



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

RESEARCH DRAFT

**ASSESSING THE DOMESTIC IMPACT OF INTERNATIONAL TREATIES IN THE
PREVENTION OF VIOLENCE AGAINST WOMEN IN GHANA**

**MINI-DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENT
FOR THE DEGREE MPhil HUMAN RIGHTS AND DEMOCRATISATION IN AFRICA**

BY

EVA ABUGABE

STUDENT NUMBER: U22954458

SUPERVISORS

**Dr Ashwanee Budoo-Scholtz
(UNIVERSITY OF PRETORIA)**

**Professor Gentian Zyberi
(UNIVERSITY OF OSLO)**

DATE OF SUBMISSION: 25 OCTOBER 2022.

PLAGARISM DECLARATION

I, **Eva Abugabe**, with student number u22954458 declare that this mini-dissertation on “**assessing the domestic impact of international treaties in the prevention of violence against women in Ghana**” is borne out of my independent and diligent work with all literature duly referenced. The paper has also not been previously submitted either fully or partially to another educational institution for the awarding of a degree. Equally, this paper’s stance is not necessarily reflective of or influenced by the views of any funding to my study.

Signature..........

Date.....25 October 2022.....

DEDICATION

I specially dedicate this paper to my ever loving mother with a thundering spirit of resilience and hope, Agnes Kuguna Addah Logobazam.

ACKNOWLEDGEMENT

My mini-dissertation was written under the supervision of Dr Ashwanee Budoo-Scholtz and Prof Gentian Zyberi, respectively of the Centre for Human Rights, University of Pretoria, South Africa and the Norwegian Centre for Human Rights, University of Oslo, Norway. Therefore, I am particularly grateful for their zealous application of interest as well as provocative comments in guiding and reviewing my writing of this paper throughout to its finality.

My deep indebtedness to the European Union through the Global Campus of Human Rights and the Royal Norwegian Embassy in Pretoria, South Africa for funding my Master's in Human Rights and Democratisation in Africa.

The Norwegian Centre for Human Rights, University of Oslo and its staff were the ideal partners for my research and I am grateful for their every support.

Also to everyone who supported me in various ways throughout my progressive study of this programme and personal development.

Profoundly to my families, the Philip Aduku Abugabe and Felix Kyei-Baffour especially to my nieces, Makayla Wesoamu Tiwaa Kyei-Baffour and Myla Awelana Abena Saah Kyei-Baffour who continuously transcended geographical boundaries to rekindle their perpetual love, support and belief in me.

Then with an unparalleled mix of enthusiasm, self-sacrifice, intellectual acuity, mental acumen and personal grit, I finally applaud myself immensely for thriving through this challenge phase of personal growth and professional development.

SUMMARY

VAW in Ghana is blatant and pervasive. Ghana has, however, ratified the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) and the African Charter on Human and Peoples' Rights on the Rights of Women (the Maputo Protocol). These project the ideals of women's enjoyment of rights and freedoms such as preventive violence against women (VAW). This study has explored the discursive construction of the lacuna between law and practice by "**assessing the domestic impact of international treaties in the prevention of violence against women in Ghana.**" Based on a qualitative methodical and theoretical approach conjoined with a gender intersectional lens, the paper's findings reflect Ghana's attempt to comply with its international and regional human rights legal obligations and international agendas to address VAW yet the treaties are seldom explicitly domesticated into legislations, institutional policies and programmes. This does not however mean that these treaties binding on Ghana, have not engineered any impact as there are many legislative, institutional policies and programmes whose objectives are attuned to the objectives of them. Some stalemates to a realistic domestic impact of preventive VAW are political tokenism/lip-serving governments; gender insensitive budgeting and policies and programming; limited sensitisation and attitudinal change towards women's rights; poor/limited strategic ligations using treaties; traditional, religions and cultural conservative inhumane beliefs and practices etc. The paper's recommendations include urgent legislative reforms/constitutional amendments; passage of the Affirmative Action Bill; gender sensitive budgeting and policy frameworks; continuous participatory approaches (grassroots mobilization, attitudinal change and broad-base stakeholder consultations. By far, the paper points to Ghana's compliance to treaties owing to reputational protection; strategic global communication and socialisation by other states/ actors especially through recommendations, persuasion from treaty bodies; public criticisms/opinion; available of resources; and conformity of treaties being paradigmatic with existing national laws.

LIST OF ABBREVIATIONS

ABBREVIATIONS	FULL MEANING
AAB	Affirmative Action Bill
ACC	African Charter on the Rights and Welfare of the Child
African Charter	African Charter on Human and Peoples' Rights
ACmHPRs	African Commission on Human and Peoples' Rights
Maputo Protocol	African Charter on Human and Peoples' Rights on the Rights of Women.
AHC	Accra High Court
AIDS	Acquired Immunodeficiency Syndrome
ARV	Antiretroviral
AU	Africa Union
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEFM	Child Early Forced Marriage
CDD	Centre for Democratic Development
CHRAJ	Commission for Human Rights and Administrative Justice
CRC	Convention on the Rights of the Child
COVID-19	Corona Virus 2019
CSO	Civil Society Organisations
DV	Domestic Violence
DOVVSU	Domestic Violence and Victim Support Unit
FGM	Female Genital Mutilation
FIDA	International Federation of Women Lawyers
GBV	Gender Based Violence
GCRC	Ghana Constitutional Review Committee
GoG	Government of Ghana
HIV	Human Immune Virus
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IRHRs	International Regional Human Rights Systems
IPV	Intimate Partner Violence
LGBTQ+	Lesbian, Gay, Bisexual, Transgender, Queer plus
MDA	Ministries, Departments and Agencies
MoGCSP	Ministry of Gender Children and Social Protection
MOWAC	Ministry of Women and Children
NGOs	Non-Governmental Organisations
NIP	Non Intimate Partner Violence
NPC	National Peace Council
PLWHA	People Living With HIV/AIDS
PNDC	Provisional National Defence Council
PwDs	Persons with Disabilities
SC	Supreme Court
SDGs	Sustainable Development Goals
SECR	Socio-Economic and Cultural Rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
UPR	Universal Periodic Review
VAW	Violence Against Women
VAWG	Violence Against Women and Girls
WiLDAF	Women in Law and Development in Africa

TABLE OF CONTENTS

Contents

PLAGARISM DECLARATION	2
DEDICATION	3
ACKNOWLEDGEMENT	4
SUMMARY	5
LIST OF ABBREVIATIONS	6
TABLE OF CONTENTS	7
CHAPTER ONE: INTRODUCTION	9
1.1 Background	9
1.2 Problem statement	10
1.3 Research questions	13
1.3.1 Research objectives	14
1.4 Definition of concepts	14
1.5 Methodology	15
1.6 Theoretical framework	16
1.6.1 Feminist perspectives of VAW	16
1.7 Limitations and delimitations of the study	17
1.8 Significance of the study	17
1.9 Research Structure	18
CHAPTER TWO: LITERATURE REVIEW	19
2.1 Literature review on preventing VAW	19
2.2 Historical perspectives of women's international and regional human rights	19
2.2.1 Development of the rights of women in international human rights law	19
2.2.2 International-level recognition of women's rights	21
2.2.3 Regional – level recognition of women's rights	22
2.3 A targeted focus on VAW in Africa	22
2.3.1 Historical overview of the state of women's rights, VAW and the Ghanaian woman question	24
2.4 Theoretical frameworks on impact of international regional human rights treaties at the domestic level	27

CHAPTER THREE: GHANA’S OBLIGATIONS	30
3.1 Introduction	30
3.1.1 An introduction to Ghana’s democratic legal system	30
3.1.2 Introduction to Ghana’s Domestication or Incorporation of women’s rights	30
3.2 Domestication of Ghana’s obligations to preventive VAW	32
3.2.1 Constitutionalism of women’s rights	32
3.2.2 Legislative and policy reforms	33
3.2.3 Adjudication on women’s rights	35
3.2 Summary	37
CHAPTER FOUR: MONITORING OF GHANA’S OBLIGATIONS	39
4.1 Introduction	39
4.2. Recommendations from human rights mechanisms and other actors	39
4.2.1 State Reports on impact to CEDAW Committee	39
4.2.2 Special Mechanisms	41
4.2.3 State Reports to ACmHPR	45
4.2.4 AU Special Mechanisms	45
CHAPTER FIVE: STATE RESPONSES AND SPECIAL MECHANISMS	47
CHAPTER SIX: CHALLENGES TO IMPLEMENTATION OF RECOMMENDATIONS AND PREVENTION OF VAW	51
6.1 Introduction	51
6.1.1 Challenges facing the State and MDAS’s	51
6.1.2 Challenges facing the judiciary	55
CHAPTER SEVEN: SUMMARY, CONCLUSION AND RECOMMENDATIONS	56
7.1 Introduction	56
7.2 Summary of findings	56
7.3 Conclusion and Recommendations	57
BIBLIOGRAPHY	60
APPENDICES	76

CHAPTER ONE: INTRODUCTION

1.1 Background

Protracted violence against women (VAW) has evidently been at a far aggravating and disquieting rates.¹ Globally, women's well-being, the exercise and enjoyment of rights are adversely affected.² Averagely, one of every three women in her lifetime has probably experienced some violence.³ Notably, the re-emergence of women's movement in the 1970s and 1990s ignited heightened interest in women human rights' discourses especially addressing VAW which had hitherto been continuously disregarded by both state and policy framers as a critical phenomenon.⁴

Notwithstanding, women, irrespective of their age and socio-economic influence are still generally subjected to multivariate violence.⁵ Prevailing imbalanced patriarchal power dynamics, also arguably curtail women's quality of life⁶ and thus, confirming feminist ideology of patriarchy as the underlying cause of VAW. Additionally, such societal actions are generally recognised as not merely a violation of human rights but discriminatory against women⁷ hence, regarded as both a national and international concern⁸ and a public health and human rights crisis.⁹

Nonetheless, ending VAW, have induced numerous efforts and landmark achievements. Among others empowerment, prosecutions, domestic violence (DV) related legislations, sensitisation, preventive violence mechanisms¹⁰ and exceptional international and regional human rights treaties.¹¹ Specifically, all twentieth century treaties, stress sex and gender based discrimination/violence (GBV) as a human rights issue. Moreover, the preamble of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 18 December 1967 clearly acknowledged that 'extensive discrimination against women continues to exist,' and such discrimination 'violates the principles of equality of rights and respect

¹ United Nations Women (UNW) 'Secretary-General's campaign UNiTE to end violence against women' (2008).

² WHO 'Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence' (2013) WHO Report No.: 9789241564625.

³ UNW 'United Nations Secretary-General Ban Ki-moon's campaign Unite to End Violence against Women (2008), <http://www.un.org/en/women/endviolence/pdf/VAW.pdf> (accessed 18 May 2022).

⁴ P Tjaden 'What is violence against women? Defining and measuring the problem' (2007); Violence Against Women: WHO Consultation, Geneva, 5–7 February 1996. Geneva, World Health Organization, 1996 (document FRH/WHO/96.27) http://whqlibdoc.who.int/hq/1996/FRH_WHD_96.27.pdf (accessed 18 May 2022); World Health Organisation (WHO) 'Multi-country study on women's health and domestic violence against women: summary report of initial results on prevalence, health outcomes and women's responses' Geneva, WHO, (2005).

⁵ UN 'The World's Women: Trends and Statistics' (2015).

⁶ Centre for the Study of Violence and Reconciliation (CSVR) 'Violence against women in South Africa: A country in crisis' (2017).

⁷ As above.

⁸ D Kilpatrick 'What is violence against women: Defining and measuring the problem (2003).

⁹ AO Gomes & CN Avellaneda 'The role of pro-women institutions in addressing violence reports against women' (2021) 1 *Global Public Policy and Governance* 39.

¹⁰ As above.

¹¹ A Gudmundur & K Tomasevski (eds.) 'A thematic guide to documents on the organisations, international non-governmental organisations and professional associations' (1995).

for human dignity.¹² The 1993 World Conference on Human Rights and Declaration on the Elimination of Discrimination Against Women, enabled the global community to interpret VAW as:¹³

any act of gender-based violence that results in, or is likely to result 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.

This definition concedes the heterogeneity, actors and environment of VAW.¹⁴ Importantly, a better VAW resolution, postulates a broad rather than a narrow analytical outlook.¹⁵ However, the status of women's rights in national and international frontiers reveal the lucid complexities of violence inflicted on women.¹⁶ And despite the assumptions of states' obligations to protect human rights within international law, some continuously subject their human rights legal obligation to their religious/cultural/traditional beliefs and practises.¹⁷ They also fail in countering harmful traditional practices including making reservations based on domestic or Sharia law citing for example, Morocco, Tunisia and Saudi Arabia.¹⁸ Undeniably, negative religious/cultural/customary practices violating women's rights are also prevalent in non-Islamic states. This makes the research necessary in assessing Ghana's obligation towards preventing the flagrant human right VAW.

1.2 Problem statement

Regrettably, VAW countering mechanisms have since been at crisis point,¹⁹ making VAW a global pandemic²⁰ even with several CEDAW ratifications by 189 UN member states.²¹ Shamefully, about 40% of women globally still experience a violence at some point in their lives by an intimate partner (IPV) or non-intimate partner (NIP).²² About 10% are sexually assaulted by NIP and 200 million subjected to female genital mutilation/cutting (FGM).²³ Before the COVID-19 pandemic, over 200 million women and girls

¹² Convention on the Elimination of All Forms of Discrimination Against Women (1979).

¹³ UN 'Declaration on the elimination of violence against women. United Nations General Assembly (UNGA). Proceedings of the 85th plenary meeting, Geneva' (1993) p.2.

¹⁴ N Daruwalla *et al* 'Prevalence of domestic violence against women in informal settlements in Mumbai, India: a cross-sectional survey' (2020) 10 *BMJ Open* e042444.

¹⁵ UNDAW 'Indicators to measure violence against women. Report of the expert group meeting' (2007) *United Nations Division for the Advancement of Women, United Nations Economic Commission for Europe, United Nations Statistical Division*.

¹⁶ EY Krivenko 'Women, Islam and International Law: within the context of the CEDAW' (2009).

¹⁷ As above p. 44 - 71.

¹⁸ As above.

¹⁹ UNW 'Press release: UN Women raises awareness of the shadow pandemic of violence against women during covid-19' (May, 2020).

²⁰ World Bank (WB) 'Gender-Based Violence (Violence Against Women and Girls)' (2019).

²¹ UN 'Treaty body database' https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=164&Lang=en (accessed August 2022).

²² KM Devries *et al* 'The global prevalence of intimate partner violence against women' *Science* (2013).

²³ WB (n 20).

between (15-49) years were IPV survivors.²⁴ Subsequent exacerbation plus public and online space violence, and against domestic workers, lesbian, gay, bisexual, transgender, queer (LGBTQ+) and women with disabilities forced the UN terminology, the ‘shadow pandemic.’²⁵ Inclusively, restricted movement, interactions with abusers and limited supporting systems worsened the alarming situation.²⁶ Yet, not at most ten percent of women and girls sought help from the police.²⁷

All African states, except Sudan and Somalia, have ratified the CEDAW,²⁸ whilst Botswana, Egypt and Morocco are few exceptions to the adoption of Protocol of the African Charter on Human and Peoples’ Rights on the Rights of Women (Maputo Protocol; herein the Protocol).²⁹ Ironically, more than 40%, conversely, over two of five women are victims/survivors of violence yet, are subjected to stigmatisation.³⁰ Africa has devastating VAW statistics of at least over 20 countries entrenching FGM as a traditional value³¹ and a majority of female trafficking victims age 18-20, mostly forced into sexual exploitation.³²

Ghanaian women also face pandemic proportions of violence. Of the protracted overwhelming DVAW cases, younger and rural women are worse off more exposed to DV than older and urban women.³³ The UN Sustainable Development Goal (SDGs) recognise defilement as an obstruction to children’s right to health and society specially target 5.2 and 16.2 on ending child abuse and exploitation and eliminating all forms of violence against children (VAC) and women including sexual exploitation.³⁴ Statistically, excluding unreported³⁵ cases, between 2002-2005 there were about 4000 sexual abuse cases.³⁶ Over 50% and about 50% of children had experienced sexual violence at school and home respectively as per a 2009

²⁴ UNW ‘Violence against women and girls: the shadow pandemic’ (April, 2020) *Statement by Phumzile Mlambo-Ngcuka, Executive Director of UN Women.*

²⁵ UNW (n 19).

²⁶ As above.

²⁷ UNW (n 24).

²⁸ WorldBank (n 20).

²⁹ Solidarity for African Women’s Rights ‘Protocol Watch’ (2022).

³⁰ Deutsche Welle (DW) ‘African women tell of experiences of violence’ (November, 2021) <https://www.dw.com/en/african-women-tell-of-experiences-of-violence/a-59928442#:~:text=The%20rate%20of%20such%20violence,global%20figure%20is%20around%2030%25> (accessed 20 June 2022).

³¹ M Campanella ‘Violence against women in Africa’ (September 2020) *The Borgen Project* <https://borgenproject.org/violence-against-women-in-africa/> (accessed 20 July 2022).

³² As above.

³³ United States Department of State (USDS) ‘Country Reports on Human Rights Practices’ (2020) *Bureau of Democracy, Human Rights and Labour*; Institute of Development Studies (ISD) ‘Domestic violence in Ghana: Prevalence, Incidence and Causes’ (2016).

³⁴ UN General Assembly ‘Transforming Our World: The 2030 Agenda for Sustainable Development; United Nations General Assembly’ (2015) *Seventeenth Session, New York.*

³⁵ UNICEF ‘Budget Brief Ending Human Trafficking & Violence Against Women and Children’ (October, 2020) <https://www.unicef.org/ghana/media/3756/file/Budget%20Brief%20-%20Funding%20systems%20to%20end%20VAC%20and%20child%20trafficking.pdf> (accessed 20 July 2022).

³⁶ Ministry of Gender, Children and Social Protection (MoGCSP) ‘Child and Family Welfare Policy’ (2014).

study on 14% of school children.³⁷ In 2006 of the estimated 33000 street children, street girls (living and/or working on the street) were sexually abused and exploited than boys.³⁸

Fast-forwards, between 2010-2014, the Domestic Violence and Victim Support Unit (DOVVSU) reported about 6000 defilement cases³⁹ of which about 10 were male and about 400 were defiled by family members.⁴⁰ Between 2015 to 2017 at least three children were defiled daily⁴¹ and 1300 in 2019 respectively.⁴² From 2017–2018, rural women were three times more FGM targets than urban women; 3.6%–1.2% comparatively.⁴³ Most women of Ghana’s northern regions are victims/survivors of many IPV’s which are mainly unreported for fear of being divorced and victimised.⁴⁴ About 40% of women ever-married, aged 15–49, in 2008 faced IPV.⁴⁵ In 2016, about 30% of women experienced DV with only 9% reporting to the police particularly due to patriarchal setups.⁴⁶ Also in 2016, Ghana’s economic loss due to VAW was over Ghc70million (\$18.9 million) and over Ghc 900 million to about 1.5 billion every year over VAC.⁴⁷

In 2020 pandemic alone, more than 44 cases were recorded in just four lockdown areas of two regions.⁴⁸ From January to June, 2021, there were over 50 femicides at rural and urban areas.⁴⁹ Over 200 accumulated effects of some violent incidents recorded from June to July 2022 showed, 10% of the injured and dead were women; 10% injured and 5% dead being children.⁵⁰ Another 86 incidents recorded, 12 sexual violence (14%).⁵¹ Also, high number of attacks on journalist⁵² and over 1000 defilement from 2020 –2021.⁵³ In 2019, the Ghana Federation of Disability Organisations lamented over the intersectional discriminations faced by women with disabilities notably to reproductive health causing their withdrawal or refusal to seek

³⁷ CRECENT ‘Report on Child Sex Abuse in Schools’ (2009) *PLAN Ghana*

³⁸ National Street Children Policy Framework (2006).

³⁹ DOVVSU ‘Report on Domestic Violence Situation in Ghana’ 2010-2015.

⁴⁰ As above.

⁴¹ Ghana Open Data Initiative ‘Defilement cases in Ghana 2015-2017’ (2020).

⁴² Ghana News Agency (GNA) ‘Protecting the rights of Children, the law, barriers and the realities’ (2021).

⁴³ USDS (n 33 above).

⁴⁴ M Sunk ‘Domestic violence rife in rural Ghana’ (June, 2016) *DW* <https://www.dw.com/en/domestic-violence-rife-in-rural-ghana/a-19336067> (accessed 20 July 2022).

⁴⁵ ISD (n 33 above).

⁴⁶ E Uzobo & DA Ayinmoro ‘Trapped Between Two Pandemics: Domestic Violence Cases Under Covid-19 Pandemic Lockdown: A Scope Review’ (2021) <http://dx.doi.org/10.1177/0272684X2110022121> (accessed 20 July 2022).

⁴⁷ UNICEF (n 35).

⁴⁷ MoGCSP (n 36).

⁴⁸ GNA (n 42).

⁴⁹ Citi Newsroom ‘Murders: 306 cases recorded in 2021 1st half; only one case closed so far’ (August 2021) <https://citinewsroom.com/2021/08/murders-306-cases-recorded-in-2021-1st-half-only-one-case-closed-so-far/> (accessed on June 10, 2022); Unavailable official data about the 2nd half of 2021. Also, numbers were likely to increase due to covid-19 pandemic.

⁵⁰ Foundation for Society Development in Africa (FOSDA) ‘Violent incidents in Ghana: A media monitoring report’ (2022)

⁵¹ As above.

⁵² OHCHR ‘Human Rights Committee considers the report of Ghana’ (*OHCHR*, 24 June 2016) <https://www.ohchr.org/en/press-releases/2016/06/human-rights-committee-considers-report-ghana> (accessed 6 April 2022).

⁵³ Ghanamma ‘DOVVSU drops scary rape, defilement statistics - Ghanamma.com’ (13 December 2021) <https://www.ghanamma.com/2021/12/13/dovvsu-drops-scary-rape-defilement-statistics/> (accessed June 10 2022).

healthcare at health facilities.⁵⁴ LGBTQ+ persons are endangered hence disguising themselves or go into hiding to avoid various forms of discrimination and attacks as it is considered as a criminal act.⁵⁵

For several decades, most studies including explorative research have focused on the nature, extent and dimensions of VAW⁵⁶ in Africa with limited research on the evaluation of legislative frameworks. In fact, it is only recently that scholarships or documentations on VAW began.⁵⁷ It therefore comes as no surprise that there is a lacuna between perceptions of gender in development discourses and discourses as against academic research on gender.⁵⁸ Thus, a reflection of the above, gave the impetus to this present research's focus in **'assessing the domestic impact of IHRLs in the prevention of violence against women in Ghana.'** It relies on the CEDAW and the Protocol including their respective treaty monitoring bodies, the CEDAW Committee and the African Commission on Human and Peoples' Rights (ACmHPR).

1.3 Research questions

The overarching research question is, **'what is the domestic impact of international and regional human rights treaties with a focus on CEDAW and the Maputo Protocol to preventing violence against women in Ghana.'** Towards this end, the sub-questions are:

1. What are Ghana's obligations under international and regional human rights treaties to protect women from violence?
2. To what extent have international and regional human rights mechanisms focused on Ghana's obligations to protect women from violence in their interaction with the country?
3. To what extent have UN treaty monitoring bodies' and African human rights mechanisms' recommendations and decisions been implemented in Ghana?
4. What are the challenges in implementing the recommendations of treaty monitoring bodies and special mechanisms (Universal Periodic Reviews (UPR), shadow reports, country visits, African Peer Review Mechanism (APRM))?
5. How can Ghana ensure a better implementation of recommendations by UN and African human rights mechanisms concerning VAW?

⁵⁴ USDS 'Ghana 2019 Human Rights Report: *Bureau of Democracy, Human Rights and Labor*' (2019) 33.

⁵⁵ The Global Fund 'Ghana Mid-Term Assessment: Global Fund Breaking Down Barriers Initiative' (May, 2021); W Isaack 'No choice but to deny who I am a' Violence and Discrimination against LGBT people in Ghana' *Human Rights Watch* (2018) <https://www.hrw.org/report/2018/01/08/no-choice-deny-who-i-am/violence-and-discrimination-against-lgbt-people-ghana> (accessed 20 July 2022).

⁵⁶ Tjaden (n 4).

⁵⁷ RO Ofei-Aboagye & O Rosemary 'Altering the strands of the fabric: preliminary look at domestic violence in Ghana (1994) *Journal of Women in Culture and Society* 19 (4), 924–938 [http://refhub.elsevier.com/S2215-0390\(21\)00007-2/sref56](http://refhub.elsevier.com/S2215-0390(21)00007-2/sref56) (accessed 25 August 2022).

⁵⁸ NA Anyidoho 'Women, gender, and development in Africa' (2020) In: O YacobHaliso & T Falola (eds.) *The Palgrave Handbook of African Women's Studies* https://doi.org/10.1007/978-3-319-77030-7_63-1 (accessed 25 August 2022).

1.3.1 Research objectives

The objectives as follows justify the research's interest.

1. To understand the cause of VAW in the selected country.
2. To explain the impact of VAW on women.
3. To examine the factors hindering the protection of women against violence.
4. To assess the response of actors in the country towards preventing VAW.

1.4 Definition of concepts

- **Violence Against Women (VAW)** – VAW is an encompassing concept the UN⁵⁹ described as ‘any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.’ The AU⁶⁰ implies it as ‘all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war.’ It is associated to the multiple inhumane actions of IPV, NIP sexual violence, trafficking, and harmful practises such as FGM.⁶¹
- **Impact** – This literature refers it as the ability of the treaties to cause an improvement in the situation of women and victims (people who suffer due to lack of or inadequacies in protecting their rights).⁶² The usefulness or otherwise of international and regional human rights systems (IRHRSs) is reflected on their domestic impact on the ‘true customers of the system’ thence, treaties should be guiding countries human rights agenda from whence, ‘reporting, individual complaints, inquires or internalised domestic legal systems’.⁶³
- **Intimate Partner Violence** – This connotes violence perpetuated by both former and present spouses including other intimate partners against women such that psychosexual harm, physical, sexual coercion, controlling behaviour and psychological abuse.⁶⁴ IPV also includes violence

⁵⁹ UN ‘Declaration on the elimination of violence against women’ New York, United Nations’ (1993).

⁶⁰ Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003).

⁶¹ WHO ‘Responding to Intimate Partner Violence and Sexual Violence against Women’ (2013) *WHO Clinical and Policy Guidelines*.

⁶² A Brynes & M Freeman ‘The impact of the CEDAW Convention: Paths to equality’ (2011) *World Development Report 2012 Gender Equality and Development Background paper*.

⁶³ C Heyns & F Viljoen ‘The impact of the United Nations Human rights treaties on the domestic level’ (2001) *Human Rights Quarterly Report* 23(4) p. 484 - 485.

⁶⁴ WHO (n 61).

committed during dating among young people (dating violence) excluding cohabitation and is synonymous to DV, IPV entails ‘domestic violence, wife or spouse abuse, wife/spouse battering’.⁶⁵

1.5 Methodology

The study explores questions through a qualitative research method, salient for gathering enough data for the interpretation and detailed analysis of CEDAW and the Protocol and their enforcement mechanisms that address VAW in Ghana as part of their core mandate.⁶⁶ Moreover, it adopts a case study design to investigate in detail Ghana’s problem with VAW.⁶⁷ It again employs desk reviews of diverse primary data of international treaty bodies monitoring systems (ITBMS), state authorities, civil society organisations (CSO), national human rights institution (NHRI) and other stakeholders. These among others include special mechanisms and Special Procedures of the United Nations (UN) and African Union (AU); state reports; official documents; NHRI reports; scholarly analysis; world bank documents; court judgments; SDG indicators reports/data; nongovernmental organisation and media publication etc. The data collected is then analysed using thematic analysis based on the identified patterns of cases⁶⁸ where the ratification of the aforementioned treaties has engineered some internalised effects. The following mutually unexclusive indicators as used mostly in other scholarships were included.⁶⁹

- Specific reference to the international and regional treaties for the post or pre-ratification of existing law;
- Specific reference to international and regional treaties standards as the basis for the formulation of proposed reforms, including new legislation;
- A State party withdrawal or modification of a prior reservation to the international and regional treaties based on the CEDAW Committee’s review of the State party’s submitted report;
- State party responds to a domestic advocacy campaign for the withdrawal or reservations, and/or demand for related legislative amendments to domestic laws that have any inconsistency with the international treaties standards to be removed;
- An amendment to a law was adopted subject to the international and regional treaties Committee’s review of the State party’s report and the Committee’s corresponding specific recommendations (and in relation to which international treaties -consistency has been invoked by the government and or advocacy groups as the reason for the change);

⁶⁵ Krivenko (n 16).

⁶⁶ N Denzin, & Y Lincoln (eds) ‘Handbook of qualitative research’ (2005).

⁶⁷ R Stake ‘The art of case study research’ (1995).

⁶⁸ G Guest *et al* ‘Applied thematic analysis’ (2012).

⁶⁹ Brynes (n 62).

- Reference to the international and regional treaties standards by law or policy reform body example NHRIs in considering the adoption or amendment of a policy/law;
- Reference by advocates in public policy discussion, before courts and tribunals, to the standards of the international and regional treaties in putting forward a case;
- Reference to international and regional treaties standards and output of their Committees, such as general recommendations, by domestic courts and tribunals in their decisions and judgments.

1.6 Theoretical framework

1.6.1 Feminist perspectives of VAW

The concept feminism projects issues confronting women due to patriarchal systems and mechanisms for mainstreaming for political, social and economic equality.⁷⁰ One of the theoretical frameworks engineering the mastery of VAW is the feminist theory which arguably doubles as the dominant model.⁷¹ It espouses the key causation of VAW to be gender inequalities existing in societies which have largely positioned men as superior to women.⁷² They associate the gender inequality gaps with entry points of violence as structural and ideological systems underlined with patriarchal norms, beliefs, practices and values.⁷³

There are commonalities in experience of violence yet there are also peculiar dimensions that must be understood and underscored in policy and in practice⁷⁴ due to intersecting factors (race, sexual orientation, class, disability etc.) that also make the impact distinctive.⁷⁵ Feminists have therefore hypothesized VAW as an outcome of systemic actions ranging from minute, medium and large variables.⁷⁶ For feminist thus, a good appreciation of any form of VAW is one that is nuanced with the perspectives of victims/survivors as well as perpetrators.⁷⁷

1.6.2 Intersectional Approach

This approach developed in 1989 in an attempt to amplify the various layers by which people's differences or inequalities interconnect and how that influences their personal experiences.⁷⁸ The concept is a theoretical tool used for the representation of the synchronous and diverse factors marginalised people face based on

⁷⁰ N Levit & RRM Vervick 'Feminist Legal Theory: A Primer' (2006) 15-16.

⁷¹ R Gelles 'Through a sociological lens: Social structure and family violence' (1993) In R. Gelles & D. Loseke (eds.) 'Current controversies on family violence' (1993) 31–46.

⁷² M Bograd 'Feminist perspectives on wife abuse: An introduction' (1988) In K. Yllö & M. Bograd (eds.), *Feminist perspectives on wife abuse*.

⁷³ RE Dobash & R Dobash 'Violence against wives: A case against the patriarchy' (1979).

⁷⁴ M Mukhopadhyay 'Mainstreaming gender or 'streaming' gender away: Feminists marooned in the development business' (2004) *IDS bulletin*, 35(4), 95–103.

⁷⁵ Mukhopadhyay (n 74).

⁷⁶ LL Heise 'Violence against women: an integrated, ecological framework. Violence Against Women' (1998)

⁷⁷ CSV (n 6).

⁷⁸ UN Women 'Intersectional feminism: what it means and why it matters' (June 2020).

their cross-cutting identifications.⁷⁹ It is therefore useful in centring the paper's interest through the lens of the overlapping forms of violence women are subjected to, the different experience of victims and the ununiformed impact. It also considers all women as equal and desiring of equal treatment and empowerment irrespective of their divide and broadens conversations about the exclusion and inclusion of marginalised groups through a multi-layered approach.⁸⁰

1.7 Limitations and delimitations of the study

The paper focuses on the domestic impact of CEDAW and the Protocol in preventing VAW but where applicable, impact on children will also be outlined briefly using the Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (the African Children's Charter herein; ACC). It recognises institutionalised legal reforms which may extraneously be translated as practical reforms as there are others, emphasising on women's full enjoyment of rights yet nonbinding. Its findings are only representative of Ghana and cannot be generalised; besides, women's experiences are not absolutely homogeneous. It also relied on accessible data, making Ghana's overall impact inconclusive to establish, due to unavailable and inaccessible elaborate information from 1990 to date. It would have been good to conduct a comparative analysis however, the paper is limited by time and, availability and access to data and these also influenced the research methodology and design adopted hence future in-depth research will be required.

1.8 Significance of the study

Women face violence irrespective of their location hence, the paper examines Ghana's situation, the sequencing effects and future prospects. Generally, it grounds the works of stakeholders with vested interest in protecting women and addressing human rights-based issues. Further, broadens discernment of the phenomenon, its implications on women and reasons for continuous causation in spite of existing combating strategies and, underpins the necessity for realistic commitment to the implementation of rights-based developmental policies and VAW preventions. Furthermore, it complements knowledge and augments continuous data, especially at the sub-regional level and on treaty influences. Its established emerging issues influence further research with recommendations engendering actionable interventions and development programming by stakeholders to cause substantial impacts central to women and girls' development.

⁷⁹ S Tamale *Decolonization and afro-feminism* (2020).

⁸⁰ K Crenshaw 'Mapping the margins: Intersectionality, identity politics, and violence against women of color' (1991) 43 *Standard Law Review* 1241.

1.9 Research Structure

This thesis consists of five chapters. Chapter one specifically introduces the study's background, problem statement, research questions, research objectives, methodology, limitations, significance and structure. Chapter two is about literature review, defined concepts, theoretical and conceptual frameworks and related VAW issues. Chapters three to six explore the study's findings following the preceding research questions with each ending with a summary of the findings. Chapter 7 finally underscores the study's summaries, conclusion and recommendations.

CHAPTER TWO: LITERATURE REVIEW

2.1 Literature review on preventing VAW

This section provides the literature review, introducing some theoretical and conceptual frameworks, domestic impact of IHRLs and other related issues to VAW, placing this research and its contribution in the broader context.

2.2 Historical perspectives of women's international and regional human rights

This section helps with some analyses of some of the international treaty norms that recognise women's rights specifically, those that Ghana has accepted.

2.2.1 Development of the rights of women in international human rights law

With the Universal Declaration on Human Rights (UDHR) of 1948, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the 1966 International Covenant on Civil and Political Rights (ICCPR), states were responsible for the realisation of equal rights for men and women as well as the enjoyment of their civil, socio-political and economic rights as stipulated in the Covenants.⁸¹ Then came the adoption of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 18 December 1967, following the then General Assembly 1967 Declaration on the Elimination of Discrimination against Women. The Convention demanded the full realisation of equality between sexes and discontinuation of discrimination against women on grounds of sex.⁸²

Globally, women in comparison to men remain disadvantaged due to inequality in the enjoyment of their rights such as right to protection, freedom from discrimination, right to information (RTI) and right to domestic remedy.⁸³ Women cannot live a life of dignity whereas their socio-economic and cultural (SEC) rights which give them freedoms, privileges and entitlements as individuals and communities are not respected, protected and fulfilled. It is a state's obligation to specifically respect, protect and fulfil these rights by ensuring the non-interference of these rights by the state and others, and including creating the necessary avenues for the enjoyment of these rights respectively. Besides the UDHR, ICESCR, ICCPR and African Charter of Human and Peoples' Rights (herein called the African Charter),⁸⁴ two of the key

⁸¹ Article 3 of the ICCPR; Article 3 of the ICESCR.

⁸² United Nations High Commissioner for Refugees 'NGO manual on international; and regional instruments concerning refugees and human rights' (1998).

⁸³ UN (n 5).

⁸⁴ African Charter on Human and Peoples' Rights (1981).

instruments that specifically recognise women's ESC rights at respectively the international and the regional level are the CEDAW⁸⁵ and the Protocol.⁸⁶

The concept of VAW is often used interchangeably with Gender-Based Violence (GBV) however the latter encapsulates all the types of violence caused by imbalanced power dynamics and the normative gender stereotypes prevalent in certain societies.⁸⁷ The main aim of IRHRLTs is for women to be free from all forms of VAW; DV, sexual harassment (at the workplace, other organisations, public spaces), forced pregnancy; child, early and forced marriage (CEFM), FGM, violence during conflicts and trafficking among others.⁸⁸

Thereafter, the Beijing Declaration and Platform for Action was equally adopted by governments in 1995 following the UN Fourth World Conference to safeguard the full realisation and enjoyment of women's fundamental freedoms and rights throughout their development.⁸⁹ Then also, the 1995 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women; the sole IHRIs with VAW as its pivotal agenda.⁹⁰ Then came the UN declaration of every 25 November as the International Day for the Elimination of Violence Against Women in 2000.⁹¹ Then in 2008, the launch of the UNiTE campaign as a clarion call for both state and non-state actors to act with concerted efforts amidst already existing legal and policy frameworks towards ending VAW.⁹²

Fast-forwards to 2014, the adoption of resolution *A/RES/69/147* geared at sustaining the drive for the elimination of the diverse forms of violence meted out against women through policies, laws, research etc.⁹³ Of the same year, the popular Istanbul Convention, known fully as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS, No. 210)⁹⁴ which projects the many legal frameworks and mechanisms for preventing VAW and making its offenders punishable by law.⁹⁵ Equally recent, the UN 2030 Agenda for SDGs (Goal 5), comprehensively under targets 1, 2 and 3 specifically demands for the elimination of discrimination against women and girls and gender equality for mutual benefit.⁹⁶

Given the above plethora of signal attempts and comprehensive instruments one is likely to have the impression that women's rights are significantly respected, protected and promoted by law.

⁸⁵ UNDAW (n 15).

⁸⁶ Protocol (n 60).

⁸⁷ S Boom 'Violence against Women and Girls: A Compendium of Monitoring and Evaluation Indicators' (Chapel Hill, NC: MEASURE Evaluation) (2008).

⁸⁸ United Nations General Assembly, 1993.

⁸⁹ CSVR (n 6).

⁹⁰ SR-VAW 'Indicators on Violence against Women and State Response' UN DOC. A/HRC/7/6 (January, 2008) para. 21; A Edwards 'Violence against Women under International Human Rights Law' (2011).

⁹¹ UNESCO 'International Day for the Elimination of Violence against Women, 25 November' (2020).

⁹² UNW (n 1).

⁹³ General Resolution on the 69th Session of UN, UN General Assembly (18 December 2014), UN Resolution A/RES/69/147 (2014).

⁹⁴ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (1999).

⁹⁵ UN (n 5).

⁹⁶ UN Goal 5: Achieve gender equality and empower all women and girls (2015).

2.2.2 International-level recognition of women's rights

- **CEDAW and its Optional Protocol**

Women's extensive global mobilisation⁹⁷ and the over 30 years' accumulative work of the UN Commission on the Status of Women established in 1946 to monitor women's affairs and promote their rights, informed CEDAW, commonly called the "international bill of rights for women."⁹⁸ It entered into force on 3 September 1981 in accordance with its article 27(1).⁹⁹ Its Optional Protocol entered into force on 22 December 2000, allowing for petitions and inquiries.¹⁰⁰ The CEDAW Committee established in 1982 monitors its implementation.¹⁰¹ Arguably, CEDAW potentially transforms women's lives and centralises their rights within international law for implementation towards gender equality through substantive equality in practice and formal equality in law and policy.¹⁰² Thus, signalling state parties obligations to adopt feasible mechanisms for the full realisation of equality by changing among others, socio-cultural perspectives and practises that subjugate or discriminate against women's rights directly or indirectly both in private and public spaces.¹⁰³

The Committee is often applauded for CEDAW and Optional Protocol's progress.¹⁰⁴ As an independent body of experts, it is widely known to have among others underpinned women's right at the centre of international agenda, increased cognizance of women's rights and influenced best practises particularly through its jurisprudence on petitions brought before it.¹⁰⁵ Meanwhile, under paragraph 2 of Article 28 of the Convention, a state may ratify yet enter reservations in relation to the Convention as long as the reservations are not "incompatible with the object and purpose of the Convention".¹⁰⁶ State parties are required to submit their evaluative reports on the implementation of the Convention and by incorporating with CSO engagements for the CEDAW Committee to review and give its concluding observations and substantive recommendations towards women's equality.¹⁰⁷ The submitted reports arguably demonstrate the states parties' commitment to the CEDAW Convention even at substantive policy level as well as in analysing the impact of implementation vis-a-vis the deliberate actions of governments.¹⁰⁸

⁹⁷ MA Freeman *et al* (eds) 'The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary' (2012).

⁹⁸ Brynes (n 62) 1.

⁹⁹ CEDAW (n 12).

¹⁰⁰ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (1999).

¹⁰¹ UN Women 'Committee on the Elimination of Discrimination Against Women' (2009).

¹⁰² N Pillay 'United Nations High Commission for Human Rights' (2011).

¹⁰³ Brynes (n 62).

¹⁰⁴ RA Stoffels 'The role of the CEDAW Committee in the implementation of public policies on gender issues: Analysis through a study of the protection of girls' rights in Spain' (2019).

¹⁰⁵ As above.

¹⁰⁶ CEDAW 'Declarations, reservations, objections and notifications of withdrawal of reservations relating to the Convention on the Elimination of All Forms of Discrimination Against Women' (2006).

¹⁰⁷ CEDAW 'Guideline for reporting to CEDAW' (2009).

¹⁰⁸ As above.

2.2.3 Regional – level recognition of women’s rights

- **The African Charters**

At the regional-level in Africa, women’s rights were first sufficiently recognized through the 1981 African Charter. Particularly in Article 18(3) read with Article 1 of same, states have obligations to champion women’s rights through “the elimination of every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions”.¹⁰⁹ Ironically, its provision, although contestable as comprehensive and broad, is the shortest expressive provision on ensuring women’s rights.¹¹⁰ Therefore, this paper propagates the provision as vague and leaves room for many interpretations on whether or not this general Charter adequately addresses women’s concerns and needs.

This perhaps caused the Protocol’s promulgation as adopted in 2003 at Maputo, Mozambique and entered into force on 25 November 2005.¹¹¹ It ultimately upholds women’s rights (broadened to include girls) and their peculiar rights relating to VAW.¹¹² Sadly, the AU’s dream of a universal ratification by 2020 failed given that it has 42 state parties with 13 outstanding countries with Botswana, Egypt and Morocco as exceptional states who have neither signed nor ratified it.¹¹³ Controversially, the vast numbers of ratification does not translate into effective implementation and substantive protection of women particularly in recognition of state parties’ increasing reservations.¹¹⁴ This existing state of the Protocol, due to the behaviour of states, extensively affects the ability of African women and girls’ to fully enjoy their rights as their rights are continuously at risk.¹¹⁵

2.3 A targeted focus on VAW in Africa

Violence against women and girls (VAWG) in Africa is a common rather than an endemic problem and often passes in silence. The imbalances of social power mostly in favour of men largely due to patriarchal practices and beliefs within Africa, greatly influence women’s quality of life and their extent of enjoyment of rights. VAW incidents can be considered as one of a process and a conflict as it projects the oppressions women face and the coincidental ills of African societies.¹¹⁶ It further highlights the multidimensional

¹⁰⁹ n 85 above.

¹¹⁰ G. Naldi, ‘Future Trends in Human Rights in Africa: The Increased Role of the OAU?’ (2002), in *M. Evans and R. Murray, The African Charter on Human and Peoples’ Rights: The System in Practice* 1986-2000.

¹¹¹ Protocol (n 60).

¹¹² Edwards (n 91 above)

¹¹³ Equality Now ‘The Maputo Protocol turns 18 today: But what does this mean for women and girls in Africa’ (2021).

¹¹⁴ Centre for Human Rights ‘Gender Equality at Higher Education Institutions in Africa: A gender audit tool.’ (2014).

¹¹⁵ As above.

¹¹⁶ CSVR (n 6).

vulnerabilities/complexities in most communities among others ‘disability, economic dependence, identity-based inequalities and women and children’s personal circumstances.’¹¹⁷

African women in comparison to women of other regions such as Asia, Latin America and the Caribbean are more susceptible to violence.¹¹⁸ About 60%¹¹⁹ and over 70%¹²⁰ Tanzanian and Ethiopian women, especially in most rural areas in 2005 and 2014 respectively, experienced IPV. For the year 2018 alone, Liberia recorded 803 GBV cases.¹²¹ Following the onset of the pandemic, over 3000 Kenyan school-going girls became pregnant either through rape by close relations or state officers, while Central African Republic recorded more than 20% rape cases with over 60% of women and children reported to have suffered one form of violence or another.¹²² South Africa recorded a femicide case every three hours just from March to April 2020, meanwhile some security forces in Malawi were sexually abusing women and guys causing Malawi’s Supreme Court (SC) to order them to compensate their victims.¹²³

Of Africa’s shadow pandemic records, Liberia recorded 50% increase of GBV cases just in the first half of 2020 and more than 600 women were raped at the end of the year with two Nigerian women were sadly raped and murdered causing a huge public outcry and Kenya’s local media reported that approximately 400 schoolgirls became pregnant during the lockdowns.¹²⁴ Meanwhile, there was about 30% considerable increase in rape cases and about 70% more instances of VAWG respectively as reported by the UN’s MINUSCA mission in the Central Africa Republic.¹²⁵ Considering also, prior to the pandemic, every three hours a woman in South Africa was at risk of being raped amidst surges in other VAW cases during the lockdown although, there is conclusive data.¹²⁶

Comparatively, survivors/victims of physical or sexual IPV than those without any IPV experience, have poorer general health with complaints of memory loss, chronic pelvic pain; back and abdominal pains; immune and behavioural dysfunctions; psychiatric disorders; perpetrators of violence at adulthood, etcetera.¹²⁷

¹¹⁷ As above 5.

¹¹⁸ Pan American Health Organization & Center for Disease Control and Prevention ‘Violence Against Women in Latin America and the Caribbean: A comparative analysis of population-based data from 12 countries’ (2013).

¹¹⁹ WHO (n 4 above).

¹²⁰ World Bank ‘Violence against women exacts high economic price, World Bank says’ (2014) *World Bank Press Release no 2014/198/PREM/*.

¹²¹ S Fröhlich ‘Violence against women: Africa’s shadow’ (October, 2020) <https://www.dw.com/en/africa-pandemic-violence-rape-women/a55174136#:~:text=But%20the%20main%20reason%20we,of%20their%20partners%20during%20curfews> (accessed 25 May 2022).

¹²² As above.

¹²³ Above.

¹²⁴ As above.

¹²⁵ As above.

¹²⁶ I Mules ‘Human Rights Watch: Gender-based violence remains rampant in South Africa’ (November, 2021) *DW* <https://www.dw.com/en/human-rights-watch-gender-based-violence-remains-rampant-in-south-africa/a-59923515> (accessed 20 June 2022).

¹²⁷ Di Franco *et al* ‘Domestic violence detection amid the COVID-19 pandemic: the value of the WHO questionnaire in emergency medicine’ (2021) *Monthly Journal of the Association of Physicians*, 114(9), 637–64; Institute of Development Studies *et al* ‘Domestic Violence in Ghana: Incidence, Attitudes, Determinants and Consequences’ (2016).

Onward, VAW is of national and international concern as women are at risk for many mental health and physical health effects.¹²⁸ There are however societal and attitudinal changes towards VAW such that it is becoming an increasingly unacceptable act in society but this does not influence more than 30% of women who are victims of violence to report/seek help.¹²⁹ In many instances, VAW prevalence are a mixture of factors not limited to limited access to education, socio-economic and cultural challenges and limited access to capital resources.¹³⁰

2.3.1 Historical overview of the state of women's rights, VAW and the Ghanaian woman question

Ghanaian women are generally more than men. The current female population is 15.6 million while the male population is 15.2 million, a correspondence of 50.7% and 49.3% respectively of the current projected population of 30.8 million.¹³¹ Women also outnumber men in 10 out of 16 regions, with more women in urban areas than rural areas in comparison to men.¹³² A substantial number of women than men are also widowed, separated and divorced.¹³³ These high numbers of women and the country's widely known reputation of political stability and democratisation, debatably does not in any way imply women are adequately protected; in terms of human rights, women are in the minority.

Despite these many provisions coupled with the undeniable fact that women have enjoyed some relevant status changes over the years, women are still battling with enjoying formal substantive equality.¹³⁴ Women face numerous violations of their rights in a continuum across various levels and in multiple forms.¹³⁵ These encompass others as sexual violence and harassment, DV, emotional violence, harmful traditional practices, economic violence.¹³⁶ Specific mentions leadership and political VAW, wife beatings, FGM, violence against alleged witches; inhumane widowhood rites and rape/defilement.¹³⁷ Unfortunately, an approximated 40% of women, ages 15-19, 20-24 and 30-39 years have each reportedly experienced at least one act of sexual violence.¹³⁸ More than 30% of 15-49 year olds have experienced physical violence

¹²⁸ Kilpatrick (n 8).

¹²⁹ UNW (n 18).

¹³⁰ CSVN (n 6).

¹³¹ Ghana Statistical Service 'Ghana 2021 Population and Housing Census (September 2021).

¹³² As above.

¹³³ As above.

¹³⁴ Make Every Women Count 'African Women's Decade 2010-2020: 2012 annual review' (2012) 69.

¹³⁵ MoGCSP 'Ghana's Report: Progress on implementation of the Beijing Platform for Action' Twenty-Fifth Anniversary of the Fourth World Conference on women and the adoption of the Beijing Declaration and platform for action (Beijing +25) https://archive.uneca.org/sites/default/files/uploaded-documents/Beijing20/NationalReviews/ghana_beijing_review_report.pdf. (accessed 20 August 2022).

¹³⁶ As above.

¹³⁷ Commission of Human Rights and Administration (CHRAJ) Commissioner 'Baseline study report on access to justice and gender based violence against elderly women alleged as witches' women'; Grameen Foundation USA & the American Bar Association 'Preliminary gender and inclusion analysis for Ghana (February, 2022) Women and Girls Empowered <https://grameenfoundation.org/documents/wage-ghana-gender-and-inclusion-analysis.pdf> (accessed 25 August 2022).

¹³⁸ CHRAJ (n 137 above); Ghana 'Survey on domestic violence (2016).

since age 15¹³⁹ and more than 60% of women have experienced a form of violence in their lifetime.¹⁴⁰ An estimated 80-85% female survivors made up about 60 000 of DV, GBV and child abuse reported cases between year 2015 to 2018.¹⁴¹ LGBTQ+ women are subjected to severe homophobic attacks, banishment from communities and family when their sexual orientation is revealed etc.¹⁴² Women with disabilities are more discriminated against than men due to intersectionality of gender, special ability, poverty, poor education, cultural beliefs and practices.

Ironically, until the overthrow of President Kwame Nkrumah in 1966, long before gender quotas were subsequently adopted by many other African countries, Ghana was regionally known as among the few first countries to achieve gender quotas of women parliamentarians from the 1960.¹⁴³ Women's political participation and in decision making has not been impressive except for marginal increases over some decades and at present, 14.5% (40/275 parliamentarians) for the 7th Parliament;¹⁴⁴ a slight increase from the 2016 score of 13.1% (36/275) yet the highest under the fourth republic.¹⁴⁵ This is far below the African and global average of 24% and 23% respectively.¹⁴⁶ Female representation within the executive arm of government is a bit above the legislative figure with a standing of 20%; a reduction of the 25% score in 2019.¹⁴⁷ Ghana does not have even 30% of critical mass of women holding decision-making positions nationwide worse off at lower levels.¹⁴⁸ Pregnant women suffering anaemia and/or malaria risk premature delivery, low birth weight, infant deaths and stillbirth while significant children also at high risk of death from HIV/AIDS/STIs.¹⁴⁹

Also, entrenched patriarchal systems worsened by religions and socio-cultural practices and beliefs greatly influence physical and sexual VAW.¹⁵⁰ Homophobic attacks on LGBTQ+ women are fuelled by the criminalisation of same sex relations,¹⁵¹ the media and religious leaders.¹⁵² There are no legislative

¹³⁹ AA Addo-Lartey *et al* 'Rural response system to prevent violence against women: methodology for a community randomized controlled trial in the central region of Ghana' *Global Health Action* (2019)

¹⁴⁰ Ghana Statistical Service and Associates 'Summary Report: Domestic Violence in Ghana: Incidence, Determinants and Consequences' (2016) *Institute of Development Studies*.

¹⁴¹ CHRAJ (n 137).

¹⁴² Kilpatrick (n 139).

¹⁴³ G Bauer & AK Darkwah '61 Party Primaries and Women's Representation in Ghana: How Can More Women Aspirants Win?' in Leonardo Arriola, Martha Johnson and Melanie Phillips (eds) *Women and Power in Africa: Aspiring, Campaigning, and Governing* (2021).

¹⁴⁴ J Nyabor 'Women representation in Ghana's Parliament: Infographics' *Citi NewsRoom* (January, 2021).

¹⁴⁵ Bauer (n 143).

¹⁴⁶ Nyabor (n 144).

¹⁴⁷ Trading Economics 'Ghana- Proportion of women in ministerial level positions' (2022) (accessed 20 July 2022).

¹⁴⁸ Ministry of Employment and Labour Relations 'Sector Medium-Term Development Plan-Decent work for all' (2018); CHRAJ (n 137).

¹⁴⁹ National Development Planning Commission (NDPC) 'Medium-Term National Development Policy Framework (MTNDPF): Ghana Shared Growth and Development Agenda (GSGDA), 2010-2013' (2010) 158.

¹⁵⁰ Kilpatrick (n 139); CHRAJ (n 137).

¹⁵¹ Section 104 of Criminal Code of 1960.

¹⁵² J Jackman 'Two arrested for using Grindr to blackmail and rob gay men in Ghana' *Pink News* (2019).

instruments barring women's political participation however their underrepresentation is caused by multiple factors. Limited political party commitment to influence women's participation; systemic and immediate violence within the political arena; competitive political financing; absence of an electoral gender quota in replacement for the first-past-the-post electoral rules; patriarchal ideologies of women political participation; psychological pressures; derogatory political gimmicks; a gendered access to resources, naturalised resource inequalities, etc.¹⁵³ The cascading effects of VAW in Ghana are stigmatisation with replica effects of fear and shame causing less reported cases for appropriate punitive measures and inconclusive national data.¹⁵⁴ Early marriage limit girls' participation, development and achievement in schools.¹⁵⁵ Women accused of witchcraft tend to suffer stigmatisation, physical assaults, separation/banishment from families and communities with little access to food and water, and threats of death while it resultantly causes the violated rights of children who accompany them to alleged witches camp.¹⁵⁶ These are rights violations to; health, education, shelter, movement and freedom from/of; discrimination, torture, association, liberty and safety.¹⁵⁷ Some LGBTQ+ women become ostracised and economically challenged, leading to reliance on commercial sex for survival.¹⁵⁸ Women with disabilities and women's limited participation leads to their exclusion from Ghana's broad good governance agenda, deprives the nation of maximising citizen's potential and developmental contributions and ultimately denies women of the opportunity to champion their interest and concerns to the development agenda.¹⁵⁹

Politically, there has not been any special incremental inclusion of women in decision making over the past 6 years. Instead there have been periodic increases in certain committees or institutions. Building on this momentum, the aforementioned guides "asking the woman question"¹⁶⁰ which underpins the extent of the objectivity of the law.¹⁶¹ Albeit to a contextual extent, it quizzes; how the Ghanaian woman's experience of violence and the associated gender implications are considered; how existing laws or social standards likely disadvantage women; the participation of women during the considerations of major human

¹⁵³ Bauer (n 143); D Tsikata 'Affirmative Action and the Prospects for GENDER Equity in Ghanaian Politics' (2009); L Dankwa 'In our father's name in our motherland: The politics of women's political participation in Ghana.' *Constitutionalism, Democratic Governance and the African State*, ed. Boni Yao Gebe, 239-274 (2015); BI Musah & I Gariba 'Women and Political Decision Making: Perspectives from Ghana's Parliament' *Journal of Alternative Perspectives in the Social Sciences* 5(3); M Adams *et al* 'The Representation of Women in African Legislatures and Cabinets: An Examination with Reference to Ghana' 2016 *Journal of Women, Politics and Policy* 37(2) 145-167; AM Tripp & A Kang 'The Global Impact of Quotas: On the Fast Track to increased Female Legislative Representation' (2008) *Comparative Political Studies* 41(3).

¹⁵⁴ Kilpatrick (n 139); Sunk (n 44).

¹⁵⁵ CHRAJ (n 137).

¹⁵⁶ Kilpatrick (n 139).

¹⁵⁷ As above.

¹⁵⁸ Global Fund (n 55).

¹⁵⁹ UNDP 'Conference report on Gender Balance and Good Governance: Africa-European Dialogue on Women in Decision-Making' (September, 1997); B Allah-Mensah 'Women in politics and public life in Ghana' (2005).

¹⁶⁰ KT Barlett 'Feminist legal methods' (1990) 103 *Harvard Law Review* p. 829.

¹⁶¹ As above.

rights law and institutions and; how can such exclusions be remedied? This further critiques the obligations of Ghana in prioritising the experiences of women in its decision making processes.

This paper however opines that, whereas asking the participation of women is important, it has been overly simplified as there is need to interrogate some other overlapping issues. What is the role and work of women in fighting their exclusion from decision making- as they are not extremely disempowered as projected? Does women's participation translate to championing a universal women's interest including recognising their own intersectionality or differences (religion, class, culture, language, special ability, sexual orientation etc.)? What are the guarantees that their contributions will be considered relevant in decision making? Beyond their numbers or inclusion, what next?

2.4. Theoretical frameworks on impact of international regional human rights treaties at the domestic level

Since discourses about human rights protection emerged, there are still lingering questions central to whether or not treaties are being complied with or effectively implemented.¹⁶² However, as earlier noted, there is limited information to the cause.¹⁶³ There are also concerns concepts of compliance and effectiveness are ambiguous such that; compliance could mean complying to; the treaty, reporting, and substantive obligations.¹⁶⁴

Meanwhile, the world has witnessed about 10 human right treaties demanding for state and non-state actors' protection of human rights.¹⁶⁵ However, it also remains difficult to ascertain treaties' impact in isolation, as states especially could be parties to other treaties that have interrelated interest, overlapping obligations; underlying government and commitment and citizen's demand; CSO actions and pre-existing legal frameworks, geared towards protecting human rights.¹⁶⁶ Nonetheless, some theoretical frameworks emerged to accelerate the understanding of treaty compliance and effectiveness, some theoretical frameworks unfolded. There is consensus that, when IRHRIs are enforced, they are not self-executing themselves unless through states although their degree of implementation varies amongst states.¹⁶⁷ Another demands that a better assessment of the effectiveness of international law appreciates the correlation between international law and international relation theories.¹⁶⁸ Therefore, aside from grasping the treaty compliance debate, this paper will also rely on the rational actor model and the normative model.¹⁶⁹

¹⁶² OA Hathaway 'Do Human rights treaties make a difference' (2002).

¹⁶³ As above.

¹⁶⁴ As above.

¹⁶⁵ Brynes (n 62).

¹⁶⁶ As above.

¹⁶⁷ Hathway (n 162).

¹⁶⁸ KW Abbott 'Modern International Relations Theory: A Prospectus for International Lawyers' (1989) 14 *YALE J. INT'L L.* 335.

¹⁶⁹ K Abbot & RO Keohane 'International Relations and International Law: Two Optics' (1997) 38 *HARV. INT'L L.J.* 487.

The **rational model** holds that states with vested interests tend to make rational decisions by looking at the comparative opportunity cost and benefits of their actions within the international space. States are more likely to comply with a human rights treaty if only it inures to their interest citing for example avoiding sanctions by other powerful states; promoting their reputation/image, advancing their ideological power and so forth. The rational model further advances the various degrees to which states act rationally in terms of international law. The paper relies on the **institutionalism rational choice model** (compliance as a strategy) in assessing Ghana's reasons for compliance with women's rights treaties. In the thinking of Robert Keohane, the model believes in aspects of states rationalism and the anarchical international environment¹⁷⁰ yet deviates from it to rely more on institutions and/or regimes to justify states responsiveness to IRHRLTs.¹⁷¹ He argues that states only leverage on these institutions and/or regimes for their long term goals or self-interest aggrandisement.¹⁷² This subjective model constructs states' consent to IRHRLTs and be subsequently bonded by it with their weighted implicit cost of compliance and non-compliance; making the treaty a means-to-an-end.¹⁷³ Again, when the treaty validates an existing domestic law and/or practice, treaty adoptions happen without states recourse to cost implications.¹⁷⁴ States are also more susceptible to adopt a treaty provided it has some direct consequential effects for non-compliance. He specifically espouses state compliance as an avoidance of reputational damages.¹⁷⁵ Conclusively, the model presupposes a state's concern for its reputation as causation for its behavioural modification towards a treaty.

Along is the typological model of **transnational legal process**. Here compliance ensues from internalised norms. Harold Koh's philosophy complements further Chayes and Chayes' view using a labelled explanatory framework, the norm internalisation. Harold demonstrates the how and why of states' compulsory obedience to international law in three phases.¹⁷⁶ First, several transnational actors initiate interactions among themselves and gradually integrate the treaty idea in their interactions/standard procedure and overtime, these metamorphose into internalised norms.¹⁷⁷ Secondly, domestic institutions via participatory transnational engagements become entangled with international legal norms such that they begin initiating their own patterns of compliance and it becomes gradually internalized nationally.¹⁷⁸ Another used theoretical framework is the normative model which critiques the above model's arguments by

¹⁷⁰ RO Keohane Neoliberal Institutionalism: A Perspective on World Politics' (1989) in *International Institutions and State Power* 1.

¹⁷¹ SD Krasner (ed) 'Structural Causes and Regime Consequences: Regimes as Intervening Variables' (1983) in *International Regimes* 1(2).

¹⁷² D Snidal 'Political Economy and International Institutions' (1996) 16 *Int'l Rev. L. & Econ.* 121, 121; RO. Keohane, The Demand for International Regimes, in *International Regimes*, 141; Krasner (n 171).

¹⁷³ AT Guzman 'International Law: A Compliance Based Theory' (2001) *Public Law and Legal Theory Working Paper No. 47*; A Chayes & AH Chayes 'Compliance' (1993) 47 *Int'l Org.* 175, 176.

¹⁷⁴ Hatchway (n 162).

¹⁷⁵ As above.

¹⁷⁶ HH Koh 'The 1998 Frankel Lecture: Bringing International Law Home' (1998) 35 *Hous. L. Rev.* 623.

¹⁷⁷ As above.

¹⁷⁸ HH Koh 'How Is International Human Rights Law Enforced?' (1999).

affiliating states compliance to treaties and persuasive powerful ideologies. The model recommends evaluating state behaviour through “an understanding of the influence and importance of ideas”.¹⁷⁹ Its **managerial model type** is the most prominent normative approach focusing on international discourses as an influence of compliance. It holds states as syndicates to persuasive international discourses and their quest to adhere to the norm of compliance. The Chayes’ alienate economic sanctions or otherwise for violations as ineffective to cause states compliance and behavioural change, as sanctions are rarely applied, are ad hoc in nature and tend to ignite costly consequences.¹⁸⁰ They further assert states as compliant because of their propensity to comply with treaties that contain shared legal norms of that of compliance as opposed to the penalties embodied in a violation. They consequently hypothesised that, by states subjecting themselves to this normative obligation, it implies they cannot leave without them and thus, if they are non-compliant it is due to states limited acting capacity, temporal issues and/or access to information (ambiguity, vagueness etcetera).¹⁸¹ They conditioned the materialisation and maintenance of revolving around different approaches especially of persuasion, notably, capacity building, accessible avenues to settle emerging conflicts/misunderstanding, awareness, monitoring and evaluation of human rights situations. The paper reviews their claim and tables that, while there is probability for states noncommittal to fathomless treaties, it is also viable, states gain the capacity, resources and/or time to answer steadily. It also agrees that their deduction is also not an assurance of states automatically engineering a needed response to a treaty, given no such setbacks.¹⁸² States entangled with international legal norms which also initiate their own patterns of compliance and become gradually internalised nationally.¹⁸³ Lastly, legal norms are internalised domestically by diverse means, including judicial interpretations, political groups and elites etc.¹⁸⁴

¹⁷⁹ Hatchway (n 162) 1955.

¹⁸⁰ As above.

¹⁸¹ As above.

¹⁸² As above.

¹⁸³ Koh (n 176).

¹⁸⁴ As above.

CHAPTER THREE: GHANA'S OBLIGATIONS

3.1 Introduction

This section explores existing legal and institutional frameworks in considerations of the Constitution, arms of government, NHRI, etc. on Ghana's obligations to preventing VAW.

3.1.1 An introduction to Ghana's democratic legal system

Ghana has a hybrid legal system developed on common law (inherited past English colonial laws) and Constitutionalism (parliamentary enactments, orders, rules and regulations, written and unwritten laws, existing prior to the enforcement of the 1992 Constitution).¹⁸⁵ The Constitution houses customary law, hinged on the applicable customs of particular communities.¹⁸⁶ The statutory and customary laws are applicable in dispute settlement in formal courts provided such as are within the ambit of equity, conscience and of existing statutory laws.¹⁸⁷ The Constitution however clearly disputes reliance on inhumane customary practices or religious law that threaten people's psychosocial development.¹⁸⁸ Access to justice (ATJ) is provided under formal courts, tribunals, customary tribunals, and arbitrator systems.¹⁸⁹ It is indirectly mutually inclusive as it recognises other laws of democratic principles and, human rights and freedoms.¹⁹⁰ Despite these many provisions coupled with the undeniable fact that women have enjoyed some relevant change in status over the years, women are still battling with enjoying formal substantive equality.¹⁹¹

Arguably, the apparent adoption of CEDAW and the Protocol makes it the state's responsibility to ensure that Ghanaian women are entitled to domestic legal and non-legal measures by the state, tailored towards their self-development. Ghana's collectively passed and existing laws, policies, action plans, and strategies towards women's protection at all levels of human interaction are therefore thematically exposed below.

3.1.2 Introduction to Ghana's Domestication or Incorporation of women's rights

As stated earlier, Ghana has adopted these two specific treaties, but legally they are ineffective unless domesticated through parliamentary acts.¹⁹² It is accustomed that the Ministry of Foreign Affairs (now

¹⁸⁵ S Asante 'Over a hundred years of a national system in Ghana' (1987) *Journal of African Law* 31(1-2) 70-79.

¹⁸⁶ United States Agency International Aid 'Country Development Cooperation Strategy 2013-2020 Ghana' (2020) https://www.usaid.gov/sites/default/files/documents/1860/CDCS_Ghana_May_2020.pdf (accessed 20 July 2022).

¹⁸⁷ J Fenrich, 'Promoting Rule of Law in Customary Tribunals in Ghana' (2019) *Harvard Human Rights Journal* 32 (Spring 2019) <https://harvardhrj.com/2014/11/promoting-rule-of-law-in-customary-tribunals-in-ghana/>; Courts Act art. 54 (adopted 1993).

¹⁸⁸ Constitution of the Republic of Ghana, Article 26 § 2 (1996).

¹⁸⁹ As above.

¹⁹⁰ 1992 Constitution - Article 33(5).

¹⁹¹ n 136.

¹⁹² UN 'Ratification status for Ghana' https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=67&Lang=EN; AU 'Ratification Table: Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' <https://www.achpr.org/instruments/women-protocol/ratification/> (accessed on 20 July 2022); EK Quansah 'An examination

Ministry of Foreign Affairs and Regional Integration, MFA) manages Ghana's foreign policy.¹⁹³ It is also possible to consider the Ministry of Gender, Children and Social Protection (MoGCSP formally Ministry of Women and Children's Affairs; MOWAC) to play a contributively role in the initial state reports and management of related foreign policy on women's rights¹⁹⁴ although official communication is unavailable. The MoGCSP oversees the implementation of national gender and development policies.¹⁹⁵ Hypothetically, women issues are further devolved to its Gender Department for implementation although there is unavailable proof and information on the focal person who manages these treaties.¹⁹⁶

As party to the two treaties and other interrelated IRHRL, Ghana nonetheless faces critical popular opprobrium for the non-domestication of IRHRL¹⁹⁷ although its Parliament has such constitutional rights.¹⁹⁸ Indeed, the Constitution tacitly recognises the synergy between national and IRHRLs much more, considers the latter as influential in its sources of law under Article 11¹⁹⁹ but they are also recognised as useful in shaping the country's human rights defence responses, international conduct and dispute settlement.²⁰⁰ Nonetheless, the SC has schemed the domestication of treaties as prima facie to the state's obligation to protect though, the Constitution remains the 'philosophical law' and supreme at all times to other laws inconsistent/differing from it;²⁰¹ CEDAW and Protocol herein included. Interestingly, the same SC has relied on Constitution's progressive caveat²⁰² for exceptions to IRHRL non-domestication to make similar progressive decisions to protect implied rights in many cases.²⁰³ Yet a precedent has also been set where the

of the use of international law as in interpretative tool in human rights litigation in Ghana and Botswana' in M Killander (ed) *International law and domestic human rights litigation in Africa* (2010) 37-39; AKP Kludze 'Constitutional rights and their relationship with international human rights in Ghana' (2008) 41 *Israel Law Review* 677-679.

¹⁹³ Ministry of Foreign Affairs Ghana <https://mfa.gov.gh/index.php/about-us/> (accessed 20 July 2022).

¹⁹⁴ MoGCSP <https://www.mogcsp.gov.gh/about/departments/> (accessed August 5 2022).

¹⁹⁵ MoGCSP was established by an Executive Instrument 1 in 2013 as a successor to the then Ministry of Women and Children's Affairs (E.I.1).

¹⁹⁶ MoGCSP (n 194).

¹⁹⁷ F Viljoen *International Human Rights Law in Africa* (2012) 530-531; IDEG, AfriMap, & OSIWA 'Ghana: Justice sector and rule of law' (2007) 4 <https://www.ideg.org/index.php/media-centre/archives-2/catalog/research-reports/ghana-justice-sector-and-rule-of-law-a-review-by-afri-map-and-open-society-initiative-for-west-africa/> (accessed 25 August 2022); K Appeagyei-Atua 'Ghana at 50: The place of international human rights norms in the courts' in H Mensa-Bonsu et al (eds) *Ghana law since independence: History development and prospects* (2007); NA Anyidoho 'Review of rights discourse - Ghana' (2009) *Human rights, power and civil action research project, University of Oslo, Leeds*.

¹⁹⁸ Article 40.

¹⁹⁹ MoGCSP (n 194); 1992 Constitution.

²⁰⁰ Article 35(5); Article 40; n 94 above; *NPP v Inspector General of Police (IGP)* [1993-94] 2 GLR 459 https://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/ghana/report_of_the_findings_on_audit_of_key_1_egislation_in_ghana_for_information_access_opportunities_kwadwo_atua.pdf (accessed 20 July 2022).

; *NPP v Attorney-General* [1996-97] SCGLR 729 761

²⁰¹ 1992 Constitution-Article 1(2); *NPP* (n 200) https://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/ghana/report_of_the_findings_on_audit_of_key_1_egislation_in_ghana_for_information_access_opportunities_kwadwo_atua.pdf (accessed 20 July 2022).

²⁰² Constitution Article 33(5).

²⁰³ *Ghana Lotto Operators Association & Others v National Lottery Authority* [2007-2008] SCGLR 1088-1096; *Adjei-Ampofo v Attorney-General* [2003-2004] 1 SCGLR 411; *NPP v Attorney-General* [1996-97] SCGLR 729-761.

right to housing was annulled in a case as the HC concluded that the complaint could not rely on IRHRLs as they are not domesticated.²⁰⁴

3.2 Domestication of Ghana's obligations to preventive VAW

3.2.1 Constitutionalism of women's rights

CEDAW is the only legal binning instrument for state parties to champion women's rights.²⁰⁵ It is regionally complemented by the Protocol which addresses the lacuna of women's rights in the African Charter.²⁰⁶ Ghana thus ratified both the CEDAW and the Protocol in 1986 and 2007 respectively without reservations.²⁰⁷ Arguably, rewriting Ghana's unstable and violent past narratives, caused the 1992 Ghana Constitution's moral fibre specifically under Chapter Five on Fundamental Human Rights and Freedoms' to intentionally prioritise the protective rights (civil and political; and SEC) due Ghanaians and other vulnerable people including women and children (see appendix 1 below).²⁰⁸

Emphatically, the State is the domestic defender of people's rights and effectiveness of IRHRL.²⁰⁹ Worth noting, Ghana's Constitution is silent about the CEDAW. However, it can be foreshadowed that its adoption following CEDAW's ratification inspired its parallel nuanced gender equality provisions but not as enjoined within the Protocol as it was adopted 15 years after the promulgation of the Constitution.

Constitutionally, Article 17(2) prohibits gender discrimination²¹⁰ and gender inequality as VAW, while Article 17(4) justifies Ghana's affirmative action policy to deter various forms of discrimination. Chapter 5(28) also comprehensively acknowledges all the necessary fundamental freedom and rights of the girl-child which are concurrent to CRC's Articles (14; 29b; 40(1) and the ACC's Articles (7; 8; 9; 11 and 16) on Freedom of thought, conscience and religion; fundamental freedoms in terms of education; fundamental freedoms in accusations of have infringed the penal law. Chapter 6 on Directive Principles of State Policy directs the State to enact the requisite laws towards the realisation of people's basic fundamental rights and freedoms including children in all developmental processes pursuant to recognised IRHRLs. Its Article 38(2) particularly re-echoes the State's obligation to ensure children's right to education. These are cumulatively reflective in Articles 28 and 29 of the CRC and 11 ACC's Articles on the girl-child's right to education and to one that is directed to the development of her human rights and fundamental freedoms.

²⁰⁴ *Issa Iddi Abass & others v Accra Metropolitan Assembly and Another* (Unreported case Misc 1203/2002, In the HC heard on 24 July 22002 before Justice Yaw Appau J.

²⁰⁵ Amnesty International 'Reservations to the Convention on the Elimination of All Forms of Discrimination Against Women weakening the protection of women from violence in the Middle East and North Africa region' (November 2004).

²⁰⁶ W Langley 'The rights of women, the African Charter, and the economic development of Africa' (1987) (7(2) *Boston College of Third World Law Journal* 215-216.

²⁰⁷ n 192.

²⁰⁸ Constitution, Preamble; Chapter Five.

²⁰⁹ Constitution, Article 37(2(b) and 3).

²¹⁰ The provision is silent on sexual orientation as a discrimination right so with the emergence of the LGBI bill, it has to be clarified or amended to ensure 'true' non-discrimination.

All these combined provisions on women resonate with the CEDAW, Protocol and CRC's treaty provision (Article 2) and Article 1 of ACC on the state's response/policy measures. Ghana considers women of interstate situations and property conflicts while in marriage to have corresponding rights under Article 22(1 and 3) read with Article 16 of CEDAW and Article 21 of the Protocol on right to inheritance in marriage. Women's right to equal work and equal pay as their counterparts, are no less guaranteed under Article 24(1) also read with Article 11 of CEDAW especially 11(d), and the Protocol's Article 13 on socio-economic and welfare rights. Articles 35 and 36(6) when read with Articles (1; 3; 7; 13 and 14) of CEDAW and Articles (4; 9; 13; 19 and 22) of the Protocol, respectively affirm women's entitlement to political participation and economic emancipation.

Another key gendered provision mitigating women's discrimination is to an extent, expressive in Article 27 read with CEDAW's provisions in Articles (10, 11, 12 and 14) with regards to women's rights to health care and services and Articles (10; 11 and 14) on empowerment read together with the Protocol's respective Articles (2(g); 5(c); 14) and (5(c); 12, 19; 22 and 23) of same intent²¹¹ (See appendix 2 below).

3.2.2 Legislative and policy reforms

Considering also, the implications of the state to protect women's rights extending beyond the above constitutional provisions, Ghana's Intestate Succession Law of 1985 (P.N.D.C.L. 111) was drafted in women's interest (including their children) who become out of the estate of their intestate spouse and tend to suffer from the gender inequalities of customary laws.²¹² The controversy around this Act lies in the interpretation often given to it as allowing for the eviction of the widow after 6 months in view of its Section 16(A) thus it can still be considered as discriminatory.²¹³ Then, the 2003 Labour Act which popularised women's employment rights ushering in, novel interest in making maternity, nursing mothers, workplace sexual harassment protection, and fair remuneration mandatory for all employers and protects girls from employment in hazardous work.²¹⁴ The Disability Act, 2006 (Act 715)²¹⁵ averts abuses that denigrate the dignity of women, children, SAP, other marginalised groups and individuals. Ghana passed, the Human Trafficking Act, 2005 (Act 694) towards protecting women and girls from any exploitative act of induced prostitution and other forms of sexual exploitation, forced labour or services, salary or practices similar to slavery, servitude or the removal of organs;²¹⁶ The DV Act, 2007 (Act 732) prohibits sexual abuses of children and guides actions for criminal and civil measures for victims; compensation.²¹⁷ Under the Criminal

²¹¹ CEDAW (n 12); Protocol (n 60).

²¹² Intestate Succession Act (1985).

²¹³ OECD 'Social Institutions & Gender Index: Ghana' OECD (2014).

²¹⁴ Labour Act (2003); See Sections 57 and 68 of same.

²¹⁵ Disability Act, 2006 (Act 715).

²¹⁶ Human Trafficking Act (2005).

²¹⁷ DV Act, 2007 (Act 732).

Code Amendment Act 1998 (Act 554)²¹⁸ and the repeal of Section 42(g) of the Criminal Offences Act, 1960 (Act 29), women and girls have protection from FGM, harmful widowhood rites, ritual servitude and non-consensual sex (rape/defilement).²¹⁹ Girls rights to related protection from violence are further advanced under the Children's Act 1998(Act 560).²²⁰ The Act concisely stipulates that in related matters concerning children, their interest, welfare and rights must be protected and promoted at all times across all levels of government and under section 17, all information concerning abused children or children in need is to be reported to the Department of Social Welfare (DSW) who oversee issues and provides support relating to children's welfare.²²¹ For the girl-child who is below 18 years and is legally caught to be in conflict with the law, her case is heard in Juvenile courts and protected by the law.²²² Under the Mental Health Act, 2012(846), women and girls have the right to equal treatment in mental healthcare provisions (state funding of mental health, improved health systems etc.) regardless of their mental state and they also have the right to a broad range of healthcare services.²²³ They also have a RTI and the Cybersecurity Act, 2020 Act 1038 further protects them and the girl-child from online sexual exploitation, extortion, harassment, indecent images, sexual abuses, cyberstalking and sexual extortion.²²⁴

While women have rights to properties including lands, over the years, many especially during or at the dissolution of their marriage tend to face discriminatory practices that deprive them of their property rights. Curbing this menace required a regulation through the drafting of the Property Rights of Spouses Bill. There is also no definite legislation for women's participation in public institutions although there is a proposal for amendment using the Ghana Constitutional Review Committee (GCRC)²²⁵ and Affirmative Action Bill (AAB).²²⁶ The delay in its passage is raising concerns over Ghana's seriousness to women's representation and property rights.²²⁷

Thus, there are several domestic laws and legislative reforms that are supplementary to the IRHRLs towards Ghana's mandatory obligation to protecting women in all aspects regardless of differences in

²¹⁸ Section 58 of the policy criminalise abortion except under rape/defilement, incest, sickness etc. hence this violates women's right to reproductive rights and right to physical integrity. This need to be amended.

²¹⁹ The Criminal Offences Act 1960(Act 29); MoGCSP 'National Gender Policy-Mainstreaming Gender Equality and Women's Empowerment into Ghana's Development Efforts' (2015) <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103987/126660/F-515436150/GHA103987.pdf>;

²²⁰ MoGCSP 'Child and Family Welfare Policy' (2014).

²²¹ The Children's Act (Act 560) 1998; Local Government Service Act 2003 (Act 656).

²²² Juvenile Justice Act, 2003(Act 653).

²²³ Ghana Mental Healthcare Act, 2012 (Act 846); National Health Insurance Act, 2012 (Act 650).

²²⁴ Right to Information Act, 2019 (Act 989); Ghana Cybersecurity Act 2020, Act (103).

²²⁵ Government of 'White paper on the Report of the Constitution Review Commission of Enquiry' (2012) 14.

²²⁶ GoG 'Gender Ministry, stakeholders speak on Affirmative Action Bill' <http://www.ghana.gov.gh/index.php/media-center/news/1802-gender-ministry-stakeholders-speak-on-affirmative-action-bill> (accessed 20 August 2022)

²²⁷ GAS Evelyn & Women in Law and Development Africa (WILDAF-Ghana) 'Property rights of spouses in relation to economic violence against women in Ghana' (2013) https://www.researchgate.net/publication/264051209_Property_Rights_of_Spouses_in_Relation_to_Economic_Violence_Against_Women_in_Ghana; Social Institutions & Gender Index: Ghana," OECD Development Centre, last updated 2019. <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/GH.pdf> (accessed 20 August 2015).

political, biological, economic, social, cultural, civil or any other field. Such legal protections include the right to life, education, work, property, legal age of marriage, marriage dissolution, lands rights and inheritance.

3.2.3 Adjudication on women's rights

There have been several instances where women's rights are defended with the Constitution read together with CEDAW or Protocol.

To reiterate, treaties are openly unrecognised within Ghana's laws²²⁸ although extensively reviewed documents pointed to Ghana's interest in women's rights under CEDAW and the Protocol. The assumption may suffice that they stand being less referenced even during judicial arguments and decisions and that could invariably imply limited awareness of the state's commitment to treaties especially even among lawyers and domestic judges. Meanwhile, counsels are permitted to cite treaties such as the CEDAW in Courts and courts are to recognise them.²²⁹

Under Ghana's laws, "the carnal knowledge of a female of sixteen years or above without her consent" is rape.²³⁰ When considered with the Criminal Code Amendment (Act 554), it is a serious offence and crime of a sentence not less than five years and not more than twenty-five years.²³¹ However, a woman within the Ghanaian society cannot be a perpetrator of rape. This means that lesbians and transwomen are not absolved by the law especially as rape is gender specific and such acts are equally criminalised.²³² For instance, in *Banousin v Republic*, the SC highlighted that as part of the requisite determinants of rape, the victim should not have given her consent to be known carnally by the accused person and the victim should be a woman and who at the time of being carnally known by the accused, was 16years and above.²³³ In addition, unnatural carnal knowledge is recognised as sexual intercourse with a person in an unnatural manner or with an animal.²³⁴ In the same case, Justice Victor Dotse of the SC interpreted carnal knowledge as "it is the female sex organs called the vulva and the vagina that are normally penetrated into during sexual act which can qualify to be carnal knowledge under section 98 and 99 of Act 29."²³⁵ The vagueness in this interpretation is that the point at which carnal knowledge because uncarnal was not established yet by inference, oral or anal sex is deem as unnatural canal knowledge. This again begs the question of what is the

²²⁸ Viljeoni (n 197) 42.

²²⁹ Ghana CEDAW Combined Reports CEDAW/C/GHA/3-5 (2006).

²³⁰ Criminal Offences Act 1960(Act 29) Section 97-98.

²³¹ Criminal Code Amendment Act 1998 (Act 554).

²³² Section 104 of Criminal Code of 1960.

²³³ *R Banousin v The Republic* (2014) J3/2/2014.

²³⁴ Criminal Offences Act 1960(Act 29) Section 104(2).

²³⁵ As above p. 22.

status of carnal or unnatural canal knowledge amongst LGBTQ persons? Ironically, the legal marriage age is 18 years while girls of 16 years have sexual consent.²³⁶

A case where CEDAW (and inter alia the UDHR) was cited by the SC concerns the devolution of property possessed during marriage after divorce where it held that unpaid care work at home has a pronounced contribution to creating economic wealth during marriage hence women should have equal share of marital properties upon the dissolution/decreed of the marriage.²³⁷ The Court further recommended the timely need for the integration of the principle of ‘jurisprudence of equality’ in courts rules of interpretation “such that meaning will be given to the contents of the Constitution 1992, especially on the devolution of property to spouses after divorce” to make it unconstitutional to discriminate against women in property distribution acquired during marriage where divorce is effectuated.²³⁸

The Accra High Court (AHC) declared that women cannot be dismissed from employment due to conception within the first three years of their employment based on Regulation 33(6) of the Conditions of Services of the Ghana National Fire Service (GNFS), which disallows pregnancy within the first three years of employment. The AHC referenced some international human rights jurisprudence including the ICCPR and CEDAW and concluded that such acts are discriminatory against women as women have right to family life (right to be pregnant and when to be pregnant).²³⁹

The treaties were not referenced, but the Court of Appeal recently decided that women have property distribution rights where joint contributions were made during marriage even after the marriage dissolves.²⁴⁰

Without the IRHRLs, an adjudication recently held by the Human Rights Court of Ghana between a private legal practitioner, Martin Kpebu and State show that the GoG is statutorily responsible to establish funding for domestic violence as recognised in Section 8(3) of the Act as but GoG is yet to live up to its responsibility.²⁴¹

These few cited cases, project the transformative/indirect impact²⁴² of treaties in Ghana’s courts. They are arguable proof that Ghana’s courts do not eschew Ghana’s commitments to IRHRLs as they evoke certain provisions of IRHRLs in their decisions. While it cannot be adequately established that the litigants of the above cases cited these treaties in their cases to influence the Courts decisions, it is also tenable that

²³⁶ Criminal Offences Act 1960(Act 29).

²³⁷ *Gladys Mensah v Stephen Mensah* ‘Civil Appeal No. J4/20/2011 25.

²³⁸ As above.

²³⁹ *The Commissioner, CHRAJ & 2 Others v Ghana National Fire Service & Attorney General* 2018 HR 0063/2017.

²⁴⁰ *Alberta Owusu Antwi v Thomas Owusu Antwi* Suit No. HI/199/2019;

²⁴¹ M Kpebu *I’ll return to court to force gov’t to activate Domestic Violence Fund—Kpebu* (2017) *MyJoy Online* <https://www.myjoyonline.com/news/2017/November-6th/ill-return-to-court-to-force-govt-to-activate-domestic-violence-fund-kpebu.php> (accessed, April 5, 2020).

²⁴² CH Heyns & FJ Viljoen (eds) *The impact of United Nations human right treaties on the domestic level* (2002) 1; F Viljoen *‘International human right treaties in Africa’* (2007) 529.

changing the status quo requires litigants to equally adduce their evidence using treaties for a correlated cause of high tendency for their referencing in courts declarations.

The change required is particularly important to debunk allegations that ‘judges in Ghana have little knowledge of international human rights law, and training to encourage the application of international law principles in national courts should be expanded’.²⁴³ Former Justice of SC, Justice SK Date-Bah affirmed this allegation in 2008 noting that, the establishment of the High Court’s Specialised Human Rights Division to adjudicate over matters of human rights does not refute the position of the 2014 report of the UN Working Group on the issue of human rights and transnational corporations and other business enterprises that, judges of those courts in most cases lack technical skills in using IHRIIs.²⁴⁴

In ending, Ghana’s assent to the treaties, their exercise in courts are limited especially with depreciable knowledge among judicial actors. This further endangers the defence of SEC rights as the courts will not have the ability to arbitrate cases of such nature brought before them,²⁴⁵ hence exacerbating the woes of women and girls.

3.2 Summary

Explicit referrals of the IRHRLs are highly limited within Ghana’s legal and institutional frameworks yet women’s SEC, civil and political rights are recognised especially with the synergy between the Constitution’s BORs and provisions of the IRHRLs amidst some setbacks requiring possible legal and human sustainable reforms. Major stakeholders have however domesticated the IRHRLs in various ways, but the CEDAW is more preferred to the Protocol even by MoGCSP. Of interest, why is the CEDAW more preferred? This may be explained by the disparities of their adoption but there are some other extraneous variables as donor financial and technical support by UN/international local systems; communication, financial support, stakeholder collaborations, advocacy, legal education and judicial judgement. The paper thus concludes that considering that the Constitution’s provisions are already in sync with most of the CEDAW’s and later, the Protocol, then inferably, Ghana acted rationally and the subsequent compliance has only been strategic to advance Ghana’s international reputation and justify compliance as Robert Keohane theorised.²⁴⁶ An example is the similarity of the existing women’s BORs in the Constitutions those espoused in the Protocol.²⁴⁷ The trajectory also stands that the dominant use of the CEDAW proofs it has had a proportional level of impact than the Protocol. This at least proofs that Ghana cannot ignore the CEDAW

²⁴³ n 199 above.

²⁴⁴ Concluding report of Working Group on the issue of human rights and transnational corporations and other business enterprises – Visit to Ghana, A/ HRC/26/25/Add.5 para 25 https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session26/Documents/A_HRC_26_25_Add.5_ENG.DOC (accessed 6 August 2022).

²⁴⁵ Quansah (n 192 above 26-28).

²⁴⁶ Krasner (n 171); n 164 above.

²⁴⁷ Hatchway (n 162).

as the managerial model type predicted of Chayes and Chayes predicts.²⁴⁸ The limited dependence on the Maputo' however, could be conditioned on absence of appreciating its ideas; limited funding and poor monitoring and evaluation of implementation, non-binding recommendations largely on the part of ACmHPR,²⁴⁹ temporal issues, less persuasion of Ghana to domesticate the Protocol etc.²⁵⁰ Yet it cannot be said also that a resolution of these issues will help change the status of the Protocol in Ghana.²⁵¹ Overall, the IRHRLs have come at a good time to cause specific laws and intervention for women's rights²⁵² and will help accelerate governments and stakeholders responses towards VAWG and the enjoyment of their rights.

²⁴⁸ Koh (n 176).

²⁴⁹ ACHPR 'Report on promotion mission to Ghana (2008) https://www.achpr.org/public/Document/file/English/misrep_promo_ghana_2008_eng.pdf

²⁵⁰ Hathaway (n 164); Koh (n 176).

²⁵¹ Koh, How Is International Human Rights Law Enforced? (1999) 102, 1407-08.

²⁵² As above.

CHAPTER FOUR: MONITORING OF GHANA'S OBLIGATIONS

4.1 Introduction

The section focuses on the oversight and interlinking influence of the CEDAW Committee and the ACmHPR over Ghana's obligation to protect women from violence. Despite allegations of having a radical feminist activists as a committee of experts, the CEDAW Committee has been effective over time.²⁵³ The concluding observations of the CEDAW Committee is used to assess the human rights situation and need for improvements. Others are state reports and shadow reports reflection on the situation and what needs to be improved.

4.2. Recommendations from human rights mechanisms and other actors

4.2.1 State Reports on impact to CEDAW Committee

Ghana is a household name in the accession to treaties. Ghana has so far submitted 2 state reports to the CEDAW Committee as per the mandated 4 year reporting cycle to the CEDAW.²⁵⁴ Ghana submitted the first and second reports in 1991 and 1992 respectively²⁵⁵ but these are unavailable for review. National documents, academic literature and media publications largely reviewed nevertheless, corroborated with the compiled periodic reports submitted on the implementation of the CEDAW. These are the third to fifth periodic reports submitted in 2005 for 1993 to 2003 and the sixth and seventh report submitted in 2012.²⁵⁶

- **Impact of the CEDAW from the third to fifth periodic reports**

Following the two initial submitted reports, Ghana noted the implementation of the National Reproductive Health Programme.²⁵⁷ It explicitly recognised the CEDAW by prioritising women's health including those generated from GBV. Despite the limited explicit impact, there were however many implied impact.

The Children's Act 1998 (Act 560) was passed towards children's management. The Criminal Code, Act 29 of 1960 as amended by Act 554, 1998 to manage general issues of violence. There was a proposed DV bill to comprehensively manage all forms of violence including psycho-sexual harassment and shelter homes. Ghana also collaborated with the Ghana Labour Advisory Board and some amendments²⁵⁸ causing Labour Act 2003 (Act 651) which protects working women across from workplace violence.

²⁵³ C Purvis 'Africa: The Convention on Elimination of Discrimination Against Women' *Think Africa Press* (November, 2012) <https://allafrica.com/stories/201211160764.html> (accessed 25 August 2022).

²⁵⁴ UN Guidelines for reporting to CEDAW <https://www.ohchr.org/en/treaty-bodies/cedaw/reporting-guidelines>; AU Guidelines for state reporting under the Maputo Protocol. https://www.achpr.org/public/Document/file/English/Guidelines%20on%20State%20Reporting%20under%20the%20Maputo%20Protocol_2.pdf (accessed 25 August 2022).

²⁵⁵ Ghana CEDAW Reports (n 230).

²⁵⁶ As above; Ghana CEDAW Combined Reports CEDAW/C/GHA/6-7.

²⁵⁷ Ghana Health Service 'Ghana: National Reproductive Health Service Policy and Standards' (2014).

²⁵⁸ Section 41(1) of previous National Labour Decree 1997, N.L.C.D 157.

Other implied legislative successes included the Intestate Succession (Amendment) Law, 1991 (PNDCL 264) to protect a surviving spouse and children. Also, the passage of the Administration of Estates, Marriage and Divorce Registration, the Law against Female Genital Mutilation and Harmful Traditional Widowhood Practices injurious to the health of women and the Law against Customary Servitude of ritual slavery (slave/wife to the gods) “Trokosi”. The Criminal Code was amended to avert Trokosi. In April 2004, Ghana’s Parliament was considering a draft bill on Trafficking in Persons Prevention including the establishment of a Trafficking Rehabilitation Fund.

Other non-legislative interventions led to other impact. Following the 1995 Beijing Conference, the then National Council on Women and Development moved to submit an AA proposal for presidential consideration, establish women’s desk and gender desk officers across MDAs and transformed into MOWAC. Also, increasing research interest on VAW led to the establishment of the Women and Juvenile Unit (WAJU now DOVVSU) under the Ghana Police Service and the inclusion of gender as part of their training curriculum. Ghana also instituted a Parliamentary Committee on Gender and children that led to the development and dissemination of a developing national gender policy. To support the UN Human Development Report, MOWAC also noted the development of an assessment and planning tool on Ghanaian women’s health and development.

MOWAC in 2004 launch and implemented the Early Childhood Care and Development Policy towards protecting children from discriminatory practices. Through the Ghana AIDS Commission and the Global Fund to fight AIDS, there is free distribution of female condoms to safe women from unprotected sex. There is also increased sensitisation to control discrimination and women living with HIV/AIDS especially pregnant women are supplied with Antiretroviral (ARVs) to prevent mother-to-child transmission.

- **Impact of the CEDAW from the six and seventh periodic reports**

The Ghanaian society has seen a progressive sprang of multiple interventions towards protection of women and children’s rights and for their self-actualisation. These have mostly been the GoG as a key actor pursuing institutional, administrative and legal reforms on gender protection. Ghana’s preparedness to end VAW has thus far caused political and cultural/religious authorities engagements to adopt gender-sensitive policies. These are continuously amongst Ministerial, Departments and Agencies (MDAs), NGOs/CSOs and developmental partners for advocacy, gender training and sensitization and programme implementations. These especially include related issues as DV; human trafficking; sexual and reproductive health rights; social inclusion of PwDs and people living with HIV/AIDS (PLWHA). Stakeholders efforts have also led to the creation of momentum changes for women; enhanced collaborative efforts with MDASs towards mainstreaming gender sensitive policy and programme development; protective labour rights.

Legislative wise, MOWAC mobilised experts towards formulating an AA Law for gender equality in both public and private spaces. It also made an explicit request to the Constitutional Review Commission

(CRC) for amendments to Article 17(2) of the 1992 Constitution to reflect direct and indirect discrimination against women as under Article 1 of CEDAW. In the development of both the Child Health Strategic Plan (2009–2015) and the 2009 Health Sector Gender Policy, CEDAW was explicitly recognised as a means to ensure child and gender sensitive policies within the health sector. The National Strategic Framework for HIV/AIDS (2006-2010) equally cited CEDAW towards management of HIV/AIDS.

Ghana's recognition of VAW and the urgency for redress, have seen the accelerated enactment and amendments of legislations. There was an implied impact during the passage of the DV Act 2007 (Act 732). Section 42(g) of the Criminal Offences Act, 1960, Act 29 was also amended to prevent non-consensual marital sex. VAW with disability was controlled with the passage of the Persons with Disability Act, 2006 (Act 715). With the passage of the Criminal Offences (Amendments) Act 2007 (Act 741), participants during FGM perpetuations were now liable to the law.

Ghana ratified the additional protocol to CEDAW and had some pending bills before the Parliament of Ghana some of which are long overdue; new Intestate Succession Law and Property Rights of Spouses Bill. These are influencing to some extent the continuation of VAW. These were intended to give women greater inheritance rights of properties acquired joint during marriages and address the gaps of the Intestate Succession Law PNDCL 111. Furthermore, the passage of Human Trafficking Act 2005, Act 694 subsequently amended in 2009 to redefine human trafficking and other related purposes. A Human Trafficking Management Board was also established to oversee its implementation.

While there are no specific laws on AIDS, the National HIV/AIDS Strategic Framework 2, explicitly recognised the CEDAW as a protective mechanism for women living with HIV/AIDS. Other implied interventions included the development of a ten-year National Policy and Plan of Action (2009-2019) and an establishment of a management board to implement the DV Act 2007 (Act 732). Ghana continued with other developmental policies with similar gender lens. Expedited access to justice through provision of free legal aid especially to women who cannot afford legal aid services; e-justice; established gender-based and sexual offences courts and family and juvenile courts in district courts.

4.2.2 Special Mechanisms

The CEDAW Committee's observation and conclusion on Ghana's 3rd to 5th report²⁵⁹ indicated, Ghana's need for a conforming definition of discrimination between article 17(2) of Ghana's Constitution and article 1 of CEDAW and inclusion of CEDAW and related national legislations in its legal education and judicial trainings. Also, removal of all impediments to women's access to justice and legal information. The Committee further recommended eliminating prolonged inhumane socio-cultural practices especially

²⁵⁹ Concluding report of the Committee on the Elimination of Discrimination against Women (25 August 2006) CEDAW/C/GHA/CO/5

widowhood rites, witchcraft accusations and camping, FGM, and trokosi. Also important were the; adoption of DV Bill with repeal to section 42(g) of the Criminal Code Act 29; effective implementation of the Children's Act (Act 560) in line with article 16 of the CEDAW; ratification of the CEDAW's Option Protocol; absorption of medical cost during police reporting; and economic support to survivors. Also, the need for increased; sex education; sensitisation and behavioural change on socio-cultural discriminatory practices and VAW; and statistical disaggregated data on especially on rural women and the impact of CEDAW. It also recommended the full implementation of the CEDAW, the Beijing Declaration and Platform for Action towards a comprehensive effective protection of women's rights.

The 2008 UPR Working Group of the Human Rights Council (HRC),²⁶⁰ among others showed Ghana's protection of women's rights engendered the abolishment and punishment of gender discriminatory acts such as FGM and trokosi which are incorporated through the amendment of Criminal Code. Other interventions were the inclusion of human rights education in GPS training; public awareness; and establishment of country-wide mediation desks and alternative dispute resolution mechanisms mainstreamed into the Legal Aid Scheme. Besides these arguable progress, the report also showed interest in Ghana's intentions towards; ensuring effective judicial accountability; the abolition of cultural and traditional acts that violate human rights; the expulsion of the death penalty especially ratifying the ICCPR Optional Protocol which is directed at the abolition of the death penalty; non-billing of DV victims; evidence of direct impact of treaty. Other queries included measures to ensure the effectiveness of the DV Act, DOVVSU, MOWAC and implementation of CEDAW recommendations.

Their recommendations included; actionable legislative and, reinforced awareness and campaigns against all forms of VAW, stereotypes and discriminatory practices; combating DV urgently; submission of initial and second reports; urgently adopting free medical examination and trials for victims of violence during investigation; adopting legislative and other necessary elimination strategies to have desired effects in the ground against harmful traditional practices and stereotypes; amendment of Criminal Code to decriminalise consensual activity between adults strengthening child protection mechanisms and addressing VAC; improving women's right to ATJ; combating discriminatory situations against vulnerable people PwDs and implying the ratification of the Convention on the Protection of Persons with Disabilities (CRPD) and its Second Optional Protocol and the Optional Protocol to Convention Against Torture (OP-CAT), PLWHA, and taking proactive measures to ensure equality in property inheritance etc. CEDAW including systemically and continuously integrating gender perspectives in its follow-up review processes.

²⁶⁰ Concluding report of the Working Group on the issue of human rights on UPR, HRC (29 May 2008) UN Doc A/HRC/8/36 (2008) <https://www.un.org/womenwatch/daw/cedaw/cedaw36/statements/CEDAW%20STATEMENT%20Ghana.pdf> (accessed 25 August 2022).

The 2012 UPR report,²⁶¹ applauded Ghana for adopting the previous cycle's review for the free medical cost and treatment for victims of violence and payment for other medical services; the establishment of a DV fund to assist DV victims; the criminalisation of FGM and *trokosi*; and the passage of the Disability Act 2006 (Act 75) and Mental Health Bill. Ghana also ratified the CRPD, established the National Council on Persons with Disability and developed a National DV Policy and Action Plan. ATJ was being improved with the establishment of gender-based violence courts. There was also increasing educational campaigns on women's rights and against HIV/AIDS stigmatisation and discrimination including the development of a National HIV Strategic Plan 2011-2015 which explicitly mentions CEDAW and the Protocol.²⁶²

The report therefore recommended Ghana to; prioritise women's rights; improve refuge-camps for alleged witches; ratify the optional protocol to the CRC and on the sale of children, child prostitution and child pornography (OP-CRC-SC); remove the death penalty; integrate CEDAW into domestic laws; speed development of the National Human Rights Action Plan (NAHRAP). Also, ensure continuous efforts to; fully implement the DV Act; monitor traditional practices and ensure their compliance with international human rights principles; effectively end FGM, CEFM, *trokosi*, abolish all other harmful traditional practices and close witches camp especially in rural communities. Again, improve health care and implement preventive HIV/AIDS measures; decriminalise consensual sex; promote awareness and tolerance for homophobia and pass the Property Rights of Spouses and Intestate Succession Amendment Bills.

Based on the previous cycles, the 2017 UPR report²⁶³ recorded Ghana had ratified the OP-CAT. There was cabinet approval for the abolition of the death penalty including ongoing consultations for amendment to the Intestate Succession Act 1985. Through a referral system, DV victims were supported with counselling, medical and legal assistance along with public and private shelters for rehabilitation. There were four established and dedicated Family Tribunal and Gender-based Violence courts with anticipated expansion to 11 by 2018. Also, the monitoring of traditional practices using international human rights principles. A witches' camp "Bonyase witches' camps" was closed down and victims were reintegrated and provided with some humanitarian support. The MoGCSP initiated the development of a national strategic framework for the prevention of CEFM. There was a non-discriminatory reporting system established in 2013 which guarantees the rights of vulnerable groups such as LGBTQI and PLWHA; increased awareness against stigmatisation and on the Ghana AIDS Commission Act 2016. The cabinet in 2016 approved a Legal Aid Commission Bill to improve legal aid services for needy people. There is a Mental Health Act, a mental health fund and a pending policy for a mental health authority to support people surviving from mental disorders. CHRAG was developing a National Action Plan on Human Rights.

²⁶¹ Concluding report of the Working Group on the issue of human rights on UPR, HRC (13 December 2012) UN Doc A/HRC/22/6.

²⁶² National Agency for the Control of AIDS (2010).

²⁶³ Concluding report of the Working Group on the issue of human rights on UPR, HRC (29 May 2008) UN Doc A/HRC/8/36.

Ghana was further recommended to ensure the enactment of the bill on abolition of the death into law; establish a formal moratorium and hold a referendum to formally end the death penalty and ratify the second OP-ICCPR; pass the AAB; expedite action and strengthen measures on laws against harmful traditional practices including CEFM, DV, FGM, rape, trokosi and human trafficking; strengthen laws towards ensuring justice for victims of gender-based violence; amend the Disability Act in line with CRPD; ratify the OP-CRC-SR child prostitution and child pornography; implement measures to protect LGBTQI victims of violence and discrimination; finalise nation action plans on (human rights; CEFM; human trafficking; monitoring and prosecute inhumane treatment of alleged witches in prayer camps and psychiatric hospital and victims of mental during treatment); increase legal awareness among women; eliminate discrimination on sexual orientation and the type of crime of “unnatural carnal knowledge; decriminalise consensual same-sex sexual acts.”

In brief all three review cycles required of Ghana were towards; the amendment of criminal code to decriminalise consensual sex between adults; expanding coverage of access to health for PLWHA to reduce transmission between mother-to-child; awareness raising and eradication of FGM and other discriminatory practices. These by extent are not different from its subsequent resolutions²⁶⁴ and earlier resolutions of the Commission on the Status of Women.²⁶⁵

The NGO shadow report to the 6th and 7th State periodic report was presented by WiLDAF and the International Federation of Women Lawyers (FIDA Ghana).²⁶⁶ The shadow report highlighted Ghana’s request for an AA Law and constitutional amendment in conformity with CEDAW Article 1. Also, the urgency of ending VAW through the abolishment of barbaric customary practices and disbandment of alleged witches camp and their reintegration to families and communities. Ghana was also making efforts for the effective operationalisation of the DV Act and absorption of medical charges against survivors of violence and increase adjudications on women’s rights. The attempts towards the passage of legislative instruments to Disability, Human Trafficking, Mental Health laws, property rights of spouses’ and Intestate Succession bills; continuous reproductive health education; and stakeholder engagements with traditional leaders to abolish outdate inhuman socio-cultural practices.

The CEDAW Committee’s 2014 Concluding Observations expressed deep concerns about “the persistence of adverse cultural norms, practices and traditions, in addition to patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society, which contribute to the persistence of VAW and harmful practices. The Committee also expressed concerns

²⁶⁴ Concluding Resolution of General Council on the Elimination of discrimination against women on the Fifteenth session of HRC (8 October 2010) (A/HRC/RES/15/23) (2010).

²⁶⁵ Concluding Report of the UN Commission on the Status of Women on the Fifty-first Session Eight Session of the Economic and Social Council (ESC) (26 February - 9 March 2007) Supplementary No. 7 (E/2007/27-E/CN.6/2007/9) (2007).

²⁶⁶ NGO Shadow Report to 6th & 7th Periodic Report of Ghana on Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), *UN CEDAW Committee* (October 2014).

about the enslavement of young girls in *trokosi* shrines, violence against women believed to be witches, increases in polygynous marriages, forced and early marriage, and a high number of teenage pregnancies.²⁶⁷ In 2018, the CEDAW Committee's COBs²⁶⁸ acknowledged the great strides Ghana has made with CEDAW but demanded that despite Ghana's ability to close down some witches camps and reintegrate about 200 accused witches, engage with chiefs to mobilise their support against harmful practices and stereotyping and the joint legal and other support services rendered by MoGCSP, CHRAJ and the Committee on the Disbandment of Camps and Reintegration to about 7 accused women, Ghana still urgently needed to shut-down all the remaining camps and ensure that aside sustainable rehabilitation and reintegration strategies being extended to girls who lived with these women, the girls should be given access to improved higher education.²⁶⁹ The Committee required Ghana's focus on making the 2007 DVA constructive to protect women as well as fast-tracking the adoption of friendly legislations and allocating sufficient human and capital resources towards the implementation of the National Gender Policy.²⁷⁰ The Committee also observed that, ATJ involves thorough investigations and prosecution of complaints against offenders of VAWG thus, the State was to be held responsible for strengthening existing responses to prevent and standardise punishment for all degrees of VAWG.

4.2.3 State Reports to ACmHPR

Ghana obligations to the AcmHPR includes, the submission of state reports on the implementation of the Protocol following a 2 year reporting cycles. It is however unfortunate that Ghana has not reported to date.²⁷¹

4.2.4 AU Special Mechanisms

In absence of Ghana's report on the Protocol there are occasional feedback where the ACHPR's including through other special mechanisms have made recommendations to Ghana. Some of which are women related especially following the ratification of the Protocol. Some recommendations of the 2008 ACmHPR's country visit²⁷² and meetings with some state actors and other human rights defenders are, the preparation and submission of outstanding state reports; abolishment of the death penalty; making a declaration on Article 34(6) of the Protocol on the Court; institution of control measures on trafficking; and adequate resourcing of CHRAJ.²⁷³ Ghana also had to ratify the Protocol and harmonise it with national laws for its

²⁶⁷ As above.

²⁶⁸ Concluding observations of the CEDAW Committee on the combined sixth and seventh periodic reports of Ghana (13 November 2018) CEDAW/C/GHA/CO/6-7).

²⁶⁹ As above.

²⁷⁰ As above.

²⁷¹ AU Guidelines for state reporting under the Maputo Protocol.

²⁷² ACmHPR 'Report of the Promotion Mission to the Republic of Ghana' (September, 2008).

²⁷³ As above.

effectiveness.²⁷⁴ Amnesty International shadowed Ghana as desiring of constitutional review/reforms for the abolishment of the death penalty especially with imposed death sentence on some prisoners.²⁷⁵

Resolution 483 of ACHPR recommended African countries as Ghana to abolish their death penalty and ratify the Second Optional Protocol to the ICCPR on the abolition of the death penalty; prevent the application of the death penalty on women on death rows, including women who are during their state of pregnancy, child birth and nursing; provide gender specific health services including distribution of free sanitary pads and training of service providers of gender issues; support the adoption by the AU of the draft Protocol to the African Charter on the abolition of the death penalty, adopted by ACHPRs in 2015; ensure women's safety in prisons at all times and train more female prison personnel; publish information on women on death row; provide education and rehabilitation programs for women on death row and in prisons.²⁷⁶ Ghana needed to protect older people's through ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa (the Protocol).²⁷⁷

The APRM in 2006 hailed Ghana for being the first state to subject to its scrutiny. Its review on women issues was subjected to Ghana's ratification of the CEDAW and CRC. It recommended among others, Ghana's need to allocate sufficient funding to matters concerning women's rights; mitigate against cultural and other impediments to gender mainstreaming; accede to the Protocol and ACC etc.²⁷⁸

²⁷⁴ Resolution on the Health and Reproductive Rights of Women in Africa ACHPR/Res.110(XXXXI)07 (May 2007) <https://www.achpr.org/sessions/resolutions?id=162> (accessed 20 August 2022).

²⁷⁵ ACmHPR 'Amnesty International: Human Rights Situation in Africa' *Oral Statement by Amnesty International* (October 2024) <https://www.achpr.org/sessions/ngostatment?id=2> (accessed 20 August 2022).

²⁷⁶ Resolution on the need for better protection of women sentenced to death in Africa - ACHPR/Res- 483 (EXT.OS/XXXIII) 2021 <https://www.achpr.org/sessions/resolutions?id=514> (accessed 20 August 2022).

²⁷⁷ ACmHPR 'Working Group on the Rights of Older Persons and Persons with Disabilities in Africa (the Working Group) on the occasion of the 27th International Day of Older Persons (1 October 2017) <https://www.achpr.org/news/viewdetail?id=25> (accessed 20 August 2022).

²⁷⁸ APRM 'Country Review Report of the Republic of Ghana' (June, 2005) <https://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/00798283-EN-APRM-GHANA-REVIEW-REPORT-JUNE-2005.PDF>; See also <https://www.un.org/womenwatch/daw/cedaw/cedaw36/statements/CEDAW%20STATEMENT%20Ghana.pdf> (accessed 20 August 2022).

CHAPTER FIVE: STATE RESPONSES AND SPECIAL MECHANISMS

This chapter analyses Ghana's responses to human rights mechanisms recommendations. Documentation supports that to some extent, Ghana acknowledges the immediacy of the concerns raised by treaty monitoring bodies and special mechanisms. As Robert Keohane's institutional rational choice model predicts, Ghana enjoys a good reputation along these levels in arguably protecting women's rights and is especially accredited with being a model of best practices and among pioneers of many innovative interventions across international regional levels.²⁷⁹ The Chayes' managerial model type is also applicable as Ghana has on different occasions through its supranational bodies as Permanent Representatives to the UN General Assembly unequivocally declared Ghana's strong conformity to the promotion and protection of human rights.²⁸⁰

Most of the comments and questions raised under the CEDAW Committee in the two state reports and the three UPR cycles were interlinking and Ghana has responded to many of them in various ways. Ghana seeks to abolish the death penalty but decriminalisation of consensual sex between adults remained a debated issue as it is not expressively condemned by the Constitution except the recognition of sodomy as a criminal act. The GoG was providing funds, initiating programmes including consulting stakeholders towards shutting-down all witches' camps. Ghana anticipated passage of the Property Rights for Spouses and the RTI Bills.²⁸¹

Following APRM's notice as stated above, the GoG had laid before Parliament, the Property Rights of Spouses Bill and the Intestate Succession Bill. CHRAJ, NGOs and government also advanced women's rights through nation-wide community sensitisation programmes and the development of a gender policy by CHRAJ in complementarity to the national policy that was being considered by the then MOWAC. A National Council on Disability was inaugurated on November 7, 2009 to implement the National Disability Act. Ghana also passed the 2012 Mental Health Bill into law. The Implementation of the DVA saw capacity building initiatives for a majority of DOVVSU and GPS personnel effective management of DV cases. To combat harmful cultural practices Ghana increased public education and extended the Livelihood Empowerment Against Poverty (LEAP) programme to vulnerable women in witches' camps. Also, the continuation of the Presbyterian 'Go Home Project' in Gambaga to empower women who faced banishment from the witches' camp. Stakeholders were also increasing knowledge on child sexual abuse and its consequences. The Implementation of measures contained in the ICCPR and Convention Against Torture

²⁷⁹ https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session2/GH/A_HRC_8_36_Ghana_E.pdf

²⁸⁰ Concluding Report of the UN General Assembly on the Eighth session of the HRC (1 September 2008) (A/HRC/8/52 (2008) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/152/83/PDF/G0815283.pdf?OpenElement> (accessed 25 August 2022).

²⁸¹ RTI passed. See more at; Information Service Department of Ghana 'What is the right to information ACT' <https://isd.gov.gh/what-is-the-right-to-information-act-2019/#:~:text=Ghana%20recognised%20the%20right%20to,necessary%20for%20a%20democratic%20society%E2%80%9D>.

(CAT) yielded a model judicial decision²⁸² by the SC that SEC rights as contained in Chapter 5 of the 1992 Constitution as justiciable which overturned its earlier ruling²⁸³ that such rights were only civil and political. Preventing HIV/AIDS caused many promotional efforts by the Ghana AIDS Commission. The ratification of the Convention on the Protection of Persons with Disabilities based led to the Persons with Disability Act, 2006 (Act 715). Ghana also ratified the CRPD.²⁸⁴ OP-CAT-OP recently on 23 September 2016.²⁸⁵ A Public Officers (Code of Conduct) Bill was also subsequently considered by the Cabinet. Ghana also established the Police Intelligence and Professional Standards (PIPS) Bureau to investigate alleged violations involving police officers; organised capacity building for police personnel; recruited lawyers into the GPS; included human rights courses in GPS Training School Curriculum. Ghana took minimal steps to ensure the right to housing.

Ghana amended Human Trafficking, 2005 Act complimented by the 2015 Regulation Act on human trafficking and thus criminalises sex and labor trafficking. There is also an inter-ministerial committee mandated to administer the Human Trafficking Fund. Trafficked victims are referred for social welfare services. Also available; a bilingual hotline and a mobile application for reporting GBV cases and trafficking; public training and capacity building of security officers and other stakeholders; provision of shelter for trafficked victims; development and implementation of the 2017-2021 anti-trafficking national action plan (NAP); a 5 region operational standardised trafficking data collection system (STDCS); regulation of labour recruiters/employment agencies; etc.²⁸⁶

Ghana has vast numbers of laws to protect VAW and other forms of GBV but these laws are not ensuring women's equal enjoyment of rights as men, and leading to the continuation of more perpetrators of violence.²⁸⁷

Ghana has no interest in decriminalising consensual sex between adults as there is an Anti-LGBTQI Bill still under consideration by the Committee on Constitutional, Legal and Parliamentary Affairs²⁸⁸ as of February 2022 with massive support from a group of Ghanaians including the clergy and traditional

²⁸² *Ghana Lotto Operators Association v National Lottery Authority* [2007-2008] SCGLR 1089).

²⁸³ *NPP v Inspector General of Police* [1993-94] 2 GLR 459

²⁸⁴ Disabled World 'CRD List of Countries by Signature: Confirmation: Accession: Ratification' (2014) [CRPD List of Countries by Signature : Confirmation : Accession : Ratification | Disabled World \(disabled-world.com\)](https://www.disabled-world.com/crd/) (accessed 20 August 2022).

²⁸⁵ See List of ratification status of CAT-OP-Optional Protocol of the Convention Against Torture https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CAT-OP&Lang=en (accessed 20 August 2022).

²⁸⁶ United States Government '2022 Trafficking in Persons Report: Ghana' *Office to Monitor and Combat Trafficking in Persons* (2022) (<https://www.state.gov/reports/2022-trafficking-in-persons-report/ghana/>)

²⁸⁷ n 39-53.

²⁸⁸ Parliament of Ghana 'Promotion of Proper Human Sexual Rights and Ghanaian family values bill goes through third public hearing. <https://www.parliament.gh/news?CO=172> (accessed 25 August 2022).

leaders,²⁸⁹ and sadly influential legislative figures²⁹⁰ despite resistance from some CSOs.²⁹¹ However, charges against arrested LGBTQI persons were recently dismissed.²⁹²

As per the ACmHPR's recommendations,²⁹³ Ghana subsequently ratified the Maputo Protocol in June 2007. Ghana has not yet submitted its outstanding reports for over 20 years and 'counting'.²⁹⁴ As earlier noted, the death penalty is still recognised in the legal books of Ghana and there is an Anti-Trafficking Act. Ghana has accepted²⁹⁵ the competence of the Court under Article 34(6) of the Protocol on the Court, therefore claims on the Maputo Protocol can also be backed by the Charter and taken before the court for adjudication. The conditions of imprisoned women are not widely known due to limited data. As of January 2022, there were about 200 female prison constituents representing about two per cent occupancy in the only seven female prisons out of the general 46 prisons the country has.²⁹⁶ The Nsawam and Kumasi female prisons are also the respective first and second largest populated areas out of the 7 national female prisons. However, available data shows that female prisoners continuously battle with separation from their children, lack physical and mental care including exposure to vocation training and educational programmes and still face limited access to seek legal justice (legal education, representation, payment of bail especially due to high poverty rates among women, gender stereotyping and bias in judicial proceedings).²⁹⁷ Pregnant women in conflict with the law however have their cases suspended.²⁹⁸ There was no data to establish that there is a national policy on administrative detention; however one cannot be kept in custody for more than 48 hours.²⁹⁹

²⁸⁹ Modern Ghana 'Ensure Parliament passes anti-LGBTQI+ Bill-Efutuakwa Chief to Akuffo Addo' (October 2021) <https://www.modernghana.com/news/1112166/ensure-parliament-passes-anti-lgbtqi-bill-efutu.htm>; See also <https://www.modernghana.com/news/1112087/expedite-passage-of-anti-lgbtqi-bill-tijjaniya.html>;

<https://www.modernghana.com/news/1112085/assemblies-of-god-supports-anti-lgbtqi-bill-in.html> 1; (accessed August 25 2022).

²⁹⁰ Speaker of Parliament A Bagbin 'We'll pass anti-LGBTQI+ Bill, be rest assured -Bagbin to Ghanaians' *GhanaWeb* (27 October 2021) <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/We-ll-pass-anti-LGBTQI-Bill-be-rest-assured-Bagbin-to-Ghanaians-1389016>; See also <https://www.modernghana.com/news/1115337/anti-gay-bill-we-will-do-what-is-best-for-ghana.html>; <https://www.modernghana.com/news/1114094/sam-george-doubts-passage-of-anti-lgbtqi-bill-this.html>; <https://www.youtube.com/watch?v=sPcTO2mv6o> (accessed 25 August 2022);

²⁹¹ K Prempeh 'Anti-LGBTQI Bill will turn queer Ghanaians into second class citizens-CDD Boss' *Modern Ghana* (August 2022) <https://www.modernghana.com/news/1096510/anti-lgbtqi-bill-will-turn-queer-ghanaians-into.html>; See also <https://www.modernghana.com/news/1109634/akoto-ampaw-and-co-memo-against-anti-lgbtqi-is.html> (accessed 25 August 2022).

²⁹² DW 'Ghana court acquits 21 LGBTQ activists arrested during crackdown' (August, 2021) <https://www.dw.com/en/ghana-court-acquits-21-lgbtq-activists-arrested-during-crackdown/a-58774894> (accessed 20 August 2022).

²⁹³ ACmHPR 'Report of the Promotion Mission to the Republic of Ghana' (September, 2008). https://www.achpr.org/public/Document/file/English/misrep_promo_ghana_2008_eng.pdf (accessed 20 August 2022).

²⁹⁴ Daily Graphic 'Human rights situation report: Ghana defaults for 20 years' (March, 2022) <https://www.graphic.com.gh/news/general-news/ghana-news-human-rights-situation-report-ghana-defaults-for-20-years.html> (accessed August 25 2022).

²⁹⁵ ACmHPR Office of the Registrar 'Competence of the African Court on Human and People's Rights' (14 March 2010) BC/OLC/66.5/4140.11 https://www.african-court.org/wpafc/wp-content/uploads/2020/10/Ghana_declaration.pdf (accessed 20 August 2022).

²⁹⁶ ASP IP Wiredu 'Vulnerability, law: Case of female prisons' *Daily Graphic Online* (January 2022) <https://www.graphic.com.gh/features/opinion/vulnerability-law-case-of-female-prisons.html> (accessed 20 August 2022).

²⁹⁷ CHRAJ 'Report on women deprived of liberty in Ghana' *UNHCR* (November 2018) <https://chraj.gov.gh/wp-content/uploads/2021/06/CHRAJ-Ghana-Women-Deprived-of-Liberty-Report-2018.pdf> (accessed 20 August 2022).

²⁹⁸ As above.

²⁹⁹ Citi NewsRoom '48-hour police detention rule includes weekends, holidays – Supreme Court declares' (December 2019) <https://citinewsroom.com/2019/12/48-hour-police-detention-rule-includes-weekends-holidays-supreme-court-rules/> (accessed August 20, 2022).

Confinement can only be decided by a court of competent jurisdiction and an enactment of a policy law will require an amendment so as not to contravene the 1992 Constitution.³⁰⁰ Ghana's ratification of the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders' (Bangkok Rules) would improve protecting imprisoned women but that is lacking. Despite this, there is a Legal Aid Scheme that provides legal representation to all persons inclusive of women, in both civil and criminal actions whose income is fairly balanced above or less the poverty line or as determined by the Board of the NLAS to require legal aid as well as the 'justice for all programme run by the Ministry of Justice and Attorney General's Department to offer improved ATJ and a speedy trial to case of remand prisoners.³⁰¹ Ghana also recently launched the Paperless Courts or Electronic Case Management System (ECMS)³⁰² to improve the turnaround time for adjudicated cases but there is no available data on a gender-assessment lens/perspective of the system yet.

An adjudication recently held by the Human rights court of Ghana between a private legal practitioner, Martin Kpebu and state has shown that the GoG is statutorily responsible to establish funding for DV as recognised in Section 8(3) of the Act, but GoG is yet to live up to its responsibility.³⁰³

The findings at the end of this chapter demonstrate that where recommendations have not been adhered to or acted upon especially in the case of the Maputo Protocol, it can be said as agreed by Chayes that such recommendations were non-binding causing a non-response effect from Ghana.³⁰⁴ The paper found that the manner in which interpretations would be given to compliance also influences their understanding and what state's think is expected of them. There is however mutual agreement among stakeholders that generally laws are not enough to remedy human rights violations against women and girls but must translate to contextual practice through relevant measures and practices.

³⁰⁰ Criminal Offences Act, 1960 (Act 29); 1992 Constitution Article 1(2).

³⁰¹ Legal Aid Scheme Act, 1997 (Act 542); Legal Resource Centre Annual Report, (2010)

³⁰² Prime News Ghana 'E-Justice Project: Paperless Court System will eradicate corruption-Chief Justice' (March 2019) <https://www.primenewsghana.com/general-news/e-justice-project-paperless-court-system-will-eradicate-corruption-chief-justice.html> (accessed 20 August 2022).

³⁰³ ACmHPR (n 283).

³⁰⁴ Chayes (n 275).

CHAPTER SIX: CHALLENGES TO IMPLEMENTATION OF RECOMMENDATIONS AND PREVENTION OF VAW

6.1 Introduction

This portion shows the challenges to Ghana's implementation of recommendations from UN treaty bodies (CEDAW) and regional mechanisms (African Commission). Ghana enthusiastically embraced the two treaties, yet they do not appear to be fortifying national interest in many aspects of women's rights. The challenges were evaluated from the perspective of the state, MoGCSP, other state institutions, CSOs and the CHRAJ.

6.1.1 Challenges facing the State and MDAS's

- **Challenges identified by the State**

Ghana generally considered its decision making processes and engagement with other stakeholders on women rights issues, the recommendations received from other recognised parties following the submission of its state reports, particularly to the CEDAW Committee.³⁰⁵ Ghana consents that the Constitution indeed needs amendment to reflect the definition of discrimination as pertains in CEDAW but it remains challenged due to the uncertainty that, such a recommendation will be considered for amendment. This is due to the overwhelming petitions and the neutral list of issues contained in the first submission before the Constitutional Review Committee for consideration.³⁰⁶ Another challenge lies in the years-long delay in the passage of the AAB which is continuously pending before Ghana's Parliament despite a series of acclamations from political actors to have it passed.³⁰⁷ Ghana lacks the political will to, expertise, effective adequate funding of state entities, and continuous awareness towards preventing VAW.³⁰⁸

Other limitless challenges are infrastructural limitations; rudimentary awareness VAW and CEDAW; high degree of societal tolerance and confusion about VAW; limited reported cases and preference for out of court settlement, low literacy rate especially among rural women; inability to resolve high maternal mortality rates that are dominant especially among rural women; etcetera.³⁰⁹ MoGCSP lamented that the historic pervasive VAW was even unending due to deficient working-skills and knowledge among law enforcement institutions to effect practical policies against VAWG and to prosecute their offenders.³¹⁰ The

³⁰⁵ CEDAW/C/GHA/CO/6-7.

³⁰⁶ As above.

³⁰⁷ GhanaWeb 'Speaker of Parliament to make sure Affirmative Action bill is passed' (2022) <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Speaker-of-Parliament-to-make-sure-Affirmative-Action-bill-is-passed-1267783>; Parliament of Ghana 'Speaker opens second meeting of 8th Parliament' (May 2021) <https://www.parliament.gh/news?CO=123>; Akuffo Addo 'Ensure enactment of Affirmative Action Bill-Akuffo Addo begs 8th Parliament' *GhanaWeb* (March 2021) <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Ensure-enactment-of-Affirmative-Action-bill-Akufo-Addo-begs-8th-Parliament-1200013>.

³⁰⁸ ACmHPR (n 293)

³⁰⁹ CEDAW/C/GHA/CO/6-7.

³¹⁰ CHRAJ (n 137).

reoccurrence of natural disaster and conflicts, aggravate the woes of most of the already vulnerable groups in society yet the cost of reparations are often unmet due to the country's already limited resources.³¹¹

Ghana's Constitution, CEDAW and the Protocol unanimously agree that women including children as also acknowledged in the CRC and the ACC, have right to ATJ. However, in matters of sexual assault especially defilement, the cost implications of legal and medical costs/endorsement forms particularly for defiled girls of poor socio-economic background challenges the enjoyment of this right. Thus the cost is overburdening which further leads to them to redraw from reporting to the police.³¹² Other challenges to ending defilement are ineffective and under-resourced institutions, discriminatory customary and religious practices and bureaucracies.³¹³ With emphasis the Hospital Fees Act, 1971 (Act 387), Courts Act, 1993(Act 459) and DV ACT, 2007(Act 732) make provisions for the fee-exemptions of services required by sexual, gender based violence victims/survivors however that is not effectively applied in most cases as victims and their parents still bear the expensive cost.³¹⁴ Hence, the "expensive cost" of the medical report (between Ghc300 to Ghana cedis (Ghc) 1000 depending on the nature of the case, an equivalent of about US\$40 to US\$130) significantly accounts for parents/guardians inability to seek justice.³¹⁵ Seeking ATJ for sexual assault cases cost at least Ghc900 on an average per case about 10% of household per capita income³¹⁶ (an equivalent of above USD\$100). This cost curtails right to justice especially as prior tests followed by reviews for defiled victims are not covered under the National Health Insurance Scheme as defilement is not considered as a health issue but a criminal one. Also, due to some threats and fears of parents/guardians of a defiled child, the case is often abandoned, withdrawn and/or settled out of court without consideration of the girl-child's best interest of the child. This undermines the spirit and letter of the law on defilement on mandatory prosecution (section 101 of Criminal Offences Act, 1960 (Act 29). Section 73 of the Courts Act, 1993(Act 459) and the Alternative Dispute Resolution Act, 2010 (Act 798) allow for reconciliation and out-of-court settlement as far as under the orders and guidance of state courts and non-felony cases or cases not aggravated in degree. Defilement is not a first degree felony case as rape.³¹⁷

- **Challenges identified by other mechanisms**

CEDAW committee, underscored that women, especially of rural than urban areas, enjoy less ATJ and are frustrated by low legal literacy which further generates their resort to alternative justice along customary

³¹¹ As above.

³¹² MoGCSP 'National Gender Policy' (2015); Institute of Development Studies (IDS), Ghana Statistical Services (GSS) and Associates 'Domestic Violence in Ghana: Incidence, Attitudes, Determinants and Consequences' (2016) *Brighton: IDS*; Ghana Report 'Suspect free as 7-yr old defiled girl's parents can't afford Ghc200 for medical report' (2020) *National Communication Authority*.

³¹³ MoGCSP (n59 above).

³¹⁴ As above.

³¹⁵ As above.

³¹⁶ UNICEF 'Budget Brief: Funding services for children and women survivors of sexual and gender-based violence' (January, 2021).

³¹⁷ Ghana Criminal Offences Act (1960).

judicial mechanisms, which are underlined with the adverse impacts of stigmatisation and gender stereotyping.³¹⁸ Interestingly, the Constitution under Article 272(c) accords chiefs with the authoritative power to eradicate harmful and discriminatory practices but the National House of Chiefs have not leveraged on that to exercise their authority as such practices are still ongoing.

The APRM verified in their acclamation of classified challenges to women human rights protection mainly as inadequate gender sensitive budgeting.³¹⁹ Regretting also, poor institutional coordination mechanisms; limited research data on laws, policies and programmes on women's issues; limited/unavailable disaggregated statistical data by sex; and cultural and religious pertinacious resistance to women, children and SAP's rights.³²⁰

WiLDAF's shadow report on the 6 and 7 periodic report of Ghana noted the MOGCSP is continuously under-resourced despite its demanding intersectional mandate hence further aggravating efforts to adequately address women's issues.³²¹ CSOs have attested to these financial woes and reckoned that they over concentrate on social protection at the expense of gender equality and child protection.³²² Again, though Article 17(3) of the Constitution recognises right to freedom of discrimination, the definition is unaligned to Article 1 of the CEDAW for which reason, some NGOs have acknowledged this as a challenge and stating the need for a defined direct and indirect discrimination even within the AAB.³²³ Families of mentally ill persons still preferred interventions from shrines and prayer camps instead of seeking medical help or using orthodox medications despite such places being nuanced human rights violations such as deprivation of food and physical punishments.

CHRAJ and GHRNF joint UPR report showed the passage of the Bills on property rights of spouses and the intestate succession were not passed into law because they were being approached with less enthusiasm and initiative from Ghana's Parliament.³²⁴ Gender disparities and inequalities remains a common practice with inhumane and discriminatory social-cultural practices against women and girls generally justified using cultural inclinations.³²⁵ Furthermore, they also revealed the promotion of the rights of women and vulnerable groups, gender disparities and inhumane practices remained justified by cultural inclinations. The implementation of the DVA is met with inadequate resource allocations to train DOVVSU and GPS

³¹⁸ International, WILPF, "A Mountain to Climb: Eliminating Discrimination against Women in Ghana," *WILPF*. <https://www.wilpf.org/a-mountain-to-climb-eliminating-discrimination-against-women-in-ghana/> (accessed 25 August 2022).

³¹⁹ <https://www.un.org/womenwatch/daw/cedaw/cedaw36/statements/CEDAW%20STATEMENT%20Ghana.pdf>

³²⁰ As above.

³²¹ A/HRC/8/52.

³²² Graphic Online 'Ghanaian NGOs call for 3 issues to be addressed at 59th Session of CEDAW Committee' (October 2014) <https://www.graphic.com.gh/news/general-news/ghanaian-ngos-call-for-3-issues-to-be-addressed-at-59th-session-of-cedaw-committee.html> (accessed 20 August 2022).

³²³ A/HRC/8/52.

³²⁴ CHRAJ & GHRNF 'Joint UPR' (2012) https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session14/GH/JS1_UPR_GHA_S14_2012_JointSubmission_1_E.pdf

³²⁵ As above.

staff. Also, the GoG did not make any financial contribution to the DV Support Fund. But for the Ark Foundations' shelter homes, the GoG has not establish any although the DV cases keep rising.

Ghana's attempts to combat harmful cultural practices was met with persistent justification for dehumanising widowhood rites; continuous physical violence (lynching), community maltreatment and stigmatisation of alleged witches even upon their 'cleansing.' Protecting children from abuse was difficult because sexual abuse against children is sadly a persistent phenomenon. Also poverty and the denial of children as persons with rights aggravated child labor activities in society. There were still more stigmatisation and discrimination of PLWHA, inadequate antiretroviral drugs, inappropriate and inaccessible public facilities and infrastructures for PwDs and ineffective implementation of the DV Act despite activism and advocacy particularly by CSOs. The ratification of OP-CAT was met with some administrative bureaucracies.

There is also continuous presence of unhealthy police-civilian relations. Ghana has not abolished the death penalty such that as of 2020 there are 160 persons on the death row with 5 women even though the last death execution by hanging and firing squad was in 1968 and 1993 respectively.³²⁶

- **Other corroborating challenges by other actors**

CHRAJ's successful monitoring³²⁷ found increasing recorded HIV cases and unabated stigmatisation of PLWHA. Findings also pointed to sexual abuses being; less reported; silenced with high medical report charges on victims. There are equally gaps between enactment and application of the law; inadequate resource allocations to needs of PwDs; child-disability-unfriendly-healthcare services especially in communication. Also common is the proliferation of private rather than public orphans with the former depending mainly on philanthropy or donor support. Harmful cultural practices (widowhood rites, witchcraft accusations) seem unending even with increasing sensitisation; increased. There is limited community cooperation and not all districts have courts so there is limited proper protection of girls rights coupled with limited shelters.³²⁸

Other corroborating reports have shown that the police, courts, social service and health sectors especially in certain parts of Ghana as the Northern Regions and rural areas, are largely inadequately covered in interventions besides being under-resourced and inadequately trained to manage and investigate VAW cases.³²⁹ Noteworthy, the DVA has authorised the settlement of DV cases at courts yet there are countless instances where some police officers have attempted to instantly settle reported cases between victims and

³²⁶ Amnesty International Ghana 'Ghana: Time to scrap unfair and discriminatory death penalty' (October 2021).

³²⁷ CHRAJ 'State on Human Rights Reports 2013 -2005.'

³²⁸ CHRAJ 2013 Report [2013-SOHR-REPORT.pdf \(chraj.gov.gh\)](https://www.chraj.gov.gh/2013-SOHR-REPORT.pdf)

³²⁹ Kilpatrick (n 139); Report of the Special Rapporteur on violence against women, its causes consequences," Addendum Mission to Ghana, (2008) p.13, [https://www.refworld.org/docid/47ce68652.html%20\[accessed%2029%20June%202020](https://www.refworld.org/docid/47ce68652.html%20[accessed%2029%20June%202020) (accessed 20 August 2022).

perpetrators whilst the power of domestic courts to apply customary laws often tend to fail women.³³⁰ VAW cases have also rocketed but low numbers of prosecutions and convictions do not further women's protection.³³¹ ADR has consistently proven to be an inappropriate intervention for DV and child abuse issues.³³² This presupposes that the wheels of justice grind slowly in VAW matters before the legal systems. With spill over effects of delayed judicial decisions and declarations for damages/prayers of complainants.

Ghana is unable to effectively tackle trafficking due to; increasing unemployment rates and the quest for greener pastures among young people; poor operationalisation of STDCS; poor resources of monitoring officers and inspectors; prevalence of climate change effects exacerbating vulnerabilities especially women in rural areas of Northern Ghana; illegal use of national-owned and operated industrial-vessels in trafficking; prevalence of inhuman socio-cultural practices and beliefs causing young girls to especially seek any available escape routes etc.³³³

6.1.2 Challenges facing the judiciary

The limited application of treaties in litigation and adjudication does not augur well for the longevity of the domestic impact of IRHRLs in Ghana's courts. Impliedly, there is a high tendency of most lawyers and judges not being professional litigants or making judicial judgements on cases before it with treaties. Also, not only does it affect understanding of treaties but also limits the number of litigants using treaties and the accompanying effects of litigants' inability to use the state's own voluntary commitments to treaties as proof to validate their demands/claims. Another problem is the limited knowledge and skills-ability of law enforcement institutions who enforce the laws to utilise policies and laws concerning women to protect them violence.³³⁴ Also, the chances of making progressive or model laws in Ghana's courts are thus slim.

³³⁰ Kilpatrick (n 139).

³³¹ As above.

³³² Wheeler 2002.

³³³ n 325 above.

³³⁴ As above.

CHAPTER SEVEN: SUMMARY, CONCLUSION AND RECOMMENDATIONS

7.1 Introduction

This last chapter summarises the previous analyses. It tables some recommendations to the state as a primary actor and other stakeholders towards the prevention of VAW.

7.2 Summary of findings

The paper explored the nuances of VAW in Ghana and the gaps between law and practices following Ghana's commitment to the CEDAW and the Protocol through a qualitative study while using theoretical frameworks as intersectionality. It aimed to shape discussions and caused interventional laws and policies including attitudinal change etc. This is particularly needed because VAW remains a big challenge making Ghana's commitment to treaties and human rights protection a contentious issue and causing considerable debate among the public and human rights defenders.

In response to preventive VAW, the Constitution protects the rights of women to some extent. There have subsequently been numerous implementations of legislative, policy and institutional reforms some of which are undergoing review for an added advantage of shielding women from a wide range of abuses that undermine human dignity and protection.

However, across various stakeholders including the state, the CEDAW is most preferred over the Maputo Protocol in public discourses and decision-making processes about women's rights. This is not strange as the findings evident that Ghana is yet to make any state reports for over 20 years to the ACmHPRs on the state of women's human rights in the country.

In response to VAW, Ghana has among others DV Act, etc. The UN international system has especially offered Ghana lot of remedies to legislative and institutional shortcomings through its CEDAW Committee and special mechanisms. This gives reasons for Ghana's increasing interest and reliance on the CEDAW.

Furthermore, although Ghana largely relies on the CEDAW, its use/citation is generally limited especially in policies/interventions and, legal education and litigation. This somewhat contributes to the prevalence of VAW. While others may question the effective mechanisms available to address the plight of survivors due to the increasing violence vis a vis poor indexes of human rights year on, the absences of these could be hypothesised to have (had) more severe repercussions on women than is known.

The state is however constrained to prevent VAW. This is due to; entrenched legislative clauses; outdated legislations; limited disaggregated data; resource limitations; patriarchy; inhumane cultural practices; stigmatisation; and absence of consistent stakeholder dialogues; limited awareness and attitudinal change towards women's rights; limited awareness on Ghana's commitment to women human rights laws

(CEDAW and the Protocol). Also, without hesitation, stating that successive political actors and governments have only shown tokenism instead of realistic political commitments to women's agenda to the AAB is not a hasty generalisation. The existing challenges that stampede the overall effectiveness of these treaties likewise, undermine the sovereignty and obligation of Ghana towards preventing VAW as fortified in its own domestic laws and in treaties committed to.

7.3 Conclusion and Recommendations

VAWG is regrettable normalised within Ghanaian public or private spaces including interpersonal relations, households. VAW has lots of effects not limited to death, health complications, physical injuries, psychological traumas and withdrawals from interpersonal relationships. Though Ghana has by far shown appreciable commitment to ending VAW through various treaties, it is still pervasive. The paper concludes that Ghana has many entry points to prevent violence against women both in practice and law. The absence of it, is nothing more than mainly, political choice among political decision makers and legal advocates especially successive governments. This paper relies on the CEDAW and Protocol's ideals to make recommendations for the development of further and continuous legal and non-legal interventions and policies. The recommendations are addressed more generally to the state, to relevant ministries, to the judiciary, to the human rights mechanisms, and to the NGOs/CSOs.

Government

The GoG should ensure to submit all pending reports to the ACmHPR to cover up for the 20 years and subsequently ensure the early submission of periodic state reports to relevant treaty bodies. The effective implementation of the DVA and Fund should be prioritised even by successive governments. Adequately funding the MoGCSP and encouraging extensive stakeholder engagements especially among religious and traditional leaders in implementing interventions will help ensure substantial equality. At best allocating sufficient funds for the implementation of IRHRLs. GoG should also ensure that medical reports are really being scrapped off as reported and such cases should be included in the NHIS for increase access to free healthcare and services. Government should encourage the implementation of paper-less data collection systems and their integration across institutions to improve data availability and accessibility. The data as collected, should also highlight the diversity of population demographics in other to influence appropriate action and substantive policy. It should also encourage the continuation of the work of the GCRC.

Judiciary

The Ghana Legal Counsel should lobby for nation-wide expansion of human rights courts including specialised gender-based courts to accelerate access to justice and legal information for all especially rural women. It should encourage the inclusion of human right treaties into the legal education curriculum and

courses to increase judicial accountability and, knowledge of treaties. It should encourage strategic litigations and using the treaties to strategically support their arguments and judgements on women's issues. This will help bring attention to human rights treaties and cause the State to respond appropriately as the State is in turn, also accountable to international human right bodies.

Legislature

It should engage broadly to decriminalise consensual same sex and on the Anti-LGBTQI+ Bill) respectively. It must move speedily to draft an explicit bill against medical charges of victims of violence. It should also encourage the GCRC to speed up its work for constitutional amendments to discriminatory sections of the Constitution and other laws. It should earnestly pass the AAB into law and abolish the death penalty. It should also show paramount interest in domesticating treaties into national laws and raise concerns over Ghana's absent state reporting especially on the Protocol. Also consider the urgent repeal and amendment of other legislations and others in the offing.

MoGCSP

The Ministry should lobby stakeholders to implement the recommendations from treaty monitoring bodies. It should demand for adequate funding and support from all stakeholders to effectively discharge its mandates. It should also leverage on the two treaties in the implementation of policies to engineer their direct impact. It should also increase awareness and altitudinal change to eradicate VAW, discrimination and stigmatisation of other vulnerable people. It should also encourage usage of the treaties in the adjudication on women's cases. It should increase oversight responsible for the effective implementation of the DVA, the passage of the AAB, the abolishment of witchcraft accusations and the death penalty. It should encourage the practice of intersectional and disaggregated data collection during national exercises especially in rural communities. It should also encourage reporting and (re)training of personnel working on DV and related VAW issues. It should pursue constant awareness on VAW and behavioural/attitudinal change communication using diverse communication channels. It should actively pursue the closure of all witches' camps and sure the safe reintegration of victims into communities.

General recommendations

The CEDAW Committee should influence the development of an explicit treaty against VAW "Convention on the Elimination of All Forms of Violence Against Women (CEVAW)." It should give technical support to implementation bodies and other stakeholders, to assist them to effectively and efficiently implement the Committee's recommendations using available resources. They should encourage the development of CEDAW or CEVAW (when in being) and Maputo Protocol indicators to serve as critical benchmarks to

ending VAW. It should also lobby to be given fully enforcement recommendation powers so that states will take them seriously.

Since a lot of African courts seem to rely on the jurisprudence of Inter-America and the European Union Courts (IAEC) to defend their cases and that has helped to propagate most UN treaties, the IAEC should be encouraged to do the same to regional treaties like the Protocol to elicit such interest among African national courts.

The AU General Assembly should review the ACmHPRs to make its decisions binding on states. The ACmHPR should implement a provision that allows for the establishment of a follow-up Committee, charged to ensure the implementation of its recommendations and with the authority to sanction states for defaults.

Countries with good human development indicators and progressive rights, should assist countries that are lagging behind especially through funding and best practices for effective policy implementation.

A periodic intersectional national scale research and analysis of the socio-economic, political and cultural/traditional dynamics of VAW is critical. The periodic report will bring out the dynamics of violence committed within certain periods and help inform public policy and strategic responses that are based on relevant data. Practically, data is relevant to extricate VAW in Ghana. The data should be fluidly consolidated, contextualised and integrated from the national through to the various levels (MMDAs). It is relevant to have continuous updated data classifying VAW across intersectionality as education; sexual orientation; age; geography; employment/labour; economic, political and religious/traditional status; physical and mental development. and other dimensions for analytical and policy framing purposes. Data protection should include de (bona fides) and anonymization to protect victims/survivors from discriminatory data profiling and targeting; absence of data anonymity can cause easy access to identify subjects/victims.

Further comparative research is needed on; Ghana's commitment to other treaties that are on the same trajectory of human rights defence and promotion; how Ghana intends to protect LGBTQI+ women assuming the Anti-LGBI bill is passed and; how treaties are internalised within state agencies and other actors for women's protection.

BIBLIOGRAPHY

International and regional human rights treaties and other legal instruments

African Charter on Human and Peoples' Rights (1981).

Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (1999).

Convention on the Elimination of All Forms of Discrimination Against Women (1979).

General Resolution on the 69th Session of UN, UN General Assembly (18 December 2014), UN Resolution A/RES/69/147 (2014).

International Covenant on Civil and Political Rights (1966).

International Covenant on Economic, Social, and Cultural Rights (1966).

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (1999).

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003).

United Nations Treaty Bodies documents

Concluding observations of the CEDAW Committee on the combined sixth and seventh periodic reports of Ghana (13 November 2018) CEDAW/C/GHA/CO/6-7 https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GHA/CEDAW_C_GHA_CO_6-7_Add-1_18903_E.pdf (accessed 25 August 2022).

Concluding Report of the Special Rapporteur on violence against women, its causes consequences," Addendum Mission to Ghana, (2008) 13, [https://www.refworld.org/docid/47ce68652.html%20\[accessed%2029%20June%202020](https://www.refworld.org/docid/47ce68652.html%20[accessed%2029%20June%202020) (accessed 20 August 2022).

Concluding Report of the UN General Assembly on the Eighth session of the HRC (1 September 2008) (A/HRC/8/52 (2008) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/152/83/PDF/G0815283.pdf?OpenElement> (accessed 25 August 2022).

NGO Shadow Report to 6th & 7th Periodic Report of Ghana on Convention on the Elimination of all forms of Discrimination against Women (CEDAW), *UN CEDAW Committee* (October 2014) https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GHA/INT_CEDAW_NGO_GHA_18396_E.pdf (accessed 20 August 2022).

Concluding Report of the UN Commission on the Status of Women on the Fifty-first session Eight Session of the Economic and Social Council (ESC) (26 February - 9 March 2007) Supplementary No. 7 (E/2007/27-E/CN.6/2007/9) (2007) <https://www.refworld.org/pdfid/46c5b30d0.pdf> (accessed 25 August 2022).

Concluding report of the Working Group on the issue of human rights on UPR, HRC (29 May 2008) UN Doc A/HRC/8/36 (2008)

<https://www.un.org/womenwatch/daw/cedaw/cedaw36/statements/CEDAW%20STATEMENT%20Ghana.pdf> (accessed 25 August 2022).

Concluding Resolution of General Council on the Elimination of discrimination against women on the Fifteenth session of HRC (8 October 2010) (A/HRC/RES/15/23) (2010) <https://spinternet.ohchr.org/Download.aspx?SymbolNo=A%2fHRC%2fRES%2f15%2f23&Lang=en> (accessed 2022).

OHCHR ‘Human Rights Committee considers the report of Ghana’ (*OHCHR*, 24 June 2016) <https://www.ohchr.org/en/press-releases/2016/06/human-rights-committee-considers-report-ghana> (accessed 6 April 2022).

UN General Assembly (1993).

UN General Assembly ‘Transforming Our World: The 2030 Agenda for Sustainable Development; United Nations General Assembly’ (2015) *Seventeenth Session, New York*.

UN ‘General Comment No. 9: The Domestic Applicant of the Covenant’ E/C.12/1998/24 (1998). <https://www.un.org/womenwatch/daw/cedaw/cedaw36/statements/CEDAW%20STATEMENT%20Ghana.pdf>

Resolution on the need for better protection of women sentenced to death in Africa - ACHPR/Res- 483 (EXT.OS/XXXIII) 2021 <https://www.achpr.org/sessions/resolutions?id=514> (accessed 20 August 2022).

Special Rapporteur on Freedom of Expression and Access to Information (2012) <https://www.achpr.org/sessions/intersession?id=307> (accessed 20 August 2022).

‘Working Group on the Rights of Older Persons and Persons with Disabilities in Africa (the Working Group) on the occasion of the 27th International Day of Older Persons (1 October 2017) <https://www.achpr.org/news/viewdetail?id=25> (accessed 20 August 2022

African Union Treating Bodies documents

ACHPR https://www.achpr.org/public/Document/file/English/misrep_promo_ghana_2008_eng.pdf

APRM ‘Country Review Report of the Republic of Ghana’ (June, 2005) <https://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/00798283-EN-APRM-GHANA-REVIEW-REPORT-JUNE-2005.PDF> (accessed 20 August 2022).

ACHPR ‘Amnesty International: Human Rights Situation in Africa’ *Oral Statement by Amnesty International* (October 2024) <https://www.achpr.org/sessions/ngostatment?id=2> (accessed 20 August 2022).

Resolution on the Health and Reproductive Rights of Women in Africa ACHPR/Res.110(XXXXI)07 (May 2007) <https://www.achpr.org/sessions/resolutions?id=162> (accessed 20 August 2022).

UN Reports/ Documents

CEDAW ‘Declarations, reservations, objections and notifications of withdrawal of reservations relating to the Convention on the Elimination of All Forms of Discrimination against Women’ (2006).

CEDAW ‘Guideline for reporting to CEDAW’ (2009).

- UN ‘Declaration on the elimination of violence against women’ New York, United Nations’ (1993).
- UN ‘Declaration on the elimination of violence against women. United Nations General Assembly (UNGA). Proceedings of the 85th plenary meeting, Geneva’ (1993) p.2.
- UN ‘Making a difference: An introduction to Human Rights’ (2018).
- UN ‘*The World’s Women: Trends and Statistics*’ (2015).
- UNDAW. ‘*Indicators to measure violence against women. Report of the expert group meeting.* Geneva: United Nations Division for the Advancement of Women, United Nations Economic Commission for Europe, United Nations Statistical Division’ (2007).
- UNESCO ‘International Day for the Elimination of Violence against Women, 25 November’ (2020).
- UN ‘Ghana Armed Forces receives funding from the Elsie Initiative’ (September, 2022) <https://ghana.un.org/en/197466-ghana-armed-forces-receives-funding-elsie-initiative-fund-increase-deployment-women-un>
- UN Guidelines for reporting to CEDAW <https://www.ohchr.org/en/treaty-bodies/cedaw/reporting-guidelines>
- UN Goal 5: achieve gender equality and empower all women and girls (2015), <https://sdgs.un.org/goals/goal5> (accessed 20 May 2022).
- UN ‘Handbook for Legislation on Violence against Women’ (2009).
- UNICEF ‘Budget Brief: Funding services for children and women survivors of sexual and gender-based violence’ (January, 2021).
- UN Women ‘Committee on the Elimination of Elimination of Violence Against Women’ (2009).
- UN Women ‘Intersectional feminism: what it means and why it matters’ (June 2020) <https://www.unwomen.org/en/news/stories/2020/6/explainer-intersectional-feminism-what-it-means-and-why-it-matters> (accessed 20 July 2022).
- UN Women ‘Press release: UN Women raises awareness of the shadow pandemic of violence against women during covid-19’ (May, 2020).
- United Nations (UN) Women ‘United Nations Secretary-General Ban Ki-moon’s campaign Unite to End Violence against Women (2008), <http://www.un.org/en/women/endviolence/pdf/VAW.pdf> (accessed 18 May 2022).
- UN Women ‘Secretary-General’s campaign UNiTE to end violence against women’ (2008).
- UN Women ‘Violence against women and girls: the shadow pandemic’ (April, 2020) *Statement by Phumzile Mlambo-Ngcuka, Executive Director of UN Women.*
- UN ‘List of ratification status of CAT-OP-Optional Protocol of the Convention Against Torture’ https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CAT-OP&Lang=en

United Nations (UN) ‘CEDAW in your daily life’ <https://www.ohchr.org/en/treaty-bodies/cedaw/cedaw-your-daily-life#:~:text=Adopted%20by%20the%20United%20Nations,currently%20has%20189%20states%20parties> (accessed 22 May 2022).

WHO ‘*Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence*’ (2013) *WHO Report No.*

World Health Organisation (WHO) ‘Violence Against Women: WHO Consultation’ (1996) Geneva, 5–7 February 1996. *Geneva, World Health Organisation*, 1996 (document FRH/WHD/96.27) http://whqlibdoc.who.int/hq/1996/FRH_WHD_96.27.pdf (accessed 18 May 2022).

WHO ‘*Multi-country study on women’s health and domestic violence against women: summary report of initial results on prevalence, health outcomes and women’s responses*’ Geneva, WHO, (2005).

WHO ‘Responding to Intimate Partner Violence and Sexual Violence against Women’ (2013) *WHO Clinical and Policy Guidelines*.

World Bank ‘Gender-Based Violence (Violence Against Women and Girls)’ (2019).

World Bank ‘Violence against women exacts high economic price, World Bank says’ (2014) *World Bank Press Release no 2014/198/PREM/*.

AU Reports

ACHPR Office of the Registrar ‘Competence of the African Court on Human and Peoples’ Rights’ (14 March 2010) BC/OLC/66.5/4140.11 https://www.african-court.org/wpafc/wp-content/2020/10/Ghana_declaration.pdf (accessed 20 August 2022).

ACHPR ‘Report of the Promotion Mission to the Republic of Ghana’ (September, 2008). https://www.achpr.org/public/Document/file/English/misrep_promo_ghana_2008_eng.pdf (accessed 20 August 2022).

APR Secretariat: What is APRM; African Peer Review Mechanism (APRM) <https://au.int/en/aprm#:~:text=APRM%20is%20a%20voluntary%20arrangement,economic%20growth%20and%20sustainable%20development.> (accessed 20 August 2022)

AU Guidelines for state reporting under the Maputo Protocol. https://www.achpr.org/public/Document/file/English/Guidelines%20on%20State%20Reporting%20under%20the%20Maputo%20Protocol_2.pdf (accessed 25 August 2022).

Case law

Adjei-Ampofo v Attorney- General [2003-2004] 1 SCGLR 411;

Alberta Owusu Antwi v Thomas Owusu Antwi Suit No. HI/199/2019.

The Commissioner, CHRAJ & 2 Others v Ghana National Fire Service & Attorney General 2018 HR 0063/2017.

Ghana Lotto Operators Association v National Lottery Authority [2007-2008] SCGLR 1089).

Gladys Mensah v Stephen Mensah ‘Civil Appeal No. J4/20/2011 25.

Issa Iddi Abass & others v Accra Metropolitan Assembly and Another.

NPP v Attorney-General [1996-97] SCGLR 729-761.

NPP v Inspector General of Police [1993-94] 2 GLR 459.

Republic v Yeboah JELR 91906 (CA) Suit number HI/57/2011

The Commissioner, CHRAJ & 2 Others v Ghana National Fire Service & Attorney General 2018 HR 0063/2017.

State Reports/Documents

Adolescent Reproductive Health Policy (2000).

Children's Act (Act 560) 1998
<https://www.ilo.org/dyn/natlex/docs/WEBTEXT/56216/65194/E98GHA01.htm> (accessed 20 August 2022).

Constitution of Ghana (1992).

CHRAJ 'Nineteenth Annual Report' (2012) <https://chraj.gov.gh/wp-content/uploads/2019/04/2012-Annual-Report.pdf> (accessed 20 August 2022).

CHRAJ Annual report 2012

CHRAJ 2013 report [2013-SOHR-REPORT.pdf](https://chraj.gov.gh/wp-content/uploads/2013-SOHR-REPORT.pdf) (chraj.gov.gh) (accessed 20 August 2022).

CHRAJ 'State on Human rights Reports 2013 -2005' <https://chraj.gov.gh/state-of-human-rights-reports/> (accessed 20 August 2022).

CHRAJ 'Report on women deprived of liberty in Ghana' *UNHCR* (November 2018)
<https://chraj.gov.gh/wp-content/uploads/2021/06/CHRAJ-Ghana-Women-Deprived-of-Liberty-Report-2018.pdf> (accessed 20 August 2022).

CHRAJ & GHRNF 'Joint UPR' (2012) https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session14/GH/JS1_UPR_GHA_S14_2012_JointSubmission_1_E.pdf (accessed 20 August 2022).

Domestic Violence and Victim Support Unit (DOVVSU) 'Background'
<https://police.gov.gh/en/index.php/domestic-violence-victims-support-unit-dovvsu/> (accessed 4 August 2022).

DOVVSU 'Report on Domestic Violence Situation in Ghana' 2010-2015

Early Childhood Care and Development Policy (2007)

Educational Reform Policy (2007)

Educational Trust Fund (2000).

Free Senior High School Policy (FSHSP) <https://moe.gov.gh/free-shs-policy/> (accessed 20 August 2022).

Gender Policy in Agriculture

Ghana Affirmative Action Policy (1998);

Ghana CEDAW Combined Reports CEDAW/C/GHA/3-5.

Ghana CEDAW Combined Reports CEDAW/C/GHA/6-7.

Ghana Criminal Offences Act (1960).

Ghana Disability Act, 2006 (Act 715)

Human Trafficking Act (2005)

Ghana Juvenile Justice Act 2003(Act 653).

Ghana Intestate Succession Act (1985)

Ghana Labour Act (2003)

Ghana Mental Healthcare Act, 2012 (Act 846);

Ghana Report ‘Suspect free as 7-yr old defiled girl’s parents can’t afford Ghc200 for medical report’ (2020)
National Communication Authority.

GIFEC, ‘The Community Information Centres Project’
http://www.gifec.gov.gh/index.php?option=com_content&view=article&id=83:the-community-information-centersproject&catid=44:uaec-programme&Itemid=20 (accessed on 20 August 2022).

GoG ‘Gender Ministry, stakeholders speak on Affirmative Action Bill’
<http://www.ghana.gov.gh/index.php/media-center/news/1802-gender-ministry-stakeholders-speak-on-affirmative-action-bill> (accessed 20 August 2022).

Government of Ghana (GOG) ‘NDPC ‘Medium-Term Expenditure Framework (MTEF), 2018-2021’ (2018)
<https://mofep.gov.gh/sites/default/files/pbb-estimates/2018/2018-PBB-NDPC.pdf> (accessed 20 August 2022).

GOG, NDPC ‘Institutional Development for Infrastructure: Ghana Infrastructure Plan (GIP), 2018-2047’
Volume One (2019) https://ndpc.gov.gh/media/GIP_Final_vol1_2019.pdf (accessed 20 August 2022).

GoG, NDPC ‘MTNDPF’ (2021) https://ndpc.gov.gh/media/MTNDPF_2022-2025_Dec-2021.pdf (accessed 25 August 2022).

GoG ‘White paper on the Report of the Constitution Review Commission of Enquiry’ (2012) 14.

HIV/AIDS Policy (2019) [nationalHIVandAIDSPolicy\(2\).pdf \(ghanaid.gov.gh\)](#) (accessed 5 August 2022).

Information Communication Technology Policy (2003).

Information Service Department of Ghana ‘What is the right to information ACT’ <https://isd.gov.gh/what-is-the-right-to-information-act-2019/#:~:text=Ghana%20recognised%20the%20right%20to,necessary%20for%20a%20democratic%20society%E2%80%9D>.

Legal Aid Scheme Act, 1997 (Act 542).

Legal Resource Centre Annual Report (2010).

Ministry of Health ‘Health Sector Gender Policy’ (2009) 5 <http://www.moh-ghana.org/UploadFiles/Publications/Gender%20policy091221104951120330053957.pdf> (accessed 10 August 2022).

Local Government Service Act 2003 (Act 656) <https://lgs.gov.gh/index.php/local-government-service-act-2003-act-656/> (accessed August 5 2022).

Ministry of Works and Housing ‘Hon Asenso-Boakye Commissions New Housing Project’ <https://www.mwh.gov.gh/hon-asenso-boakye-commissions-new-shc-housing-project/> (accessed 20 August 2022).

Right to Information Act, 2019 (Act 989) <https://isd.gov.gh/what-is-the-right-to-information-act-2019/#:~:text=Ghana%20recognised%20the%20right%20to,necessary%20for%20a%20democratic%20society%E2%80%9D> (accessed 20 August 2022).

MoGCSP ‘Background’ (2022) <https://www.mogcsp.gov.gh/about/>; MoGCSP CEDAW Report <https://www.un.org/womenwatch/daw/cedaw/cedaw36/statements/CEDAW%20STATEMENT%20Ghana.pdf> (accessed 22 August 2022).

MoGCSP ‘CEDAW Report’ <https://www.un.org/womenwatch/daw/cedaw/cedaw36/statements/CEDAW%20STATEMENT%20Ghana.pdf> (accessed 5 August 2022).

MoGCSP ‘Child and Family Welfare Policy’ (February, 2015) <https://www.mogcsp.gov.gh/media/press-releases-reports-speeches/#> (accessed 20 August 2020)

MOGCSP ‘National Gender Policy’ (2015); Institute of Development Studies (IDS), Ghana Statistical Services (GSS) and Associates ‘Domestic Violence in Ghana: Incidence, Attitudes, Determinants and Consequences’ (2016) *Brighton: IDS*

National Health Insurance Act, 2012 (Act 650).

National Street Children Policy Framework (2006).

Parliament of Ghana ‘Promotion of Proper Human Sexual Rights and Ghanaian family values bill goes through third public hearing

(accessed August 25 2022).

Parliament of Ghana ‘Speaker opens second meeting of 8th Parliament’ (May 2021) <https://www.parliament.gh/news?CO=123>

Reproductive and Health Policy (2014) <https://platform.who.int/docs/default-source/mca-documents/policy-documents/policy/gha-cc-10-01-policy-2014-eng-national-reproductive-health-service-policy-and-standards.pdf> (accessed 4 August 2022).

The Complementary Education Agency Act (Act 1055) <http://cea.gov.gh/> (accessed 20 August 2022).

Women in Law and Development in Africa (WiLDAF Ghana) ‘UPR Review of Ghana on Women’s Political Right *NGO Submission*’ <https://www.upr-info.org/sites/default/files/documents/2013-08/womeninlawanddevelopmentinafricaghanaoff2008.pdf> (accessed 4 August 2022).

Scholarly writing

ActionAid Ghana ‘Fighting domestic violence in Ghana: How DOVVSU set-ups provide safe spaces for survivors’ <http://www.womenscount4peace.org/sites/default/files/sites/default/files/publications/Annual%20Report%20-%20WILDAF%20-%20Ghana%202007%20-%20en%20-%2020130716.pdf> (accessed 22 August 2022).

A Brynes & M Freeman ‘The impact of the CEDAW Convention: Paths to equality’ (2011) *World Development Report 2012 Gender Equality and Development Background paper*.

A Chayes & AH Chayes ‘Compliance’ (1993) 47 *Int’l Org.* 175, 176.

A Doig ‘Measuring ‘success’ in five African Anti-Corruption Commissions’ <http://www.u4.no/themes/aacc/finalreport.pdf> (accessed 25 March 2022).

A Edwards ‘Violence against Women under International Human Rights Law’ (2011).

AM Tripp & A Kang ‘The Global Impact of Quotas: On the Fast Track to increased Female Legislative Representation’ (2008) *Comparative Political Studies* 41(3).

AO Gomes & CN Avellaneda ‘The role of pro-women institutions in addressing violence reports against women’ (2021) 1 *Global Public Policy and Governance* 39.

A Gudmundur & K Tomasevski (eds.) ‘A thematic guide to documents on the organisations, international non-governmental organisations and professional associations’ (1995).

AT Guzman ‘International Law: A Compliance Based Theory’ (2001) *Public Law and Legal Theory Working Paper No. 47*

A Moravcsik ‘The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe’ (2000) 54 *INT’L ORG.* 217, 219-20.

BI Musah & I Gariba ‘Women and Political Decision Making: Perspectives from Ghana’s Parliament’ *Journal of Alternative Perspectives in the Social Sciences* 5(3)

- Centre for Human Rights ‘Gender Equality at Higher Education Institutions in Africa: A gender audit tool.’ (2014).
- Centre for the Study of Violence and Reconciliation (CSVR) ‘*Violence against women in South Africa: A country in crisis*’ (2017).
- CCN Elongue & JC Fomunjong ‘The Journey to Sustainability for Selected CSOs in Ghana: Experiences, Milestones, Challenges, and Lessons Learnt’ *West Africa Civil Society Initiative (WASCI)* ‘ 7(1) (January, 2021) <https://wacsi.org/wp-content/uploads/2021/01/The-Journey-to-Sustainability-for-Selected-CSOs-in-Ghana-1.pdf> (accessed 20 August 2022).
- C García-Moreno, C Zimmerman *et al* ‘Addressing violence against women: a call to action’ (2015).
- CH Heyns & FJ Viljoen (eds) ‘*The impact of United Nations human right treaties on the domestic level*’ (2002) 1.
- C Purvis ‘Africa: The Convention on Elimination of All Forms of Discrimination Against Women’ *Think Africa Press* (November, 2012) <https://allafrica.com/stories/201211160764.html> (accessed 25 August 2022).
- CRECENT ‘Report on Child Sex Abuse in Schools’ (2009) *PLAN Ghana*
- C Yodanis ‘Gender inequality, violence against women, and fear. A cross-national test of the feminist theory of violence against women’ (2004) *Journal of Interpersonal Violence*, 19(6), 655–675.
- Darkwah *et al* ‘Civil Society Index Study’ (2006) p.11.i; USAID *et al* ‘2020 CSO Sustainability Index’ (September, 2021) <https://ideg.org/media-centre/archives-2/annual-reports/2020csosi/> (accessed 20 August 2022).
- D Cerqueira *et al* ‘Participação no mercado de trabalho e violência doméstica contra as mulheres no Brasil’ (2019).
- Di Franco *et al* ‘*Domestic violence detection amid the COVID-19 pandemic: the value of the WHO questionnaire in emergency medicine*’ (2021) *Monthly Journal of the Association of Physicians*, 114(9), 637–641. <https://doi.org/10.1093/qjmed/hcaa333> (accessed 21 May 2022).
- D Kilpatrick ‘What is violence against women: Defining and measuring the problem (2003).
- D Tsikata ‘*Affirmative Action and the Prospects for GENDER Equity in Ghanaian Politics* (2009); L Dankwa ‘In our father’s name in our motherland: The politics of women’s political participation in Ghana.’ *Constitutionalism, Democratic Governance and the African State*, ed. Boni Yao Gebe, 239-274 (2015)
- D Snidal ‘Political Economy and International Institutions’ (1996) 16 *Int’l Rev. L. & Econ.* 121, 121.
- E Abugabe “Assessing women’s participation in peace processes in Ghana: The case of the National Peace Council” Unpublished MA Thesis for the award of a Master of Arts Degree in Conflict Peace and Security from the Kofi Annan International Peacekeeping Training Centre (KA IPTC) (2020)’
- E Akwetey ‘The Role of Civil Society in Strengthening the Links of Accountability’ *IDEG* (2005).

- Equality Now 'The Maputo Protocol turns 18 today: But what does this mean for women and girls in Africa' (2021).
- E Uzobo & DA Ayinmoro 'Trapped Between Two Pandemics: Domestic Violence Cases Under Covid-19 Pandemic Lockdown: A Scope Review' (2021) <http://dx.doi.org/10.1177/0272684X2110022121> (accessed 20 July 2022).
- Every CRS Report 'The UN CEDAW: Issues in the US Ratification Debate' (2015).
- EY Krivenko 'Women, Islam and International Law: within the context of the CEDAW' (2009).
- F Vijojoen 'International human right treaties in Africa' (2007) 529.
- Foundation for Society Development in Africa (FOSDA) 'Violent incidents in Ghana: A media monitoring report' (2022).
- G Bauer & AK Darkwah '61 Party Primaries and Women's Representation in Ghana: How Can More Women Aspirants Win?' in Leonardo Arriola, Martha Johnson and Melanie Phillips (eds) *Women and Power in Africa: Aspiring, Campaigning, and Governing* (2021).
- GAS Evelyn & Women in Law and Development Africa (WILDAF-Ghana) 'Property rights of spouses in relation to economic violence against women in Ghana' (2013) https://www.researchgate.net/publication/264051209_Property_Rights_of_Spouses_in_Relation_to_Economic_Violence_Against_Women_in_Ghana (accessed 20 August 2022).
- G Guest *et al* 'Applied thematic analysis' (2012).
- Ghana Open Data Initiative 'Defilement cases in Ghana 2015-2017' (2020).
- G Guest & others. Applied thematic analysis. (2012). New Delhi: Sage.
- G. Naldi, 'Future Trends in Human Rights in Africa: The Increased Role of the OAU?' (2002), in *M. Evans and R. Murray, The African Charter on Human and Peoples' Rights: The System in Practice* 1986-2000.
- HH Koh 'The 1998 Frankel Lecture: Bringing International Law Home' (1998) 35 *Hous. L. Rev.* 623.
- HH Koh, How Is International Human Rights Law Enforced? (1999) 102, 1407-08.
- HJ Morgenthau 'Positivism, Functionalism, and International Law' (1940)34 *AM. J. INT'L L.* 260.
- H Koh, 'How Is International Human Rights Law Enforced? (1999) 102, 1407-08.
- I Mules 'Human Rights Watch: Gender-based violence remains rampant in South Africa' (November, 2021) *DW* <https://www.dw.com/en/human-rights-watch-gender-based-violence-remains-rampant-in-south-africa/a-59923515> (accessed 20 June 2022).
- Institute for Democratic Development (IDEG) 'Political Participation' (April, 2006) *Unpublished Draft Research Report prepared for the Open Society Initiative for West Africa*, Accra, Ghana. p. 132
- Institute of Development Studies *et al* 'Domestic Violence in Ghana: Incidence, Attitudes, Determinants and Consequences' (2016).

- Institute of Development Studies (ISD) ‘*Domestic violence in Ghana: Prevalence, Incidence and Causes*’ (2016).
- International, WILPF, “A Mountain to Climb: Eliminating Discrimination against Women in Ghana,” *WILPF*. <https://www.wilpf.org/a-mountain-to-climb-eliminating-discrimination-against-women-in-ghana/> (accessed 25 August 2022).
- JG Starke ‘Monism and Dualism in the Theory of International Law’ (1936) 17 *British Yearbook of International Law* 66-81
- JL Solotaroff JL & RP Pande ‘*Violence against women and girls: lessons from South Asia*’ (2014).
- K Abbot & RO Keohane ‘International Relations and International Law: Two Optics’ (1997) 38 *HARV. INT’L L.J.* 487
- K Appegyei-Atua ‘Ghana at 50: The place of international human rights norms in the courts’ in H Mensa-Bonsu et al (eds) *Ghana law since independence: History development and prospects* (2007).
- K Crenshaw ‘Mapping the margins: Intersectionality, identity politics, and violence against women of color’ (1991) 43 *Standard Law Review* 1241.
- KM Devries *et al* ‘The global prevalence of intimate partner violence against women’ *Science* (2013).
- KW Abbott ‘Modern International Relations Theory: A Prospectus for International Lawyers’ (1989) 14 *YALE J. INT’L L.* 335.
- LL Heise ‘Violence against women: an integrated, ecological framework. Violence Against Women’ (1998) [doi:10.1177/1077801298004003002](https://doi.org/10.1177/1077801298004003002) (accessed 24 May 2022).
- LR Helfer & A Slaughter ‘Toward a Theory of Effective Supranational Adjudication’ (1997) 107 *Yale L.J.* 273, 278.
- M Adams *et al* ‘The Representation of Women in African Legislatures and Cabinets: An Examination with Reference to Ghana’ 2016 *Journal of Women, Politics and Policy* 37(2) 145-167
- MA Freeman *et al* (eds) ‘The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary’ (2012).
- M Bograd ‘Feminist perspectives on wife abuse: An introduction’ (1988) In K. Yllö & M. Bograd (eds.), *Feminist perspectives on wife abuse*.
- M Campanella ‘Violence against women in Africa’ (September 2020) *The Borgen Project* <https://borgenproject.org/violence-against-women-in-africa/> (accessed 20 July 2022).
- M Flood & B Pease ‘Factors influencing attitudes to violence against women. Trauma, Violence & Abuse’ (2009).
- M Mukhopadhyay ‘Mainstreaming gender or ‘streaming’ gender away: Feminists marooned in the development business’ (2004) *IDS bulletin*, 35(4), 95–103.

- M Sunk 'Domestic violence rife in rural Ghana' (June, 2016) DW <https://www.dw.com/en/domestic-violence-rife-in-rural-ghana/a-19336067> (accessed 20 July 2022).
- NA Anyidoho 'Women, gender, and development in Africa' (2020) In: O YacobHaliso & T Falola (eds.) *The Palgrave Handbook of African Women's Studies* https://doi.org/10.1007/978-3-319-77030-7_63-1 (accessed 25 August 2022).
- NA Anyidoho 'Review of rights discourse -Ghana' (2009) *Human rights, power and civil action research project, University of Oslo, Leeds*.
- N Daruwalla *et al* 'Prevalence of domestic violence against women in informal settlements in Mumbai, India: a cross-sectional survey' (2020) 10 *BMJ Open* e042444.
- N Denzin, & Y Lincoln. (eds.). *Handbook of qualitative research*. (2005). (3rd ed.). Thousand Oaks, CA: Sage.
- N Levit & RRM Vervick '*Feminist Legal Theory: A Primer*' (2006) 15-16.
- N Pillay 'United Nations High Commission for Human Rights' (2011).
- LL Heise 'Violence against women: an integrated, ecological framework. Violence Against Women' (1998) [doi:10.1177/1077801298004003002](https://doi.org/10.1177/1077801298004003002) (accessed 24 May 2022).
- OA Hathway 'Do Human rights treaties make a difference' (2002).
- Pan American Health Organization & Centers for Disease Control and Prevention 'Violence Against Women in Latin America and the Caribbean: A comparative analysis of population-based data from 12 countries' (2013).
- P Tjaden 'What is violence against women? Defining and measuring the problem' (2007); Violence Against Women: WHO Consultation, Geneva, 5–7 February 1996. Geneva, World Health Organization, 1996 (document FRH/WHO/96.27) http://whqlibdoc.who.int/hq/1996/FRH_WHD_96.27.pdf (accessed 18 May 2022)
- RA Stoffels 'The role of the CEDAW Committee in the implementation of public policies on gender issues: Analysis through a study of the protection of girls' rights in Spain' (2019).
- RE Dobash & R Dobash 'Violence against wives: A case against the patriarchy' (1979).
- R Gelles 'Through a sociological lens: Social structure and family violence' (1993) In R. Gelles & D. Loseke (eds.) '*Current controversies on family violence*' (1993) 31– 46.
- RO Keohane 'Neoliberal Institutionalism: A Perspective on World Politics' (1989) in *International RO*.
- RO Keohane 'The Demand for International Regimes, in *International Regimes*, 141 *Institutions and State Power* 1.
- RO Ofei-Aboagye & O Rosemary 'Altering the strands of the fabric: preliminary look at domestic violence in Ghana (1994) *Journal of Women in Culture and Society* 19 (4), 924–938 [http://refhub.elsevier.com/S2215-0390\(21\)00007-2/sref56](http://refhub.elsevier.com/S2215-0390(21)00007-2/sref56) (accessed 25 August 2022).

- R Stake 'The art of case study research' (1995).
- S Alhabib *et al* 'Domestic violence against women: Systematic review of prevalence studies' (2010) *Journal of Family Violence*, 25, 369–382
- S Asante 'Over a hundred years of a national system in Ghana' (1987) *Journal of African Law* 31(1-2) 70-79
- SR-VAW '*Indicators on Violence against Women and State Response*' UN DOC. A/HRC/7/6 (January, 2008) para. 21
- S Douki *et al* 'Violence against women in Arab and Islamic countries. Archives of Women's Mental Health' (2003).
- S Fröhlich 'Violence against women: Africa's shadow' (October, 2020) <https://www.dw.com/en/africa-pandemic-violence-rape-women/a55174136#:~:text=But%20the%20main%20reason%20we,of%20their%20partners%20during%20ourfews> (accessed 25 May 2022).
- SD Krasner (ed) 'Structural Causes and Regime Consequences: Regimes as Intervening Variables' (1983) *in international regimes* 1, 2.
- S Haggard & BA Simmons 'Theories of International Regimes' (1987) 41 *Int'l Org.* 491, 499.
- Social Institutions & Gender Index: Ghana," OECD Development Centre, last updated 2019. <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/GH.pdf> (accessed 20 August 2015).
- Solidarity for African Women's Rights 'Protocol Watch' (2022).
- S Sondem 'National Human Rights Institutions: The Ghanaian Experience' (n.d)
- S Tamale *Decolonization and afro-feminism* (2020).
- The Centre for the Study of Violence and Reconciliation (CSVR) '*Violence against women in South Africa: A country in crisis*' (2017).
- The Global Fund 'Ghana Mid-Term Assessment: Global Fund Breaking Down Barriers Initiative' (May, 2021);
- United States Department of State '*2018 Trafficking in Persons Report - Ghana*' (28 June 2018) <https://www.refworld.org/docid/5b3e0b364.html> (accessed 16 August 2022)
- United States Government '2022 Trafficking in Persons Report: Ghana' *Office to Monitor and Combat Trafficking in Persons* (2022) (<https://www.state.gov/reports/2022-trafficking-in-persons-report/ghana/>)
- UNICEF 'Budget Brief Ending Human Trafficking & Violence Against Women and Children' (October, 2020) <https://www.unicef.org/ghana/media/3756/file/Budget%20Brief%20-%20Funding%20systems%20to%20end%20VAC%20and%20child%20trafficking.pdf> (accessed 20 July 2022)

United States Department of State (USDS) ‘Ghana 2019 Human Rights Report: *Bureau of Democracy, Human Rights and Labor*’ (2019) 33.

USDS ‘Country Reports on Human Rights Practices’ (2020) *Bureau of Democracy, Human Rights and Labour*

United States Government ‘2022 Trafficking in Persons Report: Ghana’ *Office to Monitor and Combat Trafficking in Persons* (2022) (<https://www.state.gov/reports/2022-trafficking-in-persons-report/ghana/>)

V Azeem, M Yohannes & C Abugre ‘The 2002 Ghana Budget: Wrapped around HIPC and Property Owning Democracy’ (2002) *The Centre for Budget Advocacy, Integrated Social Development Centre*.

V Sharma ‘Violence AGAINST Women: Psychological issues and Interventions’ (2021).

W Isaack ‘No choice but to deny who I am a’ Violence and Discrimination against LGBT people in Ghana’ *Human Rights Watch* (2018) <https://www.hrw.org/report/2018/01/08/no-choice-deny-who-I-am/violence-and-discrimination-against-lgbt-people-ghana> (accessed 20 July 2022).

W Kälin & Künzli ‘The Law of International Human Rights Protection’ (2009).

W Langley ‘The rights of women, the African Charter, and the economic development of Africa’ (1987) (7(2) *Boston College of Third World Law Journal* 215-216).

Others/Online/websites visited

Akuffo Addo ‘Ensure enactment of Affirmative Action Bill-Akuffo Addo begs 8th Parliament’ *GhanaWeb* (March 2021) <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Ensure-enactment-of-Affirmative-Action-bill-Akufo-Addo-begs-8th-Parliament-1200013>.

ASP IP Wiredu ‘Vulnerability, law: Case of female prisons’ *Daily Graphic Online*(January 2022) <https://www.graphic.com.gh/features/opinion/vulnerability-law-case-of-female-prisons.html> (accessed 20 August 2022).

Business Ghana ‘65 public institutions received 247 request for information last year – RTI C’ssion’ (10 July 2022) <https://www.businessghana.com/site/news/general/266552/65-public-institutions-received-247-request-for-information-last-year-RTI-C-ssion> (accessed 20 August 2022).

Citi Newsroom ‘Murders: 306 cases recorded in 2021 1st half; only one case closed so far’ (August 2021) <https://citinewsroom.com/2021/08/murders-306-cases-recorded-in-2021-1st-half-only-one-case-closed-so-far/> (accessed on June 10, 2022);

Daily Guide ‘CHRAJ workers Annoyed With Finance Director: Stage Protest For His Removal’ *Modern Ghana* (2014) <https://www.modernghana.com/news/587603/chraj-workers-annoyed-with-finance-director-stage-protest-f.html> (accessed 25 August 2022).

Deutsche Welle (DW) ‘African women tell of experiences of violence’ (November, 2021) <https://www.dw.com/en/african-women-tell-of-experiences-of-violence/a-59928442#:~:text=The%20rate%20of%20such%20violence,global%20figure%20is%20around%2030%25> (accessed 20 June 2022).

DW ‘Ghana court acquits 21 LGBTQ activists arrested during crackdown’ (August, 2021) <https://www.dw.com/en/ghana-court-acquits-21-lgbtq-activists-arrested-during-crackdown/a-58774894> (accessed 20 August 2022).

Ghanamma ‘DOVVSU drops scary rape, defilement statistics - Ghanamma.com’ (13 December 2021) <https://www.ghanamma.com/2021/12/13/dovvsu-drops-scary-rape-defilement-statistics/> (accessed June 10 2022).

Ghana News Agency (GNA) ‘Protecting the rights of Children, the law, barriers and the realities’ (2021).

GhanaWeb ‘Speaker of Parliament to make sure Affirmative Action bill is passed’ (2022) <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Speaker-of-Parliament-to-make-sure-Affirmative-Action-bill-is-passed-1267783;>

GNA ‘Eastern Region CHRAJ received over 8,000 human rights abuse cases’ *Modern Ghana* (June,2003) <https://www.modernghana.com/news/41035/eastern-region-chraj-received-over-8000-human-rights-abuse.html>;

GNA ‘UNDP supports National Peace Council’ (2021) <https://www.gna.org.gh/1.19710944> (accessed 20 August 2022).

Graphic Online ‘Ghanaian NGOs call for 3 issues to be addressed at 59th Session of CEDAW Committee’ (October 2014) <https://www.graphic.com.gh/news/general-news/ghanaian-ngos-call-for-3-issues-to-be-addressed-at-59th-session-of-cedaw-committee.html> (accessed 20 August 2022).

K Prempeh ‘Anti-LGBTQI Bill will turn queer Ghanaians into second class citizens-CDD Boss’ *Modern Ghana* (August 2022) <https://www.modernghana.com/news/1096510/anti-lgbtqi-bill-will-turn-queer-ghanaians-into.html>; (accessed 25 August 2022).

M Kpebu *I’ll return to court to force gov’t to activate Domestic Violence Fund—Kpebu* (2017) *MyJoy Online* <https://www.myjoyonline.com/news/2017/November-6th/ill-return-to-court-to-force-govt-to-activate-domestic-violence-fund-kpebu.php> (accessed, April 5, 2020).

Modern Ghana ‘Ensure Parliament passes anti-LGBTQI+ Bill-Efutuakwa Chief to Akuffo Addo’ (October 2021) <https://www.modernghana.com/news/1112166/ensure-parliament-passes-anti-lgbtqi-bill-efutu.htm>

Prime News Ghana ‘E-Justice Project: Paperless Court System will eradicate corruption-Chief Justice’ (March 2019) <https://www.primenewsghana.com/general-news/e-justice-project-paperless-court-system-will-eradicate-corruption-chief-justice.html> (accessed 20 August 2022).

S Fröhlich ‘Violence against women: Africa’s shadow’ (October, 2020). <https://www.dw.com/en/africa-pandemic-violence-rapewomen/a55174136#:~:text=But%20the%20main%20reason%20we,of%20their%20partners%20during%20curfews> (accessed 25 May 2022).

Speaker of Parliament A Bagbin ‘We’ll pass anti-LGBTQI+ Bill, be rest assured -Bagbin to Ghanaians’ *GhanaWeb* (October, 2021) <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/We-ll-pass-anti-LGBTQI-Bill-be-rest-assured-Bagbin-to-Ghanaians-1389016> (accessed 5 October 2022).

<https://www.modernghana.com/news/1109634/akoto-ampaw-and-co-memo-against-anti-lgbtqi-is.html>

<https://www.modernghana.com/news/1115337/anti-gay-bill-we-will-do-what-is-best-for-ghana.html>

<https://www.modernghana.com/news/1114094/sam-george-doubts-passage-of-anti-lgbtqi-bill-this.html>

<https://www.parliament.gh/news?CO=172>

<https://www.modernghana.com/news/1112087/expedite-passage-of-anti-lgbtqi-bill-tijjaniya.html>;

<https://www.modernghana.com/news/1112085/assemblies-of-god-supports-anti-lgbtqi-bill-in.html> 1;

<https://www.youtube.com/watch?v=-sPcTO2mv6o>

APPENDICES

Appendix 1: Human rights enshrined under Ghana's 1992 Constitution

Type of right	Article	Quoted Provisions
Political and Civic	13	Protection of the Right to Life
	14	The Right to personal property
	15	Respect for Human Dignity
	16	Protection from Slavery and Forced Labour
	17	Equality and Freedom from Discrimination
	18	Protection pf Privacy of Home and other Property
	19	The right to a Fair Trial
	20	Protection from Deprivation of Property
	21	General Fundamental Freedoms relating to speech, expression, information, though, conscience, belief, movement, assembly, association
Socio-economic and Cultural	22	Property Rights of Spouses
	24	Economic Rights
	25	Educational Rights
	26	Cultural Rights
	27	Women's Rights
	28	Children's Rights
	29	Rights of Persons with Disabilities
	30	Rights of the Sick

Source: Republic of Ghana, 1992 Constitution.

Appendix 2: Women’s Constitutional rights and the respective corresponding rights recognised in both the CEDAW and Protocol

Constitutional rights and respective corresponding Treaty Articles			
Type of right	Constitution	CEDAW	Maputo Protocol
	Article		
Inheritance	22(1&3)	16	21
Equal work and pay	24(1)	11	13
Non-discrimination, health services and empowerment	27	10, 11, 12 & 14	2(g), 5(c), 12, 14, 19, 22 & 23
Political participation and economic emancipation	35 & 36(6)	1, 3, 7, 13, 14	4, 8, 13, 19, & 22

Source: Study Data (2022).

Word Count: 20580