman, 1980), and various forms of psychological disturbance arising from the threat to, actual loss of, the father - child relationship (Gumann, 1989). These authors indicate that when the spousal relationship ends, the father-child relationship is likely to be affected because of the loss of custody of the children involved. (Oware-Gyekye et al, 1995) further explains that most custody arrangements upon divorce or separation fail to give fathers'

custody of children below a certain age. In such cases, fathers generally refuse outright to meet their responsibilities toward such children. Linked to the issue of paternal disengagement is the experience of most fathers after divorce. Research on the impact of divorce on mental health suggests that separation and divorce often produce intense emotional and psychological crisis for men (Jacobs, 1986; Kruk, 1993; Myers, 1988; all cited in Mandell 1998)

The findings by previous researchers were confirmed by the study as ten out of the fifteen custodial parents intimated during the interview sessions with them that the non-custodial parents had either told them personally or through other family and friends that they will intentionally default payment of maintenance orders in a bid to frustrate the mothers so that they will allow them (the fathers) gain full custody of the children.

During the hearing session which I attended, I witnessed one of such cases where the custodial mother showed the panel members a letter which was written by the non-custodial parent, threatening to murder her if she fails to allow him have full custody of their son. Even though the man in question could not deny his actions, nothing was done or even said to him to reprimand him for his unlawful intentions. It can be inferred from such actions that this failure stems from factors such as gender discrimination, lack of apathy, huge volumes of work they are saddled as well as a lack of a sense of duty or professionalism. However, the root cause of all these factors is patriarchy.

Interpersonal relationships between parents

Non-compliance has also been tied to the poor relationship between separated parents (Demo & Ganong, 1994). Johnston and Campbell (1988) suggest that in fact the individual personalities and the interpersonal dynamics of the couple influence each other rather than one being caused by the other in a linear way. In all the fifteen cases interviewed, the mothers admitted that they were not on good terms with the non-custodial parents. One of them had this to say:

“One day, after a court session, he called me on phone to insult me. He also told me that I should never think he will honour all obligations because he has to punish me for all my wrongs”.

This unfortunate situation can be mostly attributed to unresolved painful experiences which caused the end of those relationships. As such the fathers were of the opinion that wilfully failing to comply with maintenance obligations was a form of punishment to the custodial parent for whatever wrongs they committed in past. Again even though in most cases, the case workers are fully aware of this situation, they fail to take pragmatic steps to tackle the matter and as such it is the custodial parents and their children who are affected by all of such challenges.

Ignorance of the laws

The study also revealed that ignorance on the part of the custodial mothers leads to an under-utilization of the statutory legal provisions that could have supported their efforts in getting the fathers of their children to live up to their paternal responsibility of maintaining their children. In all, thirteen out of the fifteen mothers interviewed failed to outline any of the provisions on child maintenance provisions. One of them made this revelation:

“I spent almost 70 Ghana at the initial stages. That was for filing fees, payment of the bailiff who served the man his letter, my transportation and other administrative charges. After this initial cost which was so much, I almost gave up on the process .I complained to one of the court clerks and it was him who informed me that such costs are supposed to be waived. So on the next court date, I strongly insisted on the refund of my money and he was made to give the money to me”. (Interview with non married custodial parent)

This comment suggests that the possibility of custodial parents to benefit from the provisions of the various laws depends to a very large extent, on how assertive and knowledgeable they are about those laws. However, the fact that there is very low sensitization and public awareness on the issue of child maintenance is done, most of these women are ignorant of their rights and that of their children and hence their inability to demand their rights from the respective institutions of redress

Lack of professionalism due to inadequate capacity building

The study revealed that custodial parent were of the opinion that non-custodial parents are more or less, left off the hook because in most instances, the custodial parent end up incurring more cost in both seeking redress as well as maintaining the children involved. In making a cost sharing analysis, one observes that in addition to performing other responsibilities towards the child’s welfare, custodial parents are also made to pay more than the almost the non-custodial parent. Even then, the study revealed that for no justifiable reason, most non-custodial parents (15 out of 15 fifteen cases interviewed), failed to honour all or some of their obligations as ordered.

The data revealed that most of the custodial parents were of the view that when child maintenance issues are reported at the various institutions, it tends to benefit the non custodial parents more than them. This is because the orders and resolutions made give more consideration to the non custodial parents. All these can be attributed to a lack of professionalism stemming from years upon years of professionals not undergoing training. As a result, the respective cases delay a lot and it is the innocent children who suffer. The custodial parents are left with no choice but to depend on friends and families to survive when this happens. Others resort to other means. A custodial parent who has been on the Family Tribunal system for the past three (3) years had this to say:

“Actually my child has a medical condition which takes all my money and this has collapsed my business. My mother helps me but it is not sufficient. I have informed the Panel members about it. Sometimes, I get very frustrated so I am tempted to have sexual relations with other men so that I can get money to pay for my child’s health bills. The Panel members do not seem to care. One time one of them told me that instead of me to pray that they are able to get him to pay the amount he owes, I am rather thinking of medical bills” (Interview with a custodial parent).

The most significant reason for seeking child maintenance is underpinned by the need to provide the necessities of life for the development and survival of the children involved. As provided for by the Children’s Act and Criminal Code, the necessities of life comprises of basic needs such as food, shelter, health and shelter. However as evident from the revelation above, it is clear that the non-custodial parents are being reinforced by the actions and inactions of service providers to

neglect their responsibilities. To the custodial parents, the non custodial parents are given more lee way. All the parents who have been to Social Welfare and the court respectively were made to partly bear the cost of school feeding; health insurance; school transportation while fully bearing the cost of rent charges, utility bills clothing for the children including school bags, uniforms, pair of shoes, panties, etc. A case in point is as follows:

“My girl has autism and this condition has been my sole responsibility as no arrangements were made at DOVVSU, DSW and the court when I went to all three places. As a result, I have been compelled to do health insurance for her but not all the drugs are covered so I incur some additional costs. I have complained several times but none of the officials seem interested in what I say during hearing sessions.” (Interview with custodial parent)

It was observed that in the absence of any arrangement for the health, shelter and other necessities of life for the children, most of the custodial parents interviewed were compelled to provide most of such needs. This fact also highlights the numerous responsibilities of the custodial parent with the failure of service providers to make arrangements to cover the necessities of life as stipulated by law. As already stated a major factor which accounts for this failure is years of socialization of along patriarchal lines. As such, it is the dictates of the fathers that are taken into considerations when maintenance arrangements are being made. Another interviewee confirmed this when she said this:

“They said that I should bear the cost of feeding and transportation fees for school. But I also pay part of the school fees, health insurance and some other costs as well. From the look of things, you take the person to court but you end up

paying more than him. That is why he calls me on phone to verbally abuse him and says because I have ended up paying more than him. Meanwhile, when I complain, the court people tell me I like talking too much” (interview with a custodial parent).

Further, the non-custodial parents most often fail to pay the maintenance allowances regularly as stipulated. But when the custodial parents files complaints, nothing substantial is done about the issue. A custodial parent laments:

“It is not good, he has spoilt the money. Because he does not pay in full the total amount anticipated, - 20 Ghana, sometimes 30 Ghana for instance” (Interview with a custodial parent).

Some of the custodial parents were able to circumvent default in payment by the non-custodial parents by seeking redress from another Juvenile Court in Accra. The case was later referred back to Madina when the authorities later got to know that it was initially opened in Madina District Court. One out of the fifteen custodial parents attained and indicated that:

“He failed to pay the full 1 million ordered to be paid for the three children and rather paid 70 GHC continuously for five months. I was managing it and footing all the other maintenance costs till I got tired and decided to file another complaint at the court. He however refused to attend all the hearings even though the bailiff served him with a hearing notice on all occasions. No sanctions were levelled against him. Upon the advice of my uncle who has been supporting me and the children; I filed a fresh complaint at the Juvenile Court in Accra. Since it is bigger court; I thought things will be better. Initially, they assisted me by

increasing the amount to 1.5 million Ghana cedis in addition to collecting all the arrears for me. However, they had to refer me back to Madina with the explanation that Madina is not under their area of jurisdiction so at the moment, I am back to square one' (interview with a custodial parent)

Coordination (Referrals/feedback system and follow-up on the next institution)

In most cases DSW or DOVVSU dealt with the cases to a point before referring it to the court. This occurs when the non-custodial parent behaves in a recalcitrant manner by persistently refusing to comply with the orders or directives of the officers involved in the case. . Below is a case in point:

“When I went to DSW, they gave me a letter to be taken to him and when I sent it to him, he said I should take the letter back to where I got it from. So I reported back to the social workers, who then gave me the letter back asking that I should attach 30 Ghana cedis and take it to the court, but then I did not have that amount of money. So I did not pursue that again” (Interview with a custodial parent).

The directive from Social Welfare above to the court was not complied with because of financial constraints, however because there is no proper system of coordination in place, the outcome of this case was not known to the officer who referred the case. Even in an event where the custodial parent had taken the initiative to give feedback to the referral agency, nothing substantial could have been done about that particular case because funds are not able to her and her numerous other counterparts to assess this service for free. Another custodial parent had this to say:

“The father of my child,; who used to be my fiancée, absconded soon after I got pregnant After 8 years, someone gave me a tip off that he was now married and was back in town. I reported the matter to DSW where he was then invited. He was counselled and encouraged to take care of the child. It was agreed that he pays 40 Ghana cedis a month. He paid for 3 months and then stopped. DSW tried their best to get him to pay but failed to comply. So they gave me a referral to the case to the court. Initially, I was reporting the challenges experienced at DSW but I realised they were not in a position to help me so I stopped going there. It’s been about two years since the court process began and I am facing lots of challenges with the court but I haven’t gone back to report to DSW because I have observed that if you want your child to be properly maintained, then you have to learn to be tough when you appear before the Panel Members. No one will fight for you; you have to do everything with strong will and determination” (Interview with a custodial parent).

From this account and several others which corroborated this story, it was clear from the research that the failure of service providers as well as the Municipal Assembly to implement a system of coordinated response which will enhance the rapport between them; has resulted their inability to follow up or even share ideas on such challenging cases. As such it takes the sole determination on the part of the custodial mothers to get recalcitrant fathers to comply with maintenance obligations.

Processes involved in the quest for child maintenance

The greatest expectation of every custodial parents interviewed was that the institution they visited to seek redress for child maintenance would alleviate their plight as single parent by making maintenance obligations for non- custodial parents and ensuring that such obligations are complied with to the latter. However all fifteen interviewees hinted that they felt disillusioned at one time or the other because they found the processes involved cumbersome and frustrating.

The processes at both DSW and DOVVSU is much simple because after mediations are held, a time frame, usually determined by the complainant upon the advice of case workers at the two respective institutions; is given for the observation of the patterns of compliance by the respondent. If it is observed that the respondent fails to comply with maintenance arrangements, then the case is referred to the Court/Family Tribunal for orders to be made or the necessary sanctions applied. It was evident from the research that of the three institutions the Court/Family Tribunal system was the most complained about and this can be attributed to the processes involved. All five interviewees from the Family Tribunal narrated incidents of frustrations they had encountered in going through the Family Tribunal system. One of them had this to say had this to say:

“I thought that when I get to social welfare everything will be well, but that did not happen. The officers at DSW encouraged me not to give up but to take the referral they gave me to the Court. Then when I got to the court I thought it would produce the best of results but it was there that I had the greatest discouragement” (interview with a non-custodial parent)

The process of filing requires that the complainant pays an amount of money which is used as filing fees. The Magistrate is required by law to order the waiver of such costs. However the study revealed that this is rarely done. Furthermore, it takes between days and week for the typing of the statement of reliefs sought and the letter for serving the Respondent, to be ready for delivery. The period required for serving the Respondent depends on a number of factors such as how early the complainant is able to pay the transportation of the bailiffs as well as the accessibility of the Respondent. If the serving of letter occurs with no delays, then the hearing of the case is done with parties and the three panel members as well as the probation officer attached to the Panel. However, if either of the parties (Complainant or Respondent) fails to show up, then the case is adjourned to another date. And the Complainant will have to give the bailiff another transportation to serve the Respondent. In an event where the Respondent fails to turn up, he is served another letter for a third time after which a bench warrant is issued by the Court for his arrest. Again, the Complainant will have to pay for the transportation of the Police Officer who effects the arrest. One custodial mother who had been through this whole process and was very frustrated at the turn of events had this to say:

“I am very tired of this whole process. If I had money, I would secure the services of a Lawyer and take the matter further because I can see that man is really taking me for a ride. That man is really making me and the child to suffer and he will also suffer one day” (interview with a custodial parent).

Availability of resources

The study further revealed that the unavailability of financial resources to be used in executing the requisite administrative actions is a source of concern for the custodial parents. In some cases

this factor has served as a reason not to continue with the pursuit of child maintenance. One custodial parent who has finally resolved to quit the system and be solely responsible for the upkeep of her child made the following revelations:

“The last time I went there (DOVVSU) I bought her (an officer) 2.00 cedis worth of credits before she helped me. She explained to me that there is no phone for available to her to follow-up on Respondents and she cannot use her own credits to make such calls so I had to foot that bill if I really want her to help me with my case. The other day too, another police man said he’d take 30 Ghana cedis as payment for his services when I had not even paid for the dropping fare to effect the arrest of the children’s father yet. I pleaded with him before they even took 10.00 cedis from me when they had not yet arrested the person. From the police station to the place of residence of my ex-partner is 5.00 cedis for a taxi fare, so the return trip is 10.00 cedis. In all, I spent 30 Ghana cedis even though we met the absence of the man in question. My mother has advised me to forget about the case because I am wasting money” (Interview with a custodial parent).

It was observed that as a result, deadbeat fathers who are already use to the system capitalize on such challenges and are always reinforced to dilly dally with officials by always coming up with lame excuses for defaulting payments. The custodial parents revealed that the non-custodial parents are capable of paying the child maintenances required of them but prefer to hide the truth about their sources of income the respective to authorities. As a result of this, the maintenance allowance the mothers receive on behalf of their children is woefully inadequate.

Moreover, the child maintenance allowances received by the custodial parents range from 40 Ghana cedis per month (usually for one child) to 150 Ghana cedis per month (for three children). These in fact are the agreed on amounts obtained although the custodial parents wished they had been given higher amounts than the above indicated because the amounts were not based on the real income of the fathers.

Effectiveness of legal provisions

With the failure of the various legal provisions to provide for a standard method of calculation, all the mothers interviewed said that the major factor which is considered is the economic capabilities of the non-custodial parent. The decisions arrived at is usually based on the subjective view of case workers and not on an objective and a standard way of calculations which is devoid of personal sentiments. Also, it was realised from the interviews conducted and direct observations of the court proceedings that such considerations are not empirical because they are based on the accounts given by both parties (but usually the non-custodial parent because he is the one to make the payments), during the hearing. No social enquiries are conducted by the probation attached to the station. Again, this could be attributed to tight work schedules as well as unavailability of funds. One interviewee who was frustrated at the turn of events complained that:

“He lied to the authorities that he does not make enough money from the tiling work he does. I know that he also has a water tanker which he makes a lot of sales from but no one has been tasked to investigate him even though I have told them about his sources of income on several occasions”

The fact that the maintenance intervention institutions fail to investigate statements made by the non-custodial parents as to the authenticity of their livelihoods complicates the issue of arriving at the right decisions on maintenance obligations by non-custodial fathers in the absence of a standard calculation procedure. This is because without this most non custodial parents, both existing and prospective would surpass the system, thus not living fully to their parental responsibilities, which may have repercussion for deviant or criminal activities and/or behaviour on the part of some of the children involved in the long run in unfortunate cases. Such actions on the part of the non-custodial parents are illogical and irrational to some extent, because under normal circumstances a parent should not be forced to cater for his or her children. This is because the reasons given by the non custodial parents for refusing to willingly cater for their own biological children are irrational as indicated in Table 4 above. In my view this goes to confirm the statement that about 80% of our actions are non-illogical and irrational as purported by Pareto (Cited in Abraham and Morgan 2011)

This Chapter concludes by noting that that there is gross dissatisfaction among the custodial parents in relation to the sorts of service delivery mechanisms available to custodial parents in their quest for justice. This dissatisfaction was attributed to the challenges faced by the mothers as they assess the services of these institutions. These challenges is as a result of some few gaps in the law stemming from patriarchal sentiments, inadequate resources for service providers, ignorance of the laws and other micro factors such interpersonal issues between the parties involved. It is worth noting that the principal reason for the contestation of custodial parents for child maintenance is due to neglect on the part of the non-custodial parents to contribute to the care of their children as indicated earlier. According to (Crown 2013) child maintenance can

make a significant difference to a child's well-being and the quality of family relationships. As long as these challenges remains unattended to, and the various policy actors remains unperturbed, it is the welfare of the innocent children caught up in this whole issue the suffers and consequently, the future of our nation. As such, the earlier pragmatic steps are taken, the better.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

In this concluding chapter, the main themes, issues and findings in the preceding chapters are highlighted. Conclusions are also drawn some based on these findings and offer recommendations for legal and institutional reforms, as well as further research to enrich attempts at making the child maintenance regime more effective. The recommendations are geared towards promoting an enhanced sense of shared parental responsibility towards maintenance of the Ghanaian child.

5.2 Summary of key findings

The opening pages of this thesis began with an exposition of the concept of child maintenance. Then a literature review, which focused on child maintenance on the international scene, enforcement procedures in other jurisdictions, as well as findings of previous researches. From the review of existing literature, it was noted that both micro and macro factors account for the challenges in implementation child maintenance provisions. The next two chapters comprised an explanation of the research methods employed in this study and a presentation of the findings of this research respectively.

In the findings section, it established that the various legal systems are enforced by an array of institutions. The effectiveness of an institution in ensuring compliance with the system of laws it enforces is determined largely by recourse to sanctions, operational resources, and deference for the system of laws.

That chapter also outlines the various functions of the institutions, their ranking as to usage and effectiveness. Macro factors such as logistical, organizational and human resource capacity problems of the various institutions, the cost of accessing these institutions, methods of calculating awards, were all noted as major challenges to enforcement. The ability of institutions to deliver to the satisfaction of people who access their service depends to a large extent on the resources available.

The study also revealed that all the child maintenance institutions generally have a major problem with enforcement. Even the first step of securing the attendance of the defendant or the other party to a child maintenance claim can be extremely difficult. Levels of compliance vary according to institutions and their relative stature (coercive power, deference for the institutions, respect for its officials etc). The courts tend to attract higher levels of compliance because it has coercive powers.

Micro factors revealed by the study include the following which represents samples of the main reasons that were provided by complainants to support their complaints:

- The father of the child is in a relationship with another woman and has neglected his children and their mother;
- The father has refused to pay the maintenance award given because he has unresolved issues with the custodial mother;
- The marriage between the parties is being dissolved and certain maintenance orders need to be made;

- The father provides money feeding of the child (ren) but refuses to pay other bills in respect of the children such as school and hospital fees because he wants to use that as a ploy to have full custody of the child in order to prove his worth as a man and a father for that matter;
- The parents have some disagreements and the father has refused to maintain the children as punishment to the mother;
- The mother is ignorant of the legal provisions and therefore cannot demand her rights as well as that of the child.

It is worth emphasising that all of the non custodial parents in this study, default as a measure of punishment to the mother and not because they were not economically stable. As such, the inability of child maintenance institutions to investigate statements made by the non-custodial parents to authenticate the source of their livelihoods was one of the challenges encountered by the custodial parents.

Perhaps on the whole, this would not have been really an issue if Ghana as a nation has a national data base on all its citizens that encompasses the work each and everyone does as well as the salary received thereof. In the absence of this, most non-custodial parents, both existing and prospective would surpass the system, thus not living fully to their parental responsibilities. This may have repercussions for deviant or criminal activities and/or behaviour on the part of the children involved in non-maintenance cases.

In the rest of this chapter, I will attempt to draw tentative conclusive deductions from the data gathered and analyzed as well as provide some recommendations. These recommendations will benefit further research along certain lines of inquiry that I will indicate. These include an examination of gaps in the legal regime (including shortfalls in enforcement) and institutional set-up for the resolution of child maintenance issues and the micro factors that affect child maintenance enforcement.

Micro factors

Researchers have identified several factors as being responsible for the failure of non-custodial parents to comply with child maintenance obligations. These factors could either be micro (family level) or macro (state level). The research revealed that the micro factors that are in themselves barriers to implementation are:

- Remarriage of either parents
- Paternal disengagement i.e. psychological disengagement of fathers from their children resulting from the physical absence of children due to the separation
- Fathers experience after divorce
- Interpersonal relationships between separated parents
- Ignorance of legal provisions

Macro factors

The legal regime of child maintenance as seen in the resolution of child maintenance cases assumes and takes for granted the contribution of the mother to the maintenance of child. A

mother's contribution in providing physical care is often not adequately computed and therefore not taken into consideration when awards are being made.

Non-material inputs for child maintenance, usually provided by the mother – emotional support, character building, training, daily supervision, and other essentials for the proper growth and development of the child – are even more difficult to compute. It is not enough to assess maintenance costs in terms of payments that have to be made for feeding the child, payments of hospital and school fees and the provision of other necessities of life such as clothes

Maintenance awards also tend to be computed on the basis of ability to pay and not the actual needs of the child. The determining factors are the father's income and other financial commitments in relation to other dependent children. The understanding is that if the award is beyond the father's income he will be unable to comply with it. This implies that a father who, relative to his income, has too many children will be able to afford not more than a certain quantum of award that will be meaningless in terms of his children's needs. Therefore, it as if the law makes excuses for irresponsible parenthood. The decision to have children should take into account the means for taking care of them.

Additionally, there is the need to determine standards of maintenance that children are entitled to and sanctions that defaulting parents should undergo. All legal systems assume women's commitment to their children and leave them to determine the standard of care that the children should have. This flows out of gendered perception of women's role which places them at a disadvantage. It is possible to design a more sophisticated model for determining the quantum of awards based on the actual needs of the child. The simple model based on the premise that an

award should not be outside the means of the person required to pay should be increasingly dis-applied to child maintenance awards

The effectiveness of the statutory provisions discussed above is further limited by a general lack of knowledge, especially of the contents of the laws. Beyond the fact that errant parents can be made accountable for their child maintenance responsibilities by certain identifiable state institutions, most individual respondents, including persons who had sought the services of these institutions, did not know the range of resources the child maintenance laws and institutions could provide for them.

Institutional Shortfalls

The study noted that the transposition of the centralized bureaucratic methods of doing things to the local level both kills local innovation to deal with local problems and leads to the misapplication of scarce resources to sub-optimal ends. In terms of human resources, the key things to work on are: the provision of key personnel to staff formal institutions that deal with child maintenance issues.

Another key problem is the capacity of the institutions to compel the attendance of defendants and to ensure compliance with orders. Generally the courts had the highest degree of success because of their coercive powers. Yet it was noted that such compliance was not sustainable. This is because, the courts have no effective monitoring procedures to ensure that those against whom orders are made comply with the same and defendants, with time, live down their fear of the police and prison and cease payments. Where the defendant is a salaried worker, his pay may

be garnisheed and deducted at source. The problem is complex in the case of non-salaried workers, and people who do not earn regular incomes.

Again, the courts are over burdened by the volume of work and these occasion delays in the administration of justice, including the hearing of child maintenance petitions. Institutions like the DSW and DOVVSU are not by themselves able to compel attendance or ensure compliance with orders as such, their DSW offices have essentially turned themselves into award collection points, receiving and disbursing awards from fathers to mothers. In such instances, mothers invariably incur additional cost travelling to their offices to claim such monies.

There are no easy answers to dealing with enforcement problems. It is however noted that the most successful cases have been instances where institutions and persons have gone beyond legal enforcement strategies, and used inter-personal contact and deliberation, and arm-twisting to ensure compliance. Procedures for ensuring compliance are not well developed and appear to be dependent on the personal efforts of some officers in child maintenance institutions and the complainants. This is not, by itself, sustainable since the reliance is placed on individuals instead of institutional efforts.

The reputation of the courts for instilling fear and extracting better compliance appears to influence mothers in their choice of institutions. However, high costs involved in prosecuting child maintenance claims-transportation cost for serving notices, extortion of illegal fees from court officials amongst others constitute another problem for mothers.

5.3 Conclusion

The key conclusion here is that the functionaries of many child maintenance institutions are heavily influenced by traditional gender stereotypes that are unfavorable to women. All traditions assign child maintenance roles to both parents on gender lines. Women, as a result, are under a heavier burden to maintain their children. Mothers who fail in the discharge of their maintenance responsibilities towards their children come under a harsher regime of social sanctions than fathers. Child maintenance is indeed a gender problem. It appears that fathers' sense of responsibility towards their children is quite weak. They will fall on any excuse to repudiate their responsibility towards their children, especially in situations where they live apart from these children. Mothers, however, do not have a similar perception of their roles towards their children. In one of the cases observed during proceeding, the defendant father felt that it was a sufficient response to say that he had no earnings to take care of his child. Child maintenance is unconsciously and unquestioningly reduced to what fathers consider to be convenient to them. The interest of the child is still a long way from being the dominant consideration. Any attempt to ensure shared responsibility for the maintenance of children must tackle this problem. One way would be to ensure that the cultural system of sanctioning and shaming people who do not uphold the norms and values that underlie the customary laws on maintenance of children are not differentially applied as between men and women.

Social scientists cannot answer the question of whether we *should* do more for both non-custodial fathers and custodial mothers alike. The best we can do is to provide information to policy makers and citizens on whether a policy is effective and how benefits and costs are distributed across different groups -- fathers, mothers, children and taxpayers. And this is exactly

what this research has done. It is therefore expected that policy actors will use the findings of this research to make evidence-based policy initiatives to tackle the numerous challenges to the implementation of child maintenance provisions.

5.4 Recommendations

On the basis of the findings of this study and the conclusion drawn above, the following general recommendations are made:

- Adequate infrastructural facilities should be provided to ensure that privacy and confidentiality in the management of child maintenance cases.
- Continuous system of Capacity building for staff of the respective institutions on requisite skill training in the areas counseling and mediation/arbitration and such like, as well as laws relating to child maintenance.
- Continuous public education/sensitization on child rights and child maintenance issues.
- Government and other stakeholders should provide additional office spaces and office equipment for all the institutions under studied. In addition, there is a need for improvement of other logistics such as computers, which are required to facilitate their work.
- Government, through the Ministry of Gender, Children and Social Protection, should partner with the National Commission on Civic Education to have the Children's Act, 560, translated into local languages to enable people who cannot read English have access to it.
- There is a need to re-conceive women's care giving role and compute it as an essential component in making child maintenance roles.

- It is essential to set standards of living for various categories of children and utilize these standards for making maintenance awards instead of using ability to pay as the standard.
- There is the need to work towards greater levels of decentralization, especially financial decentralization, in order to remove bureaucratic procedures that frustrate access to funds for carrying out the work of formal/state child maintenance institutions;
- Detailed information about the costs of the custodial parent could help assure nonresidential fathers that the support payments they contribute are going towards their children and not their mothers as most of them erroneously think.

Recommendations for Policy interventions to resolve micro factors challenges

As is always the case in a research endeavor, many questions remain unanswered. But policy cannot wait until knowledge is perfect. Below are some policy recommendations which I strongly believe will better resolve the situation at hand.

Every family is different, because what works for one family would not necessarily suit another (Crown 2013), thus there are different options available for resolving issues that crop up from the family level. For some fathers, persuasion will be the best option out and for others, force will apply.

Child support enforcement policy makers may want to consider the benefits that parental counseling programs may provide. Parental counseling could help eliminate the misconceptions these parents have of one another, as well as promote positive ways to interact. This should be in a form of an outreach programme for both custodial and non-custodial parent. With the new

outreach program, DOVVSU will have to only prosecute offenders while the Family Tribunal and DSW will be required to perform their functions of mediations, arbitrations and making of maintenance orders; respectively.

This outreach programme should establish social welfare desks within the Court/Family Tribunal and a sizable number of trained social workers will be required to man the desks. Instead of the existing practice where panel members are burdened with huge volumes work as a result of the custodial members always coming back to them with unresolved issues at the micro level, both parties will be referred to the Social Welfare desk after maintenance orders have been made. The parties as well as their new partners (if any) will be required to attend counselling over a specific period, depending on the nature of case.

A probation officer will then be assigned to a case to offer counselling as well as mediate on past unresolved issues which may affect payments. Issues that will crop up later should also be resolved by these officers, instead of being taken back directly to the Panel Members who are already burdened with fresh cases and other civil matters.

After the stipulated period of attending counselling session, the Probation officer will be required to continue periodic follow-ups until all issues are dealt with the best way possible. However, if the non-custodial parent remain adamant after attending counselling sessions and continues to default in payments with no justifiable cause such as inability to pay due to unemployment or under employment, then the case will have to be referred to DOVVSU where the recalcitrant parent will be prosecuted and the sanctions of six months imprisonment or a fine of 200 hundred

Ghana cedis or both, will be applied by the open court system to act as a deterrent to other fathers who are in a habit of refusing to comply because of the micro factors already mentioned in previous chapters.

In my candid opinion, when the micro issues such as the remarriage of any parents, interpersonal issues among others are amicably resolved, half of the challenges to implementation will be resolved. It is therefore imperative that a policy intervention is put in place to ensure an appropriate coordination between the three respective institutions of service delivery and to be facilitated by the Municipal Assembly. The Municipal Assembly should collaborate with the three institutions and other relevant institutions to ensure that this proposed system of coordination is put in place immediately to avoid fragmentation of efforts and provide better integrated support to mothers.

Secondly, although this research failed to establish that a father's inability to pay as a result of low income sources, several researches have established this as a major factor to compliance. As a result, this factor cannot be completely discounted. In light of this, I strongly recommend that social intervention programs are initiated under the auspices of the Municipal Assembly and facilitated by the DSW. This can be in a form of a private-public partnership where non-custodial fathers who are not economically stable will be required to form self-help groups where they can engage in joint economic ventures of their choice but upon the advice of officers at DSW. After the necessary assessments have been made and due diligence done, loans will then be sourced from any of the numerous financial institutions in Madina to finance the economic ventures to be undertaken by the fathers who are members of the mutual aid group. Alternatively, members of

the group could also be given placements in any of the various employment interventions which are operational in the Municipality.

Suggestions for further research

Further research is needed to understand better notions of masculinity within Ghana and how this affects Ghanaian fathers' sense of responsibility towards their children. It will be interesting to investigate further, the extent to which rural conditions reduce the tendency to apply statutory laws for child maintenance. There is also the need for closer examination of the laws in the lives of the people as they utilize these laws to solve the problems for which the laws have been set out.

The problems of inadequate resources and poor salaries that are a disincentive for key senior personnel to take up positions in child maintenance institutions go beyond the scope of this study. They relate to the general problems of development and the framework adopted to manage the economy of the nation. Such policies act to reduce salaries of government employees and make positions unattractive to highly qualified personnel needed to carry out sensitive tasks like managing child maintenance. The point here is that finally provisioning to support the work of state institutions is intricately linked to Ghana's socio-economic development and this fact has to be taken into consideration in devising strategies for promoting women's access to justice. While mothers can provide reasonably accurate information on child support payments and visitation, they cannot report on the father-child relationship or on many other aspects of non-resident fathers' lives. Similarly, fathers cannot provide good information on mothers' attitudes and expectations or mother-child relationships. Even information about the couple's relationship is

likely to be biased if obtained from only one party. If we really want to learn how to promote more co-operative relationships between parents who live apart, we must have information from both parents and we must collect data from couples rather than individuals.

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APPENDIX A

ENFORCEMENT CHALLENGES IN IMPLEMENTING CHILD MAINTENANCE PROVISIONS IN MADINA

INTERVIEW FOR CUSTODIAL PARENTS (MOTHERS)

Dear Madam,

Most mothers have had course to complain about the implementation of child maintenance provisions in the country. It is for this purpose that this research; which is purely for academic purposes, is seeking to explain the enforcement challenges in implementing such provisions. I have some questions for you about the challenges you have encountered and how best you think those challenges can be better managed.

[Ask for *examples* whenever possible]

Introductory questions

1. How many children do you have with Respondent?
2. How old are they?
3. Are they working or schooling?
4. What kind of relationship were the two of you involved in?

Factors that affect compliance (micro/family level challenges)

Interpersonal Relationships

1. When did the two of you separate?
2. What was your relationship with the non-custodial parent before the separation and how did it change after the break up?
3. What issue(s) led to the separation?
4. How were those issues resolved?
5. How does the present status of your relationship affect payments?

Remarriage of either parent

1. Is custodial parent is remarried, how do you handle it
2. Are you remarried and how does he handle it?

3. How do you think your (both parents) present marital status affect his willingness to pay
4. How would you describe the relationship between the father and children?

Father's relationship with children after separation

1. What custodial / access arrangements which have been put in place?
2. How often does he get to see the children?
3. Does the custodial parent get in the way of the relationship between father and children? Explain
1. How does his present relationship affect payments?

Income sources of fathers/ability to pay

2. Do you think it's hard for the child's father to make these payments?
3. Describe the sources of income of the father of your child(ren)
4. If father is a position to pay, what do you think accounts for his non-compliance?
5. Do you think having to make these payments affects his relationship to you or the kids?

Challenges faced by mothers on the institutional level

Maintenance Arrangements

1. Describe how the maintenance arrangements contribute to the feeding the children
2. Describe how the maintenance arrangements contribute to the health needs of the children
3. Describe how the maintenance arrangements contribute to the educational needs of the children
4. How much allowance do you receive
6. Kindly describe the payment patterns when the case was initially heard
7. Kindly describe the payment patterns now
8. Kindly describe the processes involved in arriving at the amount for maintenance fee
9. What are your opinions on these processes
10. When father is unable to make payments, what happens?
11. What is the number one thing you think will make the father of your children pay child support regularly?

B. Experiences

1. **What prompted you to report the issue to a formal/State institution**
2. How long have you been on the system
3. What was your perception before encountering the system and has it change after encountering the system. Explain

4. If you were referred, how was it done and how often does the referral agency follow up on you for an update of the case?
5. What comes to mind about when you think about the time and funds involved in this process?
6. Describe your experiences with the staff of child maintenance agencies?
7. Describe the processes you went through
8. Which part of the process were you not happy with
9. How has the system improved the welfare of the children?
10. What is the number one thing you think will enable the child support system work better?

THANKS FOR YOUR COOPERATION

APPENDIX B
ENFORCEMENT CHALLENGES IN IMPLEMENTING CHILD MAINTENANCE
PROVISIONS IN MADINA (For service providers)
QUESTIONNAIRE

Dear Madam/Sir,

Most mothers have had course to complain about the implementation of child maintenance provisions in the country. It is for this purpose that this research; which is purely for academic purposes, is seeking to explain the enforcement challenges in implementing such provisions. I have some questions for you about the challenges you have encountered and how best you think those challenges can be better managed.

1. Work roles

1. Please describe your role in this organization(include position, qualification and duties)
2. Please explain to me why you think it is necessary for your organization to be established
3. Under what circumstances will a Complainant/mother seek your services?

2. Coordinated Response Mechanisms

1. Please tell me about the organizations you receive/refer child maintenance cases to and why?
2. Kindly describe the processes used by other organizations when referring child maintenance cases to your organization
3. Kindly describe the processes used by your organizations when referring child maintenance cases to other organizations
4. Kindly describe the processes involved receiving feedback from partner organizations
5. Kindly describe the processes involved in giving feedback to partner organizations
6. Describe the measures(formal) in place for meeting partner organizations to discuss child maintenance cases
7. What challenges do you encounter when you refer /receive cases to other agencies?

Administrative Challenges

1. Please tell me about the capacity building arrangements in place for staff in your organization
2. Kindly describe the Monitoring mechanisms which have put in place in your organizations
3. Please describe the funding arrangements available for both officers and complainants who come to you for assistance
4. Please tell me about the other logistics available to facilitate your work

5. Please tell me about the effectiveness and adequacies of the administrative arrangements available to you.
6. If inadequate, how do you cope?
7. How has these inadequacies hampered effective service delivery to complainants?

Behavioural challenges

1. Based on your experience, do you have impressions of patterns related to respondents and complainants alike?
2. Do these impressions have an impact on how you deal with the two parties?
3. How best do you think such impressions can be managed, so that you can do your work in an objective manner?
4. Do these behavioral patterns pose a challenge to your work?
5. In your opinion, why do you think fathers refuse to pay child maintenance for the upkeep of their children?
6. What kinds of arrangements are made for the feeding, education, health and shelter of the child?
7. What informs such decisions made?

Effectiveness of laws and policies

1. Describe the laws and policies regarding child maintenance which guides your work (quoting the various laws, sections and sub-sections and articles appropriately)
2. Please explain the extent to which you rely on these laws and policies to do your work?
3. Are there areas of decision-making which normally must address that are not covered by these laws and policies
4. If so, what governs your decisions in these instances?
5. What are the punitive measures under the various laws and policies regarding child maintenance? To what extent do you apply such measures?

Recommendations

6. Upon a careful reflection of the child maintenance system, what thing(s) do think have worked well in the system?
7. Upon a careful reflection of the child maintenance system, what thing(s) do think have failed in the system?
8. If given the opportunity, what thing(s) would you do differently to the system more effective and efficient? Why?

THANKS FOR YOUR COOPERATION

NATIONAL DATA FOR CASES DOVVSU HANDLED FROM THE YEAR 1999 - 2008

OFFENCE	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	TOTAL
RAPE	23	34	64	184	150	181	206	345	417	315	1919
ASSAULT [MOSTLY WIFE BATTERY]	95	86	279	1861	2157	2059	2430	3573	4709	2952	20201
THREATENING	21	16	63	772	588	435	560	691	1142	715	5003
CAUSING HARM	4	6	7	65	46	42	41	78	118	184	591
CAUSING DAMAGE	6	3	7	73	49	70	118	164	199	180	869
INDECENT ASSAULT	11	17	29	104	90	74	106	138	141	99	809
OFFENSIVE CONDUCT	4	1	2	226	360	323	671	452	621	388	3048
CRIMINAL ABORTION	1	1	3	17	23	35	37	82	108	127	434
ATTEMPTED RAPE	1	2	3	23	32	15	24	52	61	39	252
ATTEMPTED ABORTION	0	1	0	19	15	20	18	35	59	42	209
BIGAMY	0	0	0	0	3	4	9	8	9	6	39
UNLAWFUL EJECTION	0	0	0	0	0	0	11	25	29	36	101
NONMAINTENANCE	532	1390	1064	3230	6049	7488	7437	5005	6297	7016	45508
THREAT OF HARM OR DEATH	0	0	0	0	0	0	94	126	1142	0	1362
DEPRIVATION OF PROPERTY/ ENTITLEMENT	0	0	0	0	0	0	8	16	11	10	45
COMPULSORY MARRIAGE	0	0	0	0	0	0	9	7	10	11	37
ASSAULT BY IMPRISONMENT	0	0	0	0	0	0	2	0	5	38	45
KIDNAPPING	0	0	0	0	0	0	0	6	7	5	18
MURDER	0	0	0	0	0	0	0	0	3	1	4
ATTEMPTED MURDER	0	0	0	0	0	0	0	1	0	0	1
HARASSMENT	0	0	0	0	0	0	0	1	0	0	1
TOTAL	698	1557	1521	6574	9562	10746	11781	10805	15088	12,164	80496

