

Socio-Legal Needs of Rape and Defilement Victims: Beyond Punishment

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ABSTRACT

Ghana passed the Domestic Violence Act in the year 2007 despite pockets of resistance from some conservatives who thought the act will endanger family life and lead to a high divorce rate. A special unit within the Ghana Police Service called the Domestic Violence and Victims Support Unit (DOVVSU) was established to handle all cases under the Act. The law prescribes custodial punishment for suspects upon conviction. However, data collected from secondary sources, through key informants and in-depth interviews show that most cases of rape and defilement are withdrawn for settlement which is against the law. Most often, the victims who are not financially endowed are forced to accept settlement outside the courts or withdraw from the court processes, which often do not inure to their benefits. The Act and the establishment of DOVVSU have improved access to justice for rape and defilement victims, however, some critical issues need to be addressed to ensure that victims of sexual offences are well catered for. It is in connection with this that the paper seeks to highlight some of the conditions confronting victims of sexual violence and what must be done to mitigate these challenges. Prominent among these challenges is the poor financial status of the victims which makes them succumb to the pressure of out-of-court settlement. It is recommended that the government and other stakeholders review the justice system/processes for rape and defilement victims to ensure that they are not forced by circumstances to withdraw from the court processes to accept other settlement options which are not in consonance with the law.

Keywords: Rape, Defilement, Victims, Punishment, Out-of-court settlement

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Introduction

According to the World Health Organisation (WHO)³, an estimated 736 million women—almost one in three—have been subjected to intimate partner violence, non-partner sexual violence, or both at least once in their life. Domestic violence or gender-based violence has been with the Ghanaian society for some time now. Violence towards children and women is a complex phenomenon that is deeply rooted in gender-based power relations, sexuality, self-identity, and social institutions.⁴ This is further compounded by deep-seated patriarchal relations that support subordination and oppression of women by men.⁵

Globally, it is estimated that up to 1 billion children aged 2–17 years old experience physical, sexual or emotional violence or neglect each year.⁶ Estimates published by WHO indicate that globally about 1 in 3 (30%) of women worldwide have been subjected to either physical and or sexual intimate partner violence or non-partner sexual violence in their lifetime.⁷ The violence perpetrated takes various forms. These include sexual, physical, emotional and economic violence, among others.⁸ Predominant sexual violence committed against females includes rape and defilement. According to the Ghana Juvenile Justice Act, 2003 (Act 653), rape and defilement are considered to be serious offences.⁹

³ WHO, 'Violence Against Women' (Facts Sheet, 9 March 2021) < www.who.int/news-room/fact-sheets/detail/violence-against-women > accessed 15 June 2021.

⁴ A Greig and J Edström, *Mobilising Men in Practice: Challenging sexual and gender-based violence in institutional settings* (Institute of Development Studies, Brighton 2012).

⁵ Y Sikweyiya, A.A Addo-Lartey, D.O Alangea, *et al*, 'Patriarchy and gender-inequitable attitudes as drivers of intimate partner violence against women in the central region of Ghana' (2020) 20 *BMC Public Health* 682. See also Abeda Sultana, 'Patriarchy and Women's Subordination: A Theoretical Analysis' (2012) 4 *Arts Faculty Journal* 1–18.

⁶ World Health Organization *Global status report on preventing violence against children* (Geneva: World Health Organization; 2020); P Ferrara, G Franceschini, A Villani, *et al*, 'Physical, psychological and social impact of school violence on children' (2019) 45 *Ital J Pediatr* 76; S Hillis, J Mercy, A Amobi, *et al*, 'Global Prevalence of Past-year Violence Against Children: A Systematic Review and Minimum Estimates' (2016) 137 *Pediatrics* 1.

⁷ WHO (n 1); E Berhanie, D Gebregziabher, H Berihu, *et al*, 'Intimate partner violence during pregnancy and adverse birth outcomes: a case-control study' (2019) 22 *Reprod Health* 16.

⁸ C Watts C and C Zimmerman, 'Violence against women: global scope and magnitude' (2002) 359 *Lancet* 1232-7; Nicolette V Roman, José M Frantz, 'The prevalence of intimate partner violence in the family: a systematic review of the implications for adolescents in Africa' (2013) 30 *Family Practice* 256–265; H Kadir Shahar, F Jafri, N.A Mohd Zulkefli, *et al*, 'Prevalence of intimate partner violence in Malaysia and its associated factors: a systematic review' (2020) 1550 *BMC Public Health* 20.

⁹ Juvenile Justice Act 2003, s 46(8).

Victims of rape and defilement suffer adverse psychological and economic effects which can lead to long term reproductive health consequences long after the offence has been committed.¹⁰ Some victims also experience “psychiatric problems, somatic manifestations and disturbances in instinctive functions”.¹¹

Ghana, like any other country, has been active in global efforts to combat the crime of rape and defilement and to offer support to victims. This commitment by Ghana to fight gender-based violence at all levels—national, regional, and community—is evident in the ratification of several international conventions and the enactment of various laws as well as the formulation of various national policies and legal reforms, to serve as measures to fight against domestic violence. Although a legal infrastructure may not end domestic violence,¹² nevertheless, it plays an enormous role in helping to reduce its occurrences and providing redress to victims. Notable among the international conventions ratified and adopted (as the case may be) by Ghana in this regard include: The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), The Declaration Against all Forms of Violence Against Women (DEVAW) and the Convention on the Right of the Child (CRC). Domestically, legislation has been enacted to address these offences: critically, the Criminal Offences Act, 1960 (Act 29) criminalizes these offences. Further, in October 1998, Ghana established the Women and Juvenile Unit (WAJU) to prevent, protect, apprehend and prosecute perpetrators of domestic violence and child abuse.¹³ Although the police service is not well equipped to gather all the medical evidence to facilitate prosecution, they rely on the Ghana Health Service for medical reports.

In a reinforced move geared towards curbing the situation, and provide more support to victims, Ghana enacted the Domestic Violence Act in 2007.¹⁴ The Act does not leave

¹⁰ R A Morhe and E Morhe ‘The Law on Defilement in Ghana and Challenges in its implementation at the Ejisu-Juabeng Domestic Violence and Victims Support Unit of the Ghana Police Service’ (2013) 16 *Journal of Law, Policy and Globalization* 23; Rebecca Campbell *Emotionally involved: The impact of researching rape* (Routledge 2002); A Coker, K Davis, I Arias et al, Physical and Mental Health Effects of Intimate Partner Violence for Men and Women (2002) 23 *American Journal of Preventive Medicine* 260.

¹¹ D M Menick and F Ngoh Reconciliation and/or mediation settlements in cases of sexual abuse of minors in Cameroon (1999) 59 *Medecine Tropicale* 161-164.

¹² Akosua Adomako Ampofo, ‘Collective Activism: The Domestic Violence Bill becoming Law in Ghana’ (2008) 7 *African and Asian Studies* 395-421.

¹³ LM Cannon, EC Sheridan-Fulton, R Dankyi, A-A Seidu, SD Compton, A Odoi, et al, ‘Understanding the healthcare provider response to sexual violence in Ghana: A situational analysis’ (2020) 15 *PLoS ONE*; Ghana Police Service, ‘Domestic Violence and Victims Support Unit’ <<https://police.gov.gh/en/index.php/domestic-violence-victims-support-unit-dovvsu/>> accessed 3 May 2021.

¹⁴ MS Pool, E Otupini, E Owusu-Dabo, A de Jonge, C Agyeman, ‘Physical violence during pregnancy and pregnancy outcomes in Ghana’ (2014) 14 *BMC Pregnancy Childb* 71–78

any room for rape/defilement cases to be handled outside the courts. The law prescribes excessive punishment for suspects upon conviction. But this criminal justice approach to dealing with rape and defilement cases seems not to be working because most of the victims and suspects are resorting to civil resolution rather than the stipulated criminal justice method. Under the Domestic Violence Act, the name WAJU was changed to Domestic Violence and Victims Support Unit of the Police Service (DOVVSU) for easy awareness creation under the umbrella of the Domestic Violence Act and also to ensure that all vulnerable persons are catered for irrespective of gender.¹⁵

The legitimate expectation of everyone was that with the enactments of the law that proscribes rape and defilement, there would be access to justice for all victims of rape and defilement. It will also not be a far-fetched presumption that the excessive punishments prescribed will have a deterrent impact on potential perpetrators. In spite of these legislative interventions, perhaps, very disappointedly, the cases of rape and defilement are on the ascendancy these days.¹⁶ Thus the issue of domestic violence still remains a social menace in modern Ghana and needs to be addressed.¹⁷ According to a shadow report produced by a coalition of 50 civil society organizations in Ghana, and submitted to the Committee of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), “gender-based violence remains alarmingly high” in Ghana.¹⁸ The report indicated that reported cases of rape to DOVVSU in 2012 were 290, and reported cases of defilement were 1,111. However, in 2013, there was an increase: reported cases of rape rose to 312 and that of defilement also increased to 1,223. Ghana's Ministry of Gender, Children and Social Protection stated in its Fourth Progress Report on the Implementation of the African and Beijing Platform of Action that DOVVSU received 17,965 domestic violence cases in 2011; 2470 cases in 2012; and 9,974 domestic violence cases in 2013.¹⁹ According to Amnesty International's (AI) Report 2014/2015, the total number of gender-based violence cases reported to

¹⁵ Morhe and Morhe (n 8) 23.

¹⁶ E Owusu-Addo, S.B. Owusu-Addo, E.F. Antoh, *et al.*, 'Ghanaian media coverage of violence against women and girls: implications for health promotion' (2018) 18 BMC Women's Health 129.

¹⁷ I Dery and A.L. Diedong (2014). 'Domestic violence against women in Ghana: An exploratory study in Upper West Region, Ghana' (2014) 4 International Journal of Humanities and Social Science 228-244.

¹⁸ Civil Society Coalition *NGO Shadow Report to 6th & 7th Periodic Report of Ghana on Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Submitted to UN CEDAW Committee, Geneva, Switzerland* (October 2014) 20.

¹⁹ Ministry of Gender, Children and Social Protection 'Ghana's Fourth Progress Report on the Implementation of the African and Beijing Platform of Action and Review Report for Beijing+20' (2014).

DOVVSU in 2013 were 16,275.²⁰ It is noteworthy to point out that these are just the reported cases. In Ghana, we have cultural habits that inhibit the reportage of such cases to the police, so the number can be much higher.²¹ In order to keep their marriages going, some women endure cases of domestic violence.²² This means that the actual number of domestic violence far exceeds the reported ones.

Also, statistics obtained from the Ghana Police Service shows that most cases of rape and defilement are withdrawn for settlement,²³ which is against the law. For example, data collected from the Ghana Police Service, Cape Coast, from June 2015 to June 2016 show that out of the 36 rape/defilement cases reported to the unit, almost 20 (55.5 percent) were withdrawn for settlement outside the court.²⁴ This is in total violation of section 24 of the Domestic Violence Act. There are also other problems, both social and legal, that victims of rape and defilement undergo.

The objective of this paper is to examine the socio-legal needs of rape victims and point out the failure of the criminal justice processes in resolving rape/defilement cases and suggest that there is a need to consider other civil mechanisms to ameliorate the situation. To achieve this aim, the paper begins with a description of the legal regime for rape and defilement in Ghana. In doing this, emphasis is placed on the Domestic Violence Act and the mechanisms set out within the Act to address rape and defilement situations. Further, the paper discusses the legal needs of rape and defilement victims. More important for the purpose of this paper, suggestions are offered to address the highlighted problems.

Methodology

The study did adopt the mixed-method design with a little leaning towards the qualitative approach to research. The study relied heavily on secondary data from the Ghana Police Service's Domestic Violence and Victim Support Unit (DOVVSU). The respondents were purposively drawn from the Ghana Police Service, Social Welfare Department, victims of rape/defilement, and some relations of the victims who were minors. The respondents were sampled based on their willingness to participate in the study and share their

²⁰ Amnesty International (AI) "Ghana." Amnesty International Report 2014/15: The State of the World's Human Rights (February 2015) 163.

²¹ A Adomako-Ampofo and M Prah 'You may beat your wife, but not too much': The cultural context of violence against women in Ghana' in K Cusack and T Manuh (eds), *The Architecture for Violence Against Women in Ghana* (Accra: Gender Studies and Human Rights Documentation Centre, 2009) 93–128.

²² N.C. Cantalupo, L.V. Martin, Kay Pak, Sue Shin, 'Domestic Violence in Ghana: The Open Secret' (2006) 7 *The Georgetown Journal of Gender and the Law* 531, 539-545.

²³ Morhe and Morhe (n 8) 23.

²⁴ Ghana Police Service <<https://police.gov.gh/en/index.php/2017/>> accessed on 5 June 2021.

experiences and knowledge about the subject. The sample size of 25 was considered manageable for the in-depth interviews. Victims of rape/defilement sometimes shy away from identifying themselves and discussing their ordeal in public for fear of being stigmatized. As result, the victims were interviewed in their homes and other locations that they considered convenient to hold the interviews. The state officials such as the police officers and the social welfare workers were interviewed in their offices. The main tool for the data collection was an interview guide. The interviews solicited information on a variety of themes including educational, social background, the insight and opinions of respondents and other themes related to the study. While more than 20 rape/defilement victims initially agreed to participate in the study, only 8 victims did take part eventually. Some of the reasons for the withdrawal were fear of reprisal from the suspects' family members, being exposed and stigma. The data was thematically analyzed based on the themes which emerged from the interviews.

Legal Regime for Rape and Defilement in Ghana

The Criminal Offences Act, 1960 (Act 29) outlines sexual offences and prescribes punishment for offenders.²⁵ The sexual offences outlined in Act 29 are rape,²⁶ defilement,²⁷ carnal knowledge,²⁸ indecent assault,²⁹ unnatural carnal knowledge,³⁰ incest,³¹ household permitting defilement of a child,³² procuration³³ and seduction or prostitution of a child under 16 years.³⁴ According to sections 97 and 98 of Act 29,

“Rape is the carnal knowledge of a female of not less than sixteen years without her consent. A person who commits rape commits a first-degree felony and is liable on conviction to a term of imprisonment of not less than five years and not more than twenty-five years”.³⁵

²⁵ See generally Chapter Six of the Criminal Offences Act, 1960 (Act 29) [Criminal Offences Act].

²⁶ Criminal Offences Act, s 97.

²⁷ Criminal Offences Act, s 101.

²⁸ Criminal Offences Act, s 102.

²⁹ Criminal Offences Act, s 103.

³⁰ Criminal Offences Act, s 104.

³¹ Criminal Offences Act, s 105.

³² Criminal Offences Act, s 106.

³³ Criminal Offences Act, s 107.

³⁴ Criminal Offences Act, s 108.

³⁵ Criminal Offences Act, s 97 and 98.

In Ghana, the offence of rape is gender specific.³⁶ To put it differently, a man cannot be raped, it is only a female who can be raped.³⁷ Under no circumstance will it be held that a woman has raped a man. In the case of *Banousin v Republic*,³⁸ the Supreme Court of Ghana espoused that in a case of rape, the following elements need to be proven:

1. That the victim has been carnally known.
2. That the person who had carnal knowledge of the victim is the accused
3. That the victim was carnally known against her wish, that is to say, she did not consent to the sex.
4. That the victim is aged 16 years or more.

The court also held in the case of *Agbemenya v The State*³⁹ that the absence of consent⁴⁰ is an essential proof of rape, that is, the prosecution is required to prove the lack of consent or express withdrawal of consent even if it was granted for the cause of action to succeed.

On the other hand, defilement is defined in section 101(1) of Act 29 as natural or unnatural carnal knowledge of a child less than sixteen (16) years of age. A person who naturally or unnaturally carnally knows a child under sixteen years of age, whether with or without the consent of the child commits a criminal offence and is liable on summary conviction to a term of imprisonment of not less than seven years and not more than twenty-five years.⁴¹

Unlike rape, according to section 14(a) of Act 29, consent for carnal knowledge of a child under sixteen years is void. In the case of *Asante v Republic*,⁴² the court stated that to succeed in a defilement case the prosecution must establish beyond a reasonable doubt each of the following three essential elements:

³⁶ Michael Sumaila Nlasia, 'Inadequacies of the definitions of sexual offences in the Criminal Offences Act' (The Ghana Law Hub, 29 April 2019) < <https://ghanalawhub.com/inadequacies-of-the-definitions-of-sexual-offences-in-the-criminal-offences-act/> > accessed 4 May 2021.

³⁷ Elizabeth A. Archampong, 'Marital rape – a women's equality issue in Ghana' [2010] The Equality Effect 1. See also Rumney, Philip N.S. Rumney, (2007) 'In Defence of Gender Neutrality Within Rape', (2007) 6 Seattle Journal for Social Justice 481-525.

³⁸ [2015] 1 G.N.S.C.L.R 439 S.C.

³⁹ [1964] GLR 663.

⁴⁰ Criminal Offences Act, s 14 and 42(g).

⁴¹ Criminal Offences Act, s 101(2).

⁴² (J3/7/2013) [2017] GHASC 3 (26 January 2017). See also the oft-cited case of *Republic v Yeboah* [1968] GLR 248.

- that the victim is under the age of 16 years (as provided for in Act 554)⁴³
- someone had sexual intercourse with her
- that person is the accused.

Thus from section 101(1) of Act 29, there is the presumption that the offence of defilement is gender-neutral. In other words, unlike the offence of rape in which the victim can only be female, under defilement, the victim can be male or female. This is due to the use of the generic word “child.” For instance, a lady who engages in sexual intercourse with a boy below 16 years is strictly speaking, guilty of the offence of defilement.

This presumption is somehow erroneous due to the retention of carnal or unnatural carnal knowledge in the definition of defilement. In this regard, it tends to suggest that a child (boy) could not be a victim when he is defiled by a female, because in defilement there is carnal knowledge, and this act is done by the boy. And since consent is trivial, a female would not be liable for defiling a child. In the case of *R v Mason*,⁴⁴ a married woman had sex with about six boys aged between 14-16 years on various occasions. She was indicted for indecent assault, but the prosecution failed because there was no evidence of her having used force on them, or even that she had made contact with their person. According to the court, since they (boys) had done the penetration, and with her consent, no offence had been committed. This shows that there is a deficiency in the definition of defilement and needs to be given a second look so as to cater for instances where a child (boy) is ‘defiled’ by a female adult.

Domestic Violence Act in Retrospect

Ghana passed the Domestic Violence Act (Act 732) in the year 2007 in spite of pockets of resistance from some conservatives who thought the Act will endanger family life and lead to a high divorce rate.⁴⁵ Its corresponding legislative instrument, Domestic Violence Regulation, 2016 (LI 2237) was also subsequently passed to provide the framework within which victims of domestic violence can access justice and support. As at the time Ghana passed its legislation on Domestic violence in 2007, there were only three

⁴³ Criminal Code (Amendment) Act, 1998, (Act 554).

⁴⁴ (1968) 53 Cr App Rep 12.

⁴⁵ Ampofo (n 10) 395-421.

countries in Africa that had enacted laws on domestic violence namely: South Africa, Mauritius and Zimbabwe.⁴⁶

The government of Ghana followed the passage of the Act up with the establishment of a special unit within the Ghana Police Service formerly called the Women and Juveniles Unit (WAJU) in 2008 (now the Domestic Violence and Victims Support Unit (DOVVSU) to handle all cases under the Act.⁴⁷ This development was hailed by gender activists who over the years have advocated for the passage of the Act, and it is seen as a progressive law.⁴⁸ They considered the creation of the unit as a novelty because it will increase access to justice for victims of domestic violence.

In 2008, a study conducted by the Institute of Development Studies, “Global Institution for Development Research, Teaching, Learning, and Communication” based at the University of Sussex found that out of 4,916 women that responded to the Women's Questionnaire on domestic violence, 37 percent of ever-married women between the ages of 15 and 49 in Ghana had experienced some form of physical, sexual or emotional violence by a husband or partner at some point in their lives.⁴⁹ Women aged 20 to 39 reported the highest number of cases of sexual, physical and mental abuse.⁵⁰ In addition, 27.6 percent of Ghanaian males currently married or recently separated/widowed aged 15-49 had experienced physical or emotional violence by their wives or girlfriends at some point in their lives.⁵¹

Another study conducted in 2016 by Ghana Statistical Service (GSS) revealed that 28 percent of women and 20 percent of men had experienced some form of domestic violence.⁵² Also, the survey found out that the most common form of domestic violence was economic violence pegged at 12.8 percent and social violence pegged at 11.6 percent. Physical violence was at 6 percent and sexual violence at 2.5 percent. In addition, women aged 25 to 29 recorded one of the highest rates of violence. Comparing the findings of the 2008 study by the Institute of Development Studies to the survey of

⁴⁶ Ampofo (n 10) 396.

⁴⁷ Child Rights International Network, 'Ghana: Children's rights references in the universal periodic review' (19 Nov 2010) < <https://archive.crin.org/en/library/publications/ghana-childrens-rights-references-universal-periodic-review.html> > accessed 4 May 2021.

⁴⁸ Christine Dowuona-Hammond, Raymond A. Atuguba, and Francis Xavier Dery Tuokuu, 'Women's Survival in Ghana: What Has Law Got to Do With It?' [2020] Sage Open 1,6.

⁴⁹ Ghana Statistical Service (GSS), Ghana Health Service (GHS), and ICF Macro *Ghana Demographic and Health Survey 2008* (Accra, Ghana: GSS, GHS, and ICF Macro, 2009).

⁵⁰ Ghana Statistical Service (GSS), Ghana Health Service (GHS), and ICF Macro (n 47) 302.

⁵¹ Ghana Statistical Service (GSS), Ghana Health Service (GHS), and ICF Macro (n 47) 316.

⁵² Institute of Development Studies (IDS), Ghana Statistical Services (GSS) and Associates *Domestic Violence in Ghana: Incidence, Attitudes, Determinants and Consequences* (Brighton: IDS, 2016) 113.

Ghana Statistical Service shows a decrease in the occurrence of domestic violence. Arguably, this indicates that the passage and enforcement of the Domestic Violence Act has been instrumental in helping the country make steady progress towards eliminating domestic violence in Ghana.

Provisions in the Domestic Violence Act to Protect Victims

The Act provides that a victim of domestic violence or a person with information about domestic violence may file a complaint about the domestic violence with the police⁵³; and in the case of a child, he or she may be assisted by a next friend (a next friend is someone who represents the minor or child because the child does not have the legal capacity) to file a complaint.⁵⁴

By way of offering assistance to the victims, the police are required to offer the protection that the circumstances of the case require upon request.⁵⁵ The police are required to assist the victim to obtain medical treatment where necessary and to inform the victim of his or her rights and any services which may be available to her.⁵⁶

The Act further provides that in the best interests of the victim, upon application, the court shall order an interim protection order to prohibit a perpetrator from committing or threatening to commit an act of domestic violence.⁵⁷ Where there is a need for special protection for a child, the Court may refer matters concerned with the temporary custody of a child in a situation of domestic violence to a Family Tribunal.⁵⁸

Act 732 creates institutions and puts in place enforcement mechanisms to ensure the act is enforced and accessible to victims.⁵⁹ An essential modality for the effective implementation of the Domestic Violence Act, (2007) is the establishment of Victims of Domestic Violence Support Fund.⁶⁰ The sources of money for the Fund stipulated by the Act are voluntary contributions from individuals, organizations and the private sector; money approved by Parliament for payment into the Fund, and money from any other source approved by the Minister responsible for Finance.⁶¹

⁵³ Domestic Violence Act, s 6(1).

⁵⁴ Domestic Violence Act, s 6(2).

⁵⁵ Domestic Violence Act, s 7.

⁵⁶ Domestic Violence Act, s 8(1) (c) and (g).

⁵⁷ Domestic Violence Act, s 14(1) and s 15(1).

⁵⁸ Domestic Violence Act, s 18(1).

⁵⁹ Domestic Violence Act, s 29 and 35.

⁶⁰ Domestic Violence Act, s 29.

⁶¹ Domestic Violence Act, s 31.

Also, the Ministry of Gender, Children and Social Protection (formerly Ministry of Women and Children Affairs) is mandated to fight domestic violence and help survivors through victim support.⁶² This victim support is supposed to be provided by DOVVSU. In pursuant to their mandate of providing victim support, DOVVSU is expected to, among its plethora of functions, provide free services to members of the public; provide support to victims of all forms of abuse be it physical, sexual, emotional/psychological, socio-economic or harmful cultural practices; establish an effective database for crime detection, prevention and prosecution; treat victims/complainants and their families with respect and courtesy; take statements in a professional manner; provide victims with information on their cases as well as details of the investigations; provide advice on crime prevention at homes, in schools, churches and markets.⁶³ The Unit also refers victims for medical services and specialized help to clinical psychologists and social workers from the Department of Social Welfare and counsellors attached to the Unit. In addition, DOVVSU is expected to collaborate with NGOs and other civil society organizations that may be able to help victims in need of necessary support services.⁶⁴

The Domestic Violence and Victim Support Unit (DOVVSU), has offices in all the regions in Ghana, with toll-free lines for victims to call if faced with domestic violence.⁶⁵ Pursuant to section 37 of Act 732, a 10-Year Domestic Violence National Plan of Action was instituted which established a Domestic Violence Management Board and a Domestic Violence Secretariat to play an advisory role and serve as a liaison between the government agencies and domestic violence victims to help ensure that the Domestic Violence Act is carried out in all the regions of Ghana.⁶⁶

Although the Domestic Violence Act was passed more than a decade ago, successive governments have failed to ensure that the various government agencies and organizations tasked with the responsibility of ensuring the management of Domestic Violence concerns in the country is effective. As a result, in 2016, Martin Kpebu, a private legal practitioner sued the government for the non activation of the Domestic Violence Fund and the provision of free medical care to victims as provided by Act 732.⁶⁷

⁶² Domestic Violence Act, s 36 and 37.

⁶³ Kafui Agbitor, 'Addressing domestic violence cases in Ghana: A study of the practice methodologies of Accra regional DOVVSU' (Doctoral dissertation, University of Ghana 2012).

⁶⁴ DOVVSU, 'Introduction to DOVVSU' (2011) <http://www.ghanapolice.info/dvvsu/dvvsu.html> accessed 2 May 2021.

⁶⁵ Domestic Violence Act, s 36 and 37; Ghana Statistical Service (GSS), Ghana Health Service (GHS), and ICF Macro (n 47) 299.

⁶⁶ Domestic Violence Act, s 35 and 37.

⁶⁷ W Davies 'The Man Who Sued Ghana's Government to Help Domestic Abuse Survivors. News Deeply Women and Girls' (2017) <<https://www.newsdeeply.com/womenandgirls/community/2017/05/09/the-man-who-suedghanas-government-to-help-domestic-abuse-survivors>> accessed 2 May 2021.

According to Martin Kpebu, “the purpose of the fund is also to set up shelters for persons who suffer domestic violence, so if someone suffers domestic violence and it is not appropriate for the person to continue to live in that household, such a person will be taken from the home and put in the shelter, apart from that, the state will also draw from the Fund to give training to police and other stakeholders to give training to better increase their capacity immensely to better protect victims of domestic violence”.⁶⁸ The High Court (Human Rights Division-2) gave judgment granting these reliefs on 17 March 2017 and gave the government six months to implement the decision. Sorrowfully, up to date, the government is yet to comply with the court orders.

Critique of the Act

Despite the lofty benefits of the Domestic Violence Act, there are some deficiencies inherent in it and thus cannot escape critique. The Domestic Violence Act does not proscribe marital rape, despite its alleged prevalence—9 percent among women and 6.9 percent among men.⁶⁹ The initial bill expressly prohibited marital rape, however, parliament succumbed to public pressure and removed that provision, thus impliedly leaving husbands free to rape their wives with impunity and vice versa.⁷⁰ Marital rape constitutes a violation of a woman's human rights and it was expected that since the Criminal Offences Act, 1960 (Act 29) already proscribes marital rape per section 42(g) by the Statute Revisions Act, parliament would have reaffirmed it in the Domestic Violence Act. However, the Ghanaian parliament failed woefully in this regard pitched against the background that the proscription of marital rape was in the original bill. Cognizant of this deficiency, one can be comforted with the position of Nana Oye Lithur, a former minister for Gender, Children and Social Protection, who opines that:

Although the Domestic Violence Act does not explicitly mention marital rape, the Act is linked to the Criminal Offences Act (revised in 2007) under which marital rape is an offence in Ghana. . . Marital rape is criminalized in pursuant to the repeal of section 42(g) by the Statute Revisions Act.⁷¹

⁶⁸ CGTN Africa, ‘Ghanaian court orders government to release funds for domestic violence kitty’ (18 March 2017) <<https://africa.cgtn.com>> accessed 2 May, 2021.

⁶⁹ Institute of Development Studies (IDS), Ghana Statistical Services (GSS) and Associates (n 48).

⁷⁰ Nancy Kaymar Stafford ‘Permission for Domestic Violence: Marital Rape in Ghanaian marriages’ (2008) 29 Women’s Rights Law Reporter 63.

⁷¹ Ghanaweb, ‘Marital rape is criminal in Ghana’ (25 October 2014) <<https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Marital-rape-is-criminal-in-Ghana-332047>> accessed 3 May 2021.

Furthermore, the Domestic Violence Act is inoperable when it comes to rape and defilement cases. This is because the Domestic Violence Act applies only to offences that would be classified as misdemeanours under the Criminal and Other Offences (Procedure) Act, 1960 (Act 30).⁷² According to section 3(2) of the Domestic Violence Act,

A person in a domestic relationship who engages in domestic violence commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

Section 23 of the Domestic Violence Act further provides that:

The punishment provided for in of this Act [section 3(2)] applies only to offences which under the Criminal Code, 1960 (Act 29) are misdemeanours and shall not apply to any offence that is aggravated or the punishment for which under the Criminal Procedure Code, 1960 Act 30 is more than three years imprisonment.

Thus, per the combined effect of section 3(2) and 23 of the Domestic Violence Act, when it comes to rape and defilement, the Domestic Violence Act cannot be used because the punishment for rape and defilement is more than two years as established above. In other words, when it comes to prosecuting someone for rape or defilement, the court will resort to the use of the Criminal Offences Act (Act 29) and not the Domestic Violence Act.

Results and Discussions

In spite of the fact that the laws of Ghana have detailed provisions to ensure that justice is served in respect of rape and defilement cases, certain underlying conditions and practices do not allow this to be realized. On paper, one would say Ghana has a comprehensive law and an effective system put in place to address the issue of rape and defilement and also to offer support to the victims. Nevertheless, as it has always been a canker in the country, the implementation of laws is always a problem. Although the Domestic Violence Act provides for a mandatory prosecution of rape and defilement cases (Section 24(1) of Act 732), yet most of the cases are settled out of court. For example, cases of rape and defilement reported from 2015-2016 in the Anyirawase District in the Volta Region of Ghana show that out of the 38 cases recorded, 15 (39.5 percent) were withdrawn by the parties for an amicable settlement. This implies that

⁷² Criminal and Other Offences (Procedure) Act, 1960 (Act 30), s. 296(4).

the cases were not settled according to the statutes of the land. Another 6 of the cases constituting 15.7 percent were also withdrawn because the victim was pregnant (this is actually another form of settlement on the grounds of the victim being pregnant). When the two cases of withdrawals are put together, they constitute about 55 percent of the total cases— that is more than half of the total cases reported. In a similar vein, the Cape Coast office of DOVVSU in the Central Region recorded 36 cases of rape and defilement within the period of June, 2015 to June, 2016. Out of the number, 20 (55.6 percent) were withdrawn for amicable settlement. Only 9 (25 percent) convictions were secured by the unit. This reaffirms the impressions this paper is trying to establish that most of rape and defilement cases are settled outside the criminal justice system. This seems to suggest that all is not well with current systems of justice for these victims. Out-of-court settlement is a practice that is not foreign to the Ghanaian society. It has received statutory blessing per section 73 of the Courts Act, 1993 (Act 459), which provides that:

A Court with criminal jurisdiction may promote reconciliation, encourage and facilitate a settlement in an amicable manner of an offence not amounting to felony and not aggravated in degree on payment of compensation or on any other terms approved by the Court before which the case is tried, and may, during the pendency of the negotiations for settlement, stay the proceeding for a reasonable time and in the event of a settlement being effected shall dismiss the case and discharge the accused person.

Further, section 24 of the Domestic Violence Act provides that:

Despite section 22, if in a criminal trial in respect of domestic violence which is not aggravated or does not require a sentence that is more than two years,

(a) the complainant expresses the desire to have the matter settled out of Court, the Court shall refer the case for settlement by an alternative dispute resolution method, or

(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.

Also, the Ghanaian Alternative Dispute Resolution Act, 2010 (Act 798) has provided for customary arbitration of criminal cases:

Except otherwise ordered by a court and subject to any other enactments in force, a person shall not

- (a) submit a criminal matter for customary arbitration; or
- (b) serve as an arbitrator in a criminal matter.⁷³

Thus, it can be gleaned from the above quoted statutes that provision is made for out of court settlement within the Ghanaian legal system. However, it is not absolute. Criminal cases can only be settled out of court under the express orders of state courts and only in respect of cases that do not amount to felonies and cases not aggravated in degree.

As indicated above, rape and defilement amount to felony and consequentially, cases involving rape and defilement cannot be settled out of court.⁷⁴ Thus, any attempt to settle such cases out of court amounts to clear contravention of the laws of Ghana. Proponents of ADR have also posited that ADR is not suitable for cases such as domestic violence and child abuse.⁷⁵

In spite of the adequate provision of the law to protect victims of rape and defilement, Morhe,⁷⁶ in her assessment of access to justice in informal courts of the Ewe of Ghana, observed that most families of victims of defilement prefer not to prosecute when the offence results in pregnancy because the overriding concern is the upkeep of the victim and the unborn child. The head of the DOVVSU unit in Cape Coast also stressed:

Whenever family members suspect the act (rape/defilement) has resulted in pregnancy, they soften their stands on prosecution and opt for out-of-court settlement. In such circumstances, they cannot go ahead with the persecution because the suspects will not cooperate with us [police].

In that situation, money is often offered and subsequently accepted in the place of prosecution.⁷⁷ In the same way, Connerton⁷⁸ noted that the usual consideration is that the girl is better off married or catered for by the rapist, nonetheless, such marriages

⁷³ Alternative Dispute Resolution Act 2010, s 89(2).

⁷⁴ Criminal Offences Act, s 97 and 101(2).

⁷⁵ Laurel Wheeler, 'Mandatory Mediation and Domestic Violence' (2002) 26 Southern Illinois University Law Journal 559-573.

⁷⁶ R Morhe, 'Access to justice and informal courts' [2011] VDM Verlag Dr. Muller 130.

⁷⁷ *Ibid.*

⁷⁸ K C Connerton, 'The resurgence of the marital rape exemption: The victimization of teens by their statutory rapists' (1997) 61 Albany Law Review 237-284.

are discouraging. Unfortunately, such females have low influence in marriage and often get kicked out of their marital homes or they are abandoned.⁷⁹

Also, some families want to deal with defilement as a “private matter” particularly when the offender is a relative, neighbour or family friend. In such situations, the family do not want to be seen as “washing their dirty linen in public”, hence the decision to withdraw the case or settle the matter outside court.⁸⁰ A legal practitioner with the police prosecution unit also observed that:

Victims and their families’ perception or understanding of the seriousness of the crime and the legal process is very important in getting the cases prosecuted...for example, where family members take the act as a private matter that should not come to the public domain, they may withdraw from the process and not cooperate with police.

DOVVSU was created with a mandate to offer justice to victims of domestic violence. Consequently, the situation where cases that are reported to DOVVSU are later withdrawn or settled out of court is not only illegal but worrisome so far as the welfare of victims is concerned, and counter to the court edict. One cannot also forget the “give it to God” syndrome. Some Ghanaians have an attitude of spiritualizing everything including crime. They believe God is the final arbiter in all human affairs and He will one day punish those who do evil. Thus, they are willing to let go any potential litigation even when the law is on their side.

Another reason highlighted for lack of prosecution, lack of cooperation and withdrawal of cases is that most rape and defilement victims are from a very poor background. The majority of the victims are from deprived families and thus cannot afford or bear the financial cost that goes with legal processes. The Act did envisage this economic challenge and made adequate provisions to ameliorate it. Specifically, the Domestic Violence Act provides that victims of domestic violence are entitled to free medical treatment from the State.⁸¹ The Act further provides that in case of emergency or a life-threatening situation, a victim of domestic violence may receive free medical treatment pending a complaint to the police and the issuance of a report.⁸² Nonetheless,

⁷⁹ *ibid.*

⁸⁰ A E Bortei-Doku and A Kuenyehia “Violence against women in Ghana” In: Carrol, H.D.R. & Ofori-Atta N.A. “Violence against women in the Gambia”. In: Kuenyehia, A (ed.) *Women & law in West Africa: Situational Analysis of Some Key Issues Affecting Women (WaLWA, 1998)* 250- 271.

⁸¹ Domestic Violence Act, s 8(3).

⁸² Domestic Violence Act, s 8(4).

currently in Ghana, victims of rape and defilement have to pay between 300-800 GHS (\$45 - \$160) depending on the exchange rate) in order to undergo a medical examination and get a report in order for police to do the necessary investigation.⁸³ This is corroborated by Effia Tenge, Deputy Superintendent of Police and Head - Public Affairs Unit/Accra region. She said:

In fact, the medical examination is not free. You are to be examined by a public health worker. The prices range between GHC300 and GHC800. This has been one of the banes of the police. When people go and they cannot afford the medical examination they do not come back to the police.⁸⁴

The major underlying reason for the victims' inability to secure and get rape and defilement cases prosecuted in court is pecuniary in nature. In Ghana, the average reported monthly salary in the informal sector is GHS 150, that is, \$25 - \$30.⁸⁵ In light of this, a greater number of victims in Ghana and their families are unable to seek criminal justice due to financial constraints⁸⁶. Another way finances impede access to justice is that even in instances where there are institutions and law clinics for the victims to report to, they do not even have money for transportation to those facilities and time-to-time commuting to the police station. One can also not ignore the cost of litigation that victims and their families bear during the trial. Some cases have been pending for years in the courts. Some go to the extent of borrowing money to foot their bills. One of our respondents who was a mother of a defilement victim said when the judge announced the verdict and sentenced the suspect to a prison term she retorted "is that all!" The mother later narrated her story that:

I borrowed money to follow this case for the past six months because I thought the court will let him [the suspect] pay all the money we have spent on the case but we were not given any compensation. (Mother of a defilement victim)

⁸³ Aba Asamoah, 'Abolish medical examination fees for rape victims-Yvonne Nelson' (*The Ghana Report*, 23 June 2020) <<https://www.theghanareport.com/abolish-medical-examination-fees-for-rape-victims-yvonne-nelson/>> accessed 3 May 2021.

⁸⁴ Emmanuel Ayamga, 'How 'expensive' medical examination fees are hindering rape victims from filing police reports' (*Pulse News*, 17 June 2020) <<https://www.pulse.com.gh/news/local/how-expensive-medical-examination-fees-are-hindering-rape-victims-from-filing-police/5ebgr9w>> accessed 3 May 2021.

⁸⁵ Kwasi Gyamfi Asiedu, 'Rape victims 'denied justice' in Ghana by costly medical fees' (*Reuters*, 7 August 2020) <<https://www.reuters.com/article/us-ghana-women-sexcrimes-trfn-idUSKCN25315H>> accessed on 3 May 2021.

⁸⁶ See Yin & Seiwah on costs and delays in accessing justice.

We can excuse her ignorance of the law, but the reality is that victims expect more than a custodial sentence. This is one of the baits that is used by suspects and their families to secure settlement outside the court. The victims are normally told to opt for the financial settlement because the courts will only send the suspects to jail, and that no compensation will be paid to them. This is clearly a case for a thorough review of the law to ensure that victims receive some compensation for the cost of the litigation and the harm caused by the crime.

Ignorance of the laws on rape and defilement as well as health and reproductive rights on the part of victims and their families are also areas posing problems. Traditionally, there are ways of sanctioning such behaviours by the various tribes and ethnic groups in the country. Most of the victims do not know what the law says about rape and defilement and what is expected of them when they fall victim to such sexual offences. As a result, the victims report the cases late and as such do not benefit from medical care particularly post-sexual assault emergency contraception, a known measure to prevent unintended pregnancy.⁸⁷ In some instances, victims of rape and defilement become pregnant consequentially. Sadly, such pregnant ladies do not have adequate access to reproductive health care. A social welfare officer reports that:

Sometimes, victims report cases very late to the police and also temper with material evidence by taking a shower before the report to the police. In such situations, the forensic and DNA materials that can aid investigation is seriously compromised.

Although the government took up the issue rape/defilement with vigour, less mass education was undertaken about the steps to be taken by victims to seek redress. This scenario was also highlighted by the police as one of the major challenges to the effective prosecution of the rape and defilement cases in Ghana. Further, access to justice is impeded by gender norms, societal beliefs and physical and cultural barriers, which stigmatize women and prevent them from reporting incidences of rape.⁸⁸ All these work to further impede justice for rape and defilement victims and make null and void the good intentions of the law on domestic violence.

⁸⁷ Morhe and Morhe (n 8) 23.

⁸⁸ Committee on the Elimination of Discrimination against Women, 'Consideration of Reports Submitted by States Parties Under Article 18 of the Convention on the Elimination of all Forms of Discrimination Against Women. Combined Sixth and Seventh Periodic Reports of States Parties: Ghana' (12 June 2012) <<https://undocs.org/pdf?symbol=en/CEDAW/C/GHA/6-7>> accessed on 3 May 2021.

Recommendations

The following recommendations have been made in line with the issues raised in this paper to help ameliorate the problems encountered by rape and defilement victims in their quest for justice.

There is an urgent need for continuous public education on the law on the Domestic Violence Act and on the rationale behind mandatory early reporting and prosecution of rape/defilement cases. Early reporting and seeking adequate medical care and administration of emergency contraception have the advantage of averting unwanted pregnancies. Mandatory reporting and prosecution of cases as envisaged in the Act could be more receptive to the public if there is adequate awareness creation on the law and training programmes on the vulnerability of women/children. The target of such programmes should be all stakeholders—children, women, parents, educationists, community opinion leaders, queen mothers, chiefs, and the officials of DOWVSU. The media should also take a keen interest in the awareness creation and offer wide publicity to such cases so as to offer general deterrence to the public.

In addition, it is important that where circumstances necessitate settlement, there needs to be documentation of such settlement processes. Further, such processes ought to be made under the auspices of the court and a properly supervised Alternative Dispute Resolution mechanism. This will ensure that in the event the offender breaches any of the terms of the settlement, the victim or her parents can go to court to enforce the agreement. The law should be made more explicit on the conditions under which cases can be settled outside the courts and the processes parties must observe or follow. This will reduce the wide exercise of discretionary powers and eliminate potential abuses, biases and discrimination in the process.

There is also the need to remove all impediments to justice to ensure that the victims of rape and defilement have access to it. Such barriers include the payment of medical examination fees by victims and legal representation. The law ought to make provision for health facilities to have special units and doctors to attend to victims of rape and defilement without the victims paying for it. It can be modelled on the free ante-natal care that is provided to pregnant women. This will definitely ensure that victims who are poor do not renege on their responsibility to assist with the prosecution on the account of their inability to pay for their medical examination and other charges.

In addition to the above institutional support, victims need to be offered formal support systems such as providing food, shelter and clothing. Non-governmental organizations such as the Crisis Response Centre of the Ark Foundation and the WISE Wellness Centre

provide examples of such needed services.⁸⁹ Such services are needed to provide security and support to the victims and also to ameliorate the suffering they experience as result of the crime.

There is also the need for further research to find out the parents and victims' perspectives on withdrawal of cases for settlement out of court despite mandatory prosecution as demanded by law. Especially, a detailed study on the socio-cultural factors hindering the full implementation of the Act will go a long way to unravel the cultural undercurrents for the lack of cooperation with police to prosecute cases and the practice of withdrawal of cases from the justice institutions. Such a study will help towards strategizing for reform in order to make the law more enforceable.

Finally, the socio-psychological and mental health needs of the victims must be catered for. In addressing such a need, victims must get access to psychologists. Victims of rape and defilement go through psychological problems such as fear, depression, lowered self-esteem, depression, shame and guilt. DOWVSU should have psychologists attached to their unit to assist victims to go through the trauma they experience. Psychologists will play an instrumental role in helping victims with such psychological needs. The psychologists will also give them the needed encouragement that they need in allowing the law to take its full course, thus making the victims and their families feel at home and discourage the tendency to take cases out of court.

Conclusion

By all indications, the felonious nature of rape and defilements cases require that suspects are given custodial sentences upon conviction. However, the reality from the data presented is that most of the suspects go scot-free by exploiting the poor social-economic conditions of the victims. This has made the settlement out of court more of the norm in dealing with these cases instead of an exception. The current situation of lack of prosecution/conviction and the withdrawal of cases for settlement outside the courts are good grounds for a thorough review of the law on rape and defilement and the treatment options available to victims to inculcate some compensatory elements in the act to forestall suspects taking advantage of the law. Aside from the state taking over the medical bills of the victims, it may not be out of the norm for government to

⁸⁹ Margaret Ivy Amoakohene, 'Violence against women in Ghana: a look at women's perceptions and review of policy and social responses' (2004) 59 *Social Science & Medicine* 2373-2385.

begin to look at what victims of rape and defilement really want. Restitution may sound obtuse, but a critical analysis of the status quo shows that the poor economic background of the victims makes it easy for the suspects to lure them with money to accept an out-of-court settlement. Government taking care of all medical bills of the victims and giving them some financial support will help assuage their worries to ensure that they cooperate with the police to prosecute the cases. Compensating the victims based on the magnitude of harm suffered or sustained may also ensure that after prosecution, care will continue. Thus, incorporating some civil justice components in the administration of rape and defilement cases will go a long way to ensure that victims do cooperate with the prosecution to secure conviction from the courts. More importantly, the current condition smacks of the economic exploitation of the victims because the perpetrators know very well that with financial power or money, they can commit the crime and not get punished. Virtually, apart from exploiting the gender vulnerability of the women and children sexually, their lower socio-economic status is again taken advantage of by the perpetrators—double jeopardy. This is a micro reflection of women's subordinate position and lack of economic empowerment which compels them to depend on men for economic support and care. While economic empowerment seems to be the obvious panacea, a more comprehensive socio-cultural empowerment of women in Ghanaian society will be the long term and lasting solution to this menace.

References

- Akosua AA, 'Collective activism: The Domestic Violence Bill becoming Law in Ghana' (2008) 7 *African and Asian Studies* 395.
- Alan G and Jerker E, *Mobilising Men in Practice: Challenging sexual and gender-based violence in institutional settings* (University of Sussex, Brighton: Institute of Development Studies 2012)
- Ann LC, Keith ED, Ileana A, et al. 'Physical and mental health effects of intimate partner violence for men and women' (2002) 23 *American Journal of Preventive Medicine* 260.
- Aryeetey EB and Kuenyehia A, 'Violence against women in Ghana' In HDR Carrol & N.A Ofori-Atta 'Violence against women in the Gambia' In A Kuenyehia (ed) *Women & Law in West Africa, situational analysis of some key issues affecting women* (Legon, Ghana: Women and Law in West Africa, 1998) 250.
- Charlotte W and Cathy Z, 'Violence against Women: Global Scope and Magnitude' (2002) 358, *The Lancet* 1232.

- Connerton KC, 'The resurgence of the marital rape exemptions: the victimization of teens by their statutory rapists' (1997) 61 *Albany Law Review* 237.
- Daniel M and Ngoh F, 'Reconciliation and/or mediation settlements in cases of sexual abuse of minors in Cameroon' (1999) 59 *Med Trop (Mars)* 161
- Government of Ghana, Consideration of Reports Submitted by States Parties Under Article 18 of the Convention on the Elimination of all Forms of Discrimination Against Women. Combined Sixth and Seventh Periodic Reports of States Parties: Ghana (CEDAW/C/GHA/6-7/ 14 June 2012).
- Institute of Development Studies, Ghana Statistical Services and Associates, Domestic Violence in Ghana: Incidence, Attitudes, Determinants and Consequences (Brighton: IDS 2016)
- Isaac D and Africanus LD, 'Domestic Violence against Women in Ghana: An Exploratory Study in Upper West Region, Ghana' (2014) 4 *International Journal of Humanities and Social Science* 228.
- Jacquelyn CC, 'Health consequences of intimate partner violence' (2002) 359 *Lancet* 1331.
- Karla M, Theo V, Odette C, Michael M, Siphon M, Olola O, Verity M, Simukai D, Thembeni M, and Flora S, 'Child Rape in Matabeleland, Zimbabwe' (1995) 41 *Social Science and Medicine* 1693.
- Kathy C and Takyiwaa M, "the Architecture of Violence against Women in Ghana" (Accra: Gender Studies and Human Rights Documentation Centre 2009).
- Laura W, 'Mandatory family mediation and domestic violence' (2002) 26 *Southern Illinois University Law Journal* 559.
- Margaret IA, 'Violence against women in Ghana: a look at women's perceptions and review of policy and social responses' (2004) 59 *Social Science & Medicine* 2373.
- Michelle SP, Easmon O, Ellis O, Ank de J and Charles A, 'Physical violence during pregnancy and pregnancy outcomes in Ghana' (2014) 14 *BMC Pregnancy and Childbirth* 71.
- Nancy KS, 'Permission for Domestic Violence: Marital Rape in Ghanaian Marriages' (2008) 29 *Women's Rights Law Reporter* 63.

- OECD, Tackling the Root Causes of Gender Inequality: '2014 edition of the Social Institutions and Gender Index' (Oslo: OECD Development Centre 2014).
- Renee M and Emmanuel Morhe, 'The Law on Defilement in Ghana and Challenges in its Implementation at the Ejisu-Juabeng Domestic Violence and Victims Support Unit of the Ghana Police Service' (2013) 16 Journal of Law, Policy and Globalization.
- Renee M, 'Access to justice and informal courts' (VDM Verlag Dr. Muller 2011).
- WHO, Multi-Country Study on Women's Health and Domestic Violence (Kenya: Centre for Disease Control and Prevention 2005).
- Yin ET and Seiwoh BM, Costs and Delays in Accessing Justice: A Comparative Analysis of Ghana and Sierra Leone, in Yin ET and Kofie NF (eds), *Advancing Civil Justice Reform and Conflict Resolution in Africa and Asia: Comparative Analyses and Case Studies* (New York: IGI Global, 2021, 112-139).
- Yin ET, Korankye-Sakyi FK and Atupare PA, Prisoners' Access to Justice: Family Support, Prison Legal Education, and Court Proceedings, (2021) 14(4) Journal of Politics and Law, 113-125.

Convention

Convention on the Right of the Child (CRC).

Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

Declaration Against all Forms of Violence Against Women (DEVAW)

Legislation

Alternative Dispute Resolution Act, 2010 (Act 798)

Criminal Offences Act, 1960 (Act 29)

Criminal Code (Amendment) Act, 1998, (Act 554).

Criminal and Other Offences (Procedure) Act, 1960 (Act 30)

Domestic Violence Act No. 732 of 2007.

Domestic Violence Regulation, 2016 (LI 2237).

Juvenile Justice Act, 2003 (Act 653)

Case law

Agbemenya v The State [1964] GLR 663.

Asante v Republic (J3/7/2013) [2017] GHASC 3 (26 January 2017).

Banousin v Republic [2015] 1 G.N.S.C.L.R 439 S.C.

Republic v Yeboah [1968] GLR 248.

R v Mason (1968) 53 Cr App Rep 12.