

**THE EFFICACY OF THE LAW ON DOMESTIC VIOLENCE IN UGANDA: A
CRITICAL EVALUATION OF THE DOMESTIC VIOLENCE ACT, CAP 123'S
RELEVANCE IN SELECTED KAMPALA SUBURBS OF MAKINDYE DIVISION**

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**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL FULFILLMENT OF
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UGANDA CHRISTIAN UNIVERSITY**

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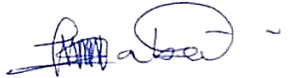
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DECLARATION

I NSAMBA JAVIRA LUBADDE declare that to the best of my knowledge and belief, this is my original work and it has never been produced or presented by any other researcher for an award at any University.

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APPROVAL

This is to certify that this research dissertation titled the efficacy of the law on domestic violence in Uganda: a critical evaluation of the domestic violence act, cap 123's relevance in selected Kampala suburbs of Makindye division by Nsamba Javiira Lubadde has been conducted under my supervision and is now ready for submission to the Faculty of Law, Uganda Christian University by:

Signature: 

Name of the Supervisor: Kasule Tendo Phillip

Date: 05th, June, 2025

DEDICATION

This work is dedicated to my children Kelly Nsamba and Wilson Nsamba

ACKNOWLEDGEMENT

I would like to thank God for all the individuals in their various capacities who helped me in one way or another during my studies.

I am grateful to my dear supervisor, Mr. Philip Tendo Kasule, who tirelessly gave his guidance and advice at every stage of the study. His supervisory skills, critique and fatherly advice greatly aided the materialisation of this report. In particular, I thank him for his due patience, encouragement and understanding in shaping my scattered information into one final document.

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May the Almighty God bless all of them abundantly.

ABSTRACT

The paper attempts to focus the domestic violence from an analytical perspective.

It is pointed out that;

The paper also considers the state of the Domestic Violence Act in Uganda. The paper also gives remedies by adopting the various recommendations that the researcher will categorically put to the test.

The researcher therefore recommended: awareness campaigns for domestic violence, enforcement of the law and advocacy for human rights, the teaching of Christian religious education to be compulsory as a strategy for moral formation. The church should also intensify its mission out to the people as a way of correcting human error and restoring peace, love, care and harmony in society.

Domestic violence is a reality, and many families are victims of domestic violence. It was also revealed that women suffer the most from the problem related to domestic violence as compared to men.

Drug abuse was one of the most contributory factors that greatly caused domestic violence, illiteracy, poverty, drunkenness, unemployment and finally culture. The study recommended that the Domestic Relations Act be implemented by the relevant authorities.

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ABBREVIATIONS

UCU	-	Uganda Christian University
NGOs	-	Non-Governmental Organisations
GBV	-	Gender Based Violence
UNICEF	-	United Nations Children’s Fund
DVA	-	Domestic Violence Act
WHO	-	World Health Organisation

CHAPTER ONE

1.0 GENERAL INTRODUCTION

1.1 BACKGROUND

Domestic violence stands as a significant social challenge in Uganda, with a worrying rise in reported incidents, many of which are dangerous and have proven fatal. The late Justice Musene observed that domestic violence was rampant, contributing to marital breakdowns and loss of life, often stemming from trivial causes. There should be no justification for such acts.¹

Unjustifiable and devastating, domestic violence is defined as the physical and mental abuse of individuals within the household, most commonly women by their husbands. This violence harms a wide range of victims, including women and children, both orphaned and non-orphaned (Commonwealth Secretariat, 1992)²

Historically, various harmful traditional practices in Africa have contributed to what we now recognize as domestic violence. These practices often included violence related to dowry, marital rape, and female genital mutilation, all of which inflicted profound harm on women.

In recent times, child maltreatment, also known as child abuse and neglect, has sadly become widespread. This encompasses a range of deeply damaging behaviour such as physical and emotional ill-treatment, sexual abuse, neglect, exploitation, and even

¹ Uganda v Bongomin (Criminal Session Case No. 194 of 2011)

² Common Wealth Secretariat, 1992

the horrific act of child sacrifice. These acts pose a serious threat, causing actual harm or significant potential harm to a child's health and wellbeing, sometimes resulting in death.

The Constitution under Article 44 prohibits torture, cruel and degrading treatment³ this right is non-derogable and absolute. Globally, the world we live in has been characterised by violence against women.⁴ This has been universally present in many forms like wife battering, sexual assault and abuse, female genital mutilation and rape, in war and peacetime, etc. (Thompson et al. 2015).⁵ Domestic violence has been the fate of millions of women all over the world, which has affected their productivity both in their homes, communities and places of work. Domestic violence alludes to the use of physical force against family members, such as hitting, beating, cutting, or other means intended to inflict pain or suffering, such as depriving someone of food or medical care or verbally abusing them with the intent to make them feel inferior. Domestic and family violence is a significant social problem (Subramaniam et. al., 2014).⁶

³ The Constitution of the Republic of Uganda, 1995.

⁴ Childress, S (2018). "Plates and dishes smash; married couples clash": Cultural and social barriers to help-seeking among women domestic violence survivors in Kyrgyzstan. *Violence against women*, 24(7), 775-797.

⁵ Thompson et al. 2015

⁶ Subramaniam et. al., 2014

The term domestic violence did not emerge until the 1960s as psychotherapy was emerging as an acceptable treatment option for individuals and families. Many theories, such as structural or functional theory, emerged, describing families as a social institution and asserting that social order needed to be followed for a cohesive and supportive environment (Rasheed, Rasheed, & Marley, 2011).⁷ According to Natukunda (2005), violence is a long and complicated argument.⁸ At times, families struggle and argue angrily, which results in physical aggression or assault such as hitting, kicking, biting, restraining, slapping, throwing objects or even sexual, emotional stress with a multitude of problems and distinctive issues such as mental health and physical health problems that may cause dysfunction. Domestic violence affects the lives of millions of women and families worldwide at all social and economic levels. They cut across cultural and religious barriers, impeding the rights of women to participate fully in normal activities in society. Threats of physical abuse, sexual abuse, and emotional abuse are violations of fundamental human rights (WHO, 2001).

Domestic violence is a complex issue, and its forms can vary depending on the specific situation. Broadly, it can be understood as a pattern of harmful and controlling behaviours. These behaviours can include physical, sexual, and emotional attacks, as well as financial control. Often, these acts are carried out by adults or adolescents against their intimate partners.

The U.S. Department of Justice further clarifies that domestic violence involves one partner using a range of abusive actions to gain or keep power and control over

⁷ Rasheed, Rasheed, & Marley, 2011

⁸ Natukunda, 2005

another intimate partner. This abuse can manifest physically, sexually, emotionally, financially, or psychologically. It encompasses any behavior designed to intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound another person.

Domestic violence, as described by Ganley⁹ (1989) encompasses a devastating range of abuses: **physical, sexual, and psychological harm**, along with the destruction of **property** and cruelty towards **domesticated animals**. When individuals experience these forms of violence, the profound impact can make them feel as though their **lives are threatened**. This leaves victims in a harrowing state of **vulnerability, helplessness, and intense fear**.

a) **Physical Violence** - Physical abuse is any behaviour that involves the intentional use of force against the body of another person that risks psychological injury, harm and or pain (Dutton, 1992). In the 12 months preceding the survey, **23% of women and 14% of men reported experiencing physical violence**, while 17% of women and 6% of men had ever experienced sexual violence. The 2023 Police Crime Report recorded 14,681 cases of domestic violence, a decrease from 17698 cases in 2022.¹⁰ Such violence includes pushing, hitting, slapping, use of objects to harm, twisting of the body parts, hitting, slapping, punching, kicking, burning, strangulation, damaging personal property, refusing medical care and/or

⁹ Ganley (1989)

¹⁰ Statement from Ms. Susan Namondo, UN Resident Coordinator in Uganda, 06 September 2024 titled The United Nations in Uganda strongly condemns Gender Based Violence and the violent murder of Ugandan Olympian Rebecca Cheptegei.

controlling medication, coercing a partner into substance abuse, and use of weapons.

- b) **Economic Violence** - This form of domestic violence is very common in a number of sexual relationships (Adams, 2018); economic abuse takes place when one partner denies another partner access to economic resources such as money and property. Some husbands, for example, can force their wives into a state of submission by refusing to allow them to work.¹¹ When someone is deprived of economic resources, they can lose their voice and ability to make choices. This is a form of economic violence, and it's often hidden. It can involve things like being denied access to money or being forced to give up your earnings. Emotional and psychological abuse is also very common. This type of abuse includes verbal attacks, being isolated, and even tech-based harassment like cyberbullying or public shaming online.

Gender-based violence isn't always overt; it often shows up in subtle, everyday ways that many of us don't even recognize. Imagine situations like a woman being forced to give her earnings to her partner, stripping her of financial freedom. Or consider women pressured to quit their jobs, or prevented from pursuing careers their partners deem "unsuitable."

Even common actions like shouting at a partner, colleague, or family member can be a form of gender-based violence that's unfortunately become normalized. And when someone is denied basic human rights, like access to necessities, it's a clear sign of a deeper, controlling abuse.

¹¹ Adams, 2018

c) **Sexual Violence** - Sexual violence/abuse is defined as any unwanted sexual intimacy forced on an individual by another¹² (Dutton, 1994). It may include oral or vaginal stimulation or penetration, forced nudity, forced exposure to sexually explicit material or activity. Compliance may be obtained through actual or threatened physical force or some other form of coercion. Sexual violence varies from harassment, rape, abuse, defilement, force prostitution of a sexual nature in men and women, girls, boys force marriage for girls and boys (UDHS 2011, 2016). Sexual violence, including rape, sexual abuse and exploitation or sexual harassment; psychological violence, such as verbal abuse or confinement; and harmful traditional practices such as female genital mutilation or forced marriages.¹³

On October 21st, 2010, in Kirombe, Zone A, Butabika Parish Nakawa Division, a serious altercation occurred between Bongomin (the accused) and Awachi Doreen. This intense dispute continued for several hours. Tragically, on October 27th, 2010, another severe physical confrontation took place, during which Bongomin inflicted serious injuries upon Awachi Doreen. Her condition necessitated medical attention, and on October 28th, 2010, she was first taken to a local clinic before being transferred to Mulago Hospital. Despite medical efforts, Awachi Doreen sadly passed away on October 30th, 2010.

Following an investigation, Bongomin was found guilty of murder, in violation of

¹² Dutton, 1994

¹³ Moscibrodzki P, Ahumuza E, Li J, et al. *Social innovation in health, community engagement, financing and outcomes: qualitative analysis from the social innovation in health initiative*. *BMJ*

Innov 2022;8:216-23

Section 188 of the Penal Code Act CAP 120. As a consequence of this conviction, Bongomin received a sentence of 30 years' imprisonment.¹⁴

1.2 JUSTIFICATION

The Domestic Violence Act in Uganda, along with Article 21 of our Constitution, which champions equality and freedom from discrimination, lays a vital legal foundation to protect everyone from domestic violence. However, a law's true value lies in its ability to safeguard those it's designed to help.

Law enforcement agencies must be empowered and committed to upholding these protections. This means not only understanding the letter of the law but also recognizing that anyone can be a victim of domestic violence - wives, husbands, and children alike. Their essential role is to diligently record offences and identify perpetrators. Without this crucial action, we cannot truly say that justice is being served for all Ugandans. When domestic violence isn't addressed effectively, the very purpose of these protective measures is undermined.

1.3 STATEMENT OF THE PROBLEM

The law against torture is a fundamental constitutional right, and since the rights are inherent and not granted by the state,¹⁵ they ought to be protected. In Uganda, domestic violence was on the rise during the COVID-19 pandemic lockdown (Anguyo, 2023).¹⁶ Domestic violence has a prevalence rate, especially in urban and slum areas of Uganda, where women suffer and are subjected to physical, psychological and sexual abuse in their homes by partners, in-laws and in some circumstances by their

¹⁴ Supra, Ug V Bongomin

¹⁵ Article 20, Uganda Constitution, supra.

¹⁶ Anguyo, 2023

brothers and parents. According to Bond (2012), the factors associated with domestic violence in Uganda are low economic status of women, lack of awareness about women rights, lack of education, imbalanced empowerment issues between males and females, and male male-dominated social structure.

The Ugandan Domestic Violence Act¹⁷ is designed to offer robust protection for individuals experiencing abuse. This comprehensive law broadly defines domestic violence, recognising it in many forms, including:

- † Physical abuse: Any act causing bodily harm.
- † Sexual abuse: Any non-consensual sexual act.
- † Emotional abuse: Behaviour that harms a person's self-worth or emotional wellbeing.
- † Verbal abuse: The use of words to demean, control, or harm someone.
- † Psychological abuse: Tactics that instil fear, manipulate, or control.
- † Economic abuse: Controlling a person's finances or access to resources.

The Act also explicitly includes harassing, harming, injuring, or endangering a victim or anyone connected to them. This is particularly relevant when such actions are carried out to pressure someone into meeting "any unlawful demand for any property or valuable security. Essentially, the law aims to safeguard victims and their loved ones from a wide range of abusive behaviours, ensuring that people can live free from fear and coercion within their homes and relationships.

In Uganda, the law governing domestic violence is contained in a number of statutes. Two laws with provisions could be interpreted to address domestic violence among

¹⁷ The Domestic Violence Act Cap 123.

married people: the Penal Code Act and the Domestic Violence Act. The Penal Code deals with what is generally referred to as common assaults.

Uganda has a strong legal foundation for protecting women's rights, including its 1995 Constitution and international agreements like the Universal Declaration of Human Rights (Article 1) and the Convention on the Elimination of All Forms of Discrimination Against Women (Article 5). However, the reality on the ground is starkly different. Uganda is failing to ensure these rights are fully enjoyed, leaving many, particularly in the Northern and Eastern regions, in inhumane conditions.

Victims of domestic violence and gender discrimination in these areas often live as second-class citizens, and some are even treated as property. This is largely due to deeply ingrained patriarchal societal norms and women's economic dependence on men. Domestic violence remains a serious and widespread problem, affecting women, children, and even men daily, despite numerous legal procedures and policies designed to combat it. This research aims to investigate why the laws intended to address domestic violence in Uganda are not effectively protecting its citizens.

1.4 HYPOTHESIS OF THE STUDY

The study hypothesises a need to appreciate the Domestic Violence Act and the Regulations thereunder in a country where the vice is escalating now and then.

1.5 SCOPE OF THE STUDY

1.5.1 Subject Scope

The researcher intended to focus on exploring the law governing domestic violence in Uganda.

1.5.2 Geographical Area

The study was conducted in Uganda, Kampala and some other challenging areas within Uganda at a wider exposition.

1.5.3 Time Scope

The research was conducted between March and May 2025

1.6 OBJECTIVES OF THE STUDY

1.6.1 General Objectives

To carry out a thorough study and analysis of the law relating to domestic violence.

1.6.2 Specific Objectives

- i) To analyze the existing law on domestic violence
- ii) To examine the causes of domestic violence in Uganda.
- iii) To examine the relationship between domestic violence and the law governing domestic violence in Uganda.
- iii) To suggest the way forward in contemporary Uganda

1.6.3 Research questions

- i) What are the laws concerning domestic violence in Uganda?
- ii) What are the causes of domestic violence in Uganda?
- iii) What is the relationship between domestic violence and law?
- iv) What is the way forward?

1.7 SIGNIFICANCE OF THE STUDY

The study assessed the efficacy of the law on domestic violence in achieving a full democratic society as the Constitution of the Republic of Uganda provides. The readers will be sensitized about the area of the study. To further examine the law on domestic violence.

The researcher has considered different conflicting views of the law on domestic violence to give a balanced interpretation of the law in relation to Ugandan social,

economic and political situation and hence one will be able to analyze the significance of the law on domestic violence.

With the recommendations, the researcher will ensure that there is a way forward, whether the law on domestic violence is a paramount factor in the development of contemporary Uganda.

1.8 METHODOLOGY

This chapter presents the methodology aspects of the study. The description focuses on the methods that were used in collecting data and presenting the findings which analysis, conclusions and on which the recommendations were based.

1.8.1 Research Design

The study was both qualitative and quantitative, and adopted a cross-section sample survey design so as to collect sizeable amount of information about domestic violence and its impact on citizens' rights.

1.8.2 Sampling Method

The researcher chose purposive sampling to identify key information and these included the journalists, the human rights activists, and the public. This was the composition of the Focus Group Discussions.

1.8.3 Observation

This was through body structured, formal and informal, the researcher recorded everything he observed which was related to the topic and this was gained through facial expression, body movement and eye contact

1.8.4 Interviews

This involved conversations between the interviewer and the interviewee. This went into depth than any other method of collecting data.

1.8.5 Sources of Data

The researcher based his findings on information furnished by different scholars in their textbooks, Newspapers, Human Rights defenders, the Internet, Journals, and Legal officers.

CHAPTER TWO

2.0 LITERATURE REVIEW

2.1 INTRODUCTION

In this chapter, the researcher focused on defining the major terms relating to the subject of study and the scholars' perspective on the subject at hand.

2.2 DEFINITIONS

This section provides the working definition of words and phrases in the study for readers to understand according to the relevant and different contexts used.

2.2.1 Domestic violence

Domestic violence¹⁸ constitutes any act or omission of a perpetrator which;

- (a) Harms, injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the victim or tends to do so and includes causing physical abuse, sexual abuse, emotional, verbal and psychological abuse and economic abuse;
- (b) Harasses, harms, injures or endangers the victim to coerce him or her or any other person related to him or her to meet any unlawful demand for any property or valuable security;
- (c) Has the effect of threatening the victim or any person related to the victim by any conduct mentioned in paragraph (a) or (b); or
- (d) Otherwise injures or causes harm, whether physical or mental, to the victim

¹⁸ Domestic Violence Act Cap 123, section 1.

Right is an interest recognized and protected by law, respect for which is a duty and disregard of which is wrong.¹⁹

Human rights, on the other hand, are rights and freedoms which every person is entitled to enjoy, possibly derived from natural law²⁰

2.2.2 Domestic relationship

A domestic relationship means a family relationship, a relationship similar to a family relationship or a relationship in a domestic setting that exists or existed between a victim and a perpetrator and includes a relationship where;²¹

- (a) The victim is or has been married to the perpetrator;
- (b) The perpetrator and the victim are family members related by consanguinity, affinity or kinship;
- (c) The perpetrator and the victim share or shared the same residence;
- (d) The victim is employed by the perpetrator as a domestic worker or house servant and the victim does or does not reside with the perpetrator;
- (e) The victim is an employer of the perpetrator and does or does not reside with the perpetrator; or
- (f) The victim is or was in a relationship determined by the court to be a domestic relationship.

¹⁹ Osborn's Concise Law Dictionary page 293

²⁰ Ibid at page 168

²¹ Section 2(1), Domestic Violence Act

2.2.3 Understanding domestic violence

A typical definition of ‘**domestic violence**’ in textbooks has a functional approach, for instance, such as;

The current definition of domestic violence has a critical flaw: it might allow abusers to escape accountability by having someone else commit violent acts on their behalf. This means a perpetrator could orchestrate abuse against a victim without directly breaking the law themselves. For stronger protection for victims, the law needs to explicitly state that a perpetrator is responsible for any act of domestic violence committed by someone they’ve directed or authorized to act against the victim.²² Also known as “violence in the family” or “intimate partner violence”, domestic violence is the abuse of individuals within a domestic setting.²³

2.2.4 PROTECTION ORDER

Means a court order prohibiting domestic violence, restricting a person from harassing or threatening another person or restraining a person from contacting or approaching another person.²⁴

²² Jamil Ddamulira Mujuzi, publication on the Ugandan Domestic Violence Act: The Drafting History and Challenges to Its Implementation.

²³ The Gender Bench Book, on Women’s Access to Justice in Uganda, a publication of the Judiciary, first edition, September 2016.

²⁴ Section 1 of the Domestic Violence Act

2.3 CAUSES OF DOMESTIC VIOLENCE IN UGANDA

Over the last 20 years, we've come to a crucial understanding: domestic violence is far more common than we once realized. It's now clear that some people are unfortunately more vulnerable to experiencing this harm. The truth is, domestic violence inflicts deep wounds, not just on individuals, but on families and our entire society.

According to Tony (2002), the word 'domestic' is derived from the Latin word 'domus', meaning a 'home'. Domestic (Domesticus in Latin connotes what happens in and around a family²⁵ dwelling place. Violence is the use of coercive forms of power: the use of force or the threat of its use to compel someone to do something that the person might not otherwise do. It is part of a continuum ranging from legitimate power (a person does something because it is right to do so) through utilitarian power (a person does something because of a reward for doing so) to coercive power (Tony, 2002). Violence has been defined in many ways. The Concise Oxford Dictionary defines violence as the unlawful exercise of physical force.

The World Health Organization (2002) defines violence as the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation.²⁶

Ganley (1989) affirms that at its core, domestic violence is about control and harm, manifesting as physical, sexual, and psychological abuse, and sometimes extending

²⁵ Tony (2002)

²⁶ The World Health Organization (2002)

to property and pets. For those subjected to it, the experience can be terrifying, often feeling like a direct threat to their lives. This can lead to overwhelming feelings of vulnerability and helplessness, sometimes escalating to a deep sense of horror.²⁷

Dutton (1992) defines Physical abuse as any behaviour that involves the intentional use of force against the body of another person that risks physical injury, harm and or pain.²⁸ It includes pushing, hitting, slapping, choking, using an object to hit, twisting of a body part, forcing the ingestion of an unwanted substance and use of a weapon. Dutton (1994) defines sexual abuse as any unwanted sexual intimacy forced on one individual by another.²⁹ Abuse encompasses a range of severe violations. This includes forced sexual acts (oral, anal, or vaginal stimulation or penetration), forced nudity, or forced exposure to sexually explicit material or activity. Such compliance is often gained through actual or threatened physical force or other forms of coercion. Psychological abuse is also a key component, featuring derogatory statements, threats of death, isolation, economic threats, and emotional torment. Straus and Gelles (1990) assert that domestic violence is widespread and occurs among all socioeconomic groups.³⁰ In a national survey of over 6000 American families, it was estimated that between 53% and 70% of male batterers also frequently abuse their children. Other research by CWP, (1995) suggests that women who have been hit by

²⁷ Ganley (1989)

²⁸ Dutton (1992)

²⁹ Dutton (1994)

³⁰ Straus and Gelles (1990)

their husbands are twice as likely as other women to abuse a child. Over three million children at a risk of exposure to parental violence each year observes Carlson (1984). Mackay (1994) notes that children from homes where domestic violence occurs are physically or sexually abused³¹ and/or seriously neglected at a rate 15 times the national average. Regier and Cowdry (1995) estimated that 1 in 5 female children and 1 in 10 male children may experience sexual molestation.³² According to statistics from the 2012 Governors' Commission, roughly 50% of homicides and 92% of murders- suicides in New Hampshire are domestic violence-related. Domestic violence is a pattern that usually builds in intensity without intervention, according to Representative Shannon Chandlery, an Amherst democrat. Children, regardless of race or social class, are victimised at a higher rate than adults, according to the U.S. Department of Justice. Some children in that country also witness violence daily, which can have long-term psychological consequences.

According to Jones (1994), violence is any act that causes the victim to do something they do not want to do, prevents them from doing something they want to do or causes them to be afraid.³³ Similarly, battering as part of domestic violence is also, at its heart, an effort to assert dominance or to reassert a selfimage based on dominance (Rhodes & Levison, 2003).³⁴ Akpan and Usoroh (2005)

³¹ Mackay (1994)

³² Regier and Cowdry, (1995)

³³ Jones (1994)

³⁴ Rhodes & Levison, 2003

equally submitted that domestic violence is violence in intimacy which can be physical, sexual, psychological, emotional or threats of physical or sexual violence that are inflicted on women. Violence directed against women is found in many societies.³⁵ They added that, domestic violence is a very serious social, economic and psychological problem that has no cultural, social, economic and psychological group inhibition. Beyond the absence of any unknown barrier not even legal, its occurrence has profound and destructive consequences which ranges from physical, emotional and financial effects on the inhabitants of the home be it the women, children or men.

Hester (2006) suggests that domestic violence is fundamentally about one person in a relationship seeking power and control over the other. It signifies a profound imbalance and distortion of what an intimate partnership should be.³⁶ Relationships that are characterised by violence may be distorted but may not be broken down. UNICEF (2014) defines domestic violence as the abuse of someone in an intimate, romantic, or spousal relationship. It's a pattern of coercive behaviors that an abuser uses to gain and keep power and control over another adult. These behaviors can happen alone or together, and they might occur on and off or continuously. They include physical abuse, psychological and emotional abuse, and economic abuse. Adams (2001) also defines domestic violence as a pattern of behavior that includes physical, psychological and/or emotional abuse toward an intimate partner.³⁷

³⁵ Akpan and Usoroh (2005)

³⁶ Hester (2006)

³⁷ Adams (2001)

Gabby Gifford (2014) argues that congregational actions on domestic violence and calls for legislation, including steps like denying people facing restraining orders on domestic violence the right to possess guns.³⁸ Margaret Thomas (1992), a health master's student at Auckland University, observes that workers who are harassed, stalked, and subjected to violence by abusive partners bring that trauma to work with them, costing industry hundreds of millions of dollars in lost productivity.³⁹ Over half of the more than 1600 public service association union members surveyed reported some experience with family violence. Of 26%, more than half needed to take time off work, and 38% said violence made it difficult for them to get to work. David Finkelhor (2004), director of the Crimes Against Children Research Centre at the University of New Hampshire, notes that more violence occurs during economic downturns.⁴⁰

Children and teenagers are often profoundly affected by domestic violence and abuse, even if they aren't the primary target. As CORA (2014) points out, when a parent is abusive, young people frequently witness the violence, can be caught in the crossfire and get hurt unintentionally, or may experience the abuse directly.⁴¹ Witnessing domestic violence can be just as devastating for children and teenagers as directly experiencing abuse. The emotional scars can run deep, leaving young people feeling afraid, helpless, guilty, angry, frustrated, isolated, and confused, even in very young

³⁸ Gabby Gifford (2014)

³⁹ Margaret Thomas (1992)

⁴⁰ David Finkelhor (2004),

⁴¹ CORA (2014)

children (ages 1-2). The severity of this trauma depends on factors like the child's age, how long the abuse has been happening, and how often it occurs.

2.4 Forms of Domestic Violence

The manifestations of the social malady of domestic violence, according to Aihie (2009)⁴² include:

Physical Abuse:

This is the use of physical force in a way that injures the victim or puts him or her at the risk of being injured. It includes beating, kicking, knocking, pushing, choking, confinement and female genital mutilation. Physical abuse is one of the most common forms of physical abuse, (Aihie, 2009).

Sexual abuse:

This includes all forms of sexual assaults, harassment or exploitation. It involves forcing a person to participate in sexual activity, using a child for sexual purposes, including child prostitution and pornography. Marital rape also comes under this, (Adams,2001).⁴³

Sexual violence is the most widespread form of violence against women and girls in Uganda, yet it remains significantly hidden. The cases that make it to the judicial system are just a fraction of the true number. The deeply personal nature of sexual violence, coupled with the societal taboo around discussing it in Uganda, makes legal proceedings incredibly challenging. Adding to this complexity, victims often know their abusers, which can make prosecuting these cases even harder. The intricate

⁴² Aihie (2009)

⁴³ Adams, 2001

details surrounding sexual violence often make it easy for defence teams to create doubt in court, leading to perpetrators escaping justice.⁴⁴

Neglect:

This includes failure to provide for dependents who may be adults or children, denying family members food, clothing, shelter, medical care, and protection from harm or a sense of being loved and valued (Gabby Gifford, 2014).⁴⁵

Economic abuse:

This includes stealing from or defrauding a loved one, withholding money for essential things like food and medical treatment, manipulating or exploiting family member for financial gain, preventing a loved one from working or controlling his/her choice of occupation, (David finkelher, 2004).⁴⁶

Spiritual Abuse: This includes preventing a person from engaging in his/her spiritual or religious practices or using one's religious belief to manipulate, dominate or control him/her, (Aihie, 2009).

Emotional Abuse:

This includes threatening a person or harming a person's sense of self-worth by putting him/her at risk of serious behavioural, cognitive, emotional or mental disorders, (Obi & Ozunba, 2007).⁴⁷

⁴⁴ The Gender Bench Book, on Women's Access to Justice in Uganda, a publication of the Judiciary, first edition, September 2016 at pg 53.

⁴⁵ Gabby Gifford, 2014

⁴⁶ David finkelher, 2004

⁴⁷ Obi & Ozunba, 2007

Shouting at a partner⁴⁸ identified as the most common form of abuse by Goetz (2010), is a significant component of emotional abuse. This type of abuse also encompasses a range of other harmful behaviors, including:

- † Name-calling and constant criticism: Directly attacking a person's self-worth and identity.
- † Social isolation: Controlling a partner's interactions and limiting their contact with friends and family.
- † Intimidation or exploitation: Using fear or manipulation to establish dominance.
- † Routinely making unreasonable demands: Consistently setting impossible standards or expectations.
- † Physical terrorization: Threatening physical harm, even without direct physical violence.
- † Exposing a child to violence: Allowing a child to witness abusive behaviors, which can be deeply traumatizing.

Such emotional abuse, in its various forms, erodes a person's self-esteem and creates an environment of fear and control. It's crucial to recognize these behaviors as harmful and understand their impact on individuals and families.

Psychological abuse:

This includes behaviour that is intended to intimidate and persecute, and takes the form of threats of abandonment or abuse, confinement to the home, surveillance, threats to take away custody of the children, destruction of objects, isolation, verbal aggression and constant humiliation.

⁴⁸ Goetz, 2010

2.5 The Court's reaction

In **Uganda v Fibo Alex**,⁴⁹ a domestic dispute escalated to an unimaginable tragedy when Fibo Alex (the accused) stabbed his wife, leading to her death. The court, acknowledging the profound loss of life and the circumstances surrounding it, found him guilty of manslaughter. The judge, in delivering a sentence of ten years' imprisonment, underscored the gravity of the situation with a stark observation: "The killing of wives through domestic violence is rampant in the country, and this court takes a very serious view of this harm, which must be punished." This statement reflects the court's recognition of a deeply troubling societal pattern and its commitment to addressing it through judicial means."

Similarly, the case of **Uganda v Aurien James Peter**⁵⁰ brought another tragic instance of domestic violence to light. Aurien James Peter, a District Police Commander, shot and killed his wife after a domestic quarrel. The High Court, recognizing the premeditated nature of the act, found him guilty of murder. During the sentencing phase, the prosecution passionately argued for the imposition of the maximum sentence, emphasizing that "cases of domestic violence are on the increase" across Uganda. This plea highlighted the urgent need for stringent measures to deter such violence and protect victims. In **Uganda v Drazua**,⁵¹ the accused, a prison warder, was

⁴⁹ (Crim. Case No. 98 of 2008) [2009] UGHC 194 (Judgment of 3 March 2009), Uganda High Court, Arua, see <http://www.ulii.org/ug/judgment/high-court/2009/194> (accessed 12 September 2014).

⁵⁰ (Crim. Case No. 012 of 2010) [2010] UGHC 102; Judgment Date: 28 November 2010, High Court, Mukono, see <http://www.ulii.org/ug/judgment/high-court/2010/102> (accessed 12 September 2014).

⁵¹ (Criminal Case No.032 of 2012) [2012] UGHC 09 (Judgment of 15 January 2014).

convicted of the murder of his wife. He shot her after suspecting her of having an extra-marital affair. The High Court observed that:

Domestic violence is one of the greatest social problems Uganda is faced with today. There are an increasing number of reported incidences of domestic violence, many of which are dangerous and have resulted into loss of lives. This case is one of such instances of domestic violence whereby the accused...and the deceased...had been married for 9 years and has 3 children.

The Court held that:

This court is at a cross road. Counsel for the state has raised serious issues relating to Domestic Violence and the manner in which the offence was committed and the fact that in most cases, women are victims. Whereas this court has to maintain neutral stance as to whether most victims of Domestic Violence are men or women, this court cannot run away from the fact that the victim in this case was a woman. She was indeed a law-abiding citizen on duty and faced a cruel-some death at the hands of the recklessness of the convict.

The Court sentenced the offender to death. In **Uganda v Namboira**,⁵² the accused was convicted of manslaughter after evidence was presented that she killed her cowife. In sentencing her to 2 years' imprisonment, the High Court held that '[s]he took away a life in circumstances of a domestic nature which could have been solved

⁵² Criminal Session Case No. 32 of 2011 [2011] UGHC 281 (Judgment of 2 October 2013).

amicably’ and that ‘Court will like to send out a message that domestic violence is never justified under any circumstances and people ought to learn to settle disputes amicably.

In **Uganda v Nakalyango** and another,⁵³ the accused, including the deceased’s wife (accused number one), were convicted of the murder of the deceased. In sentencing accused number one to 25 years’ imprisonment, the High Court

observed, inter alia, that:

[T]his Court would like to denounce the increase in cases of Domestic Violence; whereby marital problems like in the present case involving jealousy and rivalry by co-wives could have been solved amicably in Civil Courts as opposed to criminal intentions of killing the husband. The question is who is to look after the children of the deceased? Such lawlessness cannot therefore be encouraged and deterrent sentences have to be meted out to serve a lesson to members of the general public not to take the Law in their own hands under the cover of darkness, thinking that they will not be found out.

2.6 CONCLUSION

The unfortunate reality is that women are often uniquely susceptible to violence, and this vulnerability stems from a complex web of societal and cultural issues. These issues are all echoes of historical power imbalances between men and women. Some of the significant factors that contribute to this unequal dynamic include:

✦ Economic hardship: A lack of financial stability often traps women in violent relationships, making it incredibly difficult to break free.

⁵³ Uganda v Nakalyango & another [2014] UGHC 31 (judgement of 13 June 2014).

- † The family's role: The very institution of the family can sometimes perpetuate and enforce these unequal power structures.
- † Control over female sexuality: A societal fear and desire to control women's sexuality have historically contributed to their vulnerability.
- † Patriarchy: The deeply ingrained belief in the inherent superiority of men is a fundamental cause of this power imbalance.
- † Legal and cultural limitations: Traditional laws and cultural practices have often denied women and children independent legal and social standing, further increasing their risk.

At its core, the lack of economic resources frequently underpins both women's exposure to violence and the immense challenges they face in leaving abusive relationships.

CHAPTER THREE

3.0 LEGISLATING DOMESTIC VIOLENCE IN UGANDA

3.1 The Domestic Violence Act Cap 123

To better protect individuals from domestic violence, Uganda introduced the Domestic Violence Act. This essential legislation was enacted to fill the gaps left by earlier laws, which proved inadequate in preventing and combating such abuse.⁵⁴

The Domestic Violence Act (DVA) plays a crucial role in upholding fundamental human rights in Uganda. It directly enforces Articles 24 and 44 of the Ugandan Constitution, which guarantee everyone the right to be free from torture, cruel, inhuman, or degrading treatment or punishment. What makes the DVA particularly effective is its hybrid nature: it combines both civil and criminal provisions, offering a wide range of procedures and remedies to address domestic violence. This means it can pursue both punitive measures against perpetrators and protective or compensatory relief for victims. It provides for several issues: -

- (a) The protection and relief of victims of domestic violence;
- (b) The punishment of perpetrators of domestic violence;
- (c) The procedure and guidelines to be followed by the court about the protection and compensation of victims of domestic violence; and
- (d) The jurisdiction of the court; the enforcement of orders made by the court, and the empowerment of the family and children's court to handle cases of domestic violence.

⁵⁴ Hansard of the Eight Parliament of the Republic of Uganda, 11 November 2009, p. 10202.

3.1.1 Complaint's procedure

A person in a domestic relationship shall not engage in domestic violence⁵⁵ even where there is proof of consent to the violence,⁵⁶ the perpetrator is liable on conviction to a fine not exceeding forty-eight currency points or imprisonment not exceeding two years or to both⁵⁷ or compensation.⁵⁸

The complaints may be to;

1. The local courts
2. The police
3. The magistrate's court

LOCAL COUNCIL COURT

A complaint to the local council court⁵⁹ may be oral or written.⁶⁰ Where an oral complaint is made the person receiving it shall reduce it into writing and read the complaint to the complainant who shall sign it and the person who has received the complaint shall counter sign it.⁶¹ Where the complainant is unable to sign the complaint, he or she shall affix a thumb mark or acknowledge authenticity of the

⁵⁵ Domestic Violence Act, Section 3(1)

⁵⁶ Ibid, Section 5

⁵⁷ Ibid, Section 3(2)

⁵⁸ Ibid, Section 3(3)

⁵⁹ Section 6(1) of the Domestic Violence Act

⁶⁰ Regulation 5(1) of the Domestic Violence Regulations

⁶¹ Regulation 5(2) of the Domestic Violence Regulations

recorded complaint in any other way possible and the person who has received the complaint shall counter sign it.⁶²

The local council courts shall have jurisdiction for the trial and determination of the following domestic violence matters⁶³ of civil nature namely; (i) debts; (ii) contracts; (iii) assault or assault and battery; (iv) conversion; (v) damage to property; and (vi) trespass.

Local Council Courts have the power to issue various orders aimed at supporting victims and addressing the actions of perpetrators. These orders are designed to promote healing, accountability, and reconciliation within the community. Here are some of the actions a local council court can take:

- † Caution: A formal warning to the perpetrator.
- † Apology to the victim: The perpetrator may be required to offer a sincere apology to the person they harmed.
- † Counselling: Orders for counselling can be made for either the victim or the perpetrator to help them process the incident and move forward.
- † Community service: The perpetrator might be ordered to perform work that benefits the community.
- † Fine: A financial penalty, with a maximum of twenty-five currency points.
- † Compensation: The perpetrator may be ordered to pay the victim for any damages or losses incurred.
- † Reconciliation: The court can facilitate a process for the victim and perpetrator to resolve their differences and find a path towards harmony.

⁶² Regulation 5(3) of the Domestic Violence Regulations

⁶³ Regulation 7 of the Domestic Violence Regulations

- † Declaration: The court may make a formal statement about the rights of the victim or the responsibilities of the perpetrator.
- † Restitution: The perpetrator may be required to return stolen goods or restore things to their original state.
- † Attachment and sale: In some cases, the court may order the seizure and sale of property to ensure compensation or other financial obligations are met. Any other order provided for under the Local Council Courts Act, 2006.⁶⁴

These measures aim to ensure that justice is served in a way that prioritises the well-being of those affected and encourages responsible behavior.

THE POLICE

Whether you prefer to speak your complaint aloud or put it in writing, the police are there to listen. If you tell an officer your story, they'll carefully record it for you. After they've written it down, they'll read it back so you can ensure every detail is correct. To finalise the complaint, you'll simply need to sign it, use a thumbprint, or acknowledge that the recorded complaint is accurate in a way that's comfortable for you⁶⁵ and the police officer who has recorded the complaint shall countersign it⁶⁶ and the police shall respond immediately.⁶⁷

A police officer receiving the complaint shall record the following particulars,⁶⁸

⁶⁴ Section 6(5) of the Domestic Violence Act

⁶⁵ Regulation 21(1) of the Domestic Violence Regulations

⁶⁶ Regulation 21(2) of the Domestic Violence Regulations

⁶⁷ Regulation 21(3) of the Domestic Violence Regulations

⁶⁸ Regulation 22(1) of the Domestic Violence Regulations

- (a) *name, age, sex, tribe, nationality, occupation and physical address of the victim and perpetrator;*
- (b) *nature of the violence;*
- (c) *relationship of the victim with the perpetrator;*
- (d) *the place of the incident;*
- (e) *the time and date of the incident;*
- (f) *name, age and sex of the children involved, if any;*
- (g) *whether the victim has previously suffered violence by the same perpetrator;*
- (h) *whether the victim has previously filed a complaint and if yes, where;*
- (i) *particulars of previous action taken against the perpetrator, if any; and*
- (j) *names of witnesses and other particulars, if any.*

The authority of the police to enter a private home is generally restricted. However, in cases of domestic violence, this limitation can unfortunately protect the abusive individual, leaving the woman vulnerable. To better safeguard victims, some laws now permit police entry if a resident requests it, or if an officer has reasonable grounds to believe someone inside is facing an immediate threat or attack. A critical concern in domestic violence situations is the immediate release of an offender on bail. This can pose significant danger to the woman, and release without prior notification can have dire consequences for her safety.

Therefore, it's essential to carefully weigh the interests of both the person who committed the offense and the woman's safety. This requires setting clear conditions for an offender's release that are specifically designed to protect her from any further harm.

COURTS

Every magistrate's court may hear and determine a matter of domestic violence⁶⁹ and at hearing, the court shall apply the procedure prescribed by the Family and Children Court Rules⁷⁰ and issue a protection order.⁷¹

Where the court finds it necessary, it may refer the parties for mediation and counselling to an appropriate person or authority⁷² which shall be done within 5 days after receiving the reference⁷³ and in the event it fails, the court shall proceed to hear the complaint on its merits.⁷⁴

The court shall hear domestic violence cases in public, except where the sensitivity of the matter requires that it be heard in camera.⁷⁵ A party to a matter shall make oral presentations to the court in person or by a representative.⁷⁶ The proceedings shall be heard expeditiously⁷⁷

⁶⁹ Section 9(1) of the Domestic Violence Act

⁷⁰ Section 9(3) of the Domestic Violence Act

⁷¹ Section 9(2) of the Domestic Violence Act

⁷² Regulation 12(1) of the Domestic Violence Regulations

⁷³ Regulation 12(2) of the Domestic Violence Regulations

⁷⁴ Regulation 12(7) of the Domestic Violence Regulations

⁷⁵ Regulation 13(1) of the Domestic Violence Regulations

⁷⁶ Regulation 14(1) of the Domestic Violence Regulations

⁷⁷ Regulation 14(8) of the Domestic Violence Regulations

THE INTERIM PROTECTION ORDER:

The court shall issue an interim protection order, where the court is satisfied that, prima facie⁷⁸ and where the perpetrator has committed, is committing or is threatening to commit an act of domestic violence, it is necessary or desirable to issue an immediate order to protect the victim from harm or discomfort or inconvenience, as a result of such domestic violence.

An interim order shall specify a hearing date for the application for a protection order⁷⁹ however, the maximum duration for an interim order is three months, but the court may prescribe a lesser period⁸⁰ and such application for a protection order shall not in any way bar criminal proceedings against a perpetrator.⁸¹

THE PROTECTION ORDER:

On the hearing date specified in an interim protection order, the court may issue a protection order where the court is satisfied that an act of domestic violence has been committed, is threatened or is being committed by the perpetrator⁸² and shall be served upon the respondent immediately, but not later than forty-eight hours.⁸³

⁷⁸ Section 11(1) of the Domestic Violence Act

⁷⁹ Section 11(3) of the Domestic Violence Act

⁸⁰ Section 11(4) of the Domestic Violence Act

⁸¹ Section 11(6) of the Domestic Violence Act

⁸² Section 12(1) of the Domestic Violence Act

⁸³ Section 12(3) of the Domestic Violence Act

CONTENTS OF PROTECTION ORDER

A protection order may, where appropriate⁸⁴

- (a) prohibit the perpetrator from committing or enlisting the help of another person to commit an act of domestic violence;
- (b) direct the perpetrator to stay away from the premises or place where the victim resides or any part of the premises, if the prohibition is in the best interest of the victim;
- (c) prohibit the perpetrator from entering or approaching any place or premises where the victim works, frequents, attends or any part of the premises or place;
- (d) direct the perpetrator to pay maintenance in respect of the victim's needs or the needs of any child or dependent of the perpetrator, including necessities;
- (e) award the temporary custody of any child or dependent of the perpetrator to any person or institution and regulate rights of access by the perpetrator to the child or dependant;
- (f) direct the perpetrator to afford the victim or any child or dependent of the victim, access to their place of residence and use of the facilities associated with it;
- (g) direct the perpetrator to do or omit to do any act or thing which the court considers necessary or desirable for the well-being of the victim or any child or dependant of the victim.

⁸⁴ Section 13(1) of the Domestic Violence Act

3.2 International Legislation and how it has been incorporated into Domestic Laws

3.2.1 Introduction

Uganda has ratified international human rights instruments that protect human rights generally⁸⁵ and which have been interpreted as prohibiting domestic violence.⁸⁶ Uganda has also ratified human rights instruments which specifically deal with women's rights, such as the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. As mentioned earlier, the Constituent Assembly debates show that the majority of domestic violence victims in Uganda are women.

It is against that background that during the making of the Ugandan Constitution and in particular when the Constituent Assembly delegates discussed the issue of women's rights, the relevant provisions of the Convention on the Elimination of All Forms of Discrimination against Women were emphasised.⁸⁷ The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa requires states parties, including Uganda, to eliminate violence against women.⁸⁸ In its recent periodic report to the African Commission on Human and Peoples' Rights, Uganda mentions measures it has taken to prevent and combat domestic

⁸⁵ Such as the International Covenant on Civil and Political Rights, the Convention against Torture.

⁸⁶ <http://www.achpr.org/sessions/48th/info/communique48/> (accessed 12 September 2014).

⁸⁷ Proceedings of the Constituent Assembly (Official Report) (1994-1995) submission by Mrs Mwesigye, 25 July 1994, p. 1211; Dr Wandira Kazibwe, 30 March 1995, p. 3716; and Dr Kinyatta, 30 June 1994, p. 479.

⁸⁸ Article 4

violence.⁸⁹ Thus, in terms of the Constitution and in international law, Uganda has an obligation to prevent and combat domestic violence. It is against that background that the Domestic Violence Act was enacted.

3.2.2 UNIVERSAL DECLARATION OF HUMAN RIGHTS

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.⁹⁰

Every single person is inherently entitled to every right and freedom outlined here. These rights are yours, regardless of your race, color, sex, language, religion, political views, where you were born, your social standing, wealth, or any other personal characteristic. And it doesn't stop there. Your rights aren't affected by the political or international status of your country or territory, whether it's independent, a trust, non-self-governing, or has limitations on its sovereignty. Everyone is equally deserving.⁹¹

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.⁹²

⁸⁹ See 5th Periodic Report by the Government of the Republic of Uganda to the African Commission on Human and Peoples' Rights presented at the 54rd Ordinary Session Held in Banjul, The Gambia, 22 October to 5 November 2013, p. 13. See http://www.achpr.org/files/sessions/55th/statereports/52010-2012/periodic_report_2010_2012_eng.pdf (accessed 12 September 2014).

⁹⁰ Article 1 of the UDHR

⁹¹ Article 2 of the UDHR

⁹² Article 5 of the UDHR

3.2.3 Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment:

Article 2⁹³ states that;

- 1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.*
- 2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.*
- 3. An order from a superior officer or a public authority may not be invoked as a justification of torture.*

3.2.4 International Covenant on Civil and Political Rights, International

Covenant on Economic, Social and Cultural Rights.

No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without their free consent to medical or scientific experimentation.⁹⁴ The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights outlined in the present Covenant.⁹⁵

⁹³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

⁹⁴ Article 7 of the International Covenant on Civil and Political Rights

⁹⁵ Article 3 of the International Covenant on Economic, Social and Cultural Rights

3.2.5 African charter on the Rights and Welfare of the child, Convention on the Rights of Children.

Children

Every child deserves a safe and healthy childhood, free from harm. This means making sure no child is forced into work that could hurt them or take away their chance to learn, play, and grow. We must protect all children from any kind of economic exploitation and ensure they can thrive in environments that prioritize their well-being above all else.⁹⁶ Children should be protected from economic exploitation and from performing any hazardous work⁹⁷ or to interfere with the child. Children deserve protection from employment that could negatively impact their health, schooling, or their healthy growth and development in any way.⁹⁸

The minimum age of employment of a child is 16 years.⁹⁹ No child should ever be subjected to work that endangers them. This includes any job that leads to physical or emotional abuse, sexual exploitation, or forces them into harmful environments like underground mines, dangerous heights, or cramped spaces. It also covers working with hazardous machinery, tools, or equipment, lifting heavy loads, exposure to dangerous chemicals, extreme temperatures, or excessive noise. Additionally, making a child work for excessive hours is strictly prohibited.

⁹⁶ Article 15 of African charter on the Rights and Welfare of the child

⁹⁷ Article 32 of the convention on the rights of children

⁹⁸ Section 8(1) of the children Act

⁹⁹ Section 8(2) of the children Act

Beyond these specific conditions, any form of child labor that involves slavery, human trafficking, debt bondage, or forced labor is illegal. This extends to forced recruitment into armed conflict, and exploiting children for prostitution, pornography, or illegal activities. The law also explicitly forbids the sexual exploitation of children¹⁰⁰

(a) a child in any work or trade that exposes the child to activities of a sexual nature whether paid for or not;

(b) inducement or coercion in the encouragement of a child to engage in any sexual activity; children in prostitution or other unlawful sexual practices;

(c) children in pornographic performances or materials.

3.3 CONCLUSION

Tragically, a significant and increasing amount of research consistently shows that physical violence is a global problem. Across countries, it's estimated that 20% to 50% of women have experienced domestic violence, according to the WHO in 1996. These numbers are stark and deeply concerning, regardless of where you look in the world. While we have some comparable data on physical violence from industrialized, developing, and transitional countries, there's still a lack of clear statistics on the widespread issues of psychological violence, sexual abuse, and the murder of women by partners and family members. This makes it harder to fully grasp the devastating scope of the violence women endure.

¹⁰⁰ Section 8A of the Children Act

CHAPTER FOUR

4.0 SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

4.1 INTRODUCTION

At its core, domestic violence stems from unequal power dynamics, even though it's often influenced by societal structures, cultural values, and historical legacies. Traditional beliefs, religious practices, and even colonial-era norms that designated men as heads of households have certainly played a role in shaping these power imbalances.

In Uganda, a pervasive issue is the underestimation of domestic violence. This is largely due to widespread community perceptions that relegate women to subordinate roles, viewing them as subservient to men and even as property belonging to their husbands' clans once married. Consequently, the physical abuse of women and children is frequently dismissed as a private matter, particularly when it involves women. This deeply concerning attitude means the true extent of domestic violence in Uganda remains largely hidden and unaddressed.

4.2 FINDINGS:

4.2.1 Consequences of domestic violence

When women lack social and economic empowerment, are confined by traditional gender roles, and their work isn't valued, it creates a cycle that keeps them in a subordinate position. A significant finding in understanding the causes of domestic violence is that high levels of male economic and decision-making authority in the household are a strong predictor of its occurrence.¹⁰¹

¹⁰¹ 101 Statement by an elder in

Bukasa.

In an interview with the respondents, one said,

“In Mutungo, the major cause of domestic violence is because most women do petty business and have the potential to support their children other than their husbands. Because women’s income is small, they cannot support their children fully with basic school requirements. In families where men earn a salary, they have shunned their responsibility of paying tuition and meeting other requirements which leads to domestic violence. Besides, such children will lag behind in performance because of absenteeism and hence poor performance...”

The physical abuse of wives has been tragically normalized by the deeply flawed idea that men are entitled to own women. This harmful dynamic is worsened by men’s control of family finances, which concentrates decision-making power in their hands and reinforces their perceived ownership of women and girls.¹⁰²

When domestic violence occurs, a husband or male head of household may withhold financial support from the home. This can leave the woman solely responsible for providing for the children’s basic needs. If she’s unable to meet these needs, it can lead to unpaid school fees, a lack of learning materials, and generally poor welfare for the child. These challenges can significantly affect a child’s school performance.

Many the respondents contend that domestic violence affects social life of a child. These children are shy. They don’t show up in discussions neither do they participate in school activities for fear of what happens in their families. Domestic violence encompasses various devastating forms, including physical, sexual, and psychological abuse, as well as social abuse that isolates individuals, and even harm to their

¹⁰² Elder in Mutungo

property and beloved pets.¹⁰³ As Ganley (1989) highlights, experiencing these types of violence can be incredibly terrifying. Survivors often perceive these acts as life-threatening, leaving them with profound feelings of vulnerability, helplessness, and in the most extreme situations, sheer horror. Some of the respondents said that;

“Due to domestic violence there may not be adequate interaction within the family, which could lead to communication breakdown. In a home where there is no freeflow of Domestic Violence. Academic Performance communication they are bound to be problem because communication brings about positive outcomes within the family. Since our children in the secondary section are under adolescence stage, they need to be talked to by their parents. This gap makes them take wrong decisions with some marrying at an early age while others will end up getting poor grades in education...”

Children growing up in families experiencing domestic violence in Bukasa often endure significant emotional distress. This exposure to severe and threatening events can lead to profound traumatic stress, requiring immense coping efforts from these young learners. Consequently, many children in these situations become highly emotional, struggling with the invisible wounds inflicted by their home environment. Such events are often unpredictable and uncontrollable to students and lead to poor performance. In an interaction with head teachers, it was revealed that;

¹⁰³ Ganley (1989)

“The effects of exposure to domestic violence abuse can be as damaging to children and teens as the damage that an abusive person inflicts on his/her partner. Most of such students will experience severe headache, stomach problems and trauma. Domestic violence leads to social psychosomatic illness in which the child may display neurotic behaviour, morbidity, day-dreaming which affects his/her listening and assimilation ability in class. All these would play dominant impact on the child academic performances...”

When children are healthy and safe, they're better able to thrive in school. As Kernan, Bogart, and Wheat (2011) highlight, fewer health-related challenges lead to greater academic success.¹⁰⁴ Unfortunately, many studies show that children who experience or witness domestic violence often suffer emotional distress. This can lead to a range of serious health issues, including sleep problems, anxiety, brain injuries, physical injuries like bruises and fractures, substance use, and sexually transmitted diseases. These difficulties can profoundly impact a child's well-being and, in turn, cause their school performance to decline.

The respondents reported that domestic violence causes depression and anxiety. Children who grow up in families where there is domestic violence end up engulfed by anger and disobedience, and low self-esteem. In an interview by the head teachers, one said;

“Many families in Mutungo sub-county experience domestic violence. In families where this happens, children are

¹⁰⁴ Kernan, Bogart and Wheat, 2011

academically deprived because of depression and anxiety. In most cases, we try to talk to them about their future but the same keeps on manifesting. In most cases, such children are isolated and have counter effects of such infections as headache, fever among others. This greatly affects their academic progress....”

When asked, some head teachers commented;

“A child who is exposed to domestic violence experiences a lot of difficulties in the learning environment. Their concentration is always low with less effort in task completion. They have a negative attitude towards education and in most cases hate everyone around them. Here, in Bbiina, they score less marks in class, come to school late, shun activities and are less involved in social happenings....” Children whose parents are financially handicapped will always experience domestic violence for failure to meet the children’s basic needs. In an interview with the respondents, head teachers said,

“Here in Mutungo, the major cause of domestic violence is because most women do petty business and have the potential to support their children other than their husbands. Because women’s income is small, they cannot support their children fully with basic school requirements. In families where men earn a salary, they have shunned their responsibility of paying tuition and meeting other requirements which leads to domestic violence. Besides, such children will lag behind in

performance because of absenteeism and hence poor performance...”

The Chairperson Bbiina lamented that exposure to these forms of violence has considerable potential to be perceived as life-threatening by those victimised and can leave them with a sense of vulnerability, helplessness and in extreme cases horror. Some of the respondents said that;

“Due to domestic violence, there may not be adequate interaction within the family, which could lead to communication breakdown. In a home where there is no freeflow of Domestic Violence. Academic Performance communication they are bound to be a problem because communication brings about positive outcomes within the family. Since our children in the secondary section are in adolescence stage, they need to be talked to by their parents.

This gap makes them take wrong decisions with some

marrying at an early age while others will end up getting poor grades in education...”

How the vice of domestic violence can be mitigated

In 2006, the World Health Organisation (WHO) and the International Society for Prevention of Child Abuse highlighted that while states have a primary responsibility to protect children's rights, core statutory systems, like the education system, are uniquely positioned to uphold these rights and ensure children's safety. This implies that legal frameworks within education are vital tools for protecting children.¹⁰⁵ Early detection has also been identified as a second important factor to the

¹⁰⁵ WHO and International Society for Prevention of Child Abuse (2006),

prevention of domestic violence. *“Secondly, coordinated and multi-faceted approaches was suggested by several respondents who proposed that local authorities, health sectors education and religious leaders should find a way of harmonizing violence in families. There must be a culture that stops men from practicing domestic violence. If this is done, children’s academic performance will be strengthened...”*

In an interview with the head teachers, one said;

“...many of Ugandan school children go through many forms of domestic violence with a few of them that report such cases. The law must be publicized to them to them that protects

and advocates for their rights. With this at hand, parents will take the law in their hands and violence will be reduced...”

As Dankwort & Rausch (2000) suggest, truly stopping violence against women means everyone working together. It's about building a society where any form of violence against women is simply not tolerated. This isn't just a job for one group; it requires a coordinated effort from all parts of government and civil society and it this could take shape though local authorities and People's Committees, the health sector and social services, the education sector and justice system, Law enforcement and important community groups like the Women's Union and the media.¹⁰⁶

In addition, sensitisation and increased awareness were proposed by various respondents.

¹⁰⁶ Dankwort & Rausch, (2000),

“They said that the government should increase awareness and understanding by setting up government programs that lead to continued awareness. This could also be enforced by local leaders in villages and church clergy. This would reduce domestic violence and in turn boost academic performance...”

McWhirtner, (1999), contends with the assertion when he opined that a series of research projects by the government should be aimed at increasing understanding of domestic violence.¹⁰⁷ The Chilean and Mexican research efforts by the Mexican government in the last decade have led to increased awareness and concern for the problem, as well as grassroots and governmental programs developed to combat the issue at the individual and societal level.

Several respondents confirmed that reconciliation is key to ending domestic violence. The parties need to work out free will in issues concerning domestic violence. Religious and legal authorities need to initiate reconciliation programs that help the parties to be free. In an interaction with the head teachers, they commented that;

“Reconciliation is key in handling any cases of domestic violence. When the parties involved in domestic violence are brought together, they can forgive one another and continue normally. Once this is done, even the children will be at free will to forgive and forget about domestic violence and of course, their academic progress will be boosted...”

¹⁰⁷ McWhirtner, (1999),

Reconciliation in domestic violence cases must always put the victim's safety and free will first. The law emphasises that if a victim feels threatened or intimidated by the perpetrator, reconciliation cannot and should not happen. Their consent must be genuine and freely given, without any coercion.

Furthermore, the law is clear: reconciliation is not appropriate for incidents that are criminal or administrative, especially when dealing with serious or repeated violence. This means that mediation shouldn't be used as a substitute for legal action in these grave situations.

In cases of a criminal nature, a victim can, if they choose, request an exemption from criminal proceedings to pursue reconciliation. However, authorities are responsible for ensuring this request is made voluntarily and without any intimidation.

For administrative violations, reconciliation should never be conducted by any institution, organization, or grassroots team. This ensures that serious incidents are handled through proper legal channels, protecting the victim and upholding justice.¹⁰⁸

Reporting all kinds of domestic violence was suggested by some of the respondents. These believe that children should not keep quiet about any issues of domestic violence. When such issues are reported, concerned authorities normally come up with possible solutions. Head teachers said;

“If all children and women in the sub-county would report cases of domestic violence, concerned bodies would come up to

¹⁰⁸ Birchard, (2000)

intervene in such cases to stop the act. In Mutungo cases of domestic violence are not reported. In most cases, the worst happens before people open up on the same...”

According to Rogers in her book, “A Decade of Women and the Law in Commonwealth, London Secretarial Publication” (1985)¹⁰⁹ Legislation is not always a sufficient answer until women are prepared to come forward and prosecute their partners. So, unless women depend on their partners for their support and the children, this is when they can make reasonable criminal accusations against their partners.

Our research in Makindye Division reveals a difficult truth: domestic violence is a deeply complicated issue, shaped by many interconnected factors. We’ve gained crucial insights into the various challenges that contribute to intimate partner violence, including gender dynamics, substance abuse, communication breakdowns, ingrained cultural attitudes, and economic hardship.

These findings are invaluable. They light the path forward for creating more effective and compassionate interventions and support services. By understanding the root causes, we can develop targeted programs that foster healthier relationships and significantly reduce the prevalence of domestic violence within the community.

¹⁰⁹ A decade of women and the law in commonwealth, London secretarial publication, (1985).

4.3 Conclusions

Writing in 2009, Tamale explored how gender roles and societal expectations create and solidify male superiority, deeply embedding a gender hierarchy within Ugandan communities. She compellingly argued that cultural upbringing is a key factor in this perpetuation. Even more critically, Tamale pointed out that women, including female politicians, can unwittingly contribute to their own disempowerment by articulating arguments that undermine women's rights. This troubling dynamic ultimately hinders the efforts needed to protect women from abuse.¹¹⁰

The recent survey in Makindye Division paints a stark picture: domestic violence is alarmingly common in intimate relationships here. The findings clearly show an urgent need for action. We must provide immediate, targeted support and launch awareness campaigns to tackle the many challenges that intimate partner violence presents.

The high numbers of people who reported experiencing sexual, physical, psychological, and tech-facilitated abuse, as well as neglect and verbal abuse, highlight just how widespread these issues are in the community. It's a pervasive problem that demands our collective attention and a compassionate response.

4.4 Recommendations

Establishing strong multi-agency relationships and efficient referral systems is essential for ensuring that spouses experiencing violence can safely disclose their situations and receive the support they need. These collaborative networks are vital for routine inquiries, enabling timely intervention and comprehensive assistance.

Beyond awareness, Uganda needs a comprehensive Domestic Violence Act. Such legislation would provide essential legal protection for victims and establish

¹¹⁰ Tamale, (2009)

longterm strategies for preventing domestic violence. This act would be a critical step towards creating a safer, more just society for everyone.

It's clear from our conversations with people in the field that the current laws on domestic violence just aren't cutting it. They only seem to cover basic assault, but domestic violence is so much more complex than that. Based on what we've learned, we've put together some recommendations for the government, civil society, local communities, and even the international community.

Tackling Corruption in the Justice System

One major issue we uncovered is how often domestic abusers walk free due to corruption within the police and judiciary. We heard stories of men paying off officers or other authorities to drop charges. This often leaves women with nothing, even when they've contributed significantly to their household's wealth throughout their lives. We need to fight corruption at every level to ensure justice is served.

Raising the Legal Age of Marriage

Many of the older folks we spoke with believe that raising the legal age of marriage above 20 years could significantly reduce domestic violence. They reason that people over 20 tend to have better judgment and can reason more effectively than those who marry younger. This change could help reduce the number of early marriages, often linked to domestic violence.

Alleviating Poverty to Empower Women

Poverty makes some groups, especially women, incredibly vulnerable to domestic violence. When women are financially dependent on men, it can lead to more conflicts over money and ownership. By alleviating poverty, we can reduce women's dependency on men, which in turn could lessen tensions and fights in households.

The Role of Religious Institutions in Promoting Peaceful Marriages

Churches and other religious institutions have a vital role to play in educating married couples about their responsibilities and obligations to each other. By sensitizing newly married couples, these institutions can help them understand that marriage should be a place of peace, not a battleground.

Training for Domestic Violence Handlers

Non-governmental organizations (NGOs) can provide crucial training to various community leaders, including women LCs (local council members), counsellors, clan leaders, and even police officers, on how to handle domestic violence cases. This training should focus on how to treat victims and culprits with respect, avoiding harassment, and finding amicable ways to resolve conflicts. NGOs can also train personnel to effectively counsel those involved in domestic violence.

Community-Led Solutions and Awareness

Local communities can play a significant role in creating a safer environment. This includes:

- ✚ Establishing community-based punishments for those who violate household harmony and ensuring everyone in society can live happily within their marriage vows, free from oppression.
- ✚ Organizing local council meetings to educate married couples about domestic violence. Bringing abusers before the community can serve as a deterrent, making others think twice before disrespecting their partners.

Collaborative Awareness Campaigns

Finally, there's a strong need for collaboration among local community leaders,

NGOs, and educational institutions to launch comprehensive awareness campaigns. These campaigns should aim to challenge and change deep-seated cultural norms and beliefs that contribute to domestic violence. Community leaders are key in initiating discussions, workshops, and educational programs that promote gender equality, respectful communication, and reject harmful stereotypes.

We believe these recommendations, if implemented, can go a long way in addressing the pervasive issue of domestic violence and fostering healthier, more peaceful homes and communities.

4.5 Area for Further Research

Further investigation into the cultural factors contributing to domestic violence in Makindye Division could provide deeper insights into how cultural norms, beliefs, and practices influence intimate partner violence. Understanding these dynamics can inform culturally sensitive interventions.

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