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A Qualitative Case Study on the Domestic Violence Act, 2007 (732) and The Convention on the Elimination of All Forms of Discrimination Against Women

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**A Qualitative Case Study on the Domestic Violence Act, 2007 (732)
and The Convention on the Elimination of All Forms of Discrimination Against
Women**

In Partial Fulfillment of the Requirements for the Degree

Master of Arts
In
International Studies

By Victoria Hernandez
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University of San Francisco

Under the guidance and approval of the committee, and approval by all members, this thesis project has been accepted in partial fulfillment of the requirements for the degree.

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Abstract

On July 17, 1980, Ghana became a signatory to CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) under the United Nations in order to combat all forms of violence, discrimination and human rights violations that harm the security, freedom, privacy, and dignity of every woman. The Domestic Violence Act (732) stemmed from CEDAW in order to add on more layers of legal protection for victims of domestic violence and to penalize all acts according to the bill's definition and the different forms of domestic violence. Although there are stricter laws to punish any acts of violence inflicted upon a woman, there are still existing cultural factors that contribute to the high number of domestic violence cases throughout Ghana. The culture of patriarchy establishes the husband and father as head of the household, while the wife is submissive to her husband's needs and authority. But oftentimes, this concept has also led spouses to believe that they have the right to act violently towards a partner as a means to follow his commands. "Facework", a strategy used to save one's reputation or image, has silenced many victims from speaking out and reporting their abuse in order to avoid shaming their partner or family name. Further, there are religious ideologies and beliefs that are often misused or misinterpreted in order to continue to stay in a marriage despite ongoing violence because it is "God's will". This thesis examines how domestic and international laws are utilized to prosecute the defendant during the legal proceedings and contributing factors as to why domestic violence continues to remain high. In this qualitative case study, interviews were conducted with legal experts from the Legal Aid Scheme in Ghana in order to gain a better understanding on how domestic laws are applied during the legal proceedings of a domestic violence matter. Further, participant observation was applied during the attorney and client interview to analyze what common themes surfaced as to why domestic violence is common throughout Ghana.

Keywords: Domestic Violence Act, 2007 (732), CEDAW, DEVAW, patriarchy, face work, face saving, domestic violence, hegemony, Ghana, religious ideology

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Last but not least, to my grandmother Alicia. You and grandpa brought our family to this country for a better life. Both of your desires have always been for us to achieve higher. With this master's degree and thesis, I honor your desires and dreams.

Dedication

I dedicate this thesis to the many unheard voices that continue to suffer all forms of domestic violence throughout Ghana. May you find your ability to speak out, resist and break free. To all the Ghanaian attorneys, interns and others I interacted with during my fieldwork observation— your voices for this thesis are invaluable, this is also dedicated to you.

Chapter I: Introduction

Statement of the Problem

Domestic violence takes place through multiple families, marriages and domestic relationships around the world irrespective of race, gender and ethnicity. Colonialism influenced gendered labor patterns in Ghana that have made domestic violence—proliferate under colonialism (Mensah-Allah and Osei-Afful, 2017). Domestic violence committed by Ghanaian men against their wives differs whether it be marriages that are consensual or customary (Osei-Tutu and Ampadu, 2017). The Domestic Violence Act, 2007 (732) defines domestic violence as, “specific acts, threats to commit, or acts likely to result in physical abuse, physical assault or use of physical against another person” (p. 3). Domestic violence stems from gender discrimination, inequality and hierarchical gender relations, gender-based violence and a patriarchal system (Beninger, 2014). These incidents influence different ways to commit an act of domestic violence, as the bill states, whether it is economic, emotional, verbal, physical or sexual.

One in three women in Ghana have faced domestic violence at one point in their life by a past or current partner (Mensah-Allah and Osei-Afful, 2017). This ongoing issue has also converted into being an internal problem for many Ghanaian women across different regions, such as the patriarchal, cultural, social and institutional control and influences that enforces many Ghanaian women to remain silent and submissive in their marriage (Owusu, 2016). Further, most domestic violence incidents in Ghana are rooted from educational, cultural and financial issues (Gyamfi, 2017). There have been multiple attempts to address this issue by numerous women who continue to face this type of violence in their daily lives for many years, but many under-reported cases continue to be high due to multiple factors that blocks them from doing so and the strength of the culture of patriarchy that forbids them from doing so (Owusu, 2016). These obstacles that

hinder Ghanaian women to report these incidents prove that there continues to be an existing pattern that needs to be publicly addressed through laws and directly confront how certain cultural factors influences this type of behavior.

The culture of patriarchy has been a dominant factor as to why domestic violence has been acceptable in multiple marriages, relationships and families throughout Ghana. Although CEDAW (The Convention on the Elimination of all forms of Discrimination Against Women) and the Domestic Violence Act, 2007 (732) are legal remedies meant to provide a voice through a difficult atmosphere and limitations, there are hindrances and obstacles that will continue to exist and remind us that these laws on a local and international level must continue to be enforced to continue providing legal remedies and options available to all victims who encounter domestic violence. Despite the accusations that the defendant faces, the defendant is also entitled for a fair trial and legal representation as much as the victim also has those same rights.

Purpose of this Study

The purpose of this study is to look deeply at the factors as to why domestic violence remains widespread in Ghana. I will unveil common factors that are cultural and religious that contribute to the high number of domestic violence incidents and why it is not often spoken about. As an intern, interviewer and observer at the Legal Aid Scheme in Accra, I learned the background of many domestic violence stories encountered and recommendations that could be made in order to press efforts in addressing this as a statewide and local predicament. Another purpose of this study is to present a synopsis of the legal contexts of the Domestic Violence Act, CEDAW and DEVAW and their potential to blanket victims as a legal protection.

Most nation states often undermine the legal contexts of international laws because domestic laws tend to be seen as sovereign and established as the only laws of the land. However, international laws have the ability to question a provision of domestic laws that may emphasize some form of gender inequality. Most global citizens do not often realize that many of their local laws are drawn from international treaties. Which is why it is significant to study both sets of laws in order to create reflect, create an awareness of what laws they are under and the relief they are entitled to.

The question that prompts this research study is: How does the Domestic Violence Act, 2007 (732) and CEDAW combat domestic violence during the legal process of prosecuting the defendant? I argue that both laws, CEDAW and the Domestic Violence Act, 2007 (732) have the capacity to be effective during the legal process and court to penalize the abuser for his actions. However, it has only been applicable to a certain extent because of cultural and traditional factors that hinder them. To highlight different themes that I've come across, Chapter I will focus on the introduction of domestic violence as an issue in Ghana and the purpose of studying this problem. Chapter II will be a literature review of the background of CEDAW, the Domestic Violence Act, 2007 (732), how both laws are exercised to prosecute the abuser and the legal standings. Chapter III explains the research design and how the research was conducted. Chapter IV includes an analysis from my data findings which includes the "face-saving" strategy and religious ideology that are used to normalize domestic violence. Finally, Chapter V will consist of implications, future research, limitations and conclusions on this topic. My hope for each reader, whether or not they are a victim of domestic violence, an NGO representative or lay reader, is that they begin to understand the importance of studying why domestic violence is an ongoing issue in Ghana, factors

that causes domestic violence to be widespread among Ghanaian families, and why domestic violence cases are not handled properly by the criminal justice system and the courts.

Chapter II: Background and Literature Review

The Domestic Violence Act (732)

Since 1998, there had been discussions regarding legislation pertaining to domestic violence. But in the early 2000's, there were high rates of domestic violence that began to lead to 'femicide'. A series of movements from human rights experts, events held by women's rights advocates to bring domestic violence into conversation as a primary issue in Ghanaian society, and the increasing ministerial appointment for women and children's affairs was the beginning for the Domestic Violence Act, 2007 (732) to be written and enacted (Mensah-Allah and Osei-Afful, 2017). It took years for this collective action to grasp the attention of the Ghanaian government that there needs to be a legislation penalizing all forms of domestic violence. The Domestic Violence Act, 2007 (732) aims to establish ground rules that domestic violence is illegal, immoral and punishable by law. It's been more than eleven years since the Domestic Violence Act, 2007 (732) has been passed and more than thirty years since the state has ratified CEDAW (United Nations, 1981). Ghana is under obligation to legislate measures that will compensate and shield domestic violence victims (Cantalupo et al., 2010). The domestic violence law is defined in the legal context as, "engaging in physical abuse, sexual abuse, economic abuse, emotional abuse and any behavior that harms another person. It goes further to explain domestic relationship as a family relationship akin to a family relationship or a relationship in a domestic situation that exists or has

existed between a complainant and a respondent” (Osei-Tutu and Ampadu, 2017, p. 107). Although the Act is gender neutral, nevertheless, the Domestic Violence Bill ensures that every individual that commits any type of violence intently will be arrested, prosecuted by law and mandated to pay for their actions.

The bill constitutes, “a new offense of ‘domestic violence’, which penalized a range of abusive behaviors committed within a domestic relationship and makes clear that domestic violence is unacceptable conduct that is subject to sanction by the state” (Cantalupo et al., 2006). Although the Domestic Violence Act, 2007 (732) conveys other forms of violence, provision 4 states, “The use of violence in the domestic setting is not justified on the basis of consent” (p. 5) and provision 5 (1) also emphasizes, “a single act may amount to domestic violence” (p. 5). Which proves that regardless of what form of domestic violence was used and how severe or minor it was, it is still a form of human rights violations because the defendant intentionally placed a human’s life in danger, caused damages and disturbed the peace.

Provision 6 (1) of The Domestic Violence Act, 2007 (732) instructs the victim or a third party to report and file a complaint at the police station, describe the details of the event to a police officer at the station and issue a warrant for his arrest once it has been confirmed that there is beyond reasonable that the individual did commit an offense of domestic violence (p. 6). Under jurisdiction of the court, the judge may review this matter as a domestic violence hearing under the Act according to provision 11 (1) (Domestic Violence Act, 2007). Depending on the jurisdiction and the evidence presented in court, the judge may convict the defendant to serve time in prison up to no more than two years, pay a fine of up to five hundred penalty units as a summary conviction or financially compensate the victim (Domestic Violence Act, 2007). These forms of

punishment listed in the Act may be seen as sufficient from a legal perspective in accordance with the Ghanaian criminal justice system and the laws pertaining to crime and punishment.

However, in some cases, the court may decide that if the incident was not aggravating or extremely violent, another way to reach a resolution would be to offer the complainant and respondent to reconcile out of court. This method also known as a settlement, implies, “(b) the court is of the opinion that the case can be amicably settled, the court may with the consent of the complainant refer the case for settlement by an alternative dispute resolution method” (Domestic Violence Act, 2007, p. 13). During settlement, the Domestic Violence Act (2007) can suggest a referral for the complainant and the respondent which includes counseling, psychiatric help if necessary and the social welfare can appoint a probation officer to carefully observe and report the defendant’s behavior if necessary (p. 13). The Domestic Violence Act, 2007 (732) calls out to the government to establish and donate funds for the survivors of the domestic violence. Provision 31 of the Domestic Violence Act, 2007 (732) indicates that as part of the objection of these funds, the funds would be applied to train families and survivors of domestic violence, basic material support, shelters and other forms of rehabilitation (p. 14). The Act has numerous obligations to follow, however, there may be a pending legal standing (*Martin Kpebu v. Attorney General of Ghana*) imminent to take effect.

The Convention on the Elimination of All Forms of Discrimination Against Women

Under international laws, Ghana holds an obligation to penalize, prevent and investigate all forms of domestic violence (Cantalupo et al., 2010). International laws for women’s rights, like CEDAW and DEVAW (Declaration of Elimination of Violence Against Women), were institutionalized through the Vienna World Conference on Human Rights in 1993 (Bawa, 2012).

As a member of the United Nations constitutes, Ghana is mandated to honor what these international laws impose, such as CEDAW for instance, and other laws that echo international treaties. Ghana has been a party to the United Nations since August 3, 1957, ratified CEDAW on January 2, 1986 and became a signatory on July 17, 1980 (United Nations, 1981). Every woman, regardless of their nationality, race, and other differences, are under the legal umbrella of CEDAW. Which ensures their freedom to political, economic, social, family and legal rights (United Nations, 2014, p. 5). Through this, states carry an obligation to combat gender violence, prevent it, protect the victims and prosecute those who are liable. The CEDAW committee consists of 23 members from different continents that review reports submitted on the implementation of CEDAW by state parties every four years. Although the committee does not have the authority cannot sanction the state, they can shame the state in the “concluding comments” of the report for not sufficiently imposing CEDAW as it should be done (Kölbl, 2007). If states were sanctioned, this may encourage them to be more proactive in demanding that all government leaders and the criminal justice system to abide and implement these articles and what it stands.

CEDAW became the influence to create more domestic laws such as the African Charter on Democracy, Elections and Governance (2007) to emphasize equal legislation and representation for all women (Appiah, 2015). CEDAW and DEVAW were the inspiration that helped draft the Domestic Act, 2007 (732) and other domestic laws in Ghana (Cantalupo et al., 2010). Since the adoption of CEDAW, interventions in Ghana were produced to continue to combat domestic violence which includes the Domestic Violence and Victim Support Unit (DOVSU) of the Ghana Police Service, two specialist gender-based violence courts, NGO’s and more available legal representation (Owusu and Agbemafle, 2016). CEDAW helped pave a way for human rights advocates, organizations and other institutions to create a voice for victims of

domestic violence in the criminal justice system. Beninger (2014) emphasizes that the committee, “goes on to elaborate that states have a range of specific obligations to ensure that all necessary steps are taken to prevent and punish gender-based violence, including within the private sphere” (p. 84). Although there is no specific provision on domestic violence against women, the UN Women highlights in General Recommendations (1992), 19 (1) that gender-based violence blocks women from enjoying their liberty just as men do and discriminatory, gender-based violence towards a woman, includes any physical, mental or sexual act or harm against her.

Further, Articles 2 (f) and 10 (c) of the General Recommendations emphasizes that due to traditional values, attitudes and standards, there are women that will have to be submissive to men and that may have stereotypical roles that lead to violence, different forms of abuse, forced marriage, deaths and female circumcision (UN Women, 1992). CEDAW reminds states of their responsibility to continue combating against cultural standards, factors and patriarchy that degrades women and victims through appropriate measures such as the Domestic Violence Bill, Ghanaian criminal codes and other forms of legislation. Article 5 of CEDAW requires states to, “take all appropriate measures to modify social and cultural patterns and practices that are prejudicial to women and perpetuate their inequality” (Beninger, 2014, p. 83). When speaking on international laws in Ghana to bring this issue on a platform, DEVAW (Declaration on the Elimination of Violence against Women) is not acknowledged as it should be even though it is another treaty that policy makers and human rights experts drew from when drafting the Domestic Violence Act, 2007 (732). In 1993, The United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women recognizes that these laws should be implemented to help decrease violence against women, strengthen the process of doing this and promoting equal rights and freedom for the advancement of women (United Nations, 1993). The Universal

Declaration of Human Rights, the International Covenant on Civil and Political Rights, CEDAW and the International Covenant on Economic, Social and Cultural Rights, are incorporated in DEVAW, but that primarily focuses on laws pertaining to violence against women.

DEVAW does not hold a binding legal authority as much as a UN convention or treaty (Kamau et al., 2017). Hence, DEVAW still played a major role as much as CEDAW when human rights advocates and policy makers were in the process of drafting the Domestic Violence Act. Although DEVAW may play a role to a certain extent, should it still be cited along with CEDAW and the Domestic Violence Act? DEVAW has been instrumental in amending criminal codes pertaining to domestic violence. DEVAW is more of a stronger, universal statement to the international community (Kamau et al., 2017). DEVAW may not be authoritative or appear strong within the legal context according to some states that are not legally bound. However, it can still bring attention to the global community and the urgency to have more laws that will blanket survivors of domestic violence. DEVAW requires states to, “develop domestic legislation to punish and redress the wrongs caused to women who are subjected to violence” (Beninger, 2014, p. 84). DEVAW echoes a portion of what CEDAW affirms in reference to recognizing that, “violence against women constitutes a violation of the rights and fundamental freedoms of women” (Cantalupo et al., 2010, p. 534). The legal contexts of CEDAW and DEVAW helped mold the Domestic Violence bill to focus on the government’s commitment to be able to provide to the best of their ability for domestic violence victims. Without these instruments, there would not be any text policy and lawmakers would draw from that would be as similar as CEDAW and DEVAW. CEDAW has been influential in Ghanaian society in a way where advocacy groups has utilized this to bring an awareness of gender-based violence that continues to exist. This law has resulted in several law reforms when it comes to education for women, domestic litigation, gender

equality and policies for women's rights to be upheld often (Bond, 2014). The CEDAW committee has praised Ghana in their most recent report (2014) submitted for contributing to eliminating all forms of gender-based discrimination (Ghana News Agency, 2014). CEDAW is constantly undermined because it is not considered one of the superior laws of the land, however, it has been used to reduce other forms of gender-based discrimination and violence against women.

This background contributed to this qualitative case study by providing information on the laws pertaining to domestic violence, description of the broad legal protection and the process to prosecute the abuser. These scholars helped remind one why laws are existent, and the purpose that they each serve. These findings adequately described why was CEDAW adopted first. Secondly, how it gave birth to DEVAW, the Domestic Violence Act (732) and the process for them to be outlawed and established in the court system.

Legal Standings

Although there are no current legal standings in Ghana referencing domestic violence or CEDAW, there have been landmark cases in neighboring African countries where CEDAW has challenged domestic laws and other customary laws. The Ghanaian government has ratified many treaties to enforce full legal protection of the state. The 1992 constitution does emphasize equal rights for both genders, however, judges and law enforcement officers have dismissed women who have filed lawsuits against their abusers because they tend to believe that these cases considered family law more than criminal law (Gyamfi, 2017). The downfall of having a legal standing for a domestic violence is the corruption that the victim may encounter when reporting the incident and in the courtroom. For instance, problems with domestic violence, "have traditionally been dealt with by family tribunals, which tend to be male-dominated and insensitive to gender issues"

(Beninger, 2014, p. 81). Ghana has numerous criminal code provisions to decrease domestic violence, however, due cultural and traditional factors, many law enforcement agencies do not enforce these criminal codes as they should.

The Constitution of Ghana does not fully incorporate international law into the legal system, yet there are existing provisions and other domestic laws that draw from international laws (Okeke, 2015). Attorneys throughout the African courts have cited CEDAW as part of their legal arguments and has been taken into consideration when there are legal matters pertaining to violation of women's rights issues (Bond, 2014). If judges have accepted attorneys citing international laws, Ghanaian attorneys should also be given the platform to be able to cite CEDAW or DEVAW in domestic violence cases in court since these are treaties that Ghana has ratified. If CEDAW, DEVAW and the Domestic Violence Act were combined in an oral argument in the courtroom and written on any legal documented submitted to the judge, this can pressure the judiciary system and the government to enforce stricter punishments and increase more layers of legal protection for survivors of domestic violence (Ndulo, 2011). The judge can overrule using the Domestic Violence Act that can be temporarily or permanent, yet significant for the victim to begin her life of independence.

If attorneys cite using international laws in the court of law when encountering this, this could prevent the judiciary from closing cases or downgrading them into family law matters because of their traditional views. This could also sanction law enforcement officers that have previously denied them access to pursuing the arrest of their partner and enforce a harsher punishment by keeping them in prison for a longer period of time. Utilizing CEDAW in the courts could help raise an awareness on women that have either faced this type of discrimination in the courts, lack of fair trial and access to the justice system (Women's International League, 2014).

The first case listed below is the most recent matter pertaining to the Domestic Violence Act, 2007 (732) that has been done to challenge the Ghanaian government to fund services for survivors of domestic violence. Although is it not a CEDAW matter, this proves that work is currently underway in order to fully implement what each provision has committed to provide. The other legal matters listed have also challenged customary laws and gender discrimination with the implementation of CEDAW. These cases prove that with a stronger and correct approach by selecting domestic and international laws, one can achieve change in laws that discriminate or disregard women despite of cultural factors. In addition, set a legal precedent for future cases where women would be given a fair trial in court hearings.

Martin Kpebu v. Attorney General of Ghana

On December 2017, Martin Kpebu, an attorney, sued the government of Ghana for not fulfilling its obligation to the Domestic Violence Act, 2007 (732) to provide funds for domestic violence victims since the legislation of the act (Ghana Justice, 2018). In accordance with the Domestic Violence Bill, there are objectives for the funding of victims supports services that this Act has established. Provision 31 states that victims are entitled to receive monetary relief for basic necessities, shelters, rehabilitation, reintegration and training for their families from the funds set up through the Domestic Violence Act by the government and other organizations (Domestic Violence Act, 2007). These services can help the victim and their children to not only move forward but to be able to start living independently. Kpebu claimed that the funds were supposed to provide free medical care, shelters and law enforcement training but shortly after it was passed, it was only curbed (Davies, 2017). Kpebu won the lawsuit in the high courts, in which, the government must now comply to the jurisdiction of the high court to comply with establishing the

funds for victims. As of February 2018, the Gender Centre for Empowering Development, an NGO based in Ghana, has called out the government to comply with the court order to immediately commence funding the Domestic Violence Support Fund (Business Ghana, 2018). However, it remains uncertain as of today whether the government has officially responded with a status update on when the funds would be solidified or if the Kpebu will return to court to demand sanctions or immediate action.

Longwe v. Intercontinental Hotels

Sara Longwe filed a lawsuit against the Intercontinental Hotels Corporation for gender discrimination in the Zambian high courts in 1992. She was banned from entering the bar without being accompanied by a male and encountered other incidents where she had faced discrimination within that same location. Longwe's attorney argued before the high court that Zambia had ratified CEDAW and other legal treaties whilst Intercontinental Hotels declared that only the Zambian constitutional provisions were applicable (Mushota, 2014). The judge stated in reference to the use of international treaties that, "...if an issue comes before this court which would not be covered by local legislation but would be covered by such international document, I would take judicial notice of that treaty or convention in my resolution of the dispute (Bond, 2014, p. 250). The judge's affirmation illustrates the importance of placing global human rights on a domestic level in court cases such as these. Longwe's argument using CEDAW, which not only serves to argue against gender discrimination but other forms of injustices that Zambian women continue to face. Mrs. Longwe's attorney petitioned the court to grant her monetary relief for damages that she had suffered from previous incidents at Intercontinental Hotel. However, the judge ruled that there were no damages per the evidence that was submitted, but Longwe was granted a sum of five

hundred kwacha (K500.00) (Emerton et al., 2005). Although the outcome may have been disappointing for Longwe, nevertheless, her importance of utilizing CEDAW challenged Zambian laws on women that have faced gender discrimination and set a precedent for women to have the legal right to file a lawsuit when discriminated.

In the Estate of Lerionka Ole Ntutu

Lerionka Ole Ntutu, had several wives, children and was considered a Masai by tribe. Upon Ntutu's death in 1999, he had left some land and other properties as part of his inheritance. However, "Masai customs and traditions do not recognize the right of daughters to inherit their father's land or any part of the estate, because daughters are expected to get married and inherit from their husband's clan" (Judicial Bench Book on Violence Against Women in Commonwealth East Africa, 2017, p. 257). Ntutu's daughters took this matter to court in order to retain their father's entire inheritance and object to their brothers' entitlement to inherit according to Masai customs and traditions.

The court cited *Rono v. Rono*, a landmark case where international laws were cited, and stated the following: "The manner in which courts apply the law in this country is spelt out in Section 3 of the Judicature Act Chapter 8, Law of Kenya. The application of African Customary Laws takes pride of place (sic) in Section 3 (2) but it is circumscribed thus...so far as it is applicable and is not repugnant to justice and morality or inconsistent with any written law" (In the Matter of the Estate of Lerionka Ole Ntutu, 2000, p. 5). Highlighting CEDAW conveyed that it was gender discrimination that Ntutu's daughters were not seen as equal under Masai laws and customs, which limited their chances of inheriting their father's land and properties. Thereafter, international treaties such as CEDAW and The Covenant on Economic, Social and Cultural Rights were heavily

relied on during oral arguments throughout the rest of the court hearings. The high court ruled in favor of Ole Ntutu's daughters' petition to inherit their father's land (Murungi, 2008). Some customary laws may restrict a woman's participation for political decisions or, as in this case, limit their ability to claim what they're legally entitled to.

Culture of Patriarchy

Patriarchy is a concept that can be defined as, "the relationship of a dominant group considered superior to a subordinate group considered inferior in which the dominance is mitigated by mutual obligations and reciprocal rights" (Lassen, 2011, p. 1). Patriarchy is also considered, "a system of male dominance..." (Christ, 2016, p. 214). Male dominance is the embodiment of the culture of patriarchy, and most African cultural systems are broadly patriarchal in multiple ways (Bawa, 2012). Through a theoretical lens, Owusu (2016) points out that patriarchy can be seen as how control demands its support from the community's cultural practices (p. 27). In a country like Ghana, it can be a challenge to revolt against the culture of patriarchy during a quarrel in a relationship, especially when this has been part of the beliefs of many families, political leaders, churches and other institutions for generations. Men tend to run and take governmental positions, partake in community leadership and maintain control in traditional households. This form of dominance establishes that the culture of patriarchy is normalized and consequently, leads to discrimination and violence against women in society and in traditional households.

Men play a dominant role in the Ghanaian society through community and traditional households. Ghanaian women are often placed, "under authority and control of someone, usually male, throughout their lives" (Cantalupo et al., 2010, p. 540). Which explains why women are often discriminated and silenced under the culture of patriarchy. The patriarchal system, originates

from, “the powerful role of the father as the head of the household, affects family life and is a significant risk factor behind intimate partner violence and family disintegration (Sathiparsad, et al., 2008, p. 4). In most traditional Ghanaian households, the husband is considered the head and primary decision maker. The wives, however, still take on a challenging role that includes hard labor with little or no support from her partner, which is also another form of exploitation and creates a vulnerability to satisfy her partner (Owusu, 2016). Wives are expected to respect and obey the husband’s authority, complete their daily domestic duties and care for the children (Salm and Falola, 2002). Amenga-Etego (2013) emphasizes that Ghana holds, “a dual line-age system (matrilineal and patrilineal), it is generally a patriarchal society, hence men rule. Consequently, children are born into families, raised, and are either helped to marry or given into marriage, the stage that elevates them to the status of men...” (p. 143). Which highlights that the culture of patriarchy in Ghana commences in the household first and is transmitted and practiced in society, work environments, governmental leaderships and other systems in different institutions.

There are two different concepts that have caused universalists and cultural relativists to disagree when it comes to approaching the culture of patriarchy in Ghana. Universalists believe that human rights are universal, therefore, women’s rights fall under that notion. Women’s rights have been subordinated to the limitless freedom enjoyed by men and the patriarchal perception (Bowen, 2013). Women’s subordinate status to men and societies, has influenced them to come to accept interpersonal violence and be vulnerable to it (Osei-Tutu and Ampadu, 2017). Enforcing the culture of patriarchy repeatedly can cause domestic violence to continue to be widespread or be a repeated cycle among family members. The persistence and dominance of men, along with the traditional norms in Ghanaian society, has resulted in limited participation in political decision making from women” (Owusu, 2016, p. 27). This ongoing cycle only results in slow progress for

women's rights movements, political participation and the opportunity to advance in higher education.

These patterns of gender hierarchy among families and communities contribute to domestic violence that has arisen from the patriarchal culture. Although customary law does not condone domestic violence, it advises women to be obedient towards their husbands (Mensah-Allah and Osei-Afful, 2017). If the culture of patriarchy is rooted from African customary laws and other co-existing laws, then the government must amend them to create an equality among every ranging citizen. The UN reminds state parties such as Ghana that measures must be taken to change cultural practices such as the culture of patriarchy. The culture of patriarchy cannot be resisted without the advanced cooperation and support of the government, however, for most traditional households that have practiced this for generations, it will be a much difficult challenge to combat.

Chapter III: Methodology & Research Design

Research Design

The most effective research design to answering the question of this study would be using qualitative methods because the research question is based off of comparative laws, to investigate deeply the layers of domestic and international laws utilized to domestic violence in the courtroom. But first, it was necessary to find out, why do cases of domestic violence continue to remain high and unreported? How are the Domestic Violence Act and other international laws cited in the courtroom or left out? In order to better understand this phenomenon, a case study approach was used. Case study can be defined as, "a qualitative approach in in which the investigator explores a real-life, contemporary bounded system (a case) ...through detailed, in-depth data collection involving multiple sources of information, and reports a case description and case themes"

(Creswell, 2018, 96-97). It was efficient and appropriate to take this route in order to dig deeper into the layers of both legal contexts and all that entails. As a researcher, my goal was to investigate why international laws are not effective as they should. It was also essential that this qualitative case study presented an in-depth understanding of the domestic violence laws and circumstances of what many victims face in Ghana.

Creswell (2018) also recommends that case studies includes, “a naturalistic approach and ethnographic, participant observation and are sensitive to the complexities and interactions in a particular context” (p. 410). To delve more into this topic, Creswell’s suggestions assisted me in expanding this narrow study by using ethnography and participant observation during a pre-planned trip to Ghana for a human rights and law internship at the Legal Aid Scheme in Accra. Incorporating these research methods into this case study would not only expand an understanding of the contributing factors to domestic violence in Ghana specifically. Utilizing ethnography also involves observation and participation of particular groups (Neyland, 2008). Ethnography and participant observation became very useful for this study as I will be explaining who the interviewees were, the information they provided during the interview and the process it took to be able to do so.

Data Collection

A case study involves, “the study of a case (or cases) within a real-life, contemporary context or setting. This case may be a concrete entity, such as an individual, a small group, an organization, or a partnership” (Creswell, 2018, 96). In order to conduct this case study, I secured a human rights and law internship in Accra, Ghana. The group that I selected to be part of this study are the attorneys for interviews and victims during my observation. Second, in accordance with going through this process professionally and ethically, I applied to have these interviews

authorized by the IRB (Institutional Review Board) at the university to oversee the ethical implications to this study. Informed consent procedures were followed, giving assurances of confidentiality and the voluntary nature of this study. Although the attorneys' names and domestic violence abuse victims will permanently remain anonymous for reasons of privacy, an entry of the date and interview would be logged in my field observation notes. After I typed out a transcript from the interview and observations, the transcript was be locked and secured on a laptop.

The IRB approved these interviews to be conducted prior to leaving for Ghana, and since a decision was made that a laptop would not be taken for this trip, I chose to take a notebook instead to handwrite field notes on my entire observation and interviews with one attorney. Upon my return, a transcript of my interviews and observation were typed in and securely saved on my laptop.

The first week at the Legal Aid Scheme, in "new" Accra, as they call it in Ghana, was complicated for a few reasons. Several of the attorneys were in and out of court most of the day, a few were rushed to have documents drafted that would be filed at the courthouse and because of statute of limitations, plus there were new clients on a daily basis with urgent matters. Many Ghanaians, ranging from men and women, either would be standing around the hallways of the offices, waiting outside of the legal clinic or sitting inside since they were close to being called. My daily tasks to assist the boss of the legal clinic drafting legal documents such as pleadings for civil and criminal cases, as well as taking witness statements for other matters so that the attorneys can incorporate them on a case they were working on.

The attorney-client observations took place on different working days during the two weeks I was an intern, the attorneys allowed me to sit in and take notes since they were informed about what this study was regarding. Most of the time, the interviews were conducted in English,

making it easier to take notes. The data collected during this field observation was useful in order to report what is occurring in the scope of domestic violence in Ghana, how victims handle their abuse, the literature exploration that could be done and how to further discuss it in the most culture sensitive and approachable manner. I was able to interview one attorney and two Ghanaian legal interns onsite at the Legal Aid Scheme. All the questions asked were open ended on their knowledge of the Domestic Violence Act (732) and CEDAW and their opinions of the laws. The interviews took place in a neutral location and lasted for approximately close to an hour and a total of ten pages were written as a result of the participant observation and interviews conducted.

Chapter IV: Analysis

Findings

I analyze my data by identifying themes that emerged from my interviews and participant observations. Whichever themes were found common during both strategies in action would partake in this qualitative case study and be analyzed more through research and studying my field observation notes. The first interviewee is a criminal defense attorney, this attorney answered most of the legal questions and gave scenarios for a better understanding of what he meant. For example, he described a domestic violence case he is currently involved as legal counsel. The attorney is defending the client as he has stated in the following:

The plaintiff went to my client's house and claimed she was beaten by my client. In this case, the plaintiff's mother is also listed as a complaint because she is considered a third party that reported the violent incident. The plaintiff is currently protected by the restraining order, by law, according to the Domestic Violence Act, but only for a certain amount of time. My client is currently being charged under the Domestic Violence Act for emotional, physical and economical

abuse. In some cases, there are defendants that are charged under the Domestic Violence Act more than the Criminal Offences Act 29.

Further, the most surprising fact was when the attorney revealed in the middle of the interview that domestic violence cases are not that common in the courts because they are normally settled by the police at the police station. Questions relating to CEDAW did not seem applicable as soon as the attorney informed me that he didn't know much of CEDAW, although he has heard about it. He acknowledged though, "CEDAW never comes up in court, but I know that the Domestic Violence Act stems from it. Maybe if domestic violence cases were taken to the supreme court, CEDAW would most likely be cited. However, as I've mentioned before, domestic violence cases are not that common in the courts." The attorney's statement revealed that CEDAW is not highly regarded or taken into consideration in the lower courts. This serves as a reminder that there are significant implications that must be made in order to bring an awareness This answered my question regarding this study, whether CEDAW was cited in any of the courts. Since the Domestic Violence Act came out of it, there was an assumption that it probably was.

During the second interview, both Ghanaian legal interns from the same legal clinic were interviewed at the same time since they both felt comfortable being together as they answered some other questions. They were also asked legal questions regarding the Domestic Violence Act or CEDAW, but since they had not retained their license to practice law yet, they were limited to answering some questions. The Domestic Violence Act, 2007 (732) is often more familiarized in family and juvenile matters apart from criminal cases. One of the Ghanaian interns asserted, "Yes, it is cited during domestic violence cases. Although domestic violence cases fall under the category of family and juvenile cases, it still is." Which correlates with Gyamfi (2017) pointed out that oftentimes, these cases that end up in criminal courts are dismissed because judges see them more

as a family law matter (p. 203). Another intern also mentioned, “Most cases of domestic violence come into play during divorce cases because that it is when the woman finally reports what she went through. When it’s a minor beating, it can be settled at the police station quickly. But if the woman’s injuries are worse and brutal, it then becomes a criminal matter.” The cycle of constantly disregarding minor beatings are crucial. This can easily convert into brutal beatings as the interviewee explained which can end fatally. If there are children involved, this can also endanger their life and worsen their perspectives on life, as well as cause change in behavior.

Understanding of Legal Precedents

The responses of the participants in this study illustrated three overarching themes as to why domestic violence continues to remain high throughout Ghana and what causes domestic violence to be silenced or normalized. The “face work” strategy, for example, is a component that maintains an honorable image to society that tainted. Religious ideology taught by many church leaders formulates the belief that domestic violence is not a valid reason for the victim to leave the marriage because she must obey God’s will and her husband according to the scriptures. Lastly, a hegemonic culture is developed in the churches whereas religious ideologies dominates how marriages ought to be despite of the ongoing cycle of domestic violence that the victim must continue to face.

The “Facework” Strategy

Maintaining one’s face in different cultural settings is significant because one downfall or scandal could ruin a family name or a reputation. Face is, “an intangible quality that reflects a person’s reputation, dignity, and prestige” (Dunn, 2017, p. 78). The *face* is what helps gives our

self-worth as an individual, citizen and in other social settings. “I went to the police station before and they laughed at me the first time I told them what happened. After many times he hit me, I never told anyone again. I cannot embarrass our family by talking about this again” (Attorney-client interview #2, dated 07/17/18). One always wants to be presentable towards the community, which is why: “Mistreating or misusing the name is equivalent to mistreating or misusing the face” (Dunn, 2017, p. 78). A person’s *face* links to their self-image and public-image in a social context. Every individual desire to maintain a positive public image to feel good and worthy with their interactive and social selves (Ting-Toomey and Cocroft, 1994). Gaining face can be an addition to a person’s wellbeing and image but losing it can also lead to social exclusion.

In addition, British law did not address nor recognize any type of violence against women, including domestic violence, inside and outside of marriage (Asay, 2014). Which explains why many victims have felt that face saving is the only option to maintain their family’s image in a society that has normalized domestic violence. There have always been obstacles to being completely transparent about what domestic violence entails, who it affects and the different outcomes of it. One of the most common strategies for perpetrators and Ghanaian women that suffer from domestic violence is the, “facework strategy”. Facework can be defined as more than one way to maintain, increase or avoid loss of self-face and/or others’ face (Dunn, 2017). I argue that domestic violence victims tend to juggle with using this strategy to not only avoid confrontation about her partner’s behavior, but to also save his image as a way to avoid shame and humiliation for his sake.

In accordance to my observational field notes, when family or marital problems such as domestic violence between a couple are leaked to the community, many that overhear them may start to gossip, publicly shame them, look at them differently or show much concern in a more

obvious way. It's no surprise when this story leaves a small town and starts reaching to other communities about the marital violence that is occurring between a well-known or lesser-known couple. Conflicts that occur between a couple in most parts of Africa such as Ghana, are not considered private (Asay, 2014). In order to avoid confrontation and family shaming the name, many Ghanaian couples involved in domestic violence tend to remain silent. During my observations, I witnessed the concept of face work come into play when the attorney asked one client why she refused to report her abuse, for example, "I could not do that to my husband. It's embarrassing, but everybody knows everything about each other and I did not want anybody to ever know about this, I can't" (Attorney-client interview #1, dated 07/17/18). For another person or group of people to put their name to shame because of a current situation, such as domestic violence, is mortifying and converts their pride into to a feeling of unworthiness. This causes the victim and the perpetrator to feel like the outcast and may start to be in denial about the issue that is occurring.

No Ghanaian man would ever want their family to be put to shame since they are considered the head of the household and a reflection of their family name, which is why the victim may also deny the violence and act amongst her family, friends and other relatives as if everything is fine and normal. Since facework is an important cultural factor in many different cultural populations when speaking about social interaction amongst them (Lee et al., 2004). For individuals to invest in maintaining their 'face' in a prestigious position, depends on factors that influence them to do so such as cultural or custom values, traditions, collectivistic values, mixed value tendencies and other tendencies (Ting-Toomey and Cocroft, 1994). Facework can not only be a strategy to avoid any type of unwanted conversation or breaking expected cultural standards or values. The attorney confirmed during the interview that in some instances,

The police sends the victim home because they believe that it is between the husband and wife, plus it would be best to avoid embarrassing the head of the household. I mean, you don't want to humiliate the family name and the prestige, right? But if it is reported, then it would be with the pastor or family members.

This statement serves as an example that face saving is an important strategy among members of the Ghanaian community and churches that may hold an important or high prestige as the attorney stated. Studying the concept of face enables one to connect general aspects of a culture, social system and different types of behavior in an organization or different cultural setting (Earley, 1997). But this can also serve as a defense mechanism to cover up the perpetrator's actions. This method is a way for the perpetrator to hide behind the mask and to allow him to continue to commit violence against his partner.

Victims and perpetrators may feel troubled sharing their problems with a counselor because not only do they consider them a stranger, but they still hold on to that perception that they will shame their family for seeking help or other counseling services (Lee et al., 2004). This is also another reason why the victim and the perpetrator would prefer to portray that they have the perfect family rather than having a stranger or a professional learn about the violence that is endangering the victim and her children. Ghanaian men, like many others, also prefer not to be instructed on how to fix their relationship and most likely, not have to be reported if they are being abusive towards their partner. This can serve as a reminder why many domestic violence cases still go unreported to the authorities resulting in a tragic homicide. Furthermore, some victims may also feel that they if they report the violence, a professional such as a police officer, won't believe them or advise them that this is a family matter that must be fixed with her partner (Cantalupo, 2010). Which also explains why victims prefer to use the face-saving strategy in order to avoid any further

humiliation (McClennen et al., 2016) for simply trying to speak up and to not take the community by surprise.

The facework strategy is a way to not only save his reputation, but a tragic way to keep allowing her partner to be abusive towards her. The more she denies this amongst those who address it to her, the longer it will take to leave and come to the realization that she can no longer stay silent. The more she continues to defend his image, the abuse may likely turn worse or fatal. If there are children involved, they can be affected by the facework strategy. Often times, victims feel as if they need stay with their partner for the sake of their children. Yet, the victim and abuser lack the realization that the consistent violence that their children witness will have a lasting impact in the years to come (McClennen et al., 2016). Children who have some sort of exposure to domestic violence experience a wide range of problems that include poor social skills, academic challenges, low self-esteem and other health issues (Louis and Johnson, 2017). According to the American Academy of Child and Adolescent Psychiatry (2013), children can experience different types of symptoms from teenagers. For example, while children start to feel overwhelmingly emotional about the domestic violence at home. Teenagers may often feel the emotions as well but start to act out more rebelliously and withdraw socially. Social construction of gender roles that is passed down to Ghanaian children that witness domestic violence will began to see violence as normalization at home and in society. Children should not be exposed to this, however, it all depends on how parents expose their children and how it deeply affects them.

Religious Ideology

Louis Althusser conveys ideology as, “actions inserted into practices...[which] are governed by rituals in which these practices are inscribed, within the material existence of an

ideological apparatus” (Kang, 2018, p. 70). In a Christian setting, religious ideologies can be shaped by the scriptures of a biblical text, church leaders’ teachings, doctrine and other traditions that has been passed down for generations. Ideology purposefully shapes and normalizes the habits of distinct social groups (Wesson, 2008). The Ghana 2015 International Religious Freedom Report (2015) states that approximately 71% of the total population at 26.3 million Ghanaians are considered Christian (2015). Christian denominations include Roman Catholic, Pentecostals, Methodists, Evangelical Presbyterians, African Independent churches, Evangelical Lutheran and multiple charismatic religious groups to name listed in Ghana. There has been a cross-denominational study of Christian women who have experienced domestic violence throughout their marriage and have felt obligated to present themselves a perfect Christian wife in a Christian family in local church communities (Westenberg, 2017). This is closely linked to the facework strategy, whereas, the abused wife must display the good ‘face’ of her partner in order to not shame the family name. But in this case, it is to demonstrate the ‘perfect Christian family’ they are. I argue that religious ideology has had an impact of the ongoing domestic violence in multiple Ghanaian families, the gender inequality that it illustrates and why they continue to go unreported. Further, ideology creates a hegemonic culture where the church is dominated by a system of beliefs that limits victims to seek further assistance as they attempt to flee from domestic violence.

The first observation I started to take notes on was a divorce case when a client and an attorney was sharing her decision as to why she was choosing to leave her husband and “free herself” as she called it. The victim stated, “He was so violent, he would beat me all the time, I told the Pastor about it and he would try to fix it but it never worked!” Then the attorney asked the victim, “Did you go to the police station to report this?” and the victim responded, “No, we went to the Pastor instead.” This repetitive statement of “going to the pastor” became common

throughout several other cases as I decided to sit through, observe and take field notes. This pattern helped create an analysis that would be added on to this study. It started to make sense that most Christian Ghanaian women tend to report domestic violence incidents to their pastors as they expect an intervention to be made so that their husband would change or put a halt to their abusive ways. According to the victims, most have emphasized that their pastor are considered male during their interview with the attorney. This can be closely linked to the culture of patriarchy since they dominate the church and have insensitively used their teachings to allow victims to stay in their abusive relationship. As I watched many Ghanaian women finally speak out on their multiple domestic violence experiences, various women mentioned throughout the collection of their divorce statements the reason why they never reported their violent quarrels or the domestic violence they faced throughout their marriage. Below are several statements collected from victims during my observation:

I told my pastor about how violent my husband is. He told me to bring my husband, so he can talk to him and when he came, he tried but my husband is so stubborn. So, he told us to just work things out and to stay together. (Attorney client Interview #3, dated 07/18/18)

“My husband, he is a pastor of the church. Everyone looks up to us because people expect us to be the perfect Christian couple. But his problem was always women, through some church members, I discovered that he was sleeping with two different women at the same time in our own church. When I confronted him the first time, he beat me and scarred my face. This was an endless cycle, I could not take it anymore, so I told him that I wanted a divorce. We told all the pastors in an assembly about our divorce and I told all of them my side of the story. Then he told them his side of the story and after we were done sharing, all the pastors believed in him but not me. They

all thought it was my fault why he would beat me and why we were divorcing.” (Attorney-client interview #4, dated 07/19/18)

“The bible says that nothing or no one should separate the man and his wife, that’s why I stayed as long as I could with my husband.” (Attorney-client interview #5, dated 07/19/18)

“I kept praying to God for him to change, to no longer put his hands on me. In church he was a happy person but at home, he was a very different person.” (Attorney-client interview #6, dated 07/19/18).

These statements emphasized that it is likely that religious beliefs, hegemony and ideology may pressure the victim to maintain their marriage and accept its flaws, regardless of what they are. They felt as if they had to stay in order to demonstrate that they are loving Christian-wives. It is common for Christian women to place their mask of the happy Christian wife and woman of God (Westenberg, 2017). Further, Ghanaian couples try to maintain their problems as quiet as they could so that no one would find out through gossip. In the Ghanaian churches, there has been an imbalance of gender equality when it comes to women facing domestic violence in their marriage. Two individuals, whether they are in a marriage or domestic relationship, may choose to stay together because of what scripture says on staying united as man and wife and declaring this as “God’s will”. Ephesians 5:22-24 emphasizes male dominance ought to be outlawed and wives to be submissive to their husbands in everything. African and Ghanaian culture strongly imposes that wives must not only be submissive to their husbands, but to remain respectful, serviceable and dutiful, in which choosing to revolt or challenge the husband’s authority is to undermine it (Tenkorang et al., 2013). Which emphasizes that both culture and religion are dominant factors as to why violence is provoked or committed against women (Chireshe, 2015). This can also make it

difficult for wives that are being physically abused on a daily basis separate from their partners because in most instances, churches do frown upon the couple divorcing.

Christians have referenced marriage to be, 'made sacred by God' which can make a divorcing woman feel guilty and the need to stay in order to obey God (Simister and Kowalewska, 2016). In order to fulfill God's purpose or duty to be an obedient daughter, many Christian women in the Ghanaian churches feel the pressure to be submissive to her husband, God and the church. Which is highly unlikely that any church member would dare to challenge this teaching. Since marriage is considered so sacred in the eyes of the minister, priest, the congregation and God, to break the bond because of ongoing domestic violence could be considered a sin but also an obstacle to overcome. "For many women, the choice to remain in abusive marriages was tied to religious belief concerning the sanctity of marriage as an institution to be preserved" (Westenberg, 2017, p. 5). This sacred covenant is biblical that no other human being nor problem shall separate a man or woman, victims of domestic violence may feel obligated to not break or separate what they feel God has united. Another reason is that pastors tend to cite in their churches that 'God hates divorce' in order to recommend the victim and her partner to receive counseling or an intervention rather than advocate for divorce despite of the abusive circumstances that the victim is living in (Westenberg, 2017, p. 5). Practicing this custom not only damages the victim internally, but this would also continue the cycle of abuse.

Hegemony is a concept that is closely linked to ideology and how it creates a culture of acceptance and domination. Antonio Gramsci, a Marxist philosopher, defines hegemony as, "positional ideologies, although frequently contradictory, are reconciled through the imposition of the dominant social group's habitus for society as a whole... For Gramsci, hegemony involves the unification of habitus, ideology and practice" (Wesson, 2008, p. 5). Gramsci emphasizes a

hegemonic culture developed, where values and ideologies were seen as normalized and customary. In the Ghanaian setting, there is also a culture of hegemony where beliefs and ideologies are imposed and established by the church that domestic violence victims must follow, and women reinforce them by not challenging and questioning these systems of ideas. These sets of beliefs, values and ideologies that the church teaches about submission are not questioned or challenged despite of the violence they may silently face. The scriptures and ideologies taught there already finalize one's question, doubt, situation and outcome. For domestic violence victims, hegemony normalizes a belief or ideology that they must continue to stay united with their partner to honor "God's will" in accordance with the church's teachings. This leads to a further argument that hegemony is another factor as to why domestic violence is a norm in Christian-based marriages. Numerous churches are fault for not properly caring for the victim such as offering resources for her spiritual healing process, recommendations to report it to the police and to see a therapist regarding this.

This could also mean that hundreds or thousands of Ghanaian victims could be sitting in the pews for years still enduring the domestic violence circumstances in their marriage or relationship that should've been reported and properly addressed by the pastor or other church leaders. As research notes, Christian women that undergo suffering, "from domestic violence display a tendency to use Christian symbolism and religious language to explain or tolerate abuse, and to remain or return to marriages that contain domestic violence (Westenberg, 2017, p. 2). When domestic violence takes place among Christian couples, the wife or partner may feel that they need to pray and wait on God as they continue to take on the supportive role as a helpmate to her husband (Simister and Kowalewska, 2016). Through a feminist perspective, the Ghanaian

churches may seem to be teaching wives to submit to their husbands despite the domestic violence that takes place and is a contributing factor to gender inequality in society.

There is a possibility that Ephesians 5:22-23, for example, has always been wrongly interpreted, understood and applied (Cassidy-Shaw and Koenig, 2012). Many have misinterpreted this verse to place women to always be attentive, jump at their husband's command and to submit as if she was in fear of his authority. That submission in this context can be defined as, "in subjection to or come under. The value of this submission thing is no way inferior to or less valuable than the husband's leadership. If the husband is leading in love, the wife submits to not only her husband but to Christ" (Gann, 2010 p. 94). Through a biblical context, Christ is seen as the head of the church. The church (the body) has to be obedient and humbly submissive to fulfilling their duties as a Christian "He is the Savior of that body. Thus, wives are like the body of their husbands, and the husbands is like the wife's savior... So we must approach interpretations carefully, and with full contextual knowledge of God's character" (Cassidy-Shaw and Koenig, 2012, p. 5). These texts on submission and comparing it to God's relationship and treatment towards the church may be true for believers, however, they don't fully emphasize how a woman should be treated as a wife and partner according to Cassidy-Shaw and Koenig, which has been taken out of context to demean victims and led them to falsely believe that they must endure domestic violence in order to be submissive and obedient in the form of abuse and servanthood.

If the bible and Christians always speak of Christ being love, then church leaders must find a way to address the definition of the purity and innocence love and what it entails according to biblical scriptures. Ephesians 5:25 also declares that the Husband must love his wife as Christ loves the church because he has Himself to them, which can also be neglected or set aside by many believers, while they focus on the first few verses regarding submission and use it against their

wives in order to abuse them or beat them (Williams, 2012). Using these biblical texts in order to gain authority, manipulate and take advantage of the victim psychologically, emotionally, economically, mentally and physically is violating the Domestic Violence Act and CEDAW. However, if these texts are used for good, then they should be properly examined, interpreted and let it be a firm reminder that they should never be used as an excuse to commit any type of violence, nor cause any more harm against victims.

Chapter V- Conclusion

Discussion

The purpose of this study was to unmask what primary factors from the qualitative data contributes to domestic violence in Ghana and how their laws combat domestic violence. Themes that were discussed that contribute and are effects of domestic violence among Ghanaian families includes the face-saving strategy, hegemony and religious beliefs and culture of patriarchy and ideologies. The government has attempted to protect the rights of domestic violence victims through CEDAW, the Domestic Violence Bill and DEVAW. However, the issue of gender inequality continues to be the root of domestic violence throughout Ghana, as well as other issues that provoke other forms of discrimination and lack sufficient legal protection. Studying and researching how the Domestic Violence Act can be utilized in domestic violence cases, sexual violence cases, assault and other forms of violence against women and children was essential to comprehending which provision of both sets of laws addressed the different forms of domestic violence, what is penalized and the procedures that the court must abide to. However, the law continues to not be sufficient due to larger social ideologies, such as the culture of patriarchy being part of the Ghanaian government system, churches, communities and other institutions.

Understanding this problem has unveiled how the culture of patriarchy stems from traditions among families and how reinforces a system of discrimination.

CEDAW can be applicable when it comes to discrimination or the effects of gender inequality, combatting any type of trafficking, violence and encouraging equality and representation. Although there is no specific body or provision that clearly words, “domestic violence”, General Recommendation 19 and other articles makes it very clear that women who are bounded by traditional standards and stereotypical roles are likely to face some form of violence and abusive ways (UN Women, 1992). General Recommendations such as these are also a contribution to the many layers of legal rights that domestic violence victims are under. It was necessary to unpack these written laws to comprehend that there would be no solid foundation of what the different forms of violence against women are, how they are affected, the legal procedures one must take, judicial rulings that must be implicated, punishment for abusers, compensation and other potential witnesses such as children involved. However, hegemonic systems that reinforce ideologies such as patriarchy and other false indoctrination of submission to abusive commands, have influenced victims to silence their abuse, allow their children to live through these patterns of violence and accept them as a norm.

The Domestic Violence Act (732) was passed by the Ghanaian government to combat the rapid growth of Domestic Violence. We learned that this bill is highly regarded more in the local courts since they are domestic laws and often used in written and verbal arguments in the courtroom. However, there still needs to be a way for the Ghanaian criminal justice system and the government to fully enforce CEDAW so that there is an understanding and higher authority that domestic violence and other forms of violence will never be tolerated under any circumstance and under the umbrella of international laws. If the government continues to undermine these laws,

no abuser will respect nor abide present laws that serve to blanket these victims. On some occasions when there is an outcry from the public, and the government responds with amending laws or policies. Through this study, I was able to unveil why domestic violence incidents are not reported and what has caused the laws to not be fully applicable as they should.

Implications

The UN Women expressed their concern for Ghana in how strongly the government must establish a way to fully enforce the Domestic Violence Act (2014). Without taking this recommendation, this would cause multiple cases of domestic violence to increase and lack of progress for women's rights to be advanced. The culture of patriarchy is one of the most common factors as to why many Ghanaian women have struggled to speak out against the circumstances they are living in because of the need to live out their husband's and society's expectations and definition of what a true housewife and mother is. Women's rights concerns have continuously encountered oppression with local patriarchal systems, global neoliberal policies and women's marginalization (Bawa, 2012). The traditional patriarchal culture and practices has resulted in the limitation and slow progress of confronting gender inequality and other unfortunate circumstances that can occur such as domestic violence and other forms of abuse. Although African women's rights movements has caused global attention on human rights violations, these movements should also properly address the conditions of the local patriarchal system. Although the UN committee cannot sanction the state for refusing to comply with CEDAW, the UN can attempt to enforce the state to implement it since they are a signatory to this law. Rather than shaming Ghana, the CEDAW committee can inform the Ghanaian public in the "concluding comments" of their annual report the legal right to submit a formal complaint to the UN so that they can be heard by the UN

special committee for refusing to submit to international laws in taking all measures to sanction citizens for violating CEDAW.

These women's rights movements must lean more towards protecting individual freedom and values on a local, state and global level as they still emphasize that it is a human rights violation if no legal, social or cultural action is taken to either amend or add on more laws. The culture of patriarchy has played out for generations among Ghanaian women. If this continues to be imposed, this would minimize the many voices and rights to live a life of freedom, value and justice. Further, this could decrease the yearly reports of domestic violence cases in the local courts and police stations in the different regions of Ghana. Which is why these movements for anti-violence against African women could likely break the cultural barriers such as patriarchy so that doors of opportunity may open for women to and live a life free from oppression.

The local churches, despite of many denominations, must also address that using scriptures as a way to manipulate is contradictory to what religious beliefs truly represent and a form of human rights violation. Through my field notes, observations found that most women tend to seek assistance from the pastor or church first. If these women seek religion as a way to cry out for help or an intervention, the church must be trained to be able to help professionally by offering resources such as counseling, shelter and spiritual refuge. The leadership of the church, which includes pastors, priests, teachers and elders, to direct victims to report the abuse to a law enforcement officer. Churches may tend to shun feminism, but there needs to be a way for them to comprehend that feminism is the idea that women are viewed equally, and Christians should be informed that throughout human history, to this day, many do not believe or have acted as if this were true (Riswold, 2009). If an awareness was created in the churches on the importance of women's rights and the violations that they face on a daily basis at home, work, school and other

institutions, this can shape their worldview on human rights as a whole and how it may be biblical that as a believer, there needs to be a harmonious and amorous unity for the sake of their fellow citizens among them.

The church could come to the realization that it is certainly not Christ-like to use their own versions on biblical interpretations to degrade victims of domestic violence. Using the book of Ephesians to support patriarchal views is considered contrary Christian teachings about the value and dignity of all humanity (Riswold, 2009). If these positive teachings link to the significance of remaining reverent to each spouse's human rights, dignity, value, freedom and pursuit of happiness is taught, this could be the beginning of an establishment in Christian couples of using these scriptures to highlight this point and refrain from using former beliefs to beat their partners to submit. This can be done with assistance of local organizations that promote women's rights, women's health and that partner with local law enforcement agencies. As well as other religious organizations that can teach a positive reinforcement of avoiding misusing biblical texts.

Through my field observation, interviews with a Ghanaian attorney and legal interns, themes notable that seemed to correlate with each other often were patriarchy, religion, hegemony, facework strategy and a negative outlook on the Ghanaian government due to corruption, lack of welfare services, other cultural traditions and a necessity for a stronger enforcement of domestic violence laws. These findings give a clear description of the cultural trends and patterns that trigger domestic violence among Ghanaian families, why it is not properly addressed by local communities, what hinders for these conversations to be brought up publicly and how the issue of domestic violence is seen as normal yet difficult to come to terms with such as the concept of facework, whereas the different types of behavior may vary depending on the cultural setting one is in (Earley, 1997). Earley's point connected with my fieldwork notes, when the attorney

repeatedly stated during the interview that the saving face method in the Ghanaian setting was, “important because no family would want to be embarrassed of the violence occurring in their marriage”. Without a field observation and interviews, this would’ve been an inadequate qualitative case study or the results may have been likely distinct. Exploring these topics in person and upon my return through literature, opened a profound understanding and revealed new gaps such as these to discuss.

Although CEDAW and DEVAW are not strongly cited in the local courts as they should be, I was able to use a few legal and other scholars’ points to argue that CEDAW and DEVAW should be included in domestic violence cases through verbal and written legal arguments when prosecuting the defendant. Currently, there are existing Ghanaian courts that allow attorneys to cite international laws that have been ratified in their courtroom (Okeke, 2015). This demonstrates that there is a window of opportunity for legal representatives to be able to cite CEDAW during oral and written arguments if the judge is allowing them to use every legal provision to defend domestic violence victims. Ghana has not only ratified but became a signatory to CEDAW, as well adopt other human rights pertaining to women’s rights, children’s rights and other treaties (United Nations, 2014). The victim has the legal right to report a domestic violence incident, including an individual can list themselves as a third party and report on behalf of the victim if they are unable to for whatever reason (Domestic Violence Act, 2007, p. 6). Following scholars like Gyamfi (2017), a clear picture was illustrated as to their potential and capability of being effective, but with a further explanation added on as to why domestic violence cases are not always reported.

Lastly, the individuals that were interviewed had no working knowledge of CEDAW and DEVAW. They had heard about both international laws and how they are linked to advocate against violence towards women. The attorney was only able to suggest that since the high courts

and the supreme court allowed, on most occasions, for international laws to be cited, it is likely that there could be past or active matters that linked towards violence against women or a human rights issue where CEDAW was cited. He also went on to further state that the very few times he's had to handle domestic violence cases, CEDAW and DEVAW are normally never cited. The only sets of laws that are declared on legal documents and on record in the courtroom are the Ghanaian criminal codes and the Domestic Violence Act. If CEDAW and DEVAW were cited, this could have also changed my argument to a certain extent. Instead of advocating for more layers of legal protection by adding international laws, my argument could have been aiming more towards for harsher punishments on domestic violence abusers. As well as demand a policy reform for domestic violence victims to receive more welfare services since they are considered contributing factors as to why the government has created these laws to be ineffective in several ways.

Limitations

This study was limited in a number of ways. During my internship and field observation in Ghana, I had assumed that I would be observing the entire process of domestic violence cases from the beginning to the end. Unfortunately, there were no active domestic violence cases around the time that I had arrived to Ghana, the only time the domestic violence was spoken about was during several attorney-client meetings when the victim chose to state why she was leaving the marriage. This study was also limited by the time spend in the field, since the internship and field observation took place in a matter of two weeks. The only time I was able to observe domestic violence victims speak of their experiences was when they would finally report how violent their spouses were during their consultation for a divorce case which started to happen on the second day of my internship. The amount of observations and notes taken was for approximately fifteen different

matters, which were all divorce cases. Although the legal clinic was near the courthouse in Accra, there were no hearings or rulings on domestic violence cases on the judge's calendar. Thus, a longer period of field observation is needed to improve our understanding of the jurisdiction of the Ghanaian courts, legal proceedings and observe how domestic laws are orally cited during a hearing.

There were more than five attorneys at the legal clinic on a daily basis. However, the majority had a busy schedule which made it difficult to interview more attorneys for this qualitative case study. As a result, I was only able to approach one attorney and get on their schedule to meet for approximately forty minutes to be interviewed regarding domestic violence and the laws pertaining to it. Nevertheless, the interview with the attorney was a major contribution that highlighted his expertise with domestic laws and how they correlate with domestic violence. The Ghanaian legal interns were limited to offering legal advice and concepts about the domestic violence laws since they were not licensed attorneys or entitled to give any legal advice. But the questions that were asked relating to cultural traditions and standards did not seem like an issue for them to answer confidently and with sufficient knowledge to do so. If more attorneys were available for interviews, this case study could've expanded and possibly, be able to discuss and ask regarding any active domestic violence cases.

Another limitation encountered was not being able to find online and in person any past or active cases in Accra regarding domestic violence to be able to reference as part of the literature. Although most cases in Accra are public, unless if the judge rules that a certain case cannot be public, it was still difficult to retrieve any pending legal matters referencing either domestic violence or violence against women. Yet, the attorney that was interviewed shared a domestic violence matter still pending in the circuit court of Accra (lower courts). He went into further detail

on the status of the case, how he was defending the abuser, the progress of the case and a possible jury trial that was still awaiting. Since he had been defending his client in court for quite some time, I was able to ask what laws were specifically used by both sides when arguing verbally in court and what was written on the documents submitted to the court, the judge and to the plaintiff. Otherwise, as he had previously mentioned during the interview, it was very rare for domestic violence cases to even make it to a courtroom.

Future Research

Although domestic violence is considered one of the top forms of violence against women in Ghana, an in-depth exploration on sexual violence and emotional violence to compare the differences could bring an awareness that domestic violence is not the only existing problem in Ghana. Owusu and Agbemafle (2016) declared that other common forms of violence among Ghanaian women included sexual violence, physical violence and emotional violence. Ranging from what laws are used to prosecute them, factors that contribute to these forms of violence, how they are each defined by society, law and what it entails. As well as investigate why each one of these forms are common amongst women and the work that has been done by researchers and other organizations to address these issues and bring to attention on a domestic and global level.

A potential contribution that can amplified to future research is researching organizations, human rights advocates, attorneys, women's rights movements that have been working diligently to combat the growing rate of domestic violence cases throughout Ghana. Further, to examine the work that has been done, if there had been any marches or movements to address this and what was the response from the communities, government and the media. That way we can not only acknowledge that a group or an individual is still in the works of trying to bring an awareness of

the issue. Another method that can be researched are different strategies to carefully educate conservative church members about the high rate of domestic violence that takes place in their churches without offending their beliefs and immediately shunning away what they consider “secular teachings”. To thoroughly educate local churches, schools, and communities on how to report a domestic violence incident, their legal rights according to the Domestic Violence Act, CEDAW, DEVAW and the legal process it takes to prosecute their partner on criminal charges for domestic violence. As well as how to inform them of the aftermath of their legal matter and how to be able to move forward physically, emotionally, spiritually and mentally as a survivor of domestic violence or any type of form of abuse they’ve experienced throughout their domestic relationship or marriage. Although one must be culturally sensitive, there should be more research to verify what other religious beliefs and ideologies contribute to domestic violence among Christian couples in Ghana and how they are being misused to have women submit to their partner’s abusive commands. If these methods were applied and practiced locally, could this help increase the reports on domestic violence? Would this also help decrease the rate of domestic violence in the surrounding churches of Ghana?

An in-depth exploration of any policy reforms or changes need to be made in reference to the Domestic Violence Act (732) and the Ghanaian criminal codes would have also been beneficial to this study. Although the Domestic Violence Act (732) emphasizes the definition of domestic violence, the legal procedures one must take and how the courts supposed to treat these matters in respect to sanctioning the abuser and defending the victim as often as they should. There should still be a way to add or mend a provision to sanction the judge or a law enforcement officer if they do not handle the matter as a criminal case. As previously mentioned, there had been instances where the judge or law enforcement officer has treated them as a family matter (Gyamfi, 2017). In

addition, to explore the Ghanaian criminal codes that are used in court to legally advocate for the victim. Also, how would these changes in law and policy reforms in both laws create a difference in the outcome of domestic violence cases on a domestic level? If these implications would come to pass, this would pressure the government and court systems to officially allow CEDAW and DEVAW to be cited?

Future research can also investigate what positive and negative outcomes other domestic violence victims have experienced during their legal process in filing a lawsuit against their partner or spouse. For example, did they feel that the law and judge was on their side? Did any provisions of the Domestic Violence Act help them achieve what they were aiming for? Whether it be ensuring that their abuser faces a certain amount of time in prison, a restraining order that was granted or receiving welfare services. As well as to verify what disappointments they have faced, whether they felt that the laws were insufficient to charge her abuser or the judge had verdict or ruling that was unexpected.

Final Conclusions

So how are CEDAW and the Domestic Violence Act, 2007 (732) asserted in the courtroom and utilized during the legal procedures? The literature review and field work led to formulating my argument in this study that the domestic and international laws are effectively used to protect and advocate for victims in the courts to a certain extent. However, the judicial system and cultural factors have limited the potential for the laws to be fully practiced and applied. Significant issues that were raised were the background of domestic violence among Ghanaian women. It is common that as many as everyone in three have been a victim of domestic violence throughout their lifetime (Mensah-Allah and Osei-Afful, 2017). Which shows that if there are as many as 26.3 million

Christians in Ghana (Ghana 2015 International Religious Freedom Report, 2015), then the amount could estimate up to hundreds of thousands or even up to one million—victims who may or may not have reported the domestic violence incident(s).

In addition, the Domestic Violence Act, 2007 (732) offers a form of new offense and punishment for domestic violence within a domestic relationship (Cantalupo et al., 2006). The Domestic Violence bill also consists of careful instructions on how the victim can report her abuse, the legal procedures involved, and what she is entitled to in the aftermath. The law enforcement officer and judges play a vital role in ensuring that the victim receives a fair trial throughout this process. The beginning of becoming a signatory and ratifying CEDAW was also the commencement of other local human rights and other laws such as the African Charter on Democracy, Elections, and Governance, 2007 to emerge (Appiah, 2015). Therefore, the implementation of the CEDAW and the Domestic Violence Act (732) caused the government and policy makers to finally place human rights as a priority to ensure that each citizen has a voice.

The culture of patriarchy has been a cultural factor that has not only affected Ghana, but different parts of Africa since most systems are broadly patriarchal (Bawa, 2012). This system has also linked to how a large population of Ghanaian Christian husbands treat their wives but for his sake, victims tend to use the facework strategy in order to continue to demonstrate that they are the perfect Christian family (Westenberg, 2017). Scenarios that take place such as these discourage victims from reporting their abuse, especially in a society that is predominantly patriarchal. Including, judges and law enforcement officers who have portrayed this mindset towards victims by dismissing cases or reducing them to be under the category of civil cases such as family law matters. All this portrays that the government originally utilized these laws to add layers of legal protection so that no harm can come against the victim.

What the Ghanaian country, and in different parts of Africa, truly need, is to fight against common factors that trigger domestic violence among their mothers, sisters, daughters, aunts, cousins and friends. There are patterns and traditions that create a culture or a lifestyle, such as the culture of patriarchy. This traditional practice is harmful because it forces the victim to live a life not of her own, but in submission to her partner's abusive commands. This serves as a reminder that there are existing laws, both on a domestic and global level that Ghana is bound by and obligated to impose so that each citizen is well-informed and no individual will escape from being penalized for their actions.

Further, there has to be a reform or challenge made against the court systems to stop minimizing or disregarding legal matters pertaining to domestic violence because each human is entitled to battle for their human rights one way or another. Whether it be through marches, the criminal justice system or on another platform, every citizen has the legal right to either defend themselves in the most civil manner that will raise voices and an awareness on the violations that the court systems or the government has caused against domestic violence victims. If human rights activists, women's rights advocates, policy makers and others were able to raise campaigns, marches and other events to bring to attention that domestic violence was the root of femicide on a national platform. Following the creation of the Domestic Violence Act, 2007 (732), then there is still an opportunity to bring new issues back into a broader conversation and an awareness that there is more work to be done, factors to be researched and tougher amendments to be implicated so that domestic violence can continue to be tackled in the courtroom and on a social platform. On an international level, Ghana is still mandated to report what the government has been doing on a state level to comply with CEDAW. However, Ghanaian citizens can also take action by bringing CEDAW into conversation and take into consideration that they as well have a voice on an

international level in the United Nations and may be considered eligible to be heard by the special committee the same way they can be heard on a local level.

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Appendix

Interview Questions

1. Are international laws cited in a court of law? If so, why or why not?
2. If international laws are cited, how are they cited in the court of law?
3. Are international laws cited on legal documents that are submitted to the court, opposing counsel or the defendant?
4. Do judges take international laws into consideration when cited in court?
5. Is the Domestic Violence Act, 2007 cited in the court of law? If so, why or why not?
6. Which sets of laws are used often? If so, why or why not?
7. Which sets of laws are more effective in the court of law? Are there any amendments that should be made?