

**VIOLATION OF WOMEN AND CHILDREN'S RIGHTS AS A
RESULT OF DOMESTIC VIOLENCE IN UGANDA
A CASE STUDY OF MARACHA DISTRICT**

BY

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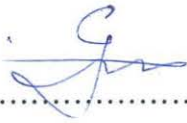
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REQUIREMENTS FOR THE A WARD OF DIPLOMA OF LAWS
AT KAMPALA INTERNATIONAL UNIVERSITY**

OCTOBER, 2014

DECLARATION

I **JURUA BORNBAD ALEX** do hereby declare that this piece of work is my original and has not been submitted in away to any institution for any academic award.

Signature.......... Date.....22nd October 2014.....

APPROVAL

This report is submitted with the approval of my supervisor

Signed  Date 22/10/2014

MR. ABILA GERALD

DEDICATION

I dedicate this book to my family most importantly to my wife Molly Jurua, children and my best friends in Jesus Christ whose guidance and providence enabled me to accomplish this report, and to all those who had appositive influence in my life.

ACKNOWLEDGMENT

I am deeply indebted to my supervisor, Counsel Gerald Abila School of Law, Kampala International University, who guided me in the process of the study.

In a special way, I wish to thank the selected respondents who provided me with the information during the period of my data collection. May the Almighty bless you all abundantly.

Lastly, I would like to thank all my family members for moral assistance that they rendered to me in the compilation of this report.

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LIST OF ABBREVIATIONS AND ACRONYMS

FHRI.	Foundation of Human Rights Initiative
VAW.	Violence Against Women
DV.	Domestic Violence
DVA.	Domestic Violence Act
ACTV.	African Centre for Tortured Victims
RRU.	Rapid Response Unit
NGO.	Non Governmental Organization
WHO.	World Health Organization
CEDOVIP.	Center for Domestic Violence Prevention
UDHS.	Uganda Demographic Health Survey
HIV.	Human Immune Virus
CID.	Criminal Investigation Department
AIDS.	Acquired Immune Deficiency Syndrome
UN.	United Nations
GBV.	Gender Based Violence
CAT.	United Nations convention against Torture and other cruel or in human or degrading treatment or punishment.
DPP.	Director of public prosecutions
UHCR.	Uganda Human Rights Commission
ACRWC.	African charter on the rights and welfare of the child.
VCCU.	Violent Crime Crack Unit (currently named RRU)
CFPU.	Child and Family Protection Unit

LIST OF NATIONAL AND INTERNATIONAL INSTRUMENTS

The Constitution of Uganda, 1995
The Police Act, Cap.303 Laws of Uganda
The Penal Code Act, Cap.120
Domestic Violence Act 2010
The United Nations Minimum Standard Rules.
The Universal Declaration of Human Rights
The International Covenant on Civil and Political Rights
The United Nations Rules for the protection of Juvenile Deprived of Liberty
The United Nations covenant against Torture and other cruel, in human or degrading treatment or punishment.
The African Charter on Human and Peoples Rights.
The Robben Island Guidelines
The African Charter on the Rights and Welfare of the Child
The Children's Act Cap..... Laws of Uganda

CHAPTER ONE: INTRODUCTION

1.1. Background to the study

Domestic violence (DV) has been acknowledged at international, regional, national, community and household levels as public, social, economic as well as political danger with adverse effects on women and children's rights. The need for effective protection of human rights including the Rights of women and children at international, regional and national level has been increasingly recognized particularly since creation of the United Nations and adoption of the Universal Declaration of Human Rights with a number of instruments that provide legal redress for the victims of all forms of domestic violence .

Human rights are the rights that every one has by the virtue of their humanity¹. They are intrinsic and are to protect, preserve and promote the intrinsic value inherent in human nature. They are universal for every human being and are not gifts or privileges and can not be denied or forfeited therefore, are inherent and inalienable to every human being².

Uganda Demographic and Health Survey report 2011³, puts more than two thirds of Ugandan women experiencing violence from their partners creating anxiety among them resulting into many of their children denied rights to education, play, good medical care, basic needs and so on especially in rural areas where such cases of abuse are rarely reported to local authorities including local council one, police and judiciary.

¹R.J.Vincent, human Rights and international Relations Cambridge, Cambridge University press, the royal institute of international affairs 1986, and Pg.13

²African Commission on Human and peoples Rights, Paris, 1997, Pg35

³ The Uganda Demographic Health Survey 2011

Domestic violence has a negative impact on production and prosperity, fuels the HIV epidemic and reduces economic development of each Nation⁴. Despite the amendment of the Penal Code Act⁵ and the coming into force of the Domestic Violence Act 2010, women and children still experience physical and sexual violence every year. Yet, defilement also remains the leading sex related crime reported in the country with a total of 7,690 cases in 2012 compared to 7,564 in 2013⁶. However, there has been no study to assess the impact of domestic violence on the children rights of the spouses who suffer from domestic violence especially in rural areas where the vice is common.

Amanipi parish is one of the parishes in Maracha district that registered most cases of domestic violence with 30% of the cases reported at the child and family protection unit (CFPU), 2013 and defilement cases are on increase in this parish among the teenagers. Therefore, it was from this back ground that the researcher wanted to find out impact of domestic violence on women and children's Rights from these rural areas.

⁴The UN Secretary General Report on Violence against Women, 2007

⁵The Penal code Act, cap.120, Laws of Uganda, pg76

⁶Uganda Police Crime Report, 2011

1.2. Problem statement

Although the Uganda government has put policies in place in response to prevention of domestic violence, implementation of DVA remains minimal especially in rural areas and there is a very long way to go to raise awareness and change attitudes where it is unheard of in most communities in Uganda to report a husband to the police over domestic violence issues let alone for the courts to issue and enforce restraining orders, particularly in Rural areas where property generally belongs to men and is usually located within his family compound⁷. Violence against women and young girls has far reached implications to the individuals, communities, the national economy and the quality of life of the population.

Despite the fact that female judges in Uganda expressed concern over the increase in gender-based domestic violence and abuse in the country, The President of the National Association of Women Judges-Uganda (NAWJU), attributes this in part to the fact that the law on the subject, the Domestic Violence Act, No. 17 of 2010, approved on Mar. 17, 2010 is not widely known among legal professionals, law enforcement officials, and victims. Amoko noted that some judges and magistrates do not even have copies of the Act⁸. In addition to the problem of lack of awareness of the Law, there is the problem of apathy; some judges and magistrates are uninterested in enforcing the Law because they see gender-based abuse as a women's issue, added Amoko. Some civil society organizations have put the blame for the persistently high numbers of domestic violence crimes on the failure of the government to adequately fund the Act's implementation⁹.

⁷Margaret Mutonyi, Deputy Registrar of the High Court for Family Affairs in Kampala,

⁸Stella Arach Amoko, "Domestic Violence Cases Soars" in the new vision 18th June; 2013

⁹Stella Arach Amoko "Uganda: Survey – More Women Think Domestic Violence Is Justified", new vision 16th Mar; 2013

1.3. Purpose of the study

To assess the impact of violation of Rights of women and children as a result of domestic violence.

1.4. Objectives of the study

To establish the rights of women and children violated as result of domestic violence

To establish whether the victims of the domestic violence get access to judicial services

To suggest recommendations for addressing domestic violence in the country

1.5. The research hypothesis

Torture of women and children as a result of domestic violence contributes to violation of their rights.

Lack of awareness of domestic violence leads to more violation of women and children's rights.

Government's reluctance on the enforcement of the domestic violence act 2010 promotes human rights violation in homes.

1.6. The significance of the study

The rights of children and women have been abused a lot in homes and I believe its time they deserve recognition and protection .This study was conducted to establish the forms and causes of domestic violence and its impact on the rights of women and children. For as long as violence exists in homes, human rights and domestic violence act of 2010 will always be a myth. Respect for constitutionally guaranteed rights shall go along way in establishing a culture of constitutionalism and rule of law. I believe these can only be made practical if the problem of domestic violence is tackled from its roots.

The significance of this research is to show the importance and value of human rights protection to everyone especially the disadvantaged such as women and children. Through this research I wish to encourage every one to take part in fight against domestic violence. The research

findings will be important to the implementers of Domestic Violence Act of 2010 in addressing the challenges regarding the needs and problems of the victims.

1.7. Scope of the study

This study covers how the rights of women and children for example right against torture, inhuman treatment or punishment, right to education, right to fair hearing, right to justice accorded by the constitution and domestic violation act 2010 and other international conventions and charters are being violated. The case study being Child care and family protection unit Uganda police, Maracha district. Where majority of the women reported the violence cases experienced in homes to police. Another segment of the survey was carried out in the seven villages of Gbongo, Njai, Kimikimiri, Okuyo, Ekarikofe, Yokolemada and Orani. The focus was put critically on identifying the homes and number of Women and children who have suffered as a result of domestic violence.

1.8. Limitations to the study

Time factor. Being a student at the same time government employee made it impossible to get an ample time to concentrate on the research. This limited the beauty of my study.

Financial constraints. There were numerous costs involved in the research study which included among others transport costs, food and secretarial costs all shouldered by the researcher.

Restriction of information. Libraries with relevant information such as Law Development Centre and high court are restricted to public especially students therefore I was unable to access relevant information for this study from these resourceful centers.

Inadequate research knowledge and skills. Having being taught research methods, it was not enough for me to gain a lot of expertise in research skills, therefore limiting my progress in the study.

There were incidences where respondents could not provide information where the perpetrators were around. Despite the above challenges faced; caution was taken to ensure that results of the research are not impaired.

1.9. Definitions of operational terms and abbreviations

Penal Code Act: This refers to the criminal book (Act of Parliament) that prescribes offences and its punishments.

Policy Implantation-This refers to process of translating policy frame work into **workable activities**

Challenges:- refer to constraints that hinder the execution of planned activities

Constitution: defines as the body of doctrines and practices that form the fundamental organizing principle of political state¹⁰

Torture: According to the convention against torture and other cruel, inhuman or degrading treatment or punishment, torture means an act by which severe pain or suffering, whether physical or mental is intentionally inflicted in a person for such purposes as obtaining from him or third person information or a confession, punishing him or her for an act he or she has committed¹¹

Violence: This refers to physical, psychological inhuman or degrading act against a person

¹⁰New Encyclopedia Britanica, vol.3

¹¹convention against torture and other cruel, inhuman or degrading treatment or punishment (CAT),article 1.Uganda ratified the CAT in 1986

CHAPTER TWO: LITERATURE REVIEW

2.1. Introduction

Domestic violence is a complex and serious crime in Uganda. According to New Vision news paper (June 18, 2013), 72 people were killed as a result of domestic violence between January and April 2013 while 2,461 victims and 1,339 cases of domestic violence were reported by April as opposed to 9,278 victims and 2,793 cases in 2012. In the study conducted by the Uganda Law Reform Commission (2006), it was established that domestic violence frequently occurs in homes in Uganda. Findings indicate that 66% of the 3,623 respondents interviewed said that domestic violence happens in their homes. Of those who reported that domestic violence happens in their homes, 78% were from Northern Uganda, 68% Eastern Uganda, 52% Central, 51% Western and Kampala had the lowest with 41%.

Furthermore, Human Rights Watch puts domestic violence as a global phenomenon and one of the leading causes of female injuries in almost every country in the world. For many women in Uganda, domestic violence is not an isolated issue, but forms part of the context of their lives. According to CEDOVIP report on the Economic cost of Domestic violence (2012), every year; Uganda spends sh77b; individuals spend sh21b while Police, health care workers and courts of laws spend sh56b to address domestic violence. Domestic violence hurts women, children, men and families by creating a culture of fear and mistrust that leads to lack of intimacy and safety within intimate relationships. In Uganda, teenagers make up 25% of the country's population and of these 25% are pregnant or have had a child before 19 years (UDHS 2011), ranking Uganda with the highest rates of teenage pregnancies in Sub-Saharan Africa suggesting unmistakable link between teenage pregnancies, domestic violence and HIV/AIDS. Because of the problem, it requires collective responsibility by different stake holders to effectively prevent it for the benefit of all people but most specifically women and children who most experience domestic violence.

2.2. Forms of domestic violence in Uganda

Domestic Violence Act of 2010, recognizes domestic violence in all its forms (physical, economic, emotional, Sexual and psychological) which are explained below with some examples.

Physical violence: This includes but is not limited to beating, hitting, slapping, burning or strangulation of a person.

Economic violence:-Includes but not limited to not allowing a person to work, taking all her/his earnings or not allowing her to participate in financial decision making.

Emotional violence:-this includes but is not limited to threatening, intimidating, shouting, isolating or humiliating a person.

Sexual violence:-these include forced sex (rape), refusal to practice safe sex or forcing a person to do sexual acts against her will.

Domestic violence negatively affects every one in an abusive relationship including women, men and children. While some men experience domestic violence, its most often women and children who are the victims of domestic violence.

2.3. Causes of domestic violence in Uganda

In Uganda, the greatest percentage of the population live in rural areas where traditional and cultural norms are highly observed and some of the causes are linked to cultural practices such as, some people believe if a woman does not consent to sexual intercourse with her partner then he may use force to extract consent. This is a major cause of the spread of HIV. Other reasons deemed acceptable for abuse in some traditional cultural views include child neglect and going out without permission. Due to these cultural beliefs, many police officers even believe that it is a man's right to use violence against his wife. Therefore, even when women do report domestic violence, often, it is not investigated.

One of the causes is misuse of ICT. There are a variety of ICTs today; this era can be termed as the "Information age". These ICTs range from Automated Teller Machines (ATM), computers, mobile phones, Radios and public address systems. Most users of these various ICTs do not usually follow the instructions that come along with the specific application of the tools. They

take the rules and guidelines for granted. A case in point is the ATM card, this is mainly issued by banks to their clients to carry out activities with the bank, which include; cash withdrawals, deposits, and account balance enquires among others. When given an ATM, it is accompanied by a PIN code which must only be known to that account holder. However, most people abuse that condition by sharing the confidential information of the PIN code and sending friends/colleagues or spouses to carry out the bank transactions. This results into suspicion, theft and mistrust which lay ground for violence.

The misuse of mobile phones is another source of violence; the Short message Service (SMS) has caused a lot of violence in homes, it has resulted into broken marriages as result of receiving erotic messages from admirers, extra-marital partners and envious people. An example of this in Uganda is a former Honorable Member of Parliament for Arua Municipality, Godi who is accused of murdering his wife, Rehema Nasur, on December 3, 2008 on Kayunga Road in Mukono district. He reportedly shot her twice using his pistol. Godi complained of having read text messages in his wife's phone from her lover and the wife had also reported that Godi had on several occasions threatened to kill her through SMS. (**The New Vision Monday, June 11, 2009**).

2.4. Effect of domestic violence on the Women

Despite the introduction of the Domestic Violence Act in Uganda in March 2010, which aims to protect people against domestic violence, it is still a very common occurrence that is rarely reported to the authorities. There are many reasons for this, including lack of knowledge about rights to protection, lack of knowledge about support networks available, poverty, and the common belief that domestic violence is acceptable leading to early marriages among teenage girls, increased crime rate, high school dropout.

Human rights Watch, LaShawn R. Jefferson says that the failure by Ugandan government to address domestic violence is costing women their lives. "Any success Uganda has experienced in its fight against HIV/AIDS will be short-lived if the government does not address this urgent problem," she says. In its 2003 report, the Human Rights Watch said that the Ugandan

government's failure to protect women from domestic violence and discrimination increases women's risk of contracting HIV.

2.5. Effect of domestic violence on Children and their Rights.

One of the most common reasons we hear from children on the streets as to why they left home is abuse, both physical and sexual. In most cases, this abuse comes from a step parent who no longer wants their partner's previous children around. It is a sad fact that children who run to the street to escape abuse, often continue to be abused whilst on the street by other children or community members. Sadly this was the case for Eddie Nsubuga who was beaten to death for a crime he did not commit. The only kind of love many of these children have been shown is in the form of abuse.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1. Introduction

This chapter explains the techniques or methods that were used for the execution of this research and it covers the methods that were employed to collect data in the field, sample selection and size as well as data analysis.

3.2. Research Design

The study involved use of descriptive survey design where both qualitative and quantitative study techniques were used. The descriptive design was suitable since the research was based on observation, and interviews of respondents. Respondents were visited at their homes and one person at a time was interviewed.

3.3. Population, Study Area and Sampling Techniques

3.3.1. Area of Study

The area of study was Amanipi parish, Yivu sub county, Maracha district. Amanipi parish is located 25 km away from Maracha town along Maracha –Yumbe road.

3.3.2. Target Population

The composition of the targeted population was children, both girls and boys; however some questionnaires were administered to the women and care takers of these children who are much affected by the violence.

3.4. Sampling Design, Selection and Size

The researcher used simple random sampling of 80 participants from household who were randomly selected from the sampling frame obtained from the parish. The villages of Gbongo, Njai, Yokolemada, Okuyo and Orani were purposively selected for the study. The purposiveness was to ensure good representative coverage of the study area.

3.5. Sources of Data

The study used both primary and secondary sources of data

3.5.1. Primary Data

Raw data was obtained by use of questionnaires .the questionnaires were composed of both open and closed ended questions.

3.5.2. Secondary Sources of Data

Data was obtained from already published materials which included journals, text books, articles, and research projects besides visiting internet. The data was gathered from various resource centers including KIU library and Police Central Station (CPS).

3.6. Methods and Instruments Used for Data Collection

The following methods and instruments for data collection were used to collect data and it included observation, administering questionnaires and interviews

3.6.1. Administering Questionnaires

Questionnaires with both open and closed ended questions were used to capture all aspects of domestic violence and its impact on children in rural areas. The researcher administered the questionnaires himself in order to avoid loss of questionnaire and problems of language barrier.

3.6.2. Interviews

Interviews were carried out with the respondents guided by the questionnaire.

3.6.3. Documentary review

The research reviewed a number of documents with related information on the data needed .these were journals, text books and other research projects

3.7. Data Analysis and Interpretation

The collected data was coded where applicable and entered into statistical package for social scientists (SPSS) for analysis which generated both frequencies and descriptive statistics. All the data involved sorting, editing and tabulation of data to reveal frequencies, percentages and chi squares.

QUESTIONNAIRE

SECTION 1: INTERVIEW INFORMATION

Date of interview (dd/mm/yyyy)	
District	
Sub county	
Parish	
Village	
Interviewers Name	

SECTION 2: PARTICIPANT AND HOUSEHOLD HEAD

House hold head's full name
Sex of household head	1=male 2= Female
Household head's marital status	1=Married ,Monogamous 2= Married, Polygamous 3= Cohabiting 4= Single 5=Widowed 6= Divorced 7=Separated
Household head's years of completed education	
Participant's(respondent) marital status	1=Married ,Monogamous 2= Married, Polygamous 3= Cohabiting 4= Single 5=Widowed 6= Divorced 7=Separated
Participant's years of completed education	
Participant's relationship to the household head	

SECTION 3: WOMEN VICTIMS OF DOMESTIC VIOLENCE

(These questions are only administered to the wives of house hold head)

QUESTIONS		RESPONSES			
		1=YE S	2=N O	3=N/ A	4=Others (Specify)
1	Has violence ever happened to you in your relationship?				
2	If yes, have you ever been seriously injured?				
3	Have you ever talked to some one about this problem?				
4	If yes, whom did you talk to?	1=In-laws 2=own relatives 3=LCs 4=police 5=others (specify).....			
5	If yes, do you feel you are in immediate danger?				
6	Was any one present when it happened (e.g. children, relatives or neighbor)?				
7	Did you tell any one when this happened? Eg relatives, in-laws, LCs, Police etc?				
8	If yes were you helped?				
9	Do you feel safe staying in this relationship?				
10	Do you have children?				
11	If yes, do they also experience violence from their father?				
12	Does the suspect have any weapons e.g. guns, knife, big stick, spear, bow and arrow etc that he uses during violence?				
13	If yes ,can you tell me the type of weapon he uses				
14	Has the suspect ever threatened you with the weapons mentioned above?				
15	If yes what did he do?				

16	Does your spouse have a history of violence with others?				
17	If yes, can you give some examples of his violence?				
18	Has your spouse prevented or stopped you from going out or associating with other people?				
19	Does your spouse drink alcohol or use any other drugs?				
20	If yes, does he become violent when he is drunk?				
21	Has your spouse ever forced you to have sex?				
22	Has your spouse ever abused the children?				
23	Is there an increase in the frequency and or severity of the violence?				
24	Would you like to see a counselor or health care provider				
25	Are you aware of the domestic violence act of 2010?				
26	If yes, in your own opinion, is this law being implemented in your area?				

27. When did you last experience violence from your spouse? Which year and month.....

28. Who initiated the violence? 1=Husband 2= Wife 3=Children 4= In-laws 5=Others (specify).....

29. What was the cause of violence?.....

30. In case your partner becomes violent again, how are you planning for your safety and the safety of your children?.....

31. In your opinion, what should be done to prevent domestic violence in your area?.....

SECTION 4: CHILD WITNESS OF DOMESTIC VIOLENCE

(Only administered to children of the above index woman)

NO	QUESTION	RESPONSES			
		1=YES	2=NO	3=N/A	others(specify)
1	Did you see any thing happening between your parents?				
2	Did either of your parents try to hurt you				
3	Was any one else with you or around when this happened?				
4	If yes who was around?	1=Brother ,sister2=,uncle 3=aunt 4=grandparent 5=others(specify)			
5	Did you call for help?				
6	Where you helped?				
7	If yes, who helped you?	1=Brother ,sister2=,uncle 3=aunt 4=grandparent 5=others(specify)			

8. Could you tell me how you were treated by your parents after the violence?

.....

SECTION 5: CHILDREN EXPERIENCING DOMESTIC VIOLENCE

(Only for children of the index woman)

NO	QUESTION	RESPONSES			
		1=YES	2=NO	3=N/A	4=Others (Specify)
9	Has violence ever happened to you before?				
10	If yes, have you ever reported to any one like LCs,uncle,aunts or any relative				
11	Is there any body else who whose that you are experiencing violence				
12	Do you have any injuries as a result of the violence				
13	If yes, are the hurting you?				
14	Do you feel safe staying g at home				
15	Is there any where else you can stay				
16	Has your parents ever forced you to get married.				
17	If yes, did you get married as a result of your parents?				
18	If no, what did you do?				
19	Are you studying at school?				
20	Has this violence affected your studies				
21	Has this violence affected your health				
22	Has this violence affect the food you eat at home				
23	In your opinion ,what should be done to prevent children suffering as a result of domestic violence in homes.				