
**THE CAPACITY OF THE LAW TO ADDRESS THE
CONSEQUENCES OF DOMESTIC VIOLENCE (‘DV’) FOR
WOMEN IN TANZANIA:
A CASE STUDY OF BUKOBA DISTRICT, TANZANIA**

**BY
BERNAZITHA TIMA**

Supervisor: Dr A. Tsanga

**A Dissertation submitted in partial fulfilment of the requirements for
a Masters in Women’s Law, Southern and Eastern African Regional
Centre for Women’s Law,
University of Zimbabwe
2010**

Abstract

This dissertation explores Tanzania's long-overdue need to pass into law specific Domestic Violence ('DV') legislation to protect the large percentage of its women who silently suffer its devastating and, sometimes, deadly consequences.

Utilising an effective combination of methodologies (e.g., the Grounded and Human Rights Approaches), guided overall by the gender-sensitive Women's Law Approach, the writer scientifically collects and analyses a convincing amount of material and relevant data on this broad topic. This data includes written evidence, such as relevant laws, court records and literature; verbal evidence from a group of women victims of DV and public servants who deal with DV cases; and observations of trials. Her research reveals that ON PAPER the current confusing and overlapping criminal and civil laws do not adequately protect DV victims or address their most urgent needs. Furthermore, IN PRACTICE, when women try to access these inadequate laws they are often victimised further by corrupt, mainly male, police officers and court officials, who collude with their fellow male perpetrators of DV to enforce them perversely against the very women they are meant to protect. As a result, the very existence of Tanzania's infamous sexist police force and legal system deter women from accessing justice, thus forcing them to choose between (1) remaining in their violent relationships and (2) leaving them to face a life of destitution and, possibly, death. Hence, DV emerges as a rampant gender-specific male crime against the female humanity of Tanzania whose real high level of incidence is hidden by a similarly gender-specific male criminal conspiracy to defeat the ends of justice. In order to help these unfortunate women, the writer suggests that, in line with its obligations to comply with regional and international HR instruments designed to protect its women's HRs, Tanzania should follow in the footsteps of other African countries (such as Zimbabwe, Malawi and South Africa) and establish specific DV legislation. It would allow victims of DV quick access to speedy and effective special remedies enforceable through special family courts managed by specially trained gender-sensitive members of staff.

DECLARATION

I, BERNAZITHA TIMA declare that this work is my original work and has not been present for any study programmed in any University or college. The ideas and views expect where expressly indicated are strictly my own and I take responsibility for them.

Signature.....

Date.....

DEDICATION

To my father Tima and My mother Caritas with love.

ACKNOWLEDGEMENTS

I would thank first and foremost, thank the almighty God, the Holy Spirit and The Lord Jesus for creation, success, protection given to me until to the end of this programme. Without them, the devil wouldn't have spared my life.

I acknowledge my deep appreciation to my supervisor Professor Julie Stewart for her supervision, encouragement, understanding, direction and patience with me when I was in a state of worry about my topic. I would not have managed to write this without her guidance and help.

I also thank to Dr. Tsanga for the deep transfer of her knowledge to me on feminist perspectives. Without her encouragement I would not have deeply understood women's lived realities under the umbrella of feminist theory.

I wish to acknowledge my appreciation to all workers of SEARCWL for their kindness and guidance given to me from the first day I arrived at women's law centre to the day I complete this programme and go back to my home country.

I wish to show my appreciation to all people who shared with me their knowledge and experience when I was doing my research. Thanks to all women who shared with me their experiences, problems they face because of domestic violence and who gave their opinions on what would be preferred to help women.

With my two hands I thank my fiancée Pastor Lambert who would kneel down before God all the time praying for my healing when I got sick, for success and protection.

I also wish to extend my heartfelt thanks to the Norwegian Ministry of Foreign Affairs for their financial support. Without their support my journey for education would have not reached this point.

NATIONAL LEGISLATION

The Penal Code Cap 16 R.E 2002 (PC)

The Criminal Procedure Act of 1985 R.E 2002 (CPA)

The Civil Procedure Code R.E 2002 (CPC)

The Law of Marriage Act of 1971 Cap 29 R.E 2002 (LMA)

INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

Universal Declaration on Human Rights (UDHR)

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

United Nations Declaration on the Elimination of Violence against Women (DEVAW)

Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa ('The African Protocol on Women's Rights')

LEGISLATION OF OTHER COUNTRIES

Zimbabwe Domestic Violence Act of 2006 Chapter 5:16

South African Domestic Violence Act No.116 of 1998

Malawi Prevention of Domestic Violence Act of 2006

ACRONYMS

DV	Domestic Violence
RB	Report Book
PF3	Police Form Number Three
LMA	Law of Marriage Act
CPA	Criminal Procedure Act
CPC	Civil Procedure Code
PC	Penal Code
WLSA	Women and Law in Southern Africa
W/O	Woman of
WLAC	Women's Legal Aid Centre
UDHR	Universal Declaration on Human Rights
CEDAW	United Nations Convention on the Elimination of All Forms of Discrimination against Women
DEVAW	United Nations Declaration on the Elimination of Violence against Women
ICCPR	International Covenant on Civil and Political Rights
PACHPRRWA	Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa ('The African Protocol on Women's Rights')

TABLE OF CONTENTS

DECLARATION	3
DEDICATION	4
ACKNOWLEDGEMENTS	5
NATIONAL LEGISLATION	6
INTERNATIONAL HUMAN RIGHTS INSTRUMENTS	6
LEGISLATION OF OTHER COUNTRIES	6
ACRONYMS	7
TABLE OF CONTENTS	8
CHAPTER ONE	10
1.0 INTRODUCTION AND BACKGROUND	10
1.0 INTRODUCTION	10
1.1 WHERE DO I GO? HOW WILL I SURVIVE?	11
1.2 BACKGROUND OF THE RESEARCH	11
1.3 STATEMENT OF THE PROBLEM	12
1.4 RESEARCH OBJECTIVES	12
1.5 RESEARCH ASSUMPTIONS	13
1.6 RESEARCH QUESTIONS	13
1.7 JUSTIFICATION FOR THE STUDY	14
1.8 DEMARCATING THE RESEARCH FIELD	15
1.9 STRUCTURE OF THE DISSERTATION	15
CHAPTER TWO	16
2.0 RESEARCH METHODOLOGY AND METHODS	16
2.1 INTRODUCTION	16
2.1 THE WOMEN'S LAW APPROACH	16
2.2 THE HUMAN RIGHTS APPROACH	17
2.3 THE LEGAL CENTRALIST APPROACH	17
2.4 THE LEGAL PLURALISM APPROACH	18
2.5 ACTORS, NORMS AND STRUCTURES	19
2.6 DATA COLLECTION METHODS	19
2.6.1 <i>Individual Interviews</i>	19
2.6.2 <i>Focus Group Discussions</i>	20
2.6.3 <i>Observation of Court Proceedings</i>	20
2.6.4 <i>Court Records</i>	21
2.7 SAMPLING	21
2.8 PROBLEMS ENCOUNTERED IN THE RESEARCH FIELD	22
2.9 CONCLUSION	23
CHAPTER THREE	24
3.0 RESEARCH FINDINGS AND ANALYSIS:	24
AN ANALYSIS OF THE CURRENT LAWS WHICH MAY BE USED TO ADDRESS DOMESTIC VIOLENCE, I.E., LEGAL PROCEDURES AND REMEDIES AND THEIR IMPACT ON WOMEN	24
3.1 PART (A): THE CRIMINAL LAW: THE PENAL CODE AND CRIMINAL PROCEDURE ACT	24
3.1.1 <i>The Legal Procedures and their Impact on Women</i>	25
3.1.2 <i>The Legal Punishments and their Impact on Women</i>	26
3.2 PART (B): THE CIVIL LAW: THE LAW OF MARRIAGE ACT ('LMA'), CAP 29 (R:E 2002)	30
3.2.1 <i>What does the Law provide?</i>	30
3.2.2 <i>The Legal Procedures and their Impact on Women</i>	32
3.2.3 <i>The Legal Remedies and their Impact on Women</i>	36
3.2.3.1 Separation	36
3.2.3.2 Divorce	36

3.2.3.4	Maintenance	38
3.2.3.5	Custody of Children	40
3.3	CONCLUSION.....	41
CHAPTER FOUR		42
4.0	FINDINGS AND ANALYSIS	42
4.1	STATE LAW, PRACTICES, ADMINISTRATIVE SYSTEMS, CUSTOMS, RELIGIOUS BELIEFS AND WOMEN'S EXPERIENCES	42
4.1.1	<i>Conflicts between State Law and how it is practised</i>	42
4.1.2	<i>Conflicts between State Law and the Administrative System</i>	45
4.1.3	<i>Conflicts between State Law, Customs and Religious Beliefs</i>	46
4.1.4	<i>State Law and the Ignorance of Police Officers dealing with Domestic Violence</i>	48
4.2	WOMEN'S USE OF REPORT BOOK (R.B.) STATEMENTS	49
4.3	CONCLUSION	50
CHAPTER FIVE		51
5.0	INTERVENTIONS TO ADDRESS DOMESTIC VIOLENCE AND ITS CONSEQUENCES.....	51
	BIBLIOGRAPHY	55

CHAPTER ONE

1.0 INTRODUCTION AND BACKGROUND

1.0 INTRODUCTION

“My husband started ignoring me and mistreating me in 2007. One day he said to me I will kill you if you don't leave this house because I'm tired of living with a woman like you. He told me I was the agent of the devil and a witch. One night he had beaten me together with one of our children with a large stick. He was claiming that the child was not his because she was a girl. In struggling to save our lives, he pushed the girl down and he started pushing his fist into my chest. He kicked me down and continued beating me until I lost consciousness. I could not raise the alarm for help because he threatened to kill me if I did so that night. During the morning our neighbours took us to the hospital for treatment. Officers at the hospital demanded the PF3 form [i.e., Police Form Number 3] before the examination. One of my neighbours went to the police to collect the PF3, but she couldn't come back early because the distance from the hospital to the police station was too far.

While we were still waiting for my neighbour to come back I heard my daughter screaming. I shouted for help. When the nurse came she found my daughter dead. Look at my legs! There are full of scars and I cannot walk for long distances on foot. Since that day my chest has been painful. I succeed in getting a divorce, but what else did I get? How will I survive? My husband is now married to another woman; but me; who will be able to marry me with these incapacities? I am just waiting for my time to die and meet my daughter wherever she is.”

This story was recounted by a woman aged 40 years from Ntoborwa Village. I met her at the Pentecostal church. She went there to seek money to buy food and for treatment. Her story shows that women's problems have various dimensions. Domestic violence (DV) and its consequences start in the home and extend way beyond it to hospitals, police stations and even courts of law. Her case is not unique and the problems related to domestic violence and obtaining remedies are common to many women.

Domestic violence has been increasing in Bukoba, in Tanzania, in its African context, as well as in the world. Domestic violence affects men, women and children's future (Bongiwe, M. et al. 2001). However women are more affected by it than men. It is a critical issue which is now recognized as a grave challenge for public health, education and development. Domestic violence violates the human rights of women (Cook, 1994). Women who are in abusive relationships cannot fully participate in

their community life. Their ability to share their energy, ideas, skills, talents and opinions with their families, fellow worshippers and within the political process is lost when their bodies and minds are consumed by domestic violence. For abused women, violence results in health problems, sadness, isolation, depression, loss of property, loss of income, and self confidence (Oyekanmi, 2000).

In families domestic violence creates an unpredictable environment. Children growing up in violent homes learn that violence and aggression are acceptable ways of expressing emotions or resolving conflicts (Oyekanmi, 2000). Domestic violence in Bukoba, as in any other region, is mainly perpetrated against women. It is an extremely complex issue resulting from various societal, economic, class, cultural, religious issues and sometimes because of the weaknesses of existing laws (WLAC, 2004). In a country where a specific law to deal with domestic violence is not available women's conditions are made even worse.

In Tanzania issues of domestic violence are dealt with under the criminal or civil law. Criminal charges in terms of the Penal Code and Criminal Procedure Act may be brought against DV offenders. Under civil law, the Law of Marriage Act applies. During my field research I discovered that women are experiencing many problems from domestic violence and therefore I chose to consult DV legislation which has been passed in Zimbabwe, Malawi and South Africa. The aim of studying these models was to see if there are some solutions in other countries that can be used in Tanzania in trying to solve problems of domestic violence. These include protection orders and other remedies that will be discussed later in the chapter on interventions.

This study was carried out to examine the capacity of existing laws in addressing the consequences of domestic violence towards women and whether the remedies they offer solve the problems suffered by women. Also this research sets out to assess whether the State complies with the requirements of various regional and international human rights instruments to which it subscribes.

1.1 WHERE DO I GO? HOW WILL I SURVIVE?

Women just like any other human beings are guided by the law. They don't live in an isolated place, but they live within the society. Therefore, I had to look at women's 'lived realities' and the various stages that women pass through. After that I looked at its impact on women, specifically at their lives as inalienable human rights. This was the starting point of my research. It helped me to start from the initial stage to the final stage when women pursue their cases relating to domestic violence. It was important to ask this question of myself: do women know where to go? How to start? And what are the final decisions for their journey as human beings who need respect protection, direction and life? That was one of the most frequently asked questions by many women during interviews conducted in this research.

1.2 BACKGROUND OF THE RESEARCH

When I joined this programme of Women's Law at the Southern and Eastern African Regional Centre for Women's Law, University of Zimbabwe (SEARCWL, UZ)

which deals with issues that affect women and their human rights, among other things, I learned about domestic violence towards women and became aware of its impact and how the State party should play its role. I have also been reading various books written about domestic violence. As I did so, my mind brought me back to my home country and the way women's issues, including domestic violence are dealt with. In these books laws applied and the remedies usually given to women were examined. I became interested in this topic and realized that there was a need to research domestic violence in Bukoba Tanzania, to look at who the victims are the actors and to whom the existing laws are beneficial.

1.3 STATEMENT OF THE PROBLEM

Tanzania like any other country is going through the problems of domestic violence. Women and children are suffering and they look to the state for assistance and for better ways to solve the problems of domestic violence for both short term solutions and for long term solutions. When the victims report problems of domestic violence, these crimes are not differentiated from any other criminal offence or civil suit. As a result the victims receive no special treatment and care even when the violence has caused great injuries. Laws related to domestic violence exist but their application and remedies still are problems for women.

Tanzania is a party to those various human rights (HR) instruments which prohibit violence against women. I wanted to find out if in reality those who suffer from domestic violence are being helped to seek justice and whether they are fairly treated.

1.4 RESEARCH OBJECTIVES

1. To assess the law in Tanzania dealing with issues of domestic violence.
2. To examine Tanzanian laws currently applicable used to address the consequences suffered by women victims of domestic violence.
3. To find out the remedies available to women under the applicable laws and assess if they address the consequences suffered by women victims of domestic violence.
4. To assess if women are aware of what constitutes domestic violence, the laws applicable and the procedures themselves, whether they enforce, or use those laws.
5. To assess whether systems dealing with domestic violence issues such as the court and the police are sensitive to women's issues and also to discover the way they treat issues of domestic violence.
6. To assess the need, if any, for legal change.

1.5 RESEARCH ASSUMPTIONS

1. Domestic violence is a phenomenon that requires specific and comprehensive legislation and administrative reform.
2. In Tanzania there is no specific law to address domestic violence and its consequences for women comprehensively.
3. Incidents that can be classified as domestic violence are dealt with in accordance with various criminal offences under the Penal Code Cap 16 and the Criminal Procedure Act. The punishments provided for in the Penal Code include a fine, imprisonment, payment of compensation and corporal punishment. However, the use of such criminal punishment does not address many of the consequences of domestic violence.
4. Civil remedies for DV may also be sought in terms of the Law of Marriage Act of 1971 R: E 2002 and related statutes. The remedies are separation, divorce, maintenance, and custody of children. However these civil remedies also fail to address many of the consequences of domestic violence.
5. The most comprehensive solution to DV under the current law requires the use of multiple criminal and civil laws; women must comply with certain procedural and administrative steps in order to utilize these existing laws; these procedural and administrative steps, however, have themselves become barriers to accessing those very laws.
6. The remedies that are currently available, even if utilized, do not meet women's needs in cases of domestic violence.
7. When women try to access the various criminal and civil laws to address the DV they suffer they experience problems in relation to cultural and religious beliefs and negative perceptions about their status and capacity in relational to matrimonial and criminal matters.
8. The cultural and religious perceptions of police officers, court officials, and other public servants also influences the course of action that women might take in relation to matters of domestic violence.
9. Although women may not know the specific provisions of the laws they are entitled to enforce against offenders of DV, some women have been able to utilize the structures of the law to create protective measures for themselves.
10. There is a need for specific legislation to deal comprehensively with domestic violence and its consequences but it should not exacerbate the already vulnerable situation in which women sufferers and their dependants find themselves.

1.6 RESEARCH QUESTIONS

1. Is there any need to have specific and comprehensive legislation to deal with domestic violence?
2. Does Tanzania have a specific law dealing with domestic violence?
- 3(a) What are the punishments available for criminal offences under the Penal Code?
- 3(b) Do they address many of the consequences of domestic violence against women?
- 3(c) Does the law work sufficiently well to address the consequences of domestic violence?
- 3(d) Does the punishment of the offender of DV meet women's needs?
- 4(a) What civil remedies against DV are available under the Law of Marriage Act?
- 4(b) Do they address the consequences of domestic violence towards women?
- 4(c) Do they meet the women's needs?
- 4(d) How do civil remedies become barriers to women utilising the existing laws?
- 5(a) Do the requirements of procedural law and the administrative system become barriers to women?
- 5(b) Does the use of multiple laws in criminal and civil suits negatively affect women?
6. Even if utilized, do the remedies meet women's needs?
7. Do women experience cultural and religious problems with regard to domestic violence?
8. Do the perceptions of police officers, Court officials and other public servants negatively affect women and make them take some other actions contrary to their interests and wishes?
9. Do women utilize the structures of the law to create protective measures even though they may not know the specific provisions of the law?
- 10(a) How far do legal and administrative reforms benefit women who suffer from domestic violence?
- 10(b) Does Tanzania need specific legislation to deal comprehensively with the consequences of domestic violence without exacerbating the already vulnerable situation of victims and their dependants find themselves?

1.7 JUSTIFICATION FOR THE STUDY

I chose this topic to investigate what is going on in Bukoba and how the existing laws address the problems of domestic violence towards women and to find out the impact of available remedies of the current laws on women in their lived realities.

1.8 DEMARCATING THE RESEARCH FIELD

The field research focused on Bukoba District and includes both urban and rural areas. The focused groups comprised women litigants, women in general including married women and those who have already separated from their DV offenders. The range of ages was between 18-45 years. The language used was 'Kihaya' because most people in Bukoba use that language as their vernacular language. Also I used Kiswahili as the national and official language. My work also focused on interviewing judicial officers, police officers, lawyers (advocates), NGOs, family leaders, clan leaders, religious leaders, Social welfare personnel, women as individuals and in groups and executive ward officers. The aim of this was to make sure that I communicated with the people and that I obtained relevant information from the target group.

1.9 STRUCTURE OF THE DISSERTATION

This dissertation comprises five chapters. Chapter one is an introductory chapter while chapter two examines the methodology approach and methods for collecting the research data. The findings of the research and their analysis are dealt within chapters three and chapter four. Interventions are dealt with under chapter five.

CHAPTER TWO

2.0 RESEARCH METHODOLOGY AND METHODS

2.1 INTRODUCTION

In gathering the information in respect of domestic violence and its impact for women with the existing laws and their remedies I used various methodological approaches and methods to collect data from the target group. I chose to start with the women's law approach within the wider context of women's human rights perspectives because this a methodology that best allows one to explore the realities of women's lives and their experience with regard to issues which affect them, including domestic violence and its impact upon their lives and those of their dependants. Since women are also influenced by various laws and norms I used the human rights approach as well as the legal centralist and legal pluralism approaches. Later in this chapter I set out the methods I used for collecting data from the target group, the category of questions I had set up and clarification to some of the answers I received. In translating the voices of the people I spoke with, I attempted to create literal translations into English that would preserve the status of the speaker and the authenticity of the situation wherever possible.

2.1 THE WOMEN'S LAW APPROACH

Women's law is a woman-centred methodology which advocates the free use of available materials and it provides an opportunity to deal with ethical, empirical and legal issues concerning the topic under investigation from a woman's perspective (Bongiwe, M. et al. 2001).

I chose to employ this approach because it describes and evaluates the law from a feminist perspective (Bentzon, et al .1998). It takes women's lived realities and experiences and the status of women in law and the society and their impact. It takes women as a starting point (Bongiwe, M. et al. 2001). To me it was the tool for examining the status of women, their experiences and the impact of the perceptions that society has of women. I interviewed women and men to get a picture of the existing laws and the role played by them in handling the cases brought by women suffering from domestic violence. It enabled me to see the remedies available to women in the law and their efficacy in solving problems of domestic violence.

I interviewed women who are victims (survivors) of domestic violence and got to know their feelings on the existing law, their experience in cases of domestic violence, their status in society and the economic differences between men and women in Bukoba. I was able to see how women access legal redress at the police station and before the court when suffering from domestic violence. I managed to have interviews with both women and men to appreciate issues of gender perspective and the way men think of women and issues relating to domestic violence.

It led me to interact with women of different status levels as well as community leaders, and get to know their experiences and opinions about issues of domestic violence as compared with 'Bahaya' culture and traditional beliefs about women in Bukoba. By using this approach I discovered that women and children are more affected by domestic violence in Bukoba as compared with men. I had a chance to find out if women know the procedure to be followed when pursuing issues of domestic violence and the barriers met by them. Using the women's law approach I discovered the difficulties encountered by women when they try to utilize the existing laws and the difficulties they have when enforcing their remedies. Also I was able to assess the extent to which women are happy with existing laws and the remedies those laws provide.

2.2 THE HUMAN RIGHTS APPROACH

Human rights are traditionally defined as individual claims against the state (Cook 1994). Human rights rules do not discriminate against anybody. They require that every citizen must enjoy his or her rights and that nobody should be treated unfairly or be subjected to torture. This approach involves an analysis of women's situations from a human rights perspective. It imposes obligations on the State party to protect women and to prohibit domestic violence or any kind of violence against women (Cook, 1994). Thus domestic law should prohibit any acts or practices that lead to domestic violence, gender-based violence or any discrimination against women. I used this approach to assess whether women are treated as equals by men in Bukoba. I employed this approach to find out whether women enjoy the same rights as men in society. If so where does domestic violence come from? If not, why does it happen and on such a large scale?

Using the human rights approach I was able to discover the extent of knowledge that women and society have about the rights of women. By employing a human rights approach I realized that there is lack of protection for women who are subjected to domestic violence. It gave me a picture of the kind of laws we have in Tanzania and whom they benefit. Using the human rights approach I managed to see the impact of Tanzania laws in dealing with domestic violence and on the rights of women. I was able to discover whether or not Tanzania, as a state party to various international human rights Conventions, complies with or violates the rules of human rights and what needs to be done against domestic violence towards women.

2.3 THE LEGAL CENTRALIST APPROACH

Legal pluralism is an analytical framework that handles the relationship between people's lives, the State's law and case law which is built upon precedent (i.e., previous similar cases). People include both men and women. So it was easy for me in my field research to employ this approach to see what is going on in the country and the legal position of women in relation to Tanzania laws related to domestic violence. It enabled me to find out if the State is serious about issues of domestic violence or whether it inadvertently contributes to the increase of such violence.

The approach made me go through the existing laws, their significance, and weaknesses. It made understand the gaps that exist in our laws and what should be done to improve women's situations. By using this approach I discovered that there is a need for changes to our existing laws and that judicial activism, if applied, could help in one way or another to reduce problems of domestic violence against women. It took me through not only the laws dealing with domestic violence but also other laws which have an impact on women's lives. The purpose was to find out how these laws assist women to exercise the legal remedies available to them. How friendly are the processes and procedures of the laws towards women? I saw how bringing some to a competent court can help to solve the problems of domestic violence or become barriers to women who could wish to utilize the existing laws. I assessed these laws carefully to see if they are accessible, affordable and useful to the women who use them.

2.4 THE LEGAL PLURALISM APPROACH

Women's problems are solved in various ways. The lives of women are affected by the plurality of norms and State laws. This approach facilitates the investigation of multiple sources of law, as it recognises the centrality of other rule-generating domains, which inform the variety of institutional fora and serve as forms of justice delivery (Doo Aphane, et al. 2000). Legal pluralism further accommodates the multiform nature of statutory law and non statutory laws. It comprises those aspects of justice and the law which are defined by and emanate from the state, as well as those which come about as the result of the everyday organic processes of human interaction (Doo Aphane, et al. 2000). Under this approach a wider range of normative orders than the formal law come into play to shape a woman's legal and social position (Bentzon, et al. 1998). Therefore I used this approach to understand how the norms and expectations which inform the position of women and gender relationships are generated in the intersection between general law, customary law and people's customs and practices. In Tanzania there is a plural system of existing laws. There are statutory laws (state laws) and non statutory laws (various norms). Sometimes women use non statutory law to solve their problems. And at the other times they use statutory law (State laws) to solve their problems. Sometimes the societies around their lives force them to use either type of law even when it is contrary to their own interests and/or wishes.

Formal laws include those State laws and received laws which are used in the courts of law. General laws include customary law. There are also customs, religious laws and the practices of the community in which women live. Through this approach I discovered that women sometimes use both. One of the police officers in Bukoba central police station during an interview revealed to me that some women report domestic problems to the police station against their husbands, but before the hearing of the case, some women end up withdrawing the case. They tend to tell the police that they will settle the matter out of court. Through these interviews I discovered that most women prefer advice and counselling for their husband. That is the reason why they withdraw their cases. Therefore it was important to me to use this approach to examine the impact of plural systems of laws for women and see if they are helpful to women who suffer from domestic violence.

The use of this approach enabled me to get the real picture about what is going for women and the contradictions that exist between these laws. It gave me a chance to get information from the actors and the women. I was able to understand the choices that women made. Their decisions and the reason why they decided to follow a course of action became clear. This approach allowed me to think beyond the State law and expand my thinking into various systems usually used by women when trying to seek justice or solve the problems of domestic violence. I managed to examine by going into the field to what extent these plural systems of law seriously take into account issues of domestic violence against women. It gave me a picture on how these systems deal with domestic violence against women, in Bukoba among the Bahaya or Wahaya tribes.

2.5 ACTORS, NORMS AND STRUCTURES

My topic was assessing the capacity of existing laws to address the consequences of domestic violence towards women. It was important to me to use the actors and structures approach because it enabled me to start out with women's experience in the process of life management and look at the actors and normative structures that impinge on their daily lives (Bentzon, et al 1998). It enabled me to interact with members of parliament the law makers in the structure of legislature and I understood what they think about the current situation of women and domestic violence. It made me understand the roles played by Judges and magistrates in court and hear their voices about domestic violence and the existing laws.

It enabled me to interact with the police officers and court clerks and examine how they influence the structures in dealing with issues of domestic violence. Lawyers NGOs were also used as actors in this research because they use the law and represent women before the court. Men and women, chiefs and religious leaders were also actors in family institutions and church institutions. I chose to employ this approach to understand the influence they have in addressing problems of domestic violence against women and their impact in women's lives especially those suffering from domestic violence. By using this approach it was easy to interact with chiefs and family members and I understood the norms prevailing in Bukoba and their impact for women in utilizing the existing law.

2.6 DATA COLLECTION METHODS

Methods are the techniques employed in gathering the desired data (Bentzon, et al.1998). In order to get the desired information in my field I used the following methods:

2.6.1 Individual Interviews

I conducted interviews of various women individuals so that I could understand the feelings of each woman and the opinions of each woman about domestic violence. This method helped me gain access to the experience of the victims of domestic violence, and the remedies that are usually awarded to her. I used this method to find out if a woman as an individual knows the existing laws dealing with domestic

violence and if she is aware of the procedures. It helped me to get information about the barriers that hinder or prevent a woman or the victims from utilizing the existing laws. It helped me to obtain even secret information from particular women because it gave them freedom to talk without fearing that other people would get to know their problems or situation. This is because domestic violence arises from people in close relationships. So it was easy for me to know what that particular woman as an individual thought, and what she does to solve her problems of domestic violence. It enabled me to get information as to whether the ways she chose were successful and helpful. If not, I could look for the reason.

2.6.2 Focus Group Discussions

For me to know to what extent domestic violence is prevalent in Bukoba and its impact on women and their experience I used a focus group.

This was conducted in various groups. Some women were economically dependent while others were not. Some were the women litigants against domestic violence, others were still living in violence and others were homeless as a result of domestic violence. The first group comprised women from Bukoba Urban areas and the second group comprised women living in the village. The ranges of their age were between eighteen to forty-five. These methods helped me to conduct interviews of groups of women at the same time. It helped me to receive data about domestic violence and how much knowledge women that have about the existing related laws, the procedures that they need to go through and the problems they meet when they were try to utilize the existing laws.

I was able to get information about their culture, customs and various practises around their lives and their impact on their rights especially when trying to deal with domestic violence problems.

Women were free to discuss and ask for any clarification. It helped me to obtain further clarification and get more details of women's experience as part of and their lived realities at the same time. This method helped me to conduct interviews with the victims in a group without their being identified as victims by others. It helped me to get direct answers and questions from groups of women. This also helped me to educate many women about their human rights and on issues of domestic violence. It enabled me to form an opinion of the attitudes of various government employees and their impact on the victims of domestic violence (survivors).

2.6.3 Observation of Court Proceedings

This method was also important to me and useful. It gave me the opportunity to observe the proceedings before the court and to assess whether the women or the victim were able to utilize the existing laws before the court. I was able to observe if the victims were conversant with the procedures, if they were comfortable and knew how to give evidence. It enabled me to find out if the victims or women were aware of their rights and the process to be followed when utilizing the existing laws.

I could observe how the trial court deals with domestic violence, treats the victims and how gender sensitive the court was.

The method allowed me to see the attitudes of the court officials towards women especially on issues of domestic violence. Through this method I observed who the existing law favours more when there are issues of domestic violence. I managed to observe the outcome of the proceedings relating to domestic violence and conduct interviews with the victims after the proceedings. It gave me a chance to meet the victims of domestic violence and talk to them to find out if they were satisfied with the remedies or not. It gave me a chance to get their opinions.

This method gave me a allowed me to conduct interviews with the victims and some of the key informants because after the proceedings it was easy to talk to them or trace them, especially those with their own office or those works in public office or those with their own business. By using this technique I was able to see the gaps in our laws, the understanding capacity of the trial court on domestic violence, how gender sensitive the courts were to women and to see if the trial court was using and observing the instruments of human rights for women.

2.6.4 Court Records

My assumption was to research the capacity of the law to address the consequences of domestic violence against women. I used this method to read the cases decided by the courts, the law relied upon them and the reasoning of the courts. It helped me to see the number of women who reported cases of domestic violence in court and who prosecuted the perpetrators. It enabled me to read the cases that were decided and the remedies that were awarded. By using this method I was able to read the cases that were withdrawn and read about the reasons for withdrawing them. I could see if the parties did not appear, or prayed to withdraw the matter and why. It also helped me to see if the records were properly kept or not. It helped me to read the reason given by the trial court for a certain decisions. Having had a chance to read the record of the court I managed to discover the reason for a particular decision of the court and the position of those still left in the hands of the perpetrators of domestic violence. I could see if the court applied the human rights instruments or not. By using this source I was able to triangulate the information that already exists in court record and compare them with my findings from the field research.

2.7 SAMPLING

In order to examine and asses fully the existing laws, the remedies, procedures and their impact on women's lived realities, I used key informants and the victims of domestic violence from both urban and rural areas. This helped me to get information from the people who usually deal with domestic violence problems in one way or another. It enabled me to get information from women who had experienced the problems of domestic violence. This group comprised people with knowledge of existing laws and knowledge of the procedures to be followed when utilizing the existing laws and solving the problems of domestic violence. This group included lawyers, magistrates, NGOs, police officers, public prosecutors, religious leaders, clan

leaders, community leaders, executive officers, victims, nurses, doctors and members of parliament. These people usually deal with various women's problems including domestic violence problems. Some of the key informants were involved in settling the dispute out of court. Others have had the experience of using the existing laws in the courts of law. It enabled me to get information on the remedies available under the existing laws, their efficacy and weaknesses and their impact on the victims of domestic violence and women's lives in general.

It enabled me to hear about their experiences, their opinions and the recommendations for the purposes of helping women to seek the remedies. They informed me about legal centralism, legal pluralism that exists in our country and its impact on the victims of domestic violence and women's lived realities. They were able to discuss with me the problems of our laws and the gaps. I became aware of the barriers that the victims face because of process and procedures that women need to go through. They were able to talk to me more about the status of women who seek assistance and those who suffer than others where domestic violence is concerned. So this method was very useful because it helped me to look at the laws with two lenses and think outside the box.

2.8 PROBLEMS ENCOUNTERED IN THE RESEARCH FIELD

During my field research I got sick and was hospitalized at Kagera Regional hospital for one week. I was then advised by the medical officer to take bed rest for another two weeks. This made me miss the interview with officers of the social welfare department with whom I had an appointment to meet before I got sick. Social welfare officers were my potential key informants because they deal with family problems including issues relating to domestic violence especially on maintenance issues. When I got healed the officer I wanted to talk to had already gone for her leave. Since there is only one office for social welfare in Bukoba and it works for Both Bukoba town and the village with only two officers. It became difficult to get in touch with them again. Also Bukoba is an equatorial area, and my visit took place during the rainy season.

To some extent it made my plan more difficult due to rain which prevented me from interviewing some people. I had to make arrangements for other times to meet some of interviewees. Also I was faced with difficulties in perusal of the Court record because some of the court files were missing. I had to use more time to go back to the court and see if the court clerk had found them. If not I had to continue searching for other files. In Tanzania there is no specific legislation to deal with domestic violence; all criminal offences are registered as criminal cases if the offence falls under it. If the committed offence falls under civil jurisdiction, then all cases were mixed up together and registered as civil suits .So it consumed much time to select and read the details to know which file and offences were related to domestic violence and what kind of relationship the parties had. Sometimes I failed to discover the relationship of the parties, especially when there were no more details in the court files. Despite these problems I faced during the field research, I managed to collect valid data from the target group which helped me to write this research.

2.9 CONCLUSION

This chapter discussed the methodologies and methods that were used in collecting data; the research sample and the problems encountered in conducting the research. The next chapter looks at the findings and analysis.

CHAPTER THREE

3.0 RESEARCH FINDINGS AND ANALYSIS: AN ANALYSIS OF THE CURRENT LAWS WHICH MAY BE USED TO ADDRESS DOMESTIC VIOLENCE, I.E., LEGAL PROCEDURES AND REMEDIES AND THEIR IMPACT ON WOMEN

When I was conducting the interview one key informant a lawyer who works as an independent advocate had this to say:

“I never came across specific legislation addressing domestic violence and its consequences. When I got clients of domestic violence I chose either to use Criminal law or the Law of Marriage Act depending on the nature of the offence”.

A woman from Ntoborwa village aged 35 years old during interview she said the following:

“During hearing of the criminal case I filed against my husband I asked the court to award me compensation. The magistrate advised me to file civil suit after she has made decision for criminal case.”

The strength of the above statement is that in order to deal with domestic violence in Tanzania, whoever is complaining needs to use multiple laws. The complainant must be in position to evaluate clearly the kinds of offence and choose the law to use among those existing laws. The complainant is required to be able to distinguish at what time she should use the civil route to address problems of domestic violence and at what time she needs to use the criminal route. The question to be asked is how many victims are in a position to apply those laws at the same time? To what extent are litigants aware of those laws? The problem also arises as to how to apply these laws. This issue impacted negatively on women who do not know all those laws and when they need to use the criminal law and civil law in dealing with the same incident. The same statement confirmed the assumption that the use of multiple laws is a barrier for women in utilizing the existing laws.

3.1 PART (A): THE CRIMINAL LAW: The Penal Code and Criminal Procedure Act

These laws apply for any criminal offences and punishment against the accused person is provided therein. Whatever complaint is made through the Penal Code it has to follow the rules in terms of the law governing criminal procedure in the courts. This is in accordance with The Criminal Procedure Act of 1985 R: E 2002 which deals with the punishments and rules against persons accused of crimes. The Penal Code does not differentiate between domestic violence offences and other forms of

offences. Therefore for an 'incident' of domestic violence to be dealt with under the Penal Code, it must constitute one of the crimes recognised by the Code. In other words, the Code lacks special provisions for the victims of domestic violence. The procedure involved requires "the complainant", i.e., the woman and victim of a DV "crime" (i.e., the complainant) to lodge a report against the offender (i.e., the accused) to a policeman at a police station and the subsequent investigation of the crime by the police and its prosecution before the courts are conducted in terms of the law which is governed to a large extent by the Penal Code.

If the accused is not arrested immediately and held in detention pending the outcome of the trial, the problem is that these laws do not provide any protection (such as a protection order) to the victims of domestic violence during this long-winded process. This means that many victims of domestic violence in Bukoba have no protection. When they report problems of domestic violence to the police station sometimes they run into further problems when they return home. Husbands sometimes threaten them and repeat the act of domestic violence because the law just provides for an offence but does not provide for any restriction against the perpetrator from continuing with domestic violence at home. Victims of domestic violence also need counselling, special handling and shelters for those who have been chased away from home by their husbands. Unfortunately the existing laws do not provide these. There is a gap between what is provided under the existing laws and what is really needed by the victims in dealing with issues of domestic violence. The victims also need the law to help them survive the consequences of domestic violence, but in reality the law has not gone far enough to address domestic violence and its consequences. All the criminal law has managed to accomplish is to make certain incidents of DV capable of being prosecuted as crimes.

I found that at Bukoba most women are homeless after being chased away by their husbands. They have no food to eat, are beaten and some of them have got permanent disabilities arising from domestic violence. Under the Penal Code a woman cannot go to the police and file a complaint against her husband on the ground that her husband has chased her out of her home and has refused to provide food for her. The impact of that gap in the law is that a woman may not be able to receive any assistance for such acts because they are not covered by the law. Another problem is that the law treats issues of domestic violence against women in the same manner that it treats normal criminal cases. I say this because domestic violence occurs between people who have close relationship or intimate relationship. They may need special handling. Laws related to domestic violence are there, but their usefulness for curbing domestic violence and for the needs of women are still problematic.

3.1.1 *The Legal Procedures and their Impact on Women*

Complainants in any criminal case or victims of domestic violence are required to report to the nearest police station and make their statement for the purpose of filing a criminal charge against the accused. Another requirement is that if a complainant has suffered grievous harm, bodily harm or any injuries that resulted from an act of the accused person, then the victim is required to have the Police Form Number Three (PF3). This is in accordance with the Police General Orders of 1967 as amended from time to time. In Bukoba most women report the problems of domestic violence after

they have suffered from severe injuries caused by their husbands at their home. That means they fall within that category of people who need to be supplied with the PF3.

During the research I interviewed a police officer who was serving as the investigation officer in charge, I asked him about the functions of PF3. He told me that it helps the victim adduce evidence before the court on the nature and extent of injuries suffered by her as a result of the DV assault. This offers proof that the accused person really needs to be punished for what he did. Also he said that it proved to the doctors or nurses that the person injured is the victim and not the accused. It clarifies for the doctors or nurses that the patient is not a criminal who may want to get treatment and escape the law after treatment because the police want the criminals to face criminal charges and be punished for their acts.

The field research revealed that in Bukoba if the case involves issues of grievous harm and bodily injuries, the complainant would not be allowed to file a criminal charge of bodily injuries and grievous harm without having the PF3. It was also revealed that most victims of domestic violence especially those who suffer injuries, found it difficult to apply and it became a barrier to being treated and examined by the doctors and nurses. The question is how effective it is in practice and in women's lived realities. How does it work? Is it helping the complainant to utilise the criminal law? Does it become a barrier to women or not?

These questions will be discussed further under chapter four dealing with conflicts between the law and administrative, law and practices, and women's experience. The police are supposed to arrest the accused or the perpetrators. According to the procedures under the criminal law the person who is around at the time when the act is being committed can arrest the accused, but not all offenders can be arrested without a warrant. So the complainant will still need go to the police to ask for a warrant of arrest if the offence committed needs a warrant of arrest. In other words the requirement of arrest by the police still prevails.

3.1.2 *The Legal Punishments and their Impact on Women*

In discussing this party I chose women because they are the most vulnerable group involved in domestic violence not only in Bukoba but in the world. In Bukoba women are suffering from severe injuries. They are beaten by their partners or husbands. Some of these women lose their property because of domestic violence. Others were forced to leave the house they built together with their husbands and became homeless. Sometimes women have to become squatters on others' farms. Their children have to leave schools either for lack of school's fees or as a way to taking care of their mothers and helping them in small businesses if possible. Some women have become incapable of working in their offices. Others cannot carry out their own businesses when injuries inflicted by the perpetrators cause permanent incapacities to their bodies. In short most women, in one way or another, are suffering from domestic violence. Some women were complaining to me that their husband does not bring food home. When he buys, for example, sugar or meat, they count the days it will last, but it is only to be eaten by the husband. If it finishes before the predicted date, the woman and the children are in trouble. Women are suffering from torture, beating, mistreatment, economic abuse, and have become refugees in their own country

because of domestic violence. Generally women experience serious problems caused by domestic violence.

Under the Penal Code and the Criminal Procedure Act, punishments for criminal offences under Section 25 of the Penal Code include payment of a fine, imprisonment, corporal punishment and payment of compensation depending on the nature of offence committed by the accused. Sentence for all criminal offences is provided for under the first schedule of the Criminal Procedure Act. Offences like intimidation (section 89B), common nuisance (section 170), assault causing bodily harm (section 241), common assault (section 240), abusive language and threatening violence (section 89), grievous bodily harm (section 225) and wounding (section 228) are dealt under criminal law. These offences are not directly classified as domestic violence in existing laws but the same can apply to both people who are not related or to those who are in an intimate relationship. This means that they can apply for the matter to be considered as domestic violence.

The problem is that the above offences that can also be classified as domestic violence are only punishable with imprisonment in terms of the first schedule of the Criminal Procedure Act of 1985 R: E 2002. That means victims of domestic violence will be left with no other alternative remedy and this adds further problems. Most victims of domestic violence do not see imprisonment as first solution for domestic violence. They say that imprisonment has to be the last resort after all other alternatives have failed. I found that imprisonment in Bukoba usually ends the marriage between a husband and a wife. In Bukoba once a woman files a criminal case against the husband, it will be the end of their marriage. Relatives for the husband become very angry with a woman who files a complaint and compel her to leave the house. For a woman to file a criminal case against the husband is like removing the husband's clothes in public and leaves him naked. Women like to protect their marriage so they do not want it be reported and they say that the punishment that follows' does not help them to solve the consequences suffered from domestic violence. Instead it brings additional problems.

Payment of a fine even if it was going to apply to issues of domestic violence brings no relief because a fine usually goes into the government's pocket. Though some women were proposing corporal punishment as a lesson to the perpetrators it still does not address fully the consequences suffered by the victim of domestic violence.

The existing law does not focus on the consequences suffered by the victims and on the victim's survival. It leaves the victim in more difficulties. The question they would ask me many times was, **'Where do I go? How will I survive?'** A litigant woman who was running a small business and who had experienced domestic violence and its consequences had experienced the same situation and had this to say:

'When I got married I had my own cattle received from my mother before she died. It used to help me sell milk and get money for other business. My husband without my consultation sold all of them. I had about 20 cattle. When I discovered this I asked him to give me at least half money to do other business and get my needs. He got angry with me and told me that I will see and know what a man means. After 2 days he came back home during the night while

drunk. I was sleeping. He woke up me to serve him food. When I brought food for him, he told me that it was another man gave me money to buy food. He took a large stick (Rungu in Swahili) and beat me with it on the whole body. He pushed me down, covered my mouth and started pulling it in my left ear to make it hear properly as he claimed that may be I had ear problems. He also pushed it on my upper teeth and removed the two upper teeth. I started bleeding and lost consciousness. The next day he travelled. My neighbours took me to the hospital for treatment. Up to present one ear do not work properly. It is painful and itching especially during a cold weather and during the rainy. I can't hear properly. I can not carry anything heavy. I filed a criminal charge against him. He was convicted and sentenced to serve one year imprisonment in jail. But me what did I get. I' am starving and homeless. I'm just waiting to die like this.”

The way that women suffer and continue suffering despite the remedies the Court gave, confirmed my assumption that the remedies under the Penal Code do not address the consequences suffered by the victims. It leaves the victim at the cross roads and helpless. The statement by that woman also show the weaknesses under the existing law which create more problems than they solve. This is because it does not take into account the consequences of domestic violence. Again the above statement strengthens the assumption that domestic violence is a phenomenon that requires specific and comprehensive legislation. It is because domestic violence has a greater negative impact on women's lives and, therefore, the issue should not be left unresolved.

The way the existing laws treat victims of domestic violence and the way it addresses the consequences they suffer is like fighting the spread of a disease while ignoring the patients dying in their beds. If the sentence of a fine is ordered it is the government, not the DV victims that benefits. Corporal punishment may be a sound lesson to the perpetrators, but on its own it does not solve the consequences suffered by the victims of domestic violence and their dependants. The law does not take into consideration the consequences suffered by women from domestic violence and affords no proper remedies that are provided for women's well being. In other words, it does not provide an effective remedy to DV victims in terms of Article 4(c) of the Declaration on the Elimination of Violence against Women of 1993 (DEVAW) that requires the state to provide an effective remedy for any violence women suffer in their lives.

Most of women, and the key informants would prefer the payment of compensation as a useful measure to address the consequences suffered by the victim with corporal punishment and as a lesson. They say that compensation would help the victims to have a new starting point from which to build a new life. The victims were of the opinion that in cases where the perpetrator had chased away the victim from their home, the law should order the properties be divided; otherwise women will end up losing their right to property and end up staying with other people and leave the perpetrator to enjoy the fruits of his own conduct. Imprisonment if it is used has to be the last resort after all measures have failed and it should be imposed after all factors have been carefully evaluated, especially the nature of the offence.

Since most of the key informants and the women were proposing compensation and division of their properties in case of domestic violence, I went further to see if, under the Penal Code and the Criminal Procedure Act, there were any other provisions dealing with compensation apart from imprisonment and the above mentioned remedies. What I found I thought was going to be useful but the situation was different from what I thought.

Section 348(1) of the Criminal Procedure Act, gives a court power to award compensation against an accused in addition to any other punishment. The Court can do this if it deems it fit to do so. The provisions do not remove the latter sentence. It is only an additional punishment. The problem is that the word 'may' is used which means that it is not mandatory but is within the discretion of the trial magistrate or trial judge. No matter the extent of the victim's situation, if the trial Judge or magistrate is not gender sensitive, the victim will still be left at the cross roads. If the trial court is to award, for example, imprisonment to the accused or perpetrator of domestic violence with compensation, problems surface as to how the accused will pay for it while he is serving his sentence. The remedies here will have no quicker way of rescuing the victim from her situation. The same provision gives another option to the court: that it has to be satisfied that the remedy is recoverable under the civil suit. Trial magistrates or trial judges are human beings and they have different understandings of the situation and even different interpretations of the laws. This in turn may give rise to lack of sensitivity about the victim's problems caused by domestic violence and leave the victim stranded.

During my field research, I found that in Bukoba the trial Court was reluctant to order compensation against the accused under criminal offences, especially those relating to domestic violence. Most of the victims are advised to file a civil suit if they wish to claim compensation for injuries suffered or for the loss caused. There is a different interpretation among lawyers such as advocates and the magistrates. Some interpret the provision as the victim has to be compensated while others oppose this on the ground that the victim or complainant should wait and file a civil suit and seek compensation. The provision of S.348 (1) state as follows:

“ Where an accused person is convicted by any court of any offence not punishable with death and it appears from the evidence that some other person, whether or not he is the prosecutor or a witness in the case, has suffered material loss or personal injury in consequence of the offence committed and that substantial compensation is, in the opinion of the court, recoverable by that person by civil suit, the court may, in its discretion and in addition to any other lawful punishment, order the convicted person to pay to that other person such compensation, in kind or in money, as the court deems fair and reasonable”.

Others argue that personal loss and personal injuries are a tort liability to be recoverable under the civil suit and therefore the complainant should file an independent civil suit for recovery. Having gone through the whole issue going on under these provisions of law, the way it was made, and the discretion left to the trial court, I found that the provision itself did not intend to give a chance to the victims to be paid compensation.

If, in addition to any other lawfully punishment, the Court still insists on the use of imprisonment this may lead to a delay in the payment of compensation and delay the whole process of addressing the consequences suffered by the victim and prevent the matter from being settled in a quicker manner. Also requiring victims to file separate civil claims for compensation for injuries or loss after all the complications of all a criminal case, may create even greater difficulties for the victim. This is because not all victims of domestic violence are aware of all these laws and procedures. Some women end up losing hope. A key informant who works in an NGO called Mhola (Mama's Hope Organization for Legal Assistance) situated in Bukoba had this to say:

“Most women do not know how to differentiate criminal charges and civil suits. They are not aware of these procedures and prolonged process of the law. Most women have no money for transport, food and for shelters because they come from far away from where the court situate. To let her proceed with criminal case waiting to file another civil case for the same incident makes many women abandon their cases and lose hope”.

The above statement confirmed the assumption that the procedural requirement and administrative requirement present barriers to women in their effective utilization of the law. The use of multiple laws leads the matter being delayed and they sometimes confuse women because not all women who are able to implement these procedures and know all of these laws.

The whole process and the procedure to be followed often cause women to abandon their cases. It shows non compliance with Article 8(a) of the African Protocol on Women's Rights (i.e., the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa) which requires the state parties to take appropriate measures to ensure effective access by women to judicial and legal services, including legal aid.

3.2 PART (B): THE CIVIL LAW: The Law of Marriage Act ('LMA'), Cap 29 (R:E 2002)

3.2.1 What does the Law provide?

The Law of Marriage Act was enacted to govern all aspects of marriage from the first stage when the marriage is contracted, during its subsistence, its dissolution and consequences. In trying to make peace and create harmony between the spouses, section 66 of the Act prohibits the spouses from inflicting corporal punishment upon another. This is an attempt by the law to deal with domestic violence in marriage. However, the provision seems to be incomplete. The capacity of that provision to prohibit such acts is in doubt. Section 66 of the Act provide as follows:

“For the avoidance of doubt, it is hereby declared that, notwithstanding any custom to the contrary, no person has any right to inflict corporal punishment on his or her spouse”.

The law is silent on what will be done in case one of the spouses contravenes the provision. It gives no sanction or punishment against those who may act contrary to the provision. This gap shows that the Law of Marriage Act did not take into account the seriousness of what may happen between the parties, especially on issues of domestic violence. Indeed, what it gives it also prohibits, but so what? Which law will apply? Which law applies to sanction the violators? During the interview with a key informant who works as resident magistrate in Bukoba Resident Magistrates Court at Bukoba had the following to say:

“Some time the Law of Marriage Act is like a child who have no teeth”.

According to the above statement, the Law of Marriage Act is not comprehensive for addressing domestic violence, not only in terms of its consequences, but also the act of domestic violence itself cannot be sanctioned by the Law of Marriage Act.

Again the Law of Marriage Act, apart from prohibiting the above act, does not prohibit other acts of domestic violence against women or to the spouse. According to the current situation, I think the Law of Marriage Act is not enough to address issues of domestic violence because domestic violence occurs in various circumstances and it includes various people, not only the spouse. To protect only ‘spouses’ recognised by law means other people in intimate relationships remain unprotected from DV because they are not covered by that law. There are many acts of violence against women or between spouses and yet the law of Marriage Act does not regard them as DV offences. The important question to be asked is does the law cover all those incidents of domestic violence against women? When I say against women I don’t mean that the law should not cover men. I only chose women to research for women because they are the most vulnerable group where domestic violence is concerned. The field research revealed that there is more to be done in the law if we really intend to address domestic violence against women and its consequences.

Evidence of acts of domestic violence is recognised as facts which may prove that a marriage has broken down in that the parties cannot tolerate to continuing living together. Section 107(2)(a)-(f) of the LMA provides:

“Without prejudice to the generality of subsection (1), the court may accept any one or more of the following matters as evidence that a marriage has broken down but proof of any such matter shall not entitle a party as of right to a decree-

- (a) Adultery committed by the respondent, particularly when more than one act of adultery has been committed or when an adulterous association is continued despite protest;*
- (b) Sexual perversion on the part of the respondent;*
- (c) Cruelty, whether mental or physical, inflicted by the respondent on the petitioner or on the children, if any of the marriage;*

- (d) *Wilful neglect on the part of the respondent;*
- (e) *Desertion of the petitioner by the respondent for at least three years, where the court is satisfied that it is wilful;*
- (f) *Voluntary separation”*

Looking at the above provision of the law, those acts are evidence that the marriage has broken down. It does not focus on the consequences of domestic violence against women. For example, cruelty may create more problems for the victim. It may create incapacity in the victim. It is not enough just to treat the offence of domestic violence as factors or evidence to keep the parties apart, without going beyond to look at the consequences that may have been suffered by the victim. What is important for victims of domestic violence is to solve problems of domestic violence, not necessarily to end the marriage.

This may create a chance for perpetrator of domestic violence to act in a violent manner to make the victim seek a divorce because they know that no sanctions that will be imposed against them. These are parties to marriage. How about those with a close relationship or intimate relationship who are suffering from domestic violence? Should they continue to suffer because there is nobody to help them? That is where I see the importance of having specific legislation dealing with domestic violence and its consequences. All in all, failure by the law to put sanctions on the perpetrators of domestic violence and allow them to benefit from their own wrongdoing constitutes a failure to comply with Article 2(1)b of the African Protocol on Women’s Rights which provides as follows:

“(States Parties shall) enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women.”

3.2.2 The Legal Procedures and their Impact on Women

There are various procedures under the Act which victims of DV must follow. First the victim must have stayed with the respondent for two years. Section 100(1) provides:

“No person shall, without the prior leave of the court, petition for divorce before the expiry of two years from the date of the marriage which it is sought to dissolve.”

The second requirement is a certificate from the conciliation board showing that the it has failed to reconcile the parties except by the leave of the court.

The third requirement is that the victim of DV must have suffered from hardship and is still in a situation of hardship. The purpose is to prove that the conciliation board has failed to reconcile the parties. Section 101 reads as follows:

“No person shall petition for divorce unless he or she has first referred the matrimonial dispute or matter to a Board and the Board has certified that it has failed to reconcile the parties”.

Section 100(2) of the Act provides the following:

“Leave shall not be granted to petition for divorce within two years of the marriage except where it is shown that exceptional hardship is being suffered by the person applying for such leave.”

The fourth requirement is that the aggrieved party should file a petition for separation or divorce.

In Bukoba the research field revealed that the act of domestic violence sometimes starts at the initial stage of marriage. Some get married not because of love, but for their own interests and in order to enjoy the benefits of the status of being married. When I was conducting interviews with women I discovered that even on the first day of the marriage whether it is customary or religious or civil marriage, domestic violence can happen. The perpetrator of domestic violence does not wait for two years. Now what will happen to the victim or complainant? Should she stay in violence until she dies waiting for two years to elapse before she can seek justice? Should the victim wait until she becomes disabled, homeless, and helpless? What amounts to hardship situation? The person who is suffering may reach the hardship situation but the Court may not be in a position to see or feel that it is really a hard situation.

It is difficult to empathise with another person who is injured. I’m not saying that the courts may never help victims of DV but I am trying to discover the real meaning of ‘hardship’ and whether the provisions of LMA are sufficient to allow the courts to protect women of DV from such hardship. A single woman from Rwamishenye Bukoba town has this to say:

*“My friend complained against her husband in one office.
She was told that it is wear and tear of marriage”.*

The procedures seem to ignore the applicants or the victim’s rights to seek justice and they also force them to stay in violent relationships. This is because if violence occurs before the elapse of the first two years of marriage, the victim of violence or aggrieved party is not allowed the redress of a divorce as the requirements set in the Law are mandatory because of the use of the word ‘shall’. The DV may be so vicious that a wife may die as a result of it while the required two-year time period, especially for most women whose income capacity is usually lower than that of most men. Again the above statement and the provisions self confirms that the procedural

requirements are barriers to women has the undesirable effect of forcing women to stay in violent relationships.

Below is a statement made by a woman during an interview which confirms that the various procedures and restrictions contained in the existing laws tend to have a negative impact on women who suffer from domestic violence and they force women to take decisions contrary to their wishes even when they know that they may be harmful to them. A woman from Kasharu village Bukoba rural area said:

“Since when I got married I never have had peace with my husband. He likes having an affair with other women and insults me to be cold. He does not provide with me my necessities like food and clothes. I had to go and work to some one to get money. When he buys meat he doesn't want me to eat. He would tell me that a woman's food is beans. He uses his money for other women and alcohol and yet forces me to give him my money I got from work. I' am tired with this marriage but I have nothing to do. I can't file the case against the husband if I don't have money for transport, for filing fees and other things because to day they will tell you one thing you need to do tomorrow another thing until you get confused and tired. Sometime they will tell you that you overlooked the procedure”.

The statement of that woman indicates that some women are forced to stay in violent relationships and fail to utilize the law relating to domestic violence, not because they do not wish to do so, but because the procedures are expensive, long-winded and confusing based on what they are told by officials. They are basically perceived as victim- or women-unfriendly. Often women wish to seek justice but the procedures themselves become barriers and require them to use a lot of money going back and forth from the Court or before the conciliation board in order for them to obtain a proper hearing. Generally, most women are low income earners and it takes a great deal of suffering (in the form of doing extra work) in order for them to save enough money to pay for the expenses of pursuing any court action, so it becomes difficult for them to start and continue all the necessary legal procedures in order for them to obtain justice.

Further, there are situations where the applicant or the victims cannot be in a position to go through the conciliation board fearing for her or his life or for not having means to reach the conciliation board. In civil suits and even criminal cases, the aggrieved party is required to file the case in the particular jurisdiction either where the offence was committed, or where the respondent resides. There are situations where the victim cannot fit within any limit of the law and even the exception of a particular law. That's when we need to go beyond and focus on what difficulties women are going through so that they can get assistance.

A woman litigant aged forty years whom I met at the Court and had an interview with her had the following to say:

“Usually my husband would beat m, push me threaten to kill me with knife, and refuse to buy food for our children. There

was a day when he came and burned my clothes with fire claiming that he was the one who bought them for me. He chased me away from our house and threatened to kill me if I dare to be seen in that area. I had to travel from Karagwe District to Bukoba District to stay with my daughter married in Bukoba. My husband got married to another wife. I could not be in position to file the case in Karagwe because I had no money for transport. Also I feared from being killed by my husband if I go back there. I decided to file an application before the conciliation board situate in Bukoba. My husband refused to attend. The matter was heard ex parte and I was given a certificate to file an application for divorce before the Court. He and his lawyer raised objection to against the application for divorce by saying that the conciliation board heard the matter had no jurisdiction. The Court set the date for ruling but until now it has not been read. The time is running. I'm tired with this situation.”

The situation for that woman was too difficult. The distance from Bukoba to Karagwe is between four to five hours away by public bus. The transport costs about ten thousand (10,000-15,000 Tsh) equivalent to between US\$7.50 – US\$11 (seven dollars and fifty cents to eleven US dollars) to and from Karagwe excluding the cost of food and shelter. How will she be able to reach Karagwe? Yet, she is still required by the law to go and file the matter before the conciliation board which has the jurisdiction to hear the matter. The refusal by the husband to appear before the conciliation board was going to be the reason for her but still there is a problem on the power and jurisdiction of each conciliation board to hear the matter. It may be the reason for her husband's refusal. So it will depend on the understanding of the trial judge or the trial magistrates. It may be there was an extra, ordinary circumstance or not, which also needs to be proved to the Court. Here also the finding reveals that the requirement set is too demanding. It does not give a chance to the victim of domestic violence to seek a remedy wherever she happens to be.

The whole process contributes to delaying the matter. How quickly her case will be heard if the law had to put such long process and procedures in the way? These difficulties are for married couples. What will happen to the other parties with close relationships or intimate relationships who are suffering from domestic violence? Can we say that the law of Marriage Act has helped them and addressed the consequences suffered?

The law which addresses domestic violence and its consequences should be flexible and accessible to all people who suffer from domestic violence. Law protecting victims of DV should be simple and not involve long-winded procedures and, above all, should be able to take immediate effect since domestic violence is often violent and life-threatening. Also for the law to deal with domestic violence and its consequences, the same should cover all people who are suffering from domestic violence (not just formally married people). Women face difficulties when trying to solve the problem of domestic violence because the procedures set out in the law are generally unfavourable to women. In other words, the laws and procedures for accessing them are victim-unfriendly. Under these circumstances, it is time for our

laws to change and for the state to enact legislation which will protect women from the lived reality of DV in their lives.

3.2.3 The Legal Remedies and their Impact on Women

There are various remedies under the Law of Marriage Act. They are separation, divorce, maintenance and custody of children.

3.2.3.1 SEPARATION

According to the law, the aggrieved party or the victim of DV may seek from the Court an order of legal separation from the respondent and perpetrator of the DV. This provides at some relief to the victim. During separation by the court the husband is still compelled to maintain his wife. If the perpetrator is the wife and the husband was depending on her she, is also compelled to maintain her husband in case he is incapable of living on his own. If at a later stage the parties resolve their differences and wish to live together again they may return to the court to apply for the separation order to be set aside. This is a successful remedy in more than one way. I found that most men will only agree to pay maintenance if they are ordered to do so by a court. But when they leave the court premises they become reluctant to pay maintenance. The details of how maintenance orders work and their impact will be discussed later. This remedy only works when the parties still seem to have some love for each other, despite their differences. I agree with this remedy because it often allows spouses to take a break from each other, see reason, resolve their anger towards one another and give them an opportunity to start afresh. The problem with this Act is that it limits the kinds of people one deals with. If the victim is not married he or she will be excluded which means the perpetrator will benefit from his or her own wrongdoing.

3.2.3.2 DIVORCE

This is another remedy available to the complainant or the victim. Whoever has been hurt by an act of violence in marriage could seek a divorce. It helps those who wish to leave a particular marriage because they are tired putting up with the DV. But is it enough simply to keep the parties apart? Or has something else to be done? Section 107 of the Act (referred to above) considers all acts of violence as being sufficient to prove that a marriage has broken down. For example, cruelty, whether mental or physical, is a factor. When we talk about domestic violence or deal with domestic violence we should also focus on its consequences for the victim and make sure that the perpetrators do not enjoy or benefit from their own wrong doing.

Under the Law of Marriage Act, whatever kinds of violence, no matter how serious it is, and how it has affected the victims, is there to only prove that the marriage has broken down, or the marriage should come to an end, without focusing on the consequences suffered by the victim or complainant. She will need to find a way to survive after divorce. The fact remains that the respondent or perpetrator can only get a divorce because of his divorce violent act. The perpetrator can deliberately increase the acts of violence towards the complainant or the victims in order to force her to

seek a divorce, thereby giving the perpetrator the excuse to enter into another marriage while the victim continues to suffer.

Judges and the magistrates, when dealing with cases of domestic violence, do not go beyond and look at the victim's survival. In Bukoba women are now living with their parents, those who still have them. For those who have no parents or close relative to help them they have become homeless and they are working as squatters on other farms. But some other women cannot work any more. They have disabilities (sometimes both mental and physical) that have resulted from of the domestic violence itself. Some children have left schools and stay home to help their disabled mothers to find a way of getting contributions for school fees or food. Some girls engage in prostitution as a way to survive. Some have been hurt by their close partners, others by their parents. So some children are busy collecting 'senene' and sell them in various streets instead of attending schools.

Domestic violence negatively affects the victims and their dependants. It affects more than one person. During the interview a divorcee woman who got disabilities from domestic violence said the following the following to confirm that the law has failed to deal with domestic violence and its consequences for women.

“In the year of two thousand and eight my husband started beating me. One day he took the knife to cut me legs as he was claiming that if he cut them I won't go anywhere. I tried to run away but I couldn't because it was during the night. He covered my mouth threatening to kill me if I raise alarm for help. When I was trying to rescue my life from him he pushed me down by force and squeezed my legs. He hit me with his fist on my face. One left eye was disturbed and my right hand side leg was broken. I lost consciousness that night till morning. One of my sisters came and brought me to hospital for treatment. When I went back home he chased me out from his house. I petitioned for divorce and got it. But look I can't walk properly and I can't see properly. What did I get to compensate the incapacities he caused to my body? I got nothing. I wasted my time and he is now married to the second wife enjoying life when I'm dying poorly”.

Looking at the above statement it demonstrated that women are not protected by the law. That is why they are suffering from domestic violence and they are tortured by men. It also indicates that the available remedies do not take into account the consequences suffered by women from domestic violence and therefore, give its perpetrators an opportunity to benefit from their own wrong doing by increasing the act of violence. It also indicates that the Law of Marriage Act is toothless for lack of sanctions against the perpetrators of domestic violence and for lack of protection for women. The problems are not only against the law enforcers for being gender insensitive but also against the Law itself, because it does not create any chance to sanction the perpetrator of domestic violence. Instead it takes domestic violence as the reason for the parties to live apart. Therefore, the above Statement and findings show that Tanzania State has failed to comply with Article 3 and 5 of Universal Declaration

of Human Rights of 1948 which require the state to protect women from torture or cruel, inhuman or degrading or punishment.

Article 3 reads as follows:

“Everyone has the right to life, liberty and security of a person.”

Article 5 provides:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

A child aged to 12 years old former pupils of Bukabuye Primary School passed through various streets to sell senene (green grasshoppers) told me the following:

“I was schooling at Bukabuye primary school but I left from school and came here in town to work so that I can help my mother. My father left us and married another wife. He doesn’t want to give us anything and my mom is sick and she is confused. I need to do this to help her and my young sisters to get money for food and for our needs”.

A key informant works as legal officer in the NGOs known as Kagera Women’s Empowerment Organization said the following:

“Here in Bukoba most women are suffering a lot from domestic violence. Yesterday one woman came. She had swelling all over her body and she had hearts problem. She was wanted money for her treatment to go to the hospital. I asked her where the husband was. She started crying and told me that she has been beaten and ignored by her husband. She doesn’t have food at home and she has no money to buy even a medicine. She told me she has no a place to stay and she wanted to seek for divorce”.

According to the above statements made by the interviewer during the interview it clearly indicates that the Law of Marriage Act has failed to address the consequences of domestic violence against women and as a result women become refugees from domestic violence in their own country. Also the law is not comprehensive and incapable of solving the problem of domestic violence against women. This contributes to the increase of the number of disabled women in the country and street children. I now have enough confidence to say that the existing laws have not been able to address fully domestic violence and its consequences for women and, therefore, there is a need for the enactment of legislation which will provide protection for victims, counselling and proper remedies.

3.2.3.4 MAINTENANCE

Section 63 of the Law of Marriage Act provides that it is the responsibility of the husband to maintain the wife and the children. But if the husband is incapable of providing and the wife has the means to earn an income, then she is supposed to maintain her husband. The right to maintenance under the Act must be provided during the marriage and after divorce if the court grants the same. Again, this is an attempt to compel the couple to maintain each other during their marriage. Failure to do so amounts to domestic violence, though the Act does not say so directly. The question is what the law will do to those who neglect to follow this requirement? How does the aggrieved party or the victim find a means of obtaining maintenance? How does the victim recover maintenance arrears? First of all there is no sanction under the Law of the Marriage Act against a respondent's refusal to maintain his wife and his dependants.

If they are still married the victim will have to seek a divorce on the ground that the other party has not fulfilled the requirement for marriage when he or she has the capacity to do so. After the divorce, it is even more difficult to enforce orders for maintenance because the victims need to utilise the provisions of section 24(4) of the LMA which involves using the civil court to execute/enforce maintenance orders. This section provides as follows:

*“Every order for maintenance made by a court shall be enforceable, in respect of any maintenance accrued thereunder, in the same manner as a decree for payment of money passed by that court, and the provisions of the Civil Procedure Code * relating to enforcement and execution of decrees for payment of money shall apply mutatis mutandis to the enforcement of an order for maintenance”.*

The procedures to claim maintenance arrears are difficult especially when the victim is supposed to use many laws at one time. It leads to a multiplicity of laws which delay the matter and confuse the victims. As a result, most of the victims end up losing hope. The victims may die from hunger while they are in the process of trying to enforce maintenance orders. The research revealed that most women are not aware of those processes and procedures. They don't know when to use the Civil Procedure Code; or the Law of Marriage Act. They don't know how to make those applications for the execution of maintenance orders. A mixture and overlapping of various laws only confuse the very beneficiaries or victims of DV they are meant to help!

Where will the victims get fees to file all those cases which essentially result from the same incident? Where does the victim of DV get money for transport to prosecute and follow up those cases? Where will she get money to buy food at home and at the court while she is busy following up her case? How will she meet the costs of shelter, especially some victims live far from the courts in which they are forced (because of issues of jurisdiction) to file their cases? Where will victims of DV stay while they are seeking help from the courts? The truth is that the courts of law are not everywhere and easily accessible so that such cases may be heard and decided immediately.

One of the key informants working as Court clerks had this to say:

“Procedures for maintenance are too difficult because the victim must be in position to apply issues of execution under

the Civil Procedure Code which are not known by many victims especially women because most of men usually engage lawyers for their cases. Use of many laws at the same time usually confuses the victims and it delays the justice. I think there is a need to have one law which will deal for issues arising from domestic violence for quicker solution”.

Weaknesses and gaps in the law support the assumption that we need law reform and the enactment of specific DV legislation, e.g., a Domestic Violence Act, to help women who suffer from domestic violence. It is also well known fact that women have not been empowered to access the law and suffer a serious lack of legal literacy. This is proof of the country’s breach of Article 12(2)(a) of the African Protocol on Women’s Rights which requires the State Party to promote legal literacy among women.

Although there are alternatives in criminal law to charge a husband who refuses to pay maintenance in terms of a court order with contempt of court (i.e., the offence of wilfully disobeying a court order), such a remedy does not really help the victim because it involves imprisoning the respondent. This also will create other problems as I have shown. Its impact was dealt with when I was discussing the criminal law (see above). Again there are other options; to arrest the respondent and detain him as civil prisoner for neglecting the orders of the Court. This is worse, because it is the victim or complainant who bears all costs for respondent’s detention not the government. The whole process causes the victim to suffer from double victimization!

3.2.3.5 CUSTODY OF CHILDREN

The custody of children is also a remedy available on divorce. Despite the separation of their parents, children still have the right to be maintained. Children who are placed in the custody of their fathers are usually maintained by him but there is the danger that he may not continue doing so if he remarries. Problems usually occur where a court grants custody of the children to a mother who has no means to support them and she is usually given custody when the children are still small and, therefore, need to stay in her care. The field research revealed that most men do not comply with court orders because they perceive that by doing so the ex-wife will benefit. As already mentioned above, women find maintenance orders difficult to enforce because they are enforced under a different system of law (i.e., the civil procedure) and women are largely ignorant about the expensive, long-winded and time-consuming procedures they are meant to follow.

Also the processes and the procedures, as I have explained in the above paragraphs, became barriers for the victims to utilize the existing laws related to domestic violence. Difficulties under enforcement of maintenance became barriers to women and their dependants. Once a woman, whose custody of children was granted, fails to enforce maintenance, it means the children also will not benefit and the paramount interest of the child will be jeopardized as a result.

3.3 Conclusion

In concluding this chapter I can say that women need protection and wish to get a remedy that takes into consideration the consequences they have suffered. Payment of compensation, shelters for those who do not have a place to live will be appropriate. Women need a specific (uniform) law to use when dealing with domestic violence, because it will reduce problems inherent in the use of multiple laws that delay the finalization of the case. This can be possible through law reform.

CHAPTER FOUR

4.0 FINDINGS AND ANALYSIS

AN ANA

4.1 STATE LAW, PRACTICES, ADMINISTRATIVE SYSTEMS, CUSTOMS, RELIGIOUS BELIEFS AND WOMEN'S EXPERIENCES

4.1.1 *Conflicts between State Law and how it is practised*

Although the law might exist and be intended to protect victims in one way or another, victims find it difficult to utilize the law especially when there is a conflict between what the law is and how it is practised. In Bukoba some practices (i.e., ways in which 'the formal law' is put into operation) have themselves become like another set of laws which prevent victims from accessing the remedies which are available under the formal or written law.

I found that the enforcement of these various practices have caused some women to lose hope or to make decisions and take action which is against their wishes and sometimes even harmful.. For example, the use of Police Form Number Three (PF3) is a case in point. Under the Police General Orders of 1967 (as amended) it is mandatory to complete this form where physical injuries have been inflicted. The victim of an assault must produce it to a medical health examination officer in order to get treatment.

The field research revealed that in some areas of Bukoba victims of assault have been or are being denied medical treatment by some nurses and doctors unless and until they produce a PF3. Even when a victim's condition is extremely serious, all medical treatment is denied until the PF3 is produced. I conducted an interview with some police officers and some women in order to obtain more information. What I found is that some victims may even die while waiting for the PF3 or while they are walking on their way to the police station to get one. Below is the statement of a woman aged 35 years old from Kishogo Village confirming what the impact of having no PF3 on victims of DV:

“I had lost consciousness when my husband inflicted the strokes on me and kicked me several times on my body while I was pregnant. My neighbours took me to the hospital for examination. The nurse refused to attend me because we had no PF3. She insisted us to go and bring the same at the police station. When my neighbour came back with it they found me have lost the pregnancy because I had no one to examine my condition and the police station was too far from the hospital”.

One of the police officers had the following to say during an interview on issues of the PF3 requirement:

“PF3 (Police Form Number 3) is very important and we advise the victims to have it because it gives chance to the doctor to write the extent of injuries on the victims and also it helps us to give evidence before the court”.

My worry is not about the use of PF3 but its importance in relation to a victim's health and life in general. Why should the health of the victims be ignored unless and until she gets the PF3? Of these two, what should be given first priority? Is it the PF3 or the victim's health? What will happen if she dies? What good is a form to a victim who dies as a result of injuries which prevented her from obtaining the form? The reality is that in some areas, especially in the village where they are insufficient medical facilities, these forms are not readily available because there are only a few police stations which are far apart.

Women have to walk for long distances for about four to five hours to reach the hospital centre and also for up to five hours to reach the police station. For women or the victims whose condition has worsened by acts of domestic violence, how will she manage to reach both places at the same time? What is worse, the victim may go to the police station only to find that they do not have any PF3s. Then the Police will ask her to make a photocopy of one or ask her to pay for a photocopy. Most women in Bukoba are poor and have insufficient income for this. Obviously it will be difficult for them to get a copy. If they fail to do so, they also lose the chance of being medically examined. We should note that apart from transport and photocopying costs there are also costs for medical treatment. It happened to me when I was conducting an interview with one of the police officers at central police station. I wanted to see a copy of PF3. I was told that there is one copy only. Then I was asked to pay money for a photocopy or to take a copy of PF3 and photocopy it on my own and return back a copy.

Some women have no one to help them. For them it will be difficult to get money for transport to the police station and money for photocopying the PF3. In reality, if we are fighting for women's health and their right to be protected from DV and its consequences we need to change the way we perceive victims and the acts of domestic violence perpetrated against them.

The above situation indicates that there is a need to revisit the procedures under the law and investigate what is being done by some officers of the government in order to overcome practices that also harm women.

Furthermore, women experience problems when trying to utilize the existing laws related to domestic violence, especially when trying to take their matter to the conciliation body. Under the Law of Marriage Act one first has to apply to the conciliation body; it is mandatory, as I have said before. It is the conciliation body that has the mandate to reconcile the parties first. But the field research work I conducted in Bukoba revealed that, apart from that requirement of the law, **some officers of conciliation bodies have created their own rules and practices outside of the law.** Such conduct by these officers has created the very condition of 'exceptional hardship' from which they are meant to help protect women victims of DV! This type of official reaction to their plight has made some women stay in violent relationships or leave their abusers without seeking justice and as a result

losing everything they have in the process. This was what was said by a woman aged 38 years from Izimbya village Bukoba rural areas who went to the conciliation body for assistance:

“The officers of conciliation body told me to go and get a letter from the chair person of my street or my village before they start hearing my case. Surprisingly the chair person asked me to pay five thousand (5000 Tsh=+- US\$3.50) being costs for ink, papers and the letter. I had no such money. So I went back to the conciliation bodies to tell them I missed a letter. They insisted. I decided to go back home and continue staying in violence”.

The above practices have a negative impact on women. It makes women's lives difficult and makes women continue to suffer from domestic violence. The above practices conflict with the law because the law does not say anything about a letter from the chairperson and the costs of such a letter; but it gives a mandate to the conciliation board to hear the matter and recommend in case they failed to reconcile the parties. Apart from being barriers to women; they also delay matters from being heard. For victims who have suffered a lot from domestic violence and who do not have an income find that this is a serious problem.

Due to various practices by some government officials, women have been experiencing many problems like abusive language, lack of special handling of the victims, dismissal of the seriousness of the act of violence and gender insensitivity to women suffering from domestic violence. A woman aged 25 years I met at one NGO seeking help said the following:

“I had quarrels with my husband for long time. One day he said to me I will kill you if you don't leave this house because I'm tired to see your face any more. Before I could rescue my life one night had beaten me with a large stick all over my body. He disturbed one of my eyes. I can not see properly and my hand cannot carry anything heavy. After treatment to hospital I went to the police with a PF3 to file a criminal charge against my husband. The officer in charge called my husband through the phone to come to the police station quickly. I didn't know if they knew to each other. My husband came and the officer told us to enter his office. He asked my husband if we were married. My husband said not. I said to the office that we had customary marriage. The officer laughed and said to me. “You women like to follow men who have money. That is not a marriage.” He took a PF3 from me by force and warned me not to file any case against my husband. He told me to go out of his office and left with my husband”.

I must confess that I thought the woman was just exaggerating. Since I was already at that NGO for an interview, I asked them about her story. They showed me a number of the case files they were preparing to help her file her case seeking justice. Also they showed to me a letter they had written to that officer of police in charge asking

him to stop threatening her. A copy of that letter was sent to the State Attorney General and to the Regional Police Commander. The above statement and problems face by women confirmed the (5th) assumption that some of practices by some officials and of some public servants make women's lives difficult and they are barriers to women who wish to utilize the existing laws.

4.1.2 Conflicts between State Law and the Administrative System

Generally women are affected by various factors in their lives. When utilizing the laws relating to domestic violence they encounter administrative barriers. In some areas when women report criminal offences to the police relating to domestic violence, they do not get enough support. When they pursue their case before the court they also don't get enough support. As the result they fall somewhere in between. Some women don't manage to report issues of domestic violence because the police stations are few and far between. Some find that after they have reported their cases to the police station and find that there are insufficient facilities to help them, especially in the area of transport. Some women are asked (forced) to pay for the cost of the police using transport to arrest the perpetrator. Some are told to use the militia. The militia are trained people. They fall under the police reserve officers but are not employees of the military service and they don't get a salary. Sometimes they demand payment from women who ask them to arrest the accused person or the perpetrator of domestic violence. This entire situation has a negative impact on women when utilizing the laws related laws to domestic violence. A woman aged 35 years from Kishogo Village during an interview told me the following:

“When went to report the case at the police station I thought all the problems was over. Unfortunately the police told me that they had no car for transport. They had a small motorcycle but no fuel. They asked me to pay ten thousand Tanzania shillings to buy fuel so that they can visit the scene of crime. I had no such huge money because even to go at the police station I had to walk for four hours on foot. I decided to quit with sadness in my heart”.

Another woman aged 28 years from Kasharu Village had the following to say:

“I was told by the police officers to go and ask militia to arrest my husband. The militia told me to pay them five thousand Tanzania shillings just for the arrest of my husband”.

Now we can see how women suffer double victimization, i.e., victimisation at the hands of their intimate partners and at the hands of some officials who do not follow the law. The above statements revealed the truth that women face many problems and therefore, a need for administrative change and also legal education on domestic violence against women are necessary.

I wanted to know how the police work with domestic violence issues and how they help women suffering from domestic violence. I had to interview one of the police officers serving as a public prosecutor. She told me the following:

“We really like to help women but it is difficult for us. We don’t have means of transport and sometimes fuel become problems. Most of places are too far away to reach. Sometimes the incidents just happen at night. It becomes difficult to reach at a particular place”.

The above statement by that police officer showed the need for the State party to provide adequate facilities to enhance the administration so that they can help women who suffer from domestic violence and deal with domestic violence properly. This will help to solve problems faced by women when seeking for assistance from various government departments.

Some women were also complaining against court officers and the system which together make their lives difficult. A key informant works as a legal officer at NGOs commonly known as KAWEF situate at Bukoba urban areas had this to say:

“We get tired with court issues because we go there and find the case file has been lost or is missing. We use most of our time to make follow ups for it”.

Another woman from Ntoborwa Village had this to say:

“The court is not everywhere. Sometimes I walk for long time to go to court and pay a lot of money for transport and find that the case has been adjourned or dismissed. Imagine if I want to reach the court earlier I would need to sleep over there. Where do I get all that money? I cannot afford it”.

A woman aged 40 years residing at Kamizilente Street Bukoba urban areas told me the following:

“My daughter don’t play with this world. Everywhere you go its money. Whatever you do its money. No money no help. No money no justice. No money no success at all”.

The above statements confirmed the (8th) assumption that some perceptions of police officers and court officials are barriers to women and the administrative system contributes to delaying the matter and, therefore, fail to address problems of domestic violence properly. Hence the need for administrative change for more progress in fighting against domestic violence and its consequences for women is becoming more urgent.

4.1.3 Conflicts between State Law, Customs and Religious Beliefs

I found that some customs and traditions may become barriers for women who suffer from domestic violence in utilizing existing laws. To some extent these have a negative impact on women. I found that religious beliefs are two sides of the same coin. On the one hand they do help, while on the other hand they become barriers to women who suffer from domestic violence. According to 'Bahaya' culture in Bukoba a woman is not allowed to complain against her husband and file a case at the police station or before the Court. When a woman does that, it is like uncovering her husband and leaving him naked in public. Once a woman acts contrary to that custom, it will mean the end of the marriage. Her own relatives and the relatives of her husband will usually turn against her by choice. Most women like to stay married. So they either keep quiet and stay in violent marriages or, for those who can manage to do so, leave silently and stay on their own or with their relatives. Some believe that their husbands will change. Others do not want all those kinds of problems associated with the complaint. It is those who are in a critical situation who must just be ready with whatever is to happen in their efforts to fight against domestic violence. This culture is prevalent mostly among 'Walangira' and 'Waziba' who have a history of kingship. According to that culture and social status, women are classified as inferior to men and they are in lower classes. A married woman aged to 20 years from Buyekera Street Bukoba town had the following to say:

“Our culture does not allow a woman to disrespect the husband. If a woman dares to file a case against the husband she should know where to go not in that house because she will be considered as a woman with no shame who took off the husband's clothes in public”.

One of the chiefs from Bukoba town I interviewed on Bahaya customs and traditional systems from Kanyigo village had this to say:

“A woman always should listen to the man. If she doesn't who will be the leader in the house? We advise parties in marriage to love each other but that does not give a chance to a woman to become a ruler and start doubting against her husband. She is supposed to accept her husband's decision because he is only person to give the last word for any decisions to be made”.

Some women find their culture and customs are barriers to them and these make women feel inferior to men and give power to men to mistreat women and act in a violent manner to show how superior they are. It promotes discrimination based on sex. The above situation shows that as a State Party, Tanzania has failed to comply with Article 5(a) of Convention on Elimination of all Forms of Discrimination against Women (CEDAW) which provide as follows:

“States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women ,with a view to achieving the elimination of prejudices and customary and all practices which are based on ideas of the inferiority or superiority of either of sexes or on stereotyped roles for men and women”.

With regard to the religious systems I found that on the one hand it may help to solve problems of domestic violence .A married woman from Rumuli Street Bukoba town who was helped by the church had this to say:

“We were having problems with my husband for about six months. I informed our pastor about the problems we had. He and other top leaders of our church came at home to talk to us. They counselled us and advised us on what God wants us to do in marriage and the responsibilities for every one in marriage. My husband was reformed and changed. We have now a happy marriage”.

On the other hand the research found that religions sometimes became barriers to women who suffer from domestic violence and may delay justice being done. There are some leaders of the church who use their power to undermine women and make them stay in violence. A woman whose justice was being delayed by the church had this to say:

“I reported our problems to our church leader in 2007.I wanted to file a case against my husband but a church leader prohibited me on the reason that they were prepared to talk to my husband for resolution. Since 2007 up to now they have done anything. My husband had never changed. I’m afraid to take the step further they might tell me that I disrespected the church .I am at the cross road”.

The above conflicts between the state law and other systems that contribute in hindering women’s right are proving that there is a need to change various practices in our community and by various government officials. Also, there is a need to reform our customs and religious beliefs when dealing with family problems to fight against domestic violence. It was revealed that the state has failed to prohibit the harmful practices towards women, also failed to protect the rights of women in public institutions, and it has failed to prohibit customs that discriminate against women. This entire situation show non compliance by the state to Article 5(d) of the African Protocol on Women’s Rights which requires the State party to protect women who are at risk of being subjected to harmful practices or all forms of violence, abuse and intolerance.

4.1.4 State Law and the Ignorance of Police Officers dealing with Domestic Violence

A beating by a husband that causes no physical harm or injuries to women is ignored by some officials of police officers. The finding is that when such kinds of offence are reported to the police officers, they normally refuse to carry out their professional duties using the common false excuse that ‘the Penal Code does not deal with private matters.’ This leads to the dismissal of the seriousness of the act of domestic violence. The impact is that women may continue to suffer from domestic violence and or become involved in even more problems. A married woman I met at the office of the ward executive officer Bukoba town during the interview had this to say:

“The day before yesterday, my husband came home late and he was drunk. I did not cook because he left without giving me money for food. When he arrived home he told me to give him food. I had no food in the house. He get angry with me, he beaten me and chased me out of our matrimonial house. I went to report the incident to the police station. The police officers on duty told me that the criminal law does not deal with family matters. My husband continued with his disturbance to me. I couldn't stand and now I'm living with my friend”.

This contributes to the defeating of justice and it creates confusion for women who may wish to utilize the existing laws. That woman had serious claims and she was in a difficult situation, but because of ignorance by the police of the existing law she did not get any assistance. The above situation involved a criminal assault. But because she said that she was beaten and chased away by her husband the police stopped helping her. I think there is a need for the government to train the police in all issues connected with domestic violence and matters relating to gender sensitization.

4.2 WOMEN'S USE OF REPORT BOOK (R.B.) STATEMENTS

A married woman who has experienced domestic violence had the following to say:

“I reported the incidence at the police station and was given the R.B and go back home. My husband started abusing me as usually. I showed him the R.B of the police and told him if he dare do continue to act in violent manner I will go back to the police and he will be arrested. Since that day he has changed may be because he know that I will use it to make him be in more trouble”.

Women in trying to rescue their lives from the danger of domestic violence have created their own ways of protection through use of structures of the law such as Report Book statements (R.B). It was revealed that most of women do not understand the provisions of the law to use in dealing with problems of domestic violence. So they go to the police and report the incidents of violence that have happened, not with intention of filing the criminal case against their husbands, but with the intention of getting the report statement and showing it to the perpetrator of violence to transmit the message that an offence has been reported and if the acts of violence continue to take place the woman will use the same to remind the police about the respondent's misbehaviour and charge him. The R.B is a small piece of paper that contains the date of a reported case and the number of the statement made by the complainant. That is what is usually supplied to the complainant, but the details for it normally remain at the police station with the whole statements made by the complainant against the respondent. It is called a report book because it contains the statements made to the police or offences reported to the police.

The truth is that it has no statement or order to restrain the respondent from acting in a violent manner. It is only a statement to show that the complainant has reported the

offence to police. Though some women said that to some extent it helps to make the husband afraid, but he still he has a chance to threaten the woman and may even provoke to her more and stop her from making follow up reports at the police station. The report book statement does protect a woman or stop the husband from acting in a violent manner. The only importance of the R.B it that the victim may use it to remind the police to file the criminal charge against the perpetrator of violence and be heard before the court of law. Otherwise there is nothing more in it. It is helpful to some extent, but it is not safe for women especially when the man realizes that it is just a woman who is attempting to protect herself by using the R.B. The consequence for this it that it may raise more anger in the husband's mind and, therefore, increase the level of violence, because, in reality, it is not for women's protection.

4.3 CONCLUSION

In concluding this chapter I can say that changes to address problems of domestic violence do not depend on the law alone. It depends on various issues like culture, traditions, religious beliefs, practices and administration. Raising awareness about issues of domestic violence, human rights and non discrimination would be helpful.

CHAPTER FIVE

5.0 INTERVENTIONS TO ADDRESS DOMESTIC VIOLENCE AND ITS CONSEQUENCES

The findings clearly indicate that in Tanzania, generally Bukoba District and specifically in my research, there have been problems of domestic violence mostly toward women and their dependants.

Yet the existing general laws which may be applied to domestic violence cases do not help the victims very much; in fact their application often harms victims further. The problem is that the courts do not go beyond the law to investigate the real causes and consequences of domestic violence which would help them to discover ways of protecting victims properly while at the same time punishing perpetrators effectively. Most public officials (mainly men) are not gender sensitive and do not give women victims of DV the special care and attention they require when dealing with them in the process of helping them to secure a remedy against their perpetrators. Compliance with legal procedures and illegal practices (i.e. purported procedures) often causes them more hardship causing them to give up pursuing justice against their perpetrators. Since DV against women is so widespread, it violates not only women's private right to good health but also the integrity of the family unit and society as a whole. Therefore, it is vital to change our existing laws by creating specific legislation to combat DV and to raise awareness among all members of our society of the importance of protecting the human rights of women and of the need to become more sensitive to the gender dynamics operating within the various power relationships between men, women and children in our society.

Tanzania, however, is not the only country affected by domestic violence. Various other countries, such as Kenya, Uganda, Zambia, Malawi, Zimbabwe and South Africa have also suffered from it. Countries including Zimbabwe, Malawi and South Africa have taken legislative action against DV by passing specific legislation to deal with it and this is starting to prove successful. Tanzania may learn from the reformative measures these other African countries have taken. The following is a list of recommendations which may be considered in Tanzania's efforts to address domestic violence and its consequences. It is hoped that they may go some way to rescuing the unfortunate Tanzanian women whose lives are blighted by the scourge of DV.

Most of the following suggestions are influenced by the solutions provided by the DV legislation of other African countries, including Zimbabwe, Malawi and South Africa. Tanzania may consider implementing them with appropriate adjustments to local conditions. These include:

- (a) Tanzania's enactment of a specific Domestic Violence Act which contains a broad definition of 'domestic violence' which covers various aspects of domestic violence and its forms. This is a possible solution similar to the various DV legislative reforms of other African countries; for example, see section 3 of Zimbabwe's Domestic Violence Act of 2006 Chapter 5:16 and

Section 1 of South Africa's Domestic Violence Act Number 16 of 1998 which clarifies what is meant by a domestic relationship and domestic violence. This is very necessary in a country like Tanzania where historically there has been little understanding about what DV really means and where, as a result, there are some acts/omissions which amount to DV but which cannot be remedied under the existing criminal and civil law.

If specific DV legislation were passed, Tanzanian women would have one central and, hopefully, easily understandable piece of legislation to rely upon and this would reduce the current confusion and frustration which result from the application of overlapping and multiple criminal and civil laws, whose abusive and even correct application become barriers to women who seek justice. Also this will help the victims to deal with problems of domestic violence by using a uniform piece of legislation and reduce the multiplicity of laws scattered among several pieces of criminal and civil legislation.

- (b) Specific DV legislation should include protection orders and rules governing victim's compensation with the intention of protecting victims from further immediate and long-term threats of violence by an offender (i.e., the respondent). They should also restrain the respondent from further violence of any kind towards the complainant and compelling the respondent to pay emergency monetary relief for loss suffered by the complainant, any expenses she incurs as a result of DV including the cost of finding alternative accommodation and restoring/replacing any other necessities of life including food, water, cooking utensils and equipment, personal and business effects. Respondents should be compelled to pay adequate compensation for injuries caused to complainants including compensation for physical harm, pain, trauma or any loss suffered by the complainant. The importance of this solution is that it will prevent victims from having to shoulder the costs of domestic violence and, if already incurred, it will help them obtain remedies which address the consequences suffered and create ways for victims and their dependants to continue surviving in spite of the DV they have suffered.

It will also help to act as a deterrent against respondents who intend to commit further violence. Women who became refugees in their own home will be in position to restore their normal life through the prompt, effective and efficient enforcement of protection orders. Most of the surveyed respondent women in Bukoba complained that the current remedies do not address the physical, mental, material and other numerous consequences of DV. Therefore, protection orders will help to overcome the problem of these women not receiving compensation for the consequences they suffer as a result of DV and perpetrators will not be in a position to benefit from their own wrong doing which is what they are doing under the current law.

Women who use the Report Book Statement (R.B) to create their own protective measures will also be in better position than before. This solution is provided under Section 10 and 11 of Zimbabwe's Domestic Violence Act, Section 6 of South Africa's Domestic Violence Act and Section 5 and 6 of Malawi's Prevention of Domestic Violence Act of 2006. A section similar to section 9 of Zimbabwe's DVA will also be helpful because it provides for the

immediate protection for victims in the form of interim orders (e.g., of arrest of the perpetrators) in circumstances where her or his life is apparently in danger. These orders remain operative pending the obtaining of final protection orders.

- (c) The establishment of an Anti-Domestic Violence Council (and the appointment of councillors) will be useful in addressing domestic violence and its consequences in the sense that the victims of domestic violence will be in a position to be counselled to reduce their suffering of traumatized situations and to receive advice and counselling to help them with hope for new life and success. It will help to disseminate information on domestic violence and its consequences and on how to implement the Act effectively and efficiently. This will also help with providing victims with special treatment and encourage further investigation of particular cases in order to determine what is going on, its impact and what needs to be done. The Council should actively combat DV by investigating everything about it (e.g., its incidence, impact, remedies, and procedures to combat it) and finding out what still needs to be done, including, improving attitudes surrounding DV and institutional weaknesses which are preventing its eradication. The Council should also help to provide counselling not only to DV victims but also to its perpetrators (see, e.g., section 52 of Malawi's Prevention of Domestic Violence Act and Section 5 of Zimbabwe's Domestic Violence Act.)
- (d) The establishment of victim-friendly support units (VFSUs) in each government department office (similar to that provided under Section 5 of Zimbabwe's Domestic Violence Act which deals with issues of domestic violence and its consequences, at each police station and within the court system.) This will help to create the climate necessary to give DV victims the confidence to give evidence of the DV they have suffered. In other words they will be empowered to express themselves and speak out against their perpetrators in the manner necessary for the legal system to take their plight seriously and take action against their perpetrators. Ideally, they should be sufficiently empowered to access the justice system without having to engage a lawyer. Such VFSUs should also help to enhance issues of gender sensitivity among public servants who may abuse women and become barriers to women who seek justice. It will also help women to be assisted with the procedures and processes they need to go through. This intervention also sets out the duties of police officers, medical examination officers and other public servant officers as to what they need to do when attending to the victims of domestic violence and how to address cases of domestic violence (see, e.g., sections 34 and 39 of Malawi's Prevention of DV Act and Section 2 of the South African Domestic Violence Act.) At the same time, these provisions should create more professional government officials who take DV seriously and persuade them to carry out their duties professionally and efficiently. These officers include all police officers, court officials and any other servants of the public service.
- (e) The introduction of domestic violence budgetary funds and shelters for the victims will be useful in addressing domestic violence and its consequences because domestic violence often involves victims' eviction from their homes

as a result of which they incur costs of being forced to find at very short notice alternative accommodation and basics such as food, clothing and business equipment and materials. Some children also become homeless along with their mothers. So if there could be shelters and funds for those who lack a place to stay and an income due to domestic violence, their situation would be helped immensely. Funds may also be used for training programmes and creating and running campaigns against domestic violence. Information about DV and its relatedness to women's human rights and gender sensitivity within the community may be disseminated by various means such as the radio, television, newspapers, theatres, journals and magazines.

- (f) The establishment of a family court is proposed to handle cases of domestic violence for a quicker solution to problems of domestic violence. Domestic violence is a very serious issue which needs to be solved immediately because it affects the whole system of one's development, health, future, and economical aspects of the victims, education for children and their lives in general. Time is often of the essence in DV cases and therefore separate courts which deal specifically with DV in whatever context (criminal or civil) should be able to deal speedily with all cases in which DV is a strong element. This will eliminate the current problems of unacceptable court delays and the confusion which arises from multiple and overlapping court cases arising out of essentially the same cause of action (i.e., a single act/omission of DV) or repeated similar causes of action (i.e., repeated cases of DV arising out of a pattern of DV). Also, parties to domestic violence require some confidentiality because of their close, intimate relationship. The investigation and resolution of such cases, therefore, require expert handling and attention so that the right to confidentiality of all parties involved is guaranteed. Victims must be treated before, at and after their experiences in court in such a way that they feel confident to give evidence against their perpetrators.

BIBLIOGRAPHY

Armstrong, A. and Ncube, W. (1987), *Women and Law in Southern Africa*. Harare, Zimbabwe Publishing House.

Armstrong, A. (2000), *Culture and Choice: Lesson from Survivors of Gender Violence in Zimbabwe*. Harare, Violence against Women in Zimbabwe Research Project.

Armstrong, A. et al. (1992?) *Uncovering Reality: Excavating Women's Rights in African Family Law*. Harare, WLSA

Bentzon, A.W. et al. (1998), *Pursuing Grounded Theory in Law: South-North Experiences in Developing Women's Law*. Harare, Mond Books and Oslo, Tanoaschehong.

Bongiwe, M .et al. (2001), *Multiple Jeopardy: Domestic Violence and Women's search for Justice in Swaziland*. Mbabane, Women and Law in Southern Africa Research and education Trust (WLSA) Swaziland.

Chanock, M. (1985), *Law, Custom and Social Orders*. Cambridge: Cambridge University Press

Cook, R .J. ed. (1994), *Human Rights of Women*. USA, the University of Pennsylvania Press.

Doo Alphane, M .et al. (2000), *Charting the Maze: Women in Pursuit of Justice in Swaziland*. Mbabane, Women and Law in Southern Africa Research Trust.

FIDA Kenya, (2002), *Domestic Violence in Kenya: Report of a baseline survey among women in Nairobi*. Fida Kenya.

Hellum, A .et al (2007), *Human Rights, Plural Legalities and Gendered Realities: Paths are made by walking*. Harare, Weaver Press and Southern and Eastern African Regional Centre for Women's Law.

Macleod, L. (1987) *Battered but not beaten: Preventing Wife Battering in Canada*. Ohawa, Ontario, Canadian Advisory Council on the Status of women.

Oyekanmi, F. ed. (1997), *Men, Women and Violence*. Dakar, CODESRIA and the African Books Collective.

Reyes, C, Rudnam, J.W and Hewitt, C.R. eds (2002), *Domestic Violence and Health Care: Policies and Prevention*. Binghamton, Haworth Medical Press.

Russel, G.W. (1988), *Violence in Intimate Relationships*. New York: PMA, Publishing Corp.

Stepherd, J. Laura. (2008), Gender, Violence and Security. New York, Zed Books.

Tibatemwa –Ekirikubinza, L. (2007), Men's Violent Crime against Wives in Uganda: A Reaffirmation of Masculinity? Uganda, Makerere University.

Tsanga, A. (2003), Taking Law to the People: Gender, Law reform and Community Legal education in Zimbabwe. Harare, Weaver press.

Women's Legal Aid Centre. (2004), Domestic Violence. Dar es Salaam, WLAC.