

Violence against women in Africa: an imported agenda or a hidden reality?



Reflections from university students in Kenya

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Our vision is a society in which all citizens are equally able to achieve their rights and fulfil their responsibilities. Our mission is to work in common cause with people who are poor and those who have been denied their rights to obtain social justice and development and be part of locally rooted citizen movements.

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If you would like to contact the students co-authors of this publication, kindly send ACORD an email or give us a call. Thank you.

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The Agency for Cooperation and Research in Development (ACORD) is a pan African organization working for social justice and development in Africa and in particular on women's rights, sustainable livelihoods, conflict transformation and peace building, and the rights of people living with or affected by HIV and AIDS.

On women's rights, ACORD is currently implementing a multi-country project titled "The Hidden War Crimes; Challenging the Impunity on Sexual and Gender Based Violence in Countries of the International Conference of the Great Lakes Region (ICGLR)" in Burundi, DRC, Kenya, Tanzania and Uganda. Its main outcomes are cultural change and practice on impunity as it relates to sexual abuse of women and girls in pre-conflict, conflict and post conflict circumstances; strengthening the institutions and mechanisms of justice and uphold of the rule of law to protect women and girls against SGBV and punish perpetrators; and facilitate restitution for survivors of sexual crimes perpetuated particularly in conflict and post conflicts situations.

Various activities have been implemented under the above project including a judicial audit of the legal frameworks as far as Gender Based Violence (GBV) is concerned in the above countries; advocacy campaigns against impunity on Sexual Gender Based Violence (SBGV) at regional, national and community levels; supporting livelihood rehabilitation and economic empowerment of SGBV survivors among others.

As part of its advocacy campaigns, ACORD celebrates the International Women's Day (IWD) every year. Increasingly, IWD celebrations worldwide have become a moment of reflection on progress made towards gender equity and women's rights, call for meaningful change and celebrations of acts of courage and determination by ordinary women who have played an extraordinary role in the history of their countries and communities.



Foreword

ACORD also takes advantage of the IWD celebrations to spread its advocacy messages against gender based violence within higher learning institutions in Kenya and other African countries.

In 2010, students from both within and outside Nairobi in Kenya were invited to participate in an essay writing competition on the following topic: "Is Violence against Women an Issue in Africa or Merely an Imported Agenda? Winners of the competition were awarded cash prizes in a colourful celebration of the 2010 International Women's Day graced by Honorable Njoki Ndungu at the Catholic University of Eastern Africa.

By inviting students to take part in the essay writing competition, ACORD sought to mobilize these young intellectuals and involve them in a deep reflection on the above topic, come up with a well informed and researched analysis of contributing factors to gender based violence in today's African society and Kenya in particular; more importantly gather recommended strategies to dealing effectively and efficiently with violence against women in all its forms.

At the submission deadline, 131 essays were received and then reviewed and assessed. They contain very comprehensive and instructive information, however only 5 out of 131 are reproduced in this brochure, shading light on some of the reflections made by the students in regard to the issue of violence against women and girls.

The essays reiterated the fact that overtime women and children, in particular, have been survivors of the repugnant cultural practices that perpetuate SGBV in the society such as wife battery, wife disinheritance, female genital mutilation, rape, defilement to name but a few. Even marital rapes are very common yet they remain taboo subject. Furthermore the culture of impunity in relation to sexual abuse and violation of girls and women is deeply rooted in the normalized violation of women's rights.

Thus, the overall message from students who took part in the competition was (is) clear: violence against women and girls is an everyday reality in Kenya and does occur in both rural and urban areas. This calls for combined and complementing interventions from all sectors (individuals, communities, Government institutions, Civil Society Organisations, Community Based Organisations, development actors etc...) to eradicate violence against women and girls in Kenya.

The following section presents 5 remarkable essays, reproduced without any alterations whatsoever inviting the reader of this booklet to digest information as presented by its various authors.

Enjoy your reading and pass the book on to somebody else! Together we will end impunity on violence against women!



Léonie Abela
ACORD Kenya Programme Coordinator



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We would also like to acknowledge Higher Learning Institutions, particularly Key Staff Members and Student Leaders from The Catholic University of Eastern Africa (CUEA), University of Nairobi (UoN), Kenyatta University (KU); Moi University (MU), University of Eastern Africa (Baraton) and Tangaza College who welcomed the essay writing competition idea and facilitated its advertisement among students.

We appreciate and congratulate all students who took part in the exercise for sharing their wealthy knowledge; thus contributing to changing negative attitudes and mentalities which nurture gender based violence in our society.

We would like to reckon the financial support received from the MDG3 Fund of the Dutch government. It enabled us to carry out a vast project aiming at ending impunity on sexual and gender based violence in 5 countries of the Great Lakes Region, namely Burundi, DRC, Tanzania, Uganda and Kenya. The essay writing competition was of one of the activities carried out in Kenya in view of gathering young people's opinions on the issue of gender based violence in all its forms.

In a special way, we thank Mrs Magdalene Dimba and Ms Purity Mukwanyaga who organized and hosted us during the colourful Award Giving Ceremony graced by the Honorable Njoki Ndungu at the Catholic University of Eastern Africa.

Lastly, we would like to recognize our eminent panelists Ms Brenda Wambua from Daystar University; Mr Kennedy Walusala, President of the Multifunction Youth Forum of the International Conference of the Great Lakes Region; Honorable Njoki Ndungu (former MP) and ACORD Staff who reviewed all writings and awarded prizes to best essays. We are grateful to the ACORD Staff who contributed their time, energy, technical support, logistics support, administration support to producing this booklet.

Essay by Innocence S. Ndungo, student at Kenyatta University

Mary lay on the immaculately disinfected room, with pus oozing profusely out of her severely burnt body; breathing laboriously hoping to live for tomorrow. She was just another victim of domestic violence. Joshua her beloved husband had gone out on his usual drinking sprees and ended up in a hotel room with a 'prostitute'. Mary had followed him around all evening and she finally had hard evidence. On getting home, Mary bitterly confronted Joshua and was rewarded with paraffin and a matchbox which resulted to 3rd degree burn of 99%. It took her a whole year and millions of shillings to recover from the Aga Khan hospital.

So yes, violence on women in Kenya is an issue, and a big one at that, what may seem an imported agenda is the fight against it. Violence is any act ... that results in ... physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or in private life.

Justification to violence stems from socio-cultural 'norms' with distorted views about the role of men and women in relationships and society. I shall refer to these socio-cultural 'norms' as myths. My general approach is to construct an argument, which demonstrates the relationship between violence and myth. I do this by deconstructing the ideas that reveal attitudes towards women, which place them in inferior positions and paves way to violence.

Myths involve invented stories, ideas or concepts founded on unproved collective beliefs used to justify a social institution. Men sometimes create myths to bring order to an otherwise chaotic world and although these myths do bring order to the incomprehensible chaos of the world at time, these same myths, if unchecked, can bring about their own chaotic results. Most

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of these myths may be designed to relegate the women to a subordinate status in society from which point they are vulnerable to violence.

The myths, carefully constructed to suit the users, provide comfort and solace for the individual(s) who live under their construct. If at any point competing ideologies emerge, it may lead to conflict. First, it leads to a feeling of personal inferiority, caused by the questioning of that particular ideology. This low self-esteem, leads to intense feelings of inadequacy, sometimes resulting in excessive aggressiveness. Consequently, a reaction emerges that involves making the perpetrator pay for questioning their way of thinking. This is done by threats, physical assault, sexual abuse, psychological harm or worse, murder.

The institution of marriage is a core institution in our society but one that is plagued by some very outrageous myths, which many times lead to violence. I will give a few of these myths; There is the myth that a husband is entitled to sexual gratification from the wife every time he desires. The notion behind this misguided idea is that, because he paid the bride price, he owns the wife and it is her obligation to gratify him sexually. If the wife dares to deny him sex for reasons such as sickness, exhaustion etc... she suffers marital rape, physical battering or, is accused of engaging in other sexual liaisons outside the marriage. Worst of all she might get divorced.

Closely related to this is the concept the woman must not have sexual desires, or worse, wish for them to be satisfied. Moreover, she should never have initiate sex. This is the main reason behind female genital mutilation - a practice most rampant in the North-Eastern parts of Kenya and among some pastoral communities; which involves the removal of sensitive parts of the female genitalia as a way of preventing a woman from experiencing sexual desire. As per this

myth, the woman is not expected to appear or feel attractive towards any other man except her husband. If the man notices that his wife does not follow these guidelines has the leeway to decide to send the woman back to her mother for training or as a mode of punishment; something similar to the 'talaka' concept amongst the Swahili community. In other cases, a woman can be undressed in public for inappropriate dressing. "Inappropriate", refers to short skirts, low cleavage top or tight pants. The begging question is: who exactly determines what appropriate dressing is? Is it not the unknown individual who very 'wisely' constructed a myth that dictated this appropriateness? This re-affirms the myth that a woman should only appear attractive to her husband.

Another myth is the notion that one woman cannot possibly sexually satisfy a real man, a myth held as true amongst many Kenyan men with deep conviction - a double-studded idea which gives the man the consent to engage in all manner of sexual liaisons and adventures. The wife, on the other hand, is expected to be satisfied, sexually, by the one husband and to understand that the husband needs to quench his sexual thirst outside their union. This very unfortunate situation leaves the woman at the risk of contracting sexually transmitted diseases, as in many situations she cannot negotiate for safe sex, something that potentially harms her psychologically.

The man is the sole provider for the family. A myth most celebrated by many bloated male egos follows. He should cater for all financial needs; food, fee, etc. The wife's duties include cooking, cleaning, giving birth and catering for her man. In reality, this is ancient thinking, believed by many yet should be dead. However, it never died. It has evolved with the mythical world and has been incorporated in the new modern world concept. A psychic cultural memory has lingered and continues to motivate belief and behavior, despite historic change. Thus, reinforces ideology long-held on belief. In this case, the wife can work but should not earn

“...In her pursuit to hold her life, her family, her job and her relationships together she is vulnerable to lots of violence...”

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more than the husband, if otherwise her achieved status makes her partner feel demoted as the head of the household. He seeks to re-instate himself with physical strength, sometimes by physically battering her. This deprivation leaves the woman vulnerable.

The “role” of a husband to discipline his wife is another deeply held conviction. Marital chastisement involves the infliction of physical or verbal pain, or both, by the husband on his wife. It has its intention the assertion of a husband's right to reprimand and therefore to control the behavior of his wife if he believes she has misbehaved.

It may be conceived that the husband makes all the decisions in the household and if the wife goes against she should, like a child, be disciplined by a few slaps or a thorough thrashing. This myth ignores the fact that marriage institution is a partnership between two consenting adults. Both have the same reasoning capacity and none is superior to the other. The humiliating violence women undergo in the hands of their husbands, who in all intents and purposes are expected to love and cherish them, justify these violence as an expression of love.

It's sad and unfortunate that many women choose to endure the suffering to keep their dysfunctional family together in the hope that their partner will change. Emboldened by this attitude from their victims some husbands become even harsher to the wives.

Women are often regarded as the binding glue of the society. And, the same be-kneels her, in her pursuit to hold her life, her family, her job and her relationships together she is vulnerable to lots of violence. She works and in times of doubt, seeks support from her maker in whom she has strong faith in to make her life a success. This faith sometimes lingers and many spiritual leaders have taken advantage of the woman's vulnerability to get cash, fame and so

much more from her. In the star, Thursday, February 18, 2010, a story emerged of Esther Arunga, a lawyer and former news anchor, who has recently fallen prey to such a spiritual leader, Joseph Nimroo Hellon. She cancelled her engagement; alienated herself from her friends and family, because her pastor guided her to. One would think that she is too intelligent to fall prey, however it proves it has nothing to do with innate intelligence, like very many other women, she wants her life to work out perfectly; and is ready to do anything that her spiritual leader guides her to, to reveal her destiny, thus, it's a beginning of her downfall.

Although violence against women has been systematic and entrenched in our society, the post-election period saw an unprecedented number of women subjected to widespread sexual violence. According to Spero News, Friday, February, 05, 2010 "Many women were sexually assaulted, gang raped or sodomised". Many of these violations occurred in the presence of the spouses, children or parents inflicting so much trauma, humiliation and stress suffered by the survivors and their families. The ICC is working hard to document this accounts so that evidence may be given to the Kenyan Government which has done little to end this vice. This helps in the fight against violence towards women.

Two or three decades ago Kenya would have been regarded as a patriarchal society. But today the Kenyan woman has fought hard for her place in leadership. A place previously delegated to men. Classic examples would be Hon. Martha Karua first woman as a Minister for Justice, Hon. Charity Ngilu, Hon. Margaret Wanjiru to mention but a few of the women leaders who have excelled in our society.

Violence against women has taken a higher platform after several groups came together to fight the demeaning myths that undercut women potential. FIDA is one such organization that

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seeks to protect the woman and her right to legal representation if physically, sexually or emotionally abused. A Gender Recovery Centre at Nairobi women's hospital seeks to rehabilitate physically, sexually or emotionally violated women. Another such organization is the Coalition on Violence against Women-Kenya, it deals with gender violence, women abuse and rescue mission for the vulnerable women.

Kenyatta University where am a student has taken up the issue seriously by setting up a gender department that carries out gender empowerment programmes, the programme has posters and billboards which are meant to protect feminine students with messages such as **“Kenyatta university prohibits any form of sexual harassment and gender based violence. Any student found guilty of this offence is liable to disciplinary action.”** Moreover, the current draft of the revised Kenyan constitution seeks to increase the number of women representatives in the ruling elite. This puts the woman in the radar of decision-making.

At a point, the main perpetrators of this violence, the men, have come up strongly to fight this long held-on practice of violence against the woman. Such a group was at a conference organized by the African Women's Development and Communications Network on December 6-9, 2001. The conference was conducted by men who were well versed in gender issues and participatory methodologies. Participants came from the police and judiciary, as well as from the private sector, community organisations, universities, religious organisations, human rights bodies, professional organisations, and political groups. Committed to stopping violence against women and children, these men sought to find ways to encourage other men to join their cause while supporting those who had already committed to working to change male roles and responsibilities. These men were from Kenya, Namibia and South Africa.

These are some of the groups that are helping change bad and regressive ideologies in our country.

In our society the powers of myth are so great that we must temper them with rationality. But as long as the intellectual, ethical, and artistic forces are in full strength myth will be tamed or all together subdued.'

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- Internet: Dictionary.com, FEMNET website
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The Star, Thursday, February 18, 2010,
Spero News, Friday, February 26, 2010

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Essay by Florence Kariwonyang' Moi University - Eldoret School of Law

Kenya being a country deeply rooted in cultures that perceive men as superior over women cannot consider violence against women as an imported agenda. Violence against women in Kenya is real and a big issue because of its impact on the lives of women. Violence in this aspect not only means physical violence but also psychological, mental and sexual violence.² Broadly, violence against women can be categorized into two;³ first, macro or broad-based violence which consists of everyday discrimination on women and violence based on gender. This form of violence mainly tends to be mental or psychological;⁴ and second, micro or specific and episodic violence which consists of specific episodes of violence, which may be isolated, or recurring.⁵ Most micro-violence tends to be physical.

These forms of violence are perpetuated in families through domestic violence, marital rape and female genital mutilation (FGM), in communities through rape and sometimes perpetrated by the state through rough treatment of women suspects by the.⁶ A study of violence against women requires women to be categorized into various classes;⁷ the girl child, young girl, married woman, concubines, professionals, urban/rural woman, and the woman on the fringes of society e.g. commercial sex worker, the homeless, Lesbians etc. Through this classes we can be able to unearth real ground issues of violence against women.

The actual violence against women

The most common form of violence against women is domestic violence also known as “intimate terror”. Domestic violence has been defined as the use of force or threats of force by a husband or boyfriend for purpose of coercing and intimidating a woman into submission. The violence entails pushing, hitting, slapping, kicking, burning or stabbing.⁸ Intimate terror is

not an abstract concept but a daily experience for most women in Kenya regardless of their educational background. Due to oppressive cultures and economic dependence of women, this form of violence has been condoned and most cases go unreported.

The few reported cases however do not always get due justice it deserves because the courts are lenient on the perpetrators of these heinous acts with some describing it as 'the African man's way of disciplining a wife.' For example:

“According to a FIDA Report,⁹ a Senior Resident Magistrate Njuguna in Kiambu on 21/5/98 sentenced a seventy-year-old man to hang for robbery. On the same day that he did this, he reduced a murder charge to manslaughter in a domestic violence case. According to committal documents, the accused knocked a stove, which is said to have exploded, and burned him and his wife, Wanjiru. Four days later, the victim died. In reducing the charge to manslaughter, senior Resident Magistrate Njuguna stated that; “This is the African man's way of disciplining a wife.”

In another case: “in R v. Dan Ndeda Wamamba,¹⁰ Milka Akinyi, was carried in a wheel barrow to Kayole hospital, being unable to speak as she was in a comatose. In her testimony Akinyi, alleged that her husband had beat her severely on the head and she fell unconscious as a consequence of the blows. The neighbours intervened and asked him to take her to hospital but instead he took her to their house, undressed her and raped her. He broke a stool and began to shove one of its broken legs into her private parts. She was too weakened and she lost consciousness. The perpetrator was never charged with rape or grave bodily harm despite the victim being in a coma for almost a month.”

“Men perceive violence as the only means to put sense into a woman.”

² Miranda Davies, (1994) women and Violent Homes; Realities and Responses World Wide pg.1

³ Kivutha Kibwana: Law and the status of women in Kenya pg.170

⁴ Ibid page 171

⁵ Ibid page 172

⁶ Report prepared for the Committee on the Elimination of Discrimination Against Women, 'Violence Against Women in Kenya', 13-31 January 2003 available at <http://www.unhcr.org> . see also, Dr. Patricia Kameri, ' Violence Against Women in Kenya', AN Analysis of Law, Policy and Institutions, IELRC Working Paper 2000 - 1 available at <http://www.ielrc.org>

⁷ Supra note 3

⁸ United Nations Centre for Social Development and Humanitarian affairs strategies for confronting Domestic Violence. A resource manual at pg.7, UN. DOC. ST/CSDHA/20 (1993)

⁹ FIDA REPORT 7/8/97 - Bado Mapambano; Kenyan Women Demand Their Rights

¹⁰ Criminal Case No.16419 of 1997 in Nairobi High Court

The other most prevalent form of violence against women is sexual violence. This form of violence takes the form of rape¹¹, defilement¹², sexual harassment¹³ and indecent assault.¹⁴ Though these forms of violence have been criminalized under the Sexual Offences Act of 2006 and the Penal Code Cap 63, the provisions of the law and the situation on the ground sharply contradict. Just like domestic violence most of these cases go unreported with the government trying to conceal the situation on the ground.¹⁵

Although there are many instances when rape cases have been reported to court, the problem has been corroboration of evidence. In *R v Duncan Gichuki Waiyaki*,¹⁶ the accused was charged with defiling his two daughters. The mother contended that, she noticed that the girls felt pain. When she inquired, they told her that they had been raped by their father on

their way from school. They said their father used to sodomise them in a bush in the evening hours and that they had been raped a week before but they did not report since they feared the accused who used to harass them at home. Ole Tukayi the District Magistrate ruled that Waiyaki had no case to answer because there was lack of material evidence implicating the accused. He said the law relating the sexual offences is clear. Before the accused is convicted the evidence must be corroborated. The evidence of the two girls cannot corroborate each other but can only be corroborated by material fact.

These forms of violence are more prevalent in times of political unrest such as the post election violence. The Waki Report¹⁷ revealed heart wrenching tales of rape, gang rape, sexual mutilation, loss of body parts, and hideous deaths.

Why violence against women subsists unabated

Firstly, the socio-psychological perceptions, Culture and tradition have played a key role in perpetuating domestic violence. Societal norms have provided the “proper” role for men and have given men a free reign over the women and any challenge to these rights has been problematic. The general public perceives domestic violence as a non-issue and has failed to acknowledge that wife-beating is a crime at all. The general belief is domestic violence is a private issue to be dealt with at home and hence involvement of the police and the courts is an encroachment to purely domestic affairs.

Second is the economic dependence syndrome. Women are in most instances not financially endowed to take care of perpetual needs like payment of school fees, rent, food etc. This leads to their vulnerability as they will totally submit to their husbands without question. The man will take advantage of the situation to the extent of administering violence on the woman.

Economic dependency may be the reason why women prefer to keep quiet about their situations as they lose their self esteem while on the other hand the confidence and courage on the husbands to continue doing the same.

¹¹ The Sexual Offences Act of 2006 defines it under Section 3

¹² Ibid Section 8

¹³ Ibid Section 10

¹⁴ Ibid Section 23

¹⁵ The police reports e.g. the 1998 annual report

¹⁶ Criminal Case No. 25 of 1995 in Nakuru District Magistrate Court, Unreported Case

¹⁷ Commission of Inquiry on Post Election Violence Report of 2008 at page 237

There are also instances where women have besieged courts to release the culprits due to financial constraints. In Nakuru for example, a magistrate had to discharge a batterer sentenced to serve three years in jail for causing grievous harm to the wife. The wife subsequently pleaded with the judge to release the husband since she could not cope to feed her children or pay school fees because the breadwinner had been jailed and they were left suffering.¹⁸

Impacts of violence on women

Broadly speaking violence against women impacts differently depending on the category. Macro or broad-based violence such as daily discrimination, perpetual subjection to inequality tends to be mental or psychological. It debases women on a continuous and long-term basis. Micro-violence however consists of specific episodes of violence, which may be slated or recurring.

The psychological impact of violence against women cannot be ignored. Victims of violence are often fearful, insecure and have an enduring sense of inequality vis a vis the male gender. For example, victims of sexual violence are often left with a psychological burden of powerlessness and hopelessness that leaves them feeling alone, isolated, and unable to cope, not just for one moment in time, but possibly forever. Even with psychiatric help, victims have not been able to overcome the traumatic experiences and live a normal life again. Those of domestic violence are forced not to speak out even on their rights due to fear of their male counterparts.

Physically, women have been subjected to unfathomable pain, unexpected physical deformities such as loss of body parts, permanent scars etc and even loss of their own lives. These have had serious effects on their self esteem damaging their careers greatly. Female genital mutilation on the other hand, causes pain, difficulties during child birth and even affects their overall sexual enjoyment for the rest of their lives.

Conclusion

Violence, whatever the nature is unbearable. Victims must psychologically deal with it so that it does not harm them irretrievably preferably through psychiatric help. Women have not learned to accept violence, as their male counterparts tend to perceive. They have only learnt to rationalize that theirs is violence prone life and therefore they must tolerate violence for their survival and that of their children. Women invest much time dealing with effects of violence which time could be used productively. The threat to violence alone is violence since it keeps them suspended in fear, unsure of themselves and vulnerable. Robbing half the population in the society their sense of well being and confidence to perform their best in societal affairs and exposing them perennially to violence makes the society poorer.

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With this facts, clearly violence is an issue in Kenya that calls for urgent attention to save the women population from further damage to their dignity and worth and not just an imported agenda. With or without the influence of the western world, violence against women is a reality in Kenya.

Engaging young intellectuals in research on issues of gender based violence in Africa and Kenya in particular gave them an opportunity to question some of the harmful cultural practices rooted in the patriarchy system which characterizes most African societies. Most students cited cases illustrating perpetuation of violence against women nurtured by constructed social and cultural beliefs which portray the girl child with all negative attributes meant to suppress her self-esteem from childhood.

It is very encouraging to find out that most students are in support of the eradication of violence against based on the analysis done and recommendations suggested to curb the vice. However, one may not be able to establish whether their sentiments were dictated by the hope of winning an award or just genuine concern about the spreading of the vice in the society.

Altogether, students gave practical recommendations on what is needed to be done to slowly change people's negative mentalities and attitudes towards the girl child and women that are worth exploring by those working on the above described issues. Some of the recommendations are:

- Formulation and implementation of policies that protect and uphold rights of women workers, prisoners and wives in Kenya.
- Abandoning retrogressive and obsolete cultures that are not relevant in contemporary society such as wife battering, wife inheritance, polygamy and FGM. This can be fostered through adult education and community mobilization towards this end.

- encourage dialogue with custodians of harmful traditional practices and explore together alternatives viable practices

“To sum up, both men and women should be made to be aware that silence is affirming; that when we choose not to speak out, we support the behavior. We've got to positively deviate from the norm and shame the perpetrators. We've got to bring into limelight any cases of women harassment however minor they may appear to be. We have to accept that violence against women is a national disaster and calls for collective responsibility to be terminated. We should not accept a feathery defeat and endeavor to fight the malpractice to the end, as we walk tall in the philosophy of Americas president Barack Obama of 'Yes we can' As in the words of the former UN secretary general Kofi Anan 'violence against women is never acceptable, never excusable and never tolerable.'”¹⁹

¹⁸ Nakuru Resident Judge Visram in Odhiambo R.A.A. - Thesis 2000 intimate terror, A case study of the Law versus lived realities of battered wives among the Luo community living in Nakuru, Kenya

¹⁹ Extract from Mr Opondo Nangira's essay on pg 24 of this brochure.

Essay by Benjamin Opondo Nangira, Kenyatta University

No woman is safe until all of us are safe.

Violence against women is not only a Kenyan issue but also a global evil that cuts across national boundaries as well as socio-cultural, racial, economical and political boundaries. It's a no boundary problem. Irrespective of it having existed since the days of our fore fathers, it's only within the past twenty five years that the issue has been "brought into the open as a field of concern and study" (violence against women in the family, pg38). Violence against women in Kenya is not an isolated act but a pattern of repeated vices committed by males to exercise unquestionable dominion over their womenfolk. Unlike in stranger-stranger violence, in domestic violence the same perpetrator-man- repeatedly assaults the same victim-woman. These violent acts take variable forms usually determined by such factors as socio-economic, cultural, religious, educational, political and health factors.

Violence against women as with everything else begins with how we communicate. This constitutes the language factor as an aspect of our culture. The Kenyan society and the world at large has molded a culture in which women are perceived as weak, quieter, more submissive and sub-ordinate to their men folk (Murega 2009; Nicole caputo 2009). Therefore men who don't consider and don't treat their women in a subordinate way are considered weak or rather the label "henpecked" The Kenyan society will only uphold a stereotypical domestic kind of a woman rather than an aggressive, competitive and independent woman. The later is considered a social misfit for such characters are male prerogatives. Therefore, women who fail to subscribe to these absurd expectations are considered "societal way-wards". The society has also coined certain terminologies which are used to lay out a context and are the foundations on which everything else is built. To me, this seems like

“...Therefore men who don't consider and don't treat their women in a subordinate way are considered weak or rather the label 'henpecked'...,”

providing the world with rose-coloured glasses except that the colour is less pleasant especially in the eyes of socially liberated individuals.

The Kenyan social fabric also seems to have paintings of segregate gender norms and roles. Unfortunately, these norms and roles are biased and continue perpetuating male dominance. The girl child rights start to be violated right from childhood. Boys are introduced into activities that promote aggressiveness, contact sports and self opinionated. Ladies who express such trends are considered “a disgrace” to the society. This has been deeply inculcated in that telling a boy that he acts “like a girl” is quite humiliating. Similarly a girl with many boys around her is a “slut” whereas a man is a “stud” The use of abusive terms such as “bitch” associated with women is also dominant. Once married, a wife is expected to drop her father's name and take the husband's as her surname. If she doesn't, then she is a “difficult woman”, she is 'one of those'.

Many men commit violent acts against their womenfolk not out of personal will but due to cultural pressure. Cultural setting whereby a man who doesn't “enslave” his wife is 'dishonored' he therefore has to resort to violation of his wife's rights to be considered 'a real man'. However this victory is misleading for “victory attained by violence is tantamount to defeat” (Mahatma Gandhi)

Sexual violence is the most common form of violence exercised against women. In Michael Renneberger's December 2009 speech, 443 cases of sexual assault were claimed to have been reported at the Kenyatta national hospital. Similarly, The Gender violence recovery centre at the Nairobi women and Apos's hospital attended 650 cases of sexual harassment committed during the 2007 post election violence. This however is a meager figure of the actual situation on the ground. Every day, women are physically, psychologically and sexually abused. The abuse may be either: husband - wife, house help-boss, schoolgirl-teacher, it

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never tolerable.”

“...Evidence of such assaults are usually manifested through missing teeth, burnt faces, swollen faces, missing organs due to cuts such as fingers, toes, fingers, breasts, severe back pain and diffraction of joints...”

could also be female prisoners-male prison wardens or commercial sex workers. The casualties are left shocked and traumatized and if not supported to recover they are haunted by the abuse for life time. Women subjected to these violations do not report and continue to suffer as the perpetrators both security officials and private individuals go scot free (Amnesty international report on: Rape, the invisible crime). Female rape victims fail to seek redress due to intimidation by cultural attitudes, state inaction, and fear of being stigmatized.

Due to a deeper understanding that it is culture which distinguishes a community, amnesty international has always been committed to uphold customary values that promote female liberation. However, certain retrogressive and chauvinistic trends such as wife inheritance, bride price (which give men the right of wife ownership) forced marriages and female genital mutilation are highly condoned. Opinion of the wife to be inherited is not sought thus not only exposing her to sexually transmitted diseases but also to the risk of acquiring HIV and AIDS. The UN special rapporteur on torture in his 1999 report on Kenya reported 33 torture cases on women per day. In the same report, a Mary Muragua aged 45 claims to have been sexually assaulted by two policemen who had come to arrest her husband for having participated in politics.

Physical violence is yet another widely spread malpractice perpetrated on women. It ranges from a mere shove slap blows, canning, burning, cutting to killing. According to WHO2002, half of all women murder victims in Kenya were killed either by a current or former partner. In Kenya more than one woman a week is reportedly killed by her male partner (Joni Seager, 2003) this violence erupts out of very minimal differences. A woman, whose name is withheld for purposes of avoiding stigma, narrates a story where she was only saved by a passer-by from the paws of her husband. She claims to have been physically assaulted by her husband for four times. The most severe arose when she had attended her brother's funeral.

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The husband demanded that she returns home on the same evening of the burial. She however, being the only child left of her deceased parents did not manage but went back early the following morning. No sooner had she arrived than the husband descended on her with blows and kicks beating her right from the house to the road causing her severe physical injuries on the head back and legs. Such cases are rampant in the Kenyan society. Evidence of such assaults are usually manifested through missing teeth, burnt faces, swollen faces, missing organs due to cuts such as fingers, toes, fingers, breasts, severe back pain and diffraction of joints. Men continue beating their wives unnoticeably as if they lack important things to do. As in the words of Mohamed Ali, an acclaimed boxer, “there are more pleasant things to do than beating up people”.

As it is, the situation is quite wanting. Girls and women continue wailing, the female community is experiencing non-stop physical and psychological torture. This therefore calls for mass action against this dehumanizing trend. Both governmental and non governmental organizations are on the move. We only need to board these transformative vehicles. Despite heightened awareness and improved laws, the levels of various forms of violence against women such as physical assaults, torture, rape female genital mutilation (FGM) abductions and murder are on the rise (Rosemary Mueni-coalition on violence against women)

This increase, reports Eva Muleme - International federation of women lawyers - is perpetuated by a number of factors. These include; the mismatch between law and practice against violence, lack of socio-cultural, political and economic independence by women, fear of women to report cases of violence especially against their husbands. Various organizations have however incessantly fought for women empowerment.

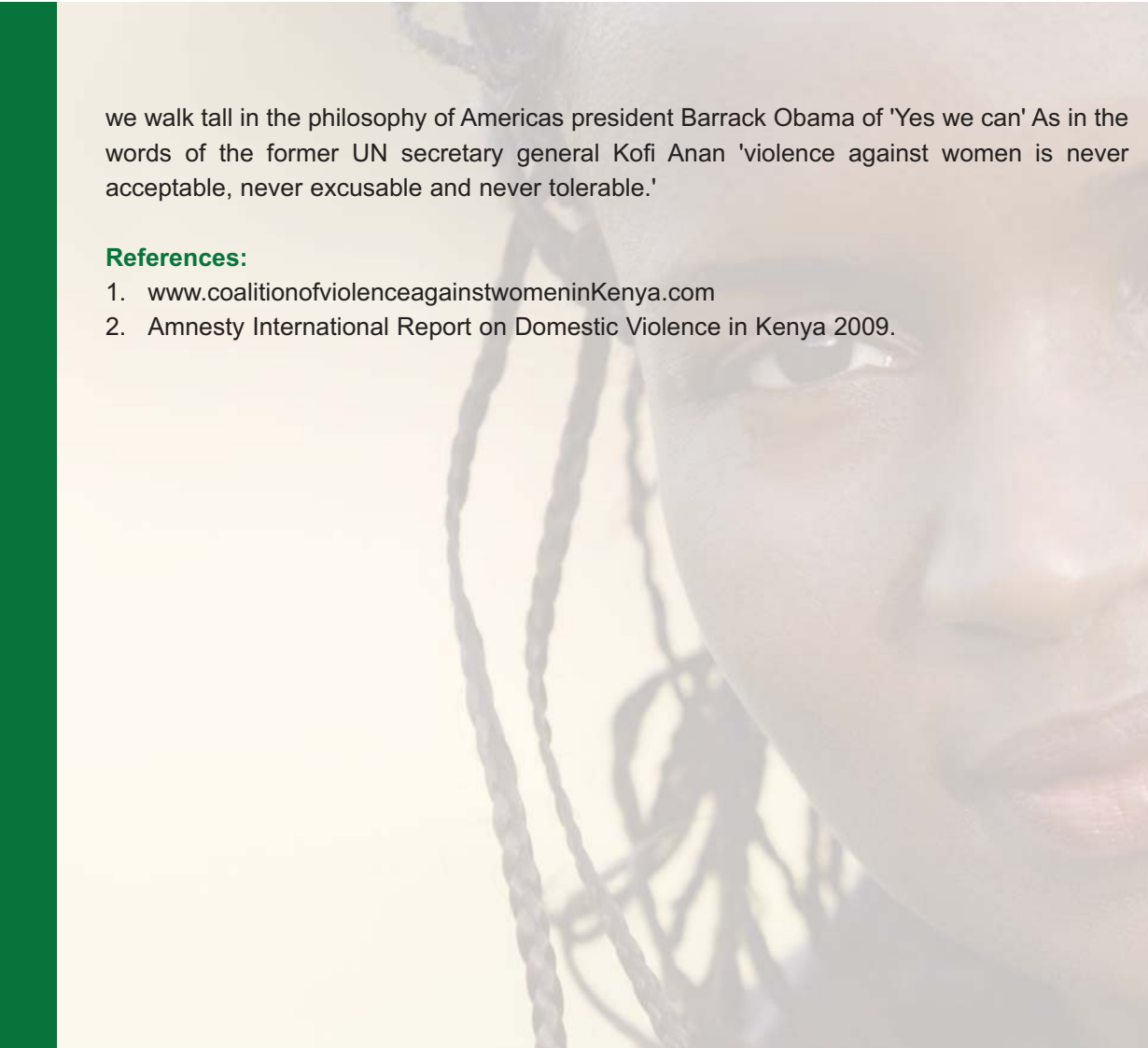


Among the proposed mitigation strategies include the following: Increasing women representation in parliament, the current Kenyan parliament only have 15 of the 210 positions. This number is very minimal especially when it comes to passing of bills related to women's rights in the male dominated parliament. A good example is a statement which was said by one male MP in a press conference "... It is like raping a woman who is already too willing..." then he crowned it with a hearty laughter. Changing such a mind is quite hard.

We have to direct our collective outrage and concern in all the possible ways to oppose violence against women. We should organize conscious raising groups and demand that the public speak out use all types of media such as films, radio, TV shows, street theatre, dramatic productions, books, pamphlets, brochures, newspapers and articles.

Cultural transformation is however the main strategy of curbing violence against women. A culture that perpetuates male dominion will as well promote violence against women. Men should therefore be made to understand that "a well meaning man is one who believes that women should be respected" (Anthony porter: a call to men). This means that a well meaning man believes in: equality, women's rights, honoring the woman in his life and be a good man. Men should therefore stop viewing women as 'less than', stop treating them as personal property and stop seeing them as objects.

To sum up, both men and women should be made to be aware that silence is affirming; that when we choose not to speak out, we support the behavior. We've got to positively deviate from the norm and shame the perpetrators. We've got to bring into limelight any cases of women harassment however minor they may appear to be. We have to accept that violence against women is a national disaster and calls for collective responsibility to be terminated. We should not accept a feathery defeat and endeavor to fight the malpractice to the end, as



we walk tall in the philosophy of Americas president Barrack Obama of 'Yes we can' As in the words of the former UN secretary general Kofi Anan 'violence against women is never acceptable, never excusable and never tolerable.'

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Reflections from
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in Kenya

“Campaigns need to be intensified to stamp out the glaring injustice”

Essay by Damaris Ndinda Kinyili, Catholic University of Eastern Africa

Violence has been described as “violent behaviour that is intended to hurt or kill”. Violent on the other hand is defined as involving or caused by physical force that is intended to hurt or kill or showing or caused by very strong emotion.²⁰ Violence against women can thus be defined as violent behaviour whether physical or emotional, that is intended to hurt or kill which is directed at women. The term violence against women is now a common term that has gained common usage in recent years in campaigns to stamp out violence against women. It has been alleged that it is a term coined by feminists and Western ideologists. Perhaps that could gain credence as there is no translation in any local or vernacular language for the phrase 'violence against women' or even in the national language Swahili. So does that mean that the concept of violence against women is actually alien to Africa? and is a contemporary issue that ails Africa as a result of globalization and adoption of Western ideology? This can be answered by looking at the various forms of violence against women. In the Alternative Report to the United Nations (UN) Committee against Torture²¹ which aimed to draw attention to consistent violations involving torture and ill treatment inflicted on women, this type of violence was categorised into the following: violence in the context of conflict, domestic violence, trafficking and harmful traditional practices.

Violence in the context of conflict

Women grouped together with the elderly and children are classified as vulnerable groups. This is because violence, especially sexual violence is directed against them. In African traditional society, in times of conflict, it was common for the fighting groups to attack a village, plunder it and take the women with them as wives. Rape was not a common

phenomenon during conflict; it was as if there was an unwritten code of conduct. That is not to say that rape was unheard of. It did exist but it was such a taboo topic that even if it did occur, women who were sexually abused rarely spoke out for fear of stigmatization. In modern conflicts in Africa, rape has been used as a tactic of war to sexually assault women as has been the result in the war in Darfur where the Arab militia, Janjaweed have been reported to commit widespread sexual violence against the women; in Congo, there have also been reports of the same nature, not only from the warring military and rebel factions but also from the UN peace keeping forces. Closer home, in Kenya during the post election violence (PEV), many women and girls were exposed to the dangers and vulnerabilities of conflicts. Women who were seeking refuge in the internally displaced person's camps were susceptible to gender based violence including sexual violence. Sexual exploitation was also a concern as women were coerced into exchanging sex for basic resources such as food, sanitary supplies and transport.²²

Further, sexual violence is becoming prevalent during peace time as police statistics show that 2800 cases of rape were reported in 2004, which was an increase of 500 from the year 2003. A lady who had been gang raped for close to three hours lamented, "After my rape, my only thought was that I would commit suicide, my life was over, what if the rapist had made me pregnant or had infected with HIV, who would believe it was because of rape?..When I went to the police, I was asked to tell my story in public. Some of the policemen were very cruel, asking whether I was raped and even called me a prostitute for walking alone in the dark". Her account summarises the plight of many rape victims who have to contend with rude and uncouth police officers when reporting their cases, coupled with stigmatization when the incident is made public.

Reflections from university students in Kenya



Reflections from university students in Kenya



²⁰ Oxford Advanced Learner's Dictionary of current English, 6th Edition, Oxford University Press.

²¹ Situation of violence against women and children in Kenya: Implementation of the UN Convention Against Torture and other cruel, Inhuman or Degrading Treatment or Punishment.

²² Alternative Report to the UN Committee against Torture Part 1 para 2.1

Anne Njogu went further to say that many of Kenyan cultures do not view sexual violence as a crime thus reiterating the fact that, sexual violence did exist in traditional African society, only that it was down played.

Domestic violence

The UN General Assembly in adopting a Declaration on the Elimination of Violence against Women expanded the ambit of domestic violence to include, “any act of gender based violence that results in physical, sexual, psychological harm or suffering to women or arbitral deprivation of liberty whether occurring in public or private”. Its manifestations include beating, biting, kicking, boxing, slashing, stabbing, spitting, scalding and strangling. The consequences could include physical and mental pain and suffering, disfiguring, miscarriages, maiming and death.²³

This type of violence is rampant in Kenya and despite intervention by civil societies, there is a steady increase.²⁴ Reports indicate that women suffer more in domestic violence disputes caused by their spouses than in other circumstances. Apart from this, domestic violence accounts for 48 per cent of all violations put together. A study known as African Study Monographs 21(1): 35244 January 2000, revealed that for many years, rape, domestic abuse and other forms of violence have been trivialised. It is widespread and frightening that domestic violence is a major political, social, legal, economic and developmental problem;

whether domestic violence operates as direct physical violence, threat or intimidations. It perpetrates and promotes gender relation. Its main goal is to preserve male control over resources and power.²⁵

Most common form of domestic violence is wife beating, the Executive Director of Centre for Rehabilitation of Abused Women stated, "We need to sensitise the perpetrators about the criminal nature of violence against women".

In traditional African patriarchal societies, their culture and norms permit a man to 'discipline' his wife by physical means and is oblivious to marital rape.²⁶ Wife beating was exercised and was acceptable as justifiable or culturally consistent behaviour for keeping wives on the straight and narrow.* It is clear that women were kept on the same level as children and thus could be chastened (by a slap or blow depending on the man) for any transgression. The concept of 'discipline' of wives by husbands has led to such beliefs and brain washing such that violence is seen as a display of affection. Some women have been known to complain if not beaten by their husbands as they take it as a sign of not being loved. It is therefore evident that this type of violence can be traced back even in the time of the ancestors, only that it went by a different name, 'discipline'. Due to the commercialisation of dowry, men tend to look at a woman as a commodity and therefore, after bride price have been paid, a man has a right to sexual rights and obedience and so the husband had freedom to batter the wife.

Presently, it still exists and to worsen it all, it's on the increase and even more severe in brutality. In the case of Piah Njoki, 1983, her husband gouged out her eyes for only bearing him female children (Kiboi 1984). Another infamous case was that of the bruised Betty Kavata groaning in pain at a bed in Kenyatta National Hospital which was carried in print and electronic media in 1998. She later succumbed to her injuries.

The enactment Family Protection (Domestic violence) Bill has been left pending since 2002. This bill attempts to deal comprehensively with all aspects of violence within domestic setting and would at least recognise domestic violence as a crime. This is because the current laws can only criminalise the offence under the Penal code as assault or battery. The bill also recognizes marital rape, a concept foreign to Kenyans.

²³ Tom G. Ondicho; Battered Women: A Social-legal perspective of their experiences in Nairobi Centre for African Area Studies, Kyoto University.

²⁴ Alternative Report on Women Part 2.2

²⁵ Supra Note 4

²⁶ <http://www.afro.com/categories/women/profiles/kenya.htm>

Trafficking

It has been defined in the sexual Offences Act²⁷ as, “any person who intentionally or knowingly arranges or facilitates travel within or across the borders of Kenya by another person and either intends to do something which is an offence under the Act or someone else is likely to do something during the journey”. Internal trafficking occurs mostly from rural area to urban areas. The victims are mostly young needy girls especially from rural areas taken to work as house-helpers for a fee. Sometimes, young girls are lured on the pretext that they will be taken to school. In the case of *R v Vriens*²⁸ A Dutch national was accused of sexually exploiting several children in Kenya. He established a school in the slums where he recruited young girls and housed them. It is alleged that he developed a list of over seventy girls against whose names were marked 'virgins' or 'non virgins', exposed them to pornographic material. Also alleged, he took the girls on holiday to Mombasa where he introduced them as 'spring chicken'

which incidentally was the name of the school. He was acquitted due to intimidation to family members, substandard investigations and interference by police.

Report on status of human trafficking in Kenya²⁹ identified Kenya as a fast growing source, transit and destination country with regard to trafficking especially women and girls. For women, they were lured abroad with the offer of a job and kept in confinement after their travel documents were taken away from them. This practise is common in the United Kingdom, Germany and Middle East countries.

Harmful traditional practises

Female genital mutilation (FGM) still practised among the Maasai, Kisii and Somali communities in Kenya amidst public furore and condemnation. Women who have attained the age of majority are often pressurised into undergoing FGM. The standard³⁰ reported that, “Over 90 per cent of all women over twenty years in Laikipia North District had been circumcised”. This could be attributed to the fact that in pastoralist communities, pregnancy before circumcision is considered a curse. Though dating way back, circumcision has health risks (such as bleeding to death, making women susceptible to HIV/ AIDs and the health risk it poses during child birth) therefore it has been branded outdated and is now considered as a form of violence against women.

Recommendations

NGO's participating in the report³¹ recommended the following measures:

- Adoption of a comprehensive legal framework to guarantee non discrimination against women and adopting the equal opportunities bill.

- Take all measures necessary to eliminate violence against women including domestic violence, violence during armed conflict, trafficking and harmful cultural practices.
- Ensure effective protection of women victims of violence like creating shelters and safe houses.
- Ensure access to justice of victims of gender violence, enforce and develop the gender desks created in police stations especially by training the officers and ensuring staff transfers do not affect the gender desks.

Conclusion

It is the attitude that violence against women is an alien concept propagated by Western ideologies that fuels the fire that is violence against women. Section 74(1) of the constitution states that, “No person shall be subject to torture or to inhuman treatment”. Campaigns need to be intensified to stamp out the glaring injustice, violence against women which is quite prevalent in Kenya.

²⁷ Section 18 of the Sexual Offences Act

²⁸ CMC Criminal Case No. 1380/2001

²⁹ Cradle- The Children Foundation, Grand Illusion, shattered illusions: A Report on the status of human trafficking in Kenya

³⁰ The Standard, 9th August 2000

³¹ Supra Note 3

Essay by Ngira David Otieno, Kenyatta University

Gender based Violence: an open secret in Kenya

Gender based violence is any form of physical, sexual, psychological, social, cultural or economic torture directed to an individual because of his or her gender. It goes without saying that women and girls are the main victims of gender based violence in Kenya. However, due to social, cultural and religious reasons, most violence go unreported. It has been argued that gender based violence is an obstacle to the achievement the millennium development goals and vision 2030.

The most prevalent form of gender based violence is sexual violence which includes rape, defilement, incest and sexual harassments: sexual harassment is any form of unwanted advances towards an individual while incest is having sexual affair with a close relative. Rape is having forced sexual intercourse with an individual. These vices are perpetrated by teachers, parents, close relatives, the police, military and other public members. A survey conducted jointly by the Teachers' Service Commission and the Centre for Rights Education and awareness (CREAW) and released on November 1, 2009 showed that up to 12660 girls were abused sexually by their teacher between 20003 and 2007. However, despite the widespread abuse, only 633 teachers were charged. This clearly shows the reality of gender based violence in Kenya as well as the reluctance of the law enforcers to deal with it. The same report indicates that 53% of people who were interviewed accepted that sexual violence is indeed prevalent in schools.

A similar survey carried out by TSC and published in THE STANDARD on 12/2/2010 shows that Rift valley tops the list of pupils abused by their teachers over the last five years. The province topped with 137 abuses followed by Nyanza which recorded 109 cases. Western

“ Among the Luo, a woman who loses her husband is forced to marry a relative of the husband ... On the other hand a man who loses his wife has the choice to remarry, ... this discrimination in the treatment of widows and widowers is in essence Gender Based Violence.”

“About 57.8% of women in Kenya suffer domestic violence from their husband. The vice is perpetuated by a false belief that beating a wife is disciplining her.”

recorded 100 abuses, Central 99, Eastern 95, coast 54 and North Eastern, 5 cases. The same report points out that out of the 600 pupils who were abused, only 10 were boys. This clearly shows that the girl child is the main victim of gender based violence.

Sexual violence is also carried out by the police and the military. The Waki report named police as perpetrators of SGBV during the 2007/8 PEV. The report went ahead to recommend further investigations to identify the officers who were involved. Though the then police commissioner, General Hussein Ali established a committee to carry out further investigations, the findings of this committee have never been made public. Though very widespread, the total number of female rape victims may forever remain unknown. However, according to statistics from Nairobi women's hospital, 650 women were admitted at the hospital. This represented 80% of the victims. A study conducted by the Centre for Rights Education and Awareness (CREAW), on gender based violence after the 2007 elections indicated that indecent assault, rape, sexual exploitation, attempted rape and sexual slavery were the most prevalent types of gender based violence during this period. The same report shows that about 82% of gender based violence victims didn't report. Thus the figures in public domain are simply the tip of an iceberg. The Kenya police crime statistics, 2008, show that 627 rape cases were reported in 2008 while 841 cases were recorded in 2007. The same report shows that there were 1875 cases of defilement in 2007 and 1626 cases in 2008. Cases of incest decreased from 174 in 2007 to 115 in 2008. Though these figures show a decrease in gender based violence, the reality of the matter cannot be wished away. This is due to the fact that the police only deal with cases that are reported yet many cases of gender based violence go unreported. Security has been mentioned as culprits of these abuses e.g. the police themselves have been accused of committing rape during disarmament exercises

in Samburu, Pokot and Mandera districts. The military has also been accused of perpetrating rape. A report released by the Independent Medico-legal Unit (IMLU) in 2008 indicated that military personnel were involved in raping women during the “okoa maisha operation” in Mount Elgon.

The above cases show the prevalence of rape in Kenya. Sociologists have often argued that men use rape to dominate women. Despite its prevalence, many rape cases go unreported. In some cases, the offenders negotiate with the parents of the victims or relatives for an out of court settlement. This only serves to increase the vice as it fails to deter other potential rapists. It also fails to deter the offender from committing more rapes. Another cause of rape prevalence is ignorance. Though the sexual offences act, 2006, an outlaw rape and prescribes a very harsh sentence for culprits, most women are still unaware of its existence. In some cases, the fear of intimidation, persuasion from close family members or fear of the police's arrogance due to insensitivity to gender issues, prevent women from reporting.

The second form of gender based violence that's also common in Kenya is **cultural violence**. Cultural violence includes female genital mutilation (FGM), forced marriage, early marriage and wife inheritance. Though the children's act of 2001 outlaws FGM, the practice is still rampant in Kenya, communities such as the Maasai, the Pokot, the Somali, the Rendille, the Ameru, Abakuria and many other pastoralist communities still hold strongly to the practice. In fact, studies have shown that the vice is practiced in about half of the rural districts in Kenya. Due to its physical and psychological effects on women, the practice is condemned by the Coalition on Elimination of All forms of Violence against Women (COVAW), the Beijing platform, the Maputo protocol and many other international instruments. It has been pointed out that FGM denies women the right to physical integrity, freedom from discrimination, and

right to life among others. Though the Kenya government is a signatory to most conventions that outlaw FGM, including all the ones mentioned above, it has done very little to eradicate the vice. In fact, a motion seeking to outlaw the vice was defeated in parliament in 1996. This clearly shows the insensitivity of the male dominated parliament to issues that affect women. The fight against FGM in Kenya has mainly been spearheaded by the civil society and the church. The Catholic Church from late 1990s has been carrying out an alternative rite of passage called "ntanira na mugambo" (passage by the word) in central Kenya. The commission for gender and development and the ministry of gender, children and social development agree that the practice is rampant though they don't give the exact figures. Although the government has been accused of laxity in tackling the vice, remarkable improvements have been made since 2003.

Another form of **cultural violence** in Kenya is early marriage. Early marriages are common in pastoral communities especially those which practice FGM. After the practice, girls are considered as mature and are thus married off. Parents mainly marry off their daughters at an early age so as to get wealth. Early marriages contribute to the spread of HIV as the girl, due to her young age is totally submissive and naive thus unable to negotiate safe sex. Early marriage also denies the girl the right to education as she is forced to drop out of school. Statistics from the Centre for Rights Education in Africa indicate that the ratio of boys to girls who are married off at an early age in Kenya is 1:21. This shows that the girl child is the main victim of early marriages. Marrying off girls at an early age is one of the highest levels of gender based violence as it robs them of their human dignity and portrays them more like tools of wealth. Early marriage is outlawed in the children's Act, 2001 and the sexual offences act, 2006.

Forced marriages also fall under **cultural violence**. It occurs when females, whether over or under 18 years of age are compelled to marry particular men. Though clear statistics don't exist, cases have been reported of parents marrying off their daughters to cement friendship ties or get wealth. The practice is common among Muslims where one's husband is chosen for her while she is still very young. Among the Luos and Luhyas, a man who loses his wife can be given the wife's sister or close relative as a replacement. A key point to note is that the girl is never informed during the negotiations but is only made aware after the decision has been made. Thus the girls' freedom of expression and choice are clearly violated.

Wife inheritance is also a form of **cultural violence** that is prevalent in Kenya. Though wife inheritance is found in many communities, the most outstanding example is the Luo community. Among the Luo, a woman who loses her husband is forced to marry a relative of the husband so as to be cleansed. If she refuses she is shunned by the community, in fact she is denied entry into people's houses, participating in ceremonies or visiting female friends who have conceived. This is because she is considered unclean. On the other hand a man who loses his wife has the choice to remarry, though in some cases the wife's sister may be brought as a replacement to enhance the ties between the two families, this discrimination in the treatment of widows and widowers is in essence Gender Based Violence.

Physical violence: According to Eastern and Central African Women in Development Network (ECA-WIDNET) physical violence against women is the actual beating or threat to unleash violence to a woman, for example, threatening to use a panga. Overburdening of women is also considered as a form of physical violence. The Kenya demographic survey-2003 indicated that majority of women suffer violence from their husband though they do so



“gender based violence is very rampant in Kenya and those who deny it do so due to their failure to appreciate its broad dimension or simply due to hypocrisy.”

in silence. According to the inter agency standing task force on gender and humanitarian assistance (a task force under the national commission on gender and development), about 57.8% of women in Kenya suffer domestic violence from their husband. The vice is perpetuated by a false belief that beating a wife is disciplining her. The most outrageous thing is that women have been socialised to believe that despite them being beaten they are still loved. Women also suffer physical violence due to their low economic status in the community. This means that however violent their husbands may be, they cannot leave since they lack the resources to take care of themselves and their children. The stigma associated with divorce as well as cultural norms that prohibit divorce prevent women from abandoning abusive marriages. In most cases wife beating is considered as a private affair thus the neighbours are very reluctant to intervene. On February 16th 2010 the STANDARD newspaper carried a story of a man who was lynched in Maragua for beating his wife to death. Some politicians have also been accused of domestic violence, for example, Gor Sungu, a former Kisumu town MP was accused of repeatedly assaulting his wife and was arraigned in court in 2009. Indeed women suffer physical violence from their husbands even in times of crisis e.g. wars for instance, 4% of women admitted in Nairobi hospital in early 2008 had suffered domestic violence from their husbands during the post- election violence. Another 9% had suffered physical assault. The above illustrations clearly show the prevalence of physical violence in Kenyan societies.

Another common form of gender based violence is **economic violence**. It includes workplace discrimination, loss of job due to pregnancy and denial of promotion due to ones refusal to give in to sexual advances from her superiors. It is important to note that this form of violence is enhanced by sexual harassment which refers to unsolicited and unwelcomed sexual

advances or touches. Denial of school fees to girls in favour of boys is also considered as a form of economic violence. A report released by Transparency International Kenyan chapter on February 17th 2010 and published in the standard newspaper on 18th February 2010 indicate that around 23% of Kenyan women obtain promotions and other public services through granting sexual favours. Though the exact figure on the prevalence of this kind of violence is difficult to find, it is reported that majority of women suffer in silence due to fear of repercussions. Other forms of economic violence include cases where women are denied access to their late husband's property and continuous denial of inheritance rights to girls and women. On 16th February 2010 the STANDARD on page 13 reported the case of a woman who was on the verge of losing her land to a man who claimed that this woman had died in 2001. This clearly shows the extent of economic violence in Kenya. Though the constitution outlaws discrimination based on sex, women are still discriminated against in matters relating to land and property inheritance.

Political violence against women is another form of violence which is prevalent in Kenya. According to ECA- WIDNET political violence must be differentiated from any other form of violence. In their "gender based violence training manual" they define political violence as failure to involve women in decisions which affect them, refusing to elect an individual because she is a woman and direct violence during election campaigns. Thus according to this definition, the under representation of women in parliament, cabinet, parastatal boards, university councils and the provincial administration are all examples of gender based violence. Of the 8 provincial commissioners in Kenya only one is a woman. Of the 42 ministers, only 5 are women. Of the 224 MPs less than 15% are women. Of the seven public universities only two are headed by women vice chancellors. This clearly shows that most

“ ... Of the 8 provincial commissioners in Kenya only 1 is a woman. Of the 42 ministers, only 5 are women. Of the 224 MPs less than 15% are women. Of the 7 public universities only 2 are headed by women vice chancellors. ”

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decision making organs in Kenya are headed by men. Thus this can be said to be gender based violence against women who are the majority in Kenya. Prior to 2007 elections, several cases of violence against women were reported e.g. the case of Flora Tera who was assaulted by youths in Imenti for venturing into a “male field”. Bishop Margaret Wanjiru, the current MP for Starehe also faced several instances of violence at Kariakor and Nyamakima in her constituency. Rosa Buyu, a parliamentary aspirant in Kisumu town west also faced several instances of violence. According to the Heinrich Bolt foundation in their book “perspectives on gender discourse” published in 2003, violence against women is partly the reason why most of them fear venturing into politics in Kenya.

Psychological violence: This kind of violence though very prevalent in Kenya is the most difficult to identify. This is because it results from virtually all the other forms of violence discussed above. For example rape and wife beating though classified under sexual and physical violence respectively also causes psychological torture. The prevalence of all the other types of violence indicates the presence of psychological violence which results from them. Other forms of psychological violence which have been reported in Kenya include abandonment of wife and children and wife confinement.

In her speech, during the launch of the national framework towards response and prevention of gender based violence in Kenya (December 9th 2009), the chair person of the commission on gender and development, Dr. Regina Karega pointed out that up to 49% of women have experienced gender based violence in Kenya since age 15. The main perpetrators were husbands, parents and teachers. She also estimated that about 15% of women in Kenya experience marital rape. She further pointed out that the government in a number of its

documents since 1996 has identified gender based violence as a problem in development. The permanent secretary in the Ministry of Gender, during the same occasion argued that the prevalence of gender based violence in Kenya is promoted by women's subordinate status in society. The continuous commemoration of the 16 days of activism against gender based violence (from 25th November - 10th December of every year) by the government and the numerous policies against gender based violence e.g. the national framework towards response and prevention of gender based violence in Kenya and the return to school policy for returnee teenage mothers as well as affirmative action in selection of students to universities and national schools clearly show that the government is aware of the prevalence of gender based violence in Kenya. However, the recent inclusion of a clause in the draft constitution by the male dominated parliamentary service commission which seeks to prohibit abortion is a step backwards. This is because it limits women's reproductive rights thus can fall under a broad definition of gender based violence simply because the denial of abortion rights can lead to psychological stress particularly if the pregnancy was unplanned for or resulted from rape or incest. If this section is left in the draft constitution then the government will have, without knowing constitutionalised psychological form of gender based violence. According to Judy Thongori, a former FIDA director, Kenya has ratified several conventions with regard to women's rights but it has failed to implement them or domesticate them into the Kenyan constitution. This is because Kenya lacks an automatic domestication clause in respect to ratified international conventions. This has made it difficult for women to fight against gender based violence on the basis of these international instruments (Thongori 2001). Such ratified conventions include the African charter on human and peoples' rights, the Beijing platform, the universal declaration of human rights, CEDAW and the Maputo protocol. In general, gender based violence is very rampant in Kenya and those who deny it do so due

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to their failure to appreciate its broad dimension or simply due to hypocrisy. Indeed, all citizens whether male or female must have a female relative or friend who has at one point in her life faced gender based violence. Experts have always pointed out that there is a direct link between gender-based violence and HIV/ AIDS, the amount of money used to treat GBV victims is unknown but definitely high. To eradicate gender based violence, the government must embrace an inclusive and multi-sectoral approach that takes on board those who are directly or indirectly involved in gender based violence. This means that men, who are the main perpetrators of gender based violence in Kenya should also be involved in eradicating it.

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Conclusion

Engaging young intellectuals in research on issues of gender based violence in Africa and Kenya in particular gives them an opportunity to question some of the harmful cultural practices rooted in the patriarchy system which characterizes most African societies. Most students participating in the essay competition cite cases illustrating perpetuation of violence against women nurtured by constructed social and cultural beliefs which portray the girl child with all negative attributes meant to suppress her self-esteem from childhood.

It is very encouraging to find out that most students are in support of the eradication of violence against based on the analysis done and recommendations suggested to curb the vice. However, one may not be able to immediately establish whether their sentiments are dictated by the hope of winning an award or just genuine concern about the spreading of the vice in the society. Except for two submissions, all the students felt that “Violence against the girl child and women in Kenya is a reality and not an imported concept”.

Altogether, student's submissions provide **practical recommendations** on what is needed to be done to slowly change people's negative mentalities and attitudes towards the girl child and women that are worth exploring by those working on the above described issues. Note that the essays not published were equally good demonstrated through constructive discourse and thought-provoking perspectives!

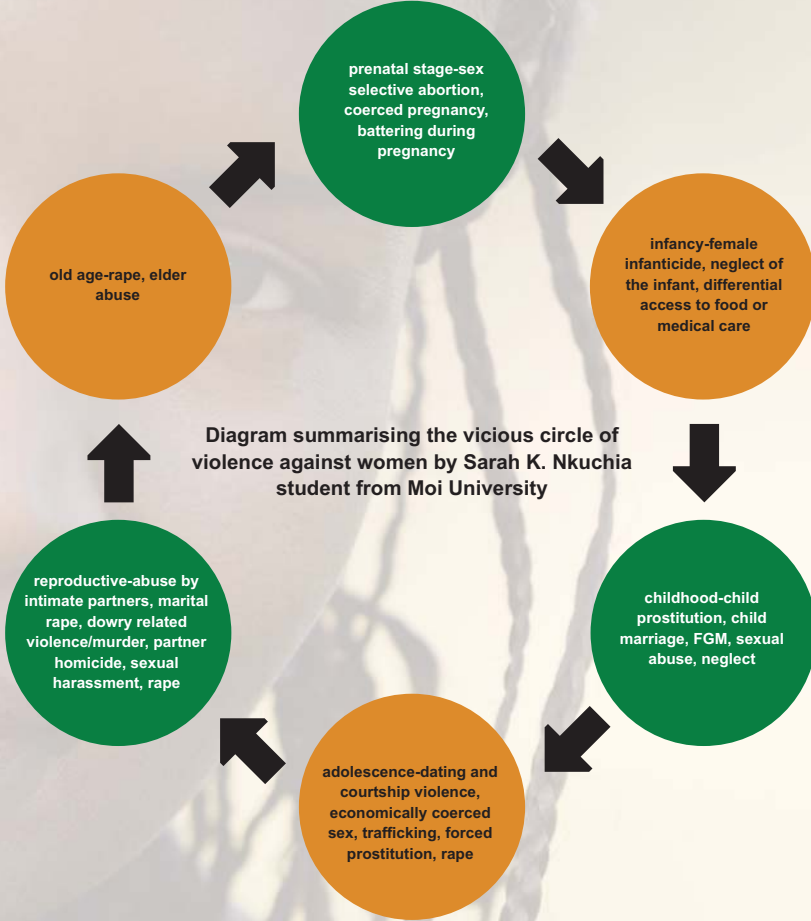
ACORD is unfailingly working with youth and other key actors, to end impunity on sexual based violence and more widely to end violence against women and girls.

For more information on Women's rights in Kenya and in Africa, visit our website www.acordinternational.org

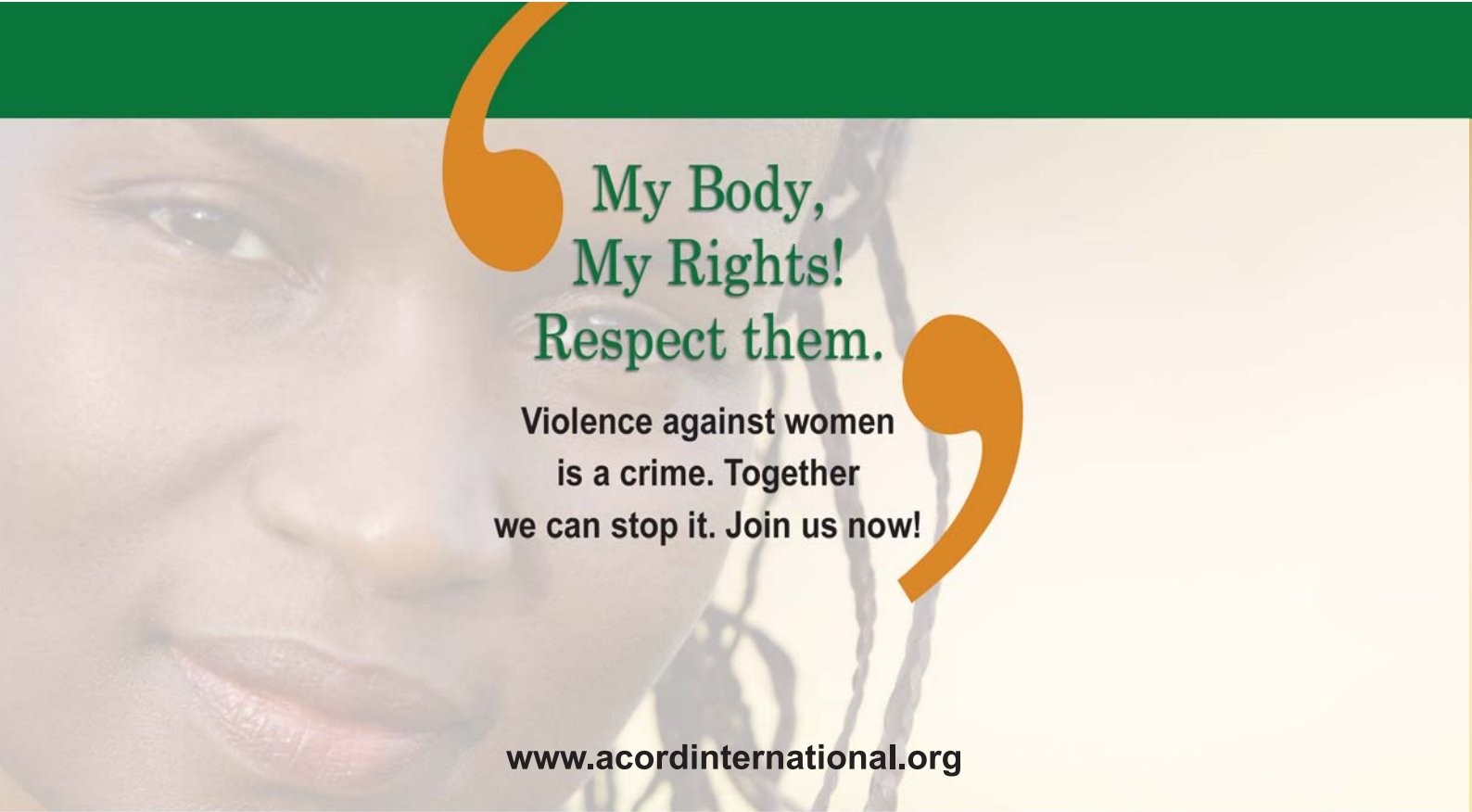


The winners of the Essay competition

Reflections from
university students
in Kenya







**My Body,
My Rights!
Respect them.**

**Violence against women
is a crime. Together
we can stop it. Join us now!**

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