



Socio-Cultural Factors Associated with Gender-Based Violence Survivors Assessing Legal Services in Makueni County, Kenya

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The study interrogated barriers among women survivor to legal redress on gender-based violence. It was a qualitative research design utilising in-depth Interviews, Case Narratives and Key Informant Interviews as the main methods of data collection. There were 20 women survivors of gender-based violence aged 18 years and above. Data was analysed using content analysis and presented in the form of narratives with verbatim quotes to magnify the informants' voices. Intimate partners meted physical violence, sexual violence, marital violence, economic violence and psychological/emotional violence to women. Survivors of gender-based violence sought help from village elders, clan elders, sub-chiefs, chiefs, police officers and the courts. Barriers included ignorance of legal process and lack of referral systems of cases and the police referred women to clan elders - when clan elders, who were unable to resolve the cases refer them back again to the police. Women did not access legal services because of economic dependency, poverty and illiteracy, corruption, poor referral systems for gender-based violence, culture and its socialization, law enforcement on institutional barriers, lack of awareness on laws and legal procedures/process, fear of consequences from family members and legal barriers. GBV leads to long lasting consequences such as death, physical disabilities, emotional and psychological disorders as well as medical problems like heart problems that include high blood pressure. There is also need to sensitize the community on gender-based violence laws and policies in order to totally eradicate the legal barriers that women face in court processes as they seek legal services.

Keywords: Factors, Gender, Violence, Legal, Services, Kenya

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1. Introduction

Gender Based Violence (GBV) is a serious and widespread global health concern that affects the lives of millions of men, children, and women (García-Moreno, Pallitto, Devries, Stöckl, Watts & Abrahams, 2013; UN, 2000; WHO, 2013). The United Nations defines Gender-based violence 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.” (Muluneh, Stulz, Francis & Agho, 2020 citing UN general assembly, 1993). GBV is also defined as any act of violence that results or is likely to result in physical, sexual or psychological harm or suffering to women, men or children (WHO, 2016, Mutavi et al., 2016).

Although the manifestations and forms of GBV experienced vary from place to place, there is no doubt that women and girls are over-represented among the victims of GBV perpetrated throughout history and have been subjected to physical, psychological and sexual abuse by the men in their lives whether brothers, boyfriends or husbands within the family and home settings (Mutavi et al., 2017). It is estimated that more than 1.3 million men, women and children aged between 15-44 years die or experience mental health problems each year as a result of GBV (UN, 2016; WHO, 2014, Mutavi et al., 2018). According to WHO reports, “about one-third (35%) of women worldwide have witnessed physical and/or sexual intimate partner abuse or non-partner sexual violence in their lifetime.” The majority of this abuse is between intimate partners.” “Nearly one-third (30%) of women who have been in a relationship claim they have been subjected to physical and/or sexual abuse by their intimate partner at some point in their lives. A male sexual partner is responsible for up to 38% of all female murders worldwide.” (Khan & Krishna, 2021 citing UN General Assembly, 1993).

Normally, GBV starts as minor attacks and escalates both in intensity and frequency with time. Gender-Based Violence is not by any chance a new phenomenon in Kenya but an old problem that has been aggravated by modern conditions. The problem is so rampant that it is often viewed as a normal part of a woman’s life especially in marriage (KNBS and ICF Macro, 2010). Despite being a widespread problem, relatively little is known about violence against women by men, not only because cases go unreported or unacknowledged by the law enforcement agencies but also because it is accepted as man’s fair means of disciplining his wife (Stephanie, 2015). It is very difficult to estimate the actual incidence of GBV in domestic settings because it’s a hidden and invisible problem (UN Women, 2015). Most abused

women rarely tell anyone about their victimizations and most women /families often deny the existence of the problem out of the fear that tacit acknowledgment will jeopardize the integrity of the family (MRC, 2013). In most Kenyan families GBV is often tolerated as part of normal behaviour and is justified in the name of traditional culture (Maurice, 2013).

Despite the magnitude of the issue, the majority of studies (García-Moreno, Pallitto, Devries, Stöckl, Watts & Abrahams, 2013; Palermo, Bleck & Peterman, 2014) are restricted to developed countries, with little evidence focusing on SSA countries. Using evidence from developing countries alone to prioritize prevention and mitigation strategies has significant disadvantages. Furthermore, research in SSA countries based on small-scale studies, such as provinces and districts in specific countries, which may have overestimated the prevalence of GBV (Ellsberg, Jansen, Heise, Watts, & Garcia-Moreno, 2008). The findings of the small-scale research cannot be applied to a larger population. East Asia’s rate is 16.3 percent, while Central Sub-Saharan Africa’s rate is 65.64 percent (Devries, Mak, Garcia-Moreno, Petzold, Child, Falder, & Watts, 2013). Sexually transmitted diseases, gynecological fistula, premature pregnancy, psychiatric sequelae, chronic pain, physical impairment, and drug misuse are all negative public health consequences of GBV (Palermo, Bleck & Peterman, 2014 citing Campbell, 2002).

Gender-Based Violence in Kenya is a criminal offense, according to the Sexual Offences Act; Domestic Violence and Protection Act, the Marriage Act, Penal Code, Matrimonial Property Act and Anti-FGM Act as they aim to protect women against all forms of GBV perpetrated by men on women. The Constitution of Kenya in chapter four, the Bill of Rights, provides rights and freedoms to be enjoyed by women and avoid any form of discrimination against women in Kenya. Despite the existence of these laws women still continue to suffer from GBV. The Kenya Federation of Women Lawyers (FIDA) reports that in the year 2015 alone it received 3,181 new cases of GBV and filed 153 cases in court for legal redress. Out of these cases, 53 were successfully litigated and concluded through court process (FIDA, 2016). Given that out of 3,181 cases reported to FIDA only 153 ended in court implies that there are serious barriers that women experience in their quest for justice.

The World Health Organization, (WHO, 2017) estimates that 35% of women in the world who have been in an intimate relationship have experienced at least one or more forms of violence. Kenya Demographic and Health Survey (KDHS, 2014) indicates that 45% of women aged between 15-49 years have experienced physical violence in Kenya. This study also indicates that 39% of married women in

Kenya have experienced physical or sexual violence compared to 44% and 9% of men respectively (KDHS, 2014). According to a study carried out by (Musau et al, 2012) in Makeni County on socio-economic and cultural factors that contribute to violence against women indicates that 58.3% of men are leading in sexual abuse and physical violence against their female counterparts. Although GBV has long existed within homes, it is still a hidden problem in society today (Mutavi et al., 2016). Women have been socialized to accept, tolerate, and even to rationalize violence meted against them. In addition, GBV is deeply entrenched in cultural beliefs about gender roles; marriage and family privacy coupled with feelings of guilt and embarrassment, a situation that often discourages women from coming out to openly speak about their experiences or to seek help including legal redress (Lukale, 2014). The objective of this study is therefore to investigate the barriers to women seeking legal address on GBV.

1.2 Theoretical perspectives

1.2.1 The social learning theory

This study was guided by the Social learning theory which was propounded by American psychologist Albert Bandura in 1973. The basic tenet of the theory is that children learn violence through observation and victimization at the family level and accept this as the norm in their adult life. This theory explains that children (boys) born in the violence family grow up to be aggressive. It is the men from such childhood that beat their wives and women from such childhood who encounter violence stay in silence. Internalizing of such social norms leads to the situation that women accept violence as normal rather than the exception which explains women's reluctance to seek legal redress over generations. This theory explains violence as part of learned behavior and women have been socialized to be subordinate in which the perpetrator tends to imitate experience in their childhood from adults and women who are affected by violence feel helpless to seek legal redress. Women have been socialized to conform to the social norms that discipline them whenever men feel like exercising their powers of control (Bandura, 1973).

Social norms means that rules and regulations are prescribed to guide a certain society in their daily life as they observe attitudes, values and behaviour. These social norms are learnt through observation and experience in the society by practicing them; hence they can be carried on from generation to generation. Men who are the architects of social rules, custodians and implementers presumably, by default, can only be the ones to change those rules that harm women. In modern society there are conventions, treaties, protocols and the constitution to control the behaviour of society. It is also the men who are supposed to protect women from violence by implementing the laws and legislations. Therefore, if enforcement of law by ensuring punishment is served to perpetrators of GBV is

emphasized then this behaviour will stop since, when women see the offenders experiencing rewarding and punishing consequences, it is a gesture that can encourage women survivors to seek legal redress (Bandura, 1973).

A state has a duty to punish perpetrators and compensate victims of violence. The state may be held responsible under international law for failure to provide reasonable and adequate measures to prevent or address women's rights violations. Women must be empowered economically and should be made aware of their rights to make choices in their lives to avoid violence from men (Meyersfeld, 2010). Enforcement of the law is a powerful method for regulating behaviours that have already been learned (Bandura & McDonald, 1963). Behaviours are extensively controlled by their action consequences like, the sentence set for sexual offenders in Sexual Offences Act (SOA, 2006). Responses that cause punishment tend to be discarded. People regulate their behaviour based on observed consequences, if punishment is harsh people shy away and stop bad behaviour that might cause harm to others. Punishment provided to perpetrators relieves pain to survivors of GBV. There is this sense of feeling that justice is served and hence protection in the law. This gives the survivors some confidence in the law and restores confidence in women survivors of GBV (Bandura & McDonald, 1963). The law as a form of punishment acts as a deterrent to perpetrators of GBV. When punishment is meted on the perpetrator then the behavior may not be repeated.

1.2.2 Relevance of the social learning theory to the study

This theory explains violence is learned from childhood through observation and behavior. It is through socialization that many forms/types gender-based violence against women is learned and passed on from generation to generation. Women who come from this experience of abuse are less likely to take punitive actions. They are deterred by their own conscience to conformity of their social cultural norms to seek legal help. Socio-cultural norms hinder women survivors of gender-based violence from seeking legal redress. This theory explains how socio-cultural norms informs the type of legal intervention women sought in Makeni County based on the social structures learned from childhood.

2. Literature Review

2.1 Cultural barriers

Gender-based violence in Africa is a complex issue with roots in structural inequalities between men and women that result in power differences. Women's subordinate status to men in the society is coupled with the general acceptance of violence as a means of solving conflict in

the family (Sultana, 2011). Women are rendered vulnerable to violence at all levels of society as it is an acceptable social norm to discipline them and therefore survivors are discouraged from seeking legal redress (Stephanie, 2015). Different cultures have different traditional social norms under which men punish their women. Fear of further violence discourages women from seeking legal redress. This punishment makes women vulnerable to violence in the society (Morrison, 2007). In some communities' sexual violence was not discussed in public, so to report rape and marital rape cases was unheard of. This prevents women from reporting rape and marital rape to the police; to women it means bringing or discussing bedroom matters to the public court. The provision in the new constitution relating to consent in marriage may be misunderstood to mean that there is no such thing as marital rape since one consented to marriage. This perception leads to the linkage between masculinity and GBV (COVAW, 2013).

In some cultures, violence is accepted and treats GBV as a private affair. It hinders outside intervention and prevents those affected from speaking out and gaining support including that of seeking legal redress in Kenya. Cultural norms are maintained and internalized in Makueni County such that GBV is addressed by clan elders who do not use any legal framework in addressing issues (Musau et al, 2012). They fear being labelled battered women or divorcees by society. This essentially causes stigma that comes along with the low self-esteem of being labelled as a divorcee or single woman who cannot keep her marriage (Saltzman, 2005). Sometimes women feel that it is not proper to report their husbands to the police because they would be judged harshly by the society if their husbands end up in jail (World Bank, 2013). However, some women survivors might want to report cases to the police but having been warned and threatened of dire consequences by their husbands do not report or talk to anyone about the violence (Ondicho, 2000).

Socialization and enforcement of gender ascribed norms cause women survivors of GBV not to seek legal redress. Weak community sanctions against perpetrators of GBV are the major factors that hinder access to justice for women in Kenya. Research shows that in some instances members of the family prevail upon women to drop the charges, or fail to give evidence in court or request to let the case to be solved informally by elders, clergy or family in other situations women who report their husbands are ridiculed, stigmatized and isolated, making it difficult to proceed with legal process of redress (Musau et al, 2012). Culture and social norms that govern the society might be a barrier since women are socialized to believe that being disciplined is the way of life (Morrison, 2007). Green argues that at times it is difficult to punish perpetrators of violence in the society as women support and participate in violence against other women to sustain wife beating, rape and female circumcision, even when they themselves are subjected to the same violence (Green, 1999). In such situation it is difficult to report

cases of violence against women since there is no support system in the society to support law enforcement at family level. Women are viewed as occupying the same social standing like children and domestic violence is considered as discipline to correct women (Wanyeki, 1996).

2.2 Economic barriers

Gender-based violence has major costs for emerging economies, including lower productivity and wages, lower rates of human and social capital accumulation, and the generation of other types of violence in the present and future. The most popular technique for calculating the costs of gender-based violence is to use an accounting model that measures individual categories of costs and then adds them together to arrive at the overall cost to society (Morrison, Ellsberg & Bott, 2007).

Denying women economic power and exposing them to economic dependency is a major cause of violence against women. The legal system has hidden costs such as legal fees, for filing a case, paying a lawyer, transport costs which make it difficult for survivors to take advantage of the existing legal mechanisms of redress (UNFPA, 2013). A study carried out in Kenya on domestic violence meted to women indicates that 68% of husbands/partners were working (Johnson 2002). Most women have taken it as their fate to remain dependent on men due to poverty. Economically disadvantaged women, including refugees, women with physical disabilities experience sexual harassment, trafficking and sexual slavery. In this situation one cannot afford to pay for legal fees. Poor women in rural areas are economically dependent on their husbands, which reduce their ability to pay for the high costs of legal fees, transport costs and lawyer's fee (Johnson, 2002). Women in the poorest quintile are more likely than those in wealthier quintiles to be victims of abuse. Greater household income does not seem to be a protective factor in the remaining countries (Bloch and Rao, 2002).

2.3 Legal ignorance

High level of illiteracy and legal ignorance on the laws contributes to the underreporting of cases of gender-based violence. Many women do not know what the law says about them and the procedure to addressing gender-based violence in court. Delays in processing reported cases and problems relating to presentation of evidence usually when violence occurs, in cases where there is no witness, collaborating evidence is key to the sustaining of a case in court. Poor investigations by the police who prepare the charge sheets contribute to barriers women survivors experience in seeking legal services in court (Green 1992. 2008). The Police are sometimes reluctant in prosecuting cases of GBV nature to some is due to lack of understanding of the legal process. This study therefore seeks to examine the barriers and experiences

of women survivors of GBV when seeking legal redress in Makueni County of Kenya.

3. Methodology

3.1 Study design

This was a case study that adopted a qualitative research design featuring 12 in-depth interviews, 6 key informant interviews and 8 case narratives as the main methods of data collection. It was dominantly a qualitative study to gain an in-depth understanding of the phenomenon under study.

3.2 Study population

The study population consisted of all women survivors of GBV in Makueni County. The unit of analysis was the individual woman who had survived gender-based violence and was willing to participate in the study.

3.3 Sample and sampling techniques

The study utilized snow-ball sampling technique for acquiring data from individuals associated with hard-to-reach populations (TenHouten, 2017) since many women do not easily expose GBV cases. The first participants in this study were recruited at Mobilization Agency for Paralegal Communities in Africa Organization (MAPACA), a local Non-Governmental Organizations working with survivors of GBV. This first group of participants was requested to introduce the researcher to other victims in the community who had not come forward to seek help. This was necessary in order to obtain a balanced view of the experiences of women who had sought and not sought any form of help in order to understand the barriers they faced.

3.4 Data analysis

Qualitative data was analysed using content analysis (Mayring, 2004)). Data was transcribed, translated, coded and then subjected to thematic analysis using NVivo 12 qualitative software. Verbatim quotes were used in the final text to support core arguments.

4. Results and Discussion

This section presents the findings on the specific barriers to seeking legal redress for GBV among women. The findings are presented in verbatim to retain authenticity of the findings and to guide interpretation of the findings.

4.1 Physical abuse

All the respondents confirmed that gender-based violence is rampant while the most common were physical violence, sexual violence, cultural violence, economic violence. All respondents indicated to have

been physically abused in their homes. The most common type of violence takes the form of battering, resulting in aggravated bodily harm, while other forms of physical violence include: chopping off body parts, pouring liquid substance in the private parts, kicking, dragging someone on the floor, knocking someone's teeth out, beatings and slapping. One female respondent who experienced physical violence resulting in grievous bodily harm reported that:

"My husband started seeing other women and I asked him about it. From that day on our relationship was strained. He used to come home drunk and in bad mood and he would just quarrel over minor things. This went on for some time....one day my husband came home drunk and chopped my hands and leg off... I was hospitalized for months, treated and discharged [sobs] I had never thought my husband could do something like this ... [continues quite emotionally while sobbing] I decided to put everything behind me. But his relatives keep on bad mouthing me, saying they will only compensate me when I am dead" (IDI 1 35years business lady at Emali market)

Gender-based violence in Makueni is at an alarming rate as cases are reported on daily basis. They said that there were still a high number of cases of violence against women in the community that are not reported. A legal officer from the office of the Director of Public Prosecutions noted that there were a considerable number of GBV cases that were not formally reported constituting a hidden burden of GBV. He gave me a list of the number of physical and sexual cases of violence that are ongoing. As at July 31, 2018 there were a total of 697 cases filed in courts: Kilungu Law court, Makindu Law court, Tawa Law court and Makueni Law court, as reported per Ward, in Makueni County courts. He noted the following

"Gender-based violence cases against women in Makueni County law courts are majorly based on succession matters. Physical abuse cases are instigated by succession issues in terms of land and property. The other forms of violence in Makueni courts include economic, physical, rape, defilement, domestic violence and cultural violence" (KII 5 Legal officer).

The area chief said that he had handled many cases that women reported to him at the family level without involving the police. A female police officer responsible for gender desk gave an illustration of the extent of GBV that she deals with in the county:

"We deal with Gender-Based Violence cases almost on a weekly

basis. The most common here are physical violence, sexual violence like rape cases, inheritance, succession, child custody and maintenance, eviction and demolition. Some are reported first at the area chief and we are called in to arrest when an arrest warrant is issued” (KII 1- Police Officer).

4.2 Sexual Abuse

All the respondents and key informants reported that rape and defilement cases are common types of GBV in Makueni County. Some of the respondents reported that they had been forced by their husbands to have sex after they had been beaten. One of the respondents said that many times she had been forced by her husband to have sex even after a fight or on a normal day when she did not feel like it,

.... "My husband beats me all the time including forced sex. He is a very violent man. I have been going through violence since I got married. My husband has been very violent throughout our marriage life. He comes home late and drunk, and picks up fights. He beats me during the night even during day time so long as he is drunk. When I refuse to have sex he throws insults and abuses to me with all manner of words that I cannot mention to you now..." (Case narrative 6 age 40 housewife)

Some of the respondents indicated that family privacy is part of socialization from childhood, it makes them become submissive and that they keep violence against them private. When I probed one of the respondents during the interview to know whether she had ever been forced to have sex during the time of physical violence she responded thus...

"mmmm....eeeh.. (her eyes full of tears) one day my husband came home late at night drunk, he asked for food, when I served him he threw the food at me and started beating me. It was very dark outside and I could not go out. I cried but no one came to rescue me. When I went to sleep he forced me to have sex with him....I have never told anyone about it...it is a shame to talk about it,(Case narrative 6 age 40 housewife)

4.3 Psychological / emotional abuse

All the twenty women interviewed in the study indicated they were going through psychological trauma. Some

women reported that they faced psychological /emotional abuse as they sought legal services. Psychological /emotional abuse was also reported to manifest as insults, hostilities and threats. In several cases women experiencing psychological / emotional abuse reported that such treatment affected their health,

"They (in-laws) reported the matter to the DO who came with two askaris and picked me from my place of work (Posho mill). They talked to me so badly suggesting that I had entered into other peoples land, (the District Officer alinisomea sana). I developed high blood pressure from that day” (Case narrative 7 aged 57 retired teacher).

Gender based violence severely affects women’s mental health. The respondents reported how it manifests. When asked what happened she said:

"I was chased away by my husband’s elder brother who was wielding a panga at me. After this incident i developed High Blood Pressure due to all the atrocities they had (family members) caused on me”, (IDI 6 aged 66)

4.4 Barriers to legal redress

The barriers identified by the study were as follows: economic, cultural, corruption, poverty, illiteracy, distance to police, hospital and court and hidden legal costs, poor transport infrastructure (road network in rural area), law enforcement institutional barriers, lack of awareness on the laws and policies, lack of awareness on court procedures and poor referral systems. Lack of police training on how to address GBV is a barrier to women seeking legal services. Police must be trained on laws and legislation on responding to gender-based violence.

These survivors were particularly vulnerable, easily intimidated and influenced by inaccurate information received from informal sources. Such information then formed the basis for crucial decisions such as whether to pursue legal redress or not. For example, one woman stated that:

"I [victim] was then asked [by police officer] to bring a witness and I brought one who had undergone the same treatment from the clan elders on the same day. The officer then asked me to leave money for airtime [to facilitate the officer] for him to call me back. He later advised me to solve the matter out of court since my case was not justifiable in court. He told me to seek for elders to pay my damages on the sexual violence case.” GBV victim (case narrative 8 age 41 small business)

In another case example the following was captured:

“.....police transfers are a hindrance to the legal process because the incoming officer is not given a legal brief on the ongoing cases. The police ask for bribes or some form of remuneration before helping the survivors. Police lack proper training on how to handle the GBV cases. The government chemist is not well expounded to cover the whole country hence underfinancing of the government chemist. GBV perpetrators should be held in police stations until the case is completed...”(KII DPP Office Lawyer)

Most of the respondents argued that the family is a social unit that interferes with cases which, in most cases, often persuades women to withdraw cases. GBV cases are not pursued to the end due to lack of support from the family and fear of the consequences. Family members often bribe the chiefs and police to frustrate women survivors of GBV. Women survivors therefore have to keep GBV cases secret due to pressure from the family.

The respondents indicated that poverty hinders women from seeking legal services. Respondents shared how they spent their financial resources, with one selling her oxen in order to hire a lawyer to take care of her land inheritance case. They indicated that many women would like to pursue their cases in court but poverty is a hindrance. Many women victims would like to seek legal redress but when they think (Ngugi, 2008; Muyanga, 2011) of the court process that drags on for long and the cost that one incurs during the court process, they opt to remain silent to avoid all these painful experiences one goes through in accessing justice.

Discussion

Gender-based violence is a serious human rights violation and a health issue. The finding of this study confirms the findings by (Ondicho, 2018) that GBV affects women with long lasting consequences such death, disabilities, emotional/psychological disorders that include heart problems like high blood pressure. The study finding indicates GBV is rampant and confirms the findings by (WHO, 2014; KDHS, 2014; KNBS and Macro, 2010) that there are several types of GBV that range from physical, sexual cultural and emotional/ psychological. GBV manifests in situations where women are economically dependent on men with a sense of helplessness and hopelessness which concurs with the study by (Maurice, 2013). In the study respondents argued that they experienced economic violence including: denial of financial resources, denial of land and property inheritance, destruction of property, demolition of houses hence destroying their livelihood, evictions - being forced to leave their homes.

The findings of this study confirms the findings by (Johnson, 2002) who noted that most abused women have low level of education and are dependent on men. The findings of the study also concurs with the findings with (UNICEF, 2000; Musau, et al, 2012) who gave accounts that women have, throughout history, been subjected to physical, psychological and sexual abuse due to the social norms of accepting men as being in control. Men are socialized to be in control of resources and families; hence women need to be led and controlled.

This study finding confirms the findings by (Maurice, 2013) that GBV is often tolerated as part of normal behavior and is justified in the name of traditional culture. Social learning theory explains how socialization and learned behaviour of social norms that perpetrate gender-based violence is learned in childhood and carried on from generation to generation; reason women do not seek legal services (Bandura, 1973). The social roles and responsibilities that are bestowed on men, of control and power relations in the society, are exercised through violence (WHO, 2013&14; UNFPA, 2015) and the victims are women who are considered as subordinate to or property of men. The study findings concur with the study by (Syombua, 2014; Population Council, 2010) that there are many factors hindering the realization of legal justice for women survivors of gender-based violence. The Sexual Offences Act responds to all forms of sexual abuse by stipulating the kind of punishment to be meted on the offenders. This study findings confirm the findings by (Syombua, 2014; FIDA, 2015) that operation of laws and policies that address gender-based violence in Kenya have been very slow. The socialization of gender roles encourages the perception of women as being objects or property of men and has led to linkages between masculinity and violence. This study finding concurs with the findings by (Musau et, al, 2012) on socio-economic and cultural factors that contribute to GBV, which acknowledge the abuse of women physically and sexually in Makeni County. Men are providers and women are dependent on men hence power and control come into play. For men to exert this power and control, it is exercised through violence on the women in order to enforce control. This study confirms the evidence that women rationalize violence meted on them by their husbands (Mkandawire, 2009) that if a woman is beaten for burning food she takes it as part of punishment for her mistakes. There is societal pressure for women to keep their marriage. This has encouraged women to uncomfortably stay in violent marriages and painfully choose not to speak about violence in the name of protecting their marriage. This encourages battered women to maintain the stay syndrome, where one feels solely dependent on a man and cannot leave an abusive marriage because the man provides for them as reported in the study by (Ondicho 2012, Lutta, 2011, Johnson, 2002, World Bank, 2013).

5. Conclusion and Recommendations

5.1 Conclusion

Gender-based violence is a prevalent and a serious problem affecting women and needs to be addressed urgently. It affects women with long lasting consequences such as death, physical disabilities, emotional and psychological disorders like heart problems that include high blood pressure. Gender-based violence is an acute social problem, a grave health issue and a serious human rights violation of women.

5.2 Recommendations

There is need to fight GBV by all costs. We need to religiously protect women from violence. We have to start with the family and community so as to offer support to the women victims and help them to seek legal services. We have to unit the family, community, clan elders, chiefs, police, religion, county government, national government and courts of law in order to fight this glaring vice. There is an urgent need for the government to sensitize its citizens on the laws and legislation on GBV. Government needs to allocate adequate resources to train the police on human rights, prevention, protection from and response to gender-based violence.

There is need to train police officers on the laws, policies and legislations that address gender-based violence and how to handle women survivors, improve on how they conduct investigations and preservation of evidence. The focus of this training should be on the police officers manning Gender Desks at stations. Sensitize the community on the laws and policies on gender-based violence in order to totally eradicate the legal barriers that women face in court processes as they seek legal services. The focus should be on Sexual Offences Act, Protection from Domestic Violence Act, Matrimonial Property Act, Marriage Act and the Bill of Rights in the Constitution 2010 of Kenya. Involve men and let them take the lead in advocacy campaigns on addressing GBV, as they are the custodians of social norms, and to help in changing the social-cultural practices that perpetuate violence against women and ensure they protect women from harm. There is also a need to empower women economically in order to reduce poverty levels. Girl child education should be on the forefront.

Compliance with Ethical Standards

Conflict of interest: The authors declare that they have no conflict of interest.

Ethical approval: All procedures performed in studies involving human participants were in accordance with the ethical standards of the institutional and/or National

Research Committee and with the 1964 Helsinki declaration and its later amendments. The study was approved by NACOSTI with approval number NACOSTI/P/18/20580/20812. Informed consent was obtained from all the participants.

NOTE: On behalf of all authors, the responding author states that there is no conflict of interest.

References

- African Population and Health Research Centre (APHRC) (2010) *The Reality Behind the words: An Information Resource about Marital Rape in Kenya*.
- Agency for Cooperation and Research in Development (2010). *Pursuing Justice for Sexual and Gender Based Violence in Kenya: Option for Protecting and Compensating Survivors of Sexual and Gender Based Violence*. Nairobi: ACORD.
- Aura, R. (2015). *Situational Analysis and The Legal Framework on Sexual and Gender Based Violence in Kenya: Challenges and Opportunities* Retrieved 30 March 2016 1-6 <https://www.kenyalaw.org/k/index.php?id=4512>.
- Avdibegovic, E. and Sinanovic, O (2006). Consequences of Domestic Violence on Women's Mental Health Bosnia and Herzegovina. *Croatia Medical Journal*, 47(5)730-741.
- Bandura, A. & McDonald, J. F (1963) The Influence of Social Reinforcement and the Behaviour of Models in Shaping Children's Moral Judgments. *Journal of Abnormal & Social Psychology*, 67 (274-281).
- Bandura, A. (1973) *Aggression: A Social Learning Analysis*. NJ, Prentice-Hall: Englewood Cliffs.
- Black, M. C., Basile, K. C. Breid (2011). National Intimate Partner and Sexual Violence Survey. National Center for Injury Prevention and Control Centers for Disease Control and Prevention Atlanta, Georgia.
- Boserup, E. (1970). *Women's Role in Economic Development*. London. George Allen and Unwin Ltd.
- Campbell, J. C. (2002). Health consequences of intimate partner violence. *The lancet*, 359(9314), 1331-1336.
- CARE (2013). *Challenging GBV Worldwide Care's Program Evidence Strategies, Results and Impacts of Evaluations 2011-2013*.

<http://www.care.org/site/default/files/document/challenging-GBV-worldwide-CARE-s-program-evidence.pdf>

Carney, M. M., & Barner J. R. (2012). Prevalence of Partner Abuse: Rates of Emotional Abuse and Control Partner Abuse. *Safety Lit-WHO* 3 (3):286–335.

Coalition of Violence against Women (2013). *Baseline Survey: The knowledge, awareness, practice & prevalence rate of gender based violence (GBV) especially sexual violence among women and girls with disabilities intellectual disabilities*. Nairobi: COVAW.

Coble, C. (2015). Law & Daily Life: Emotional Abuse Laws: When to seek Legal Help. Available at http://blogs.findlaw.com/law_and_life/2015/08/emotional-abuse-laws-when-to-see-legal-help.html Accessed on 9/3/2017.

Commonwealth Fund (1992). *Confronting Violence: A Manual for Commonwealth Action*. (Revised) London : UK.

Commonwealth Secretariate (1999). *Health Concerns Across a Woman's Lifespan: 1998 Survey of Women's Health*. New York: Commonwealth Fund.

Devries, K. M., Mak, J. Y., Garcia-Moreno, C., Petzold, M., Child, J. C., Falder, G., ... & Watts, C. H. (2013). The global prevalence of intimate partner violence against women. *Science*, 340(6140), 1527-1528.

Ellsberg, M., Jansen, H. A., Heise, L., Watts, C. H., & Garcia-Moreno, C. (2008). Intimate partner violence and women's physical and mental health in the WHO multi-country study on women's health and domestic violence: an observational study. *The lancet*, 371(9619), 1165-1172.

Federation of Women Lawyers Kenya (2015). *Success stories, Access to Justice: Nairobi High Court Petition No.751of 2006, Kenya and another (SOA case)* Available at <http://www.fidakenya.org/dr7/?q=node/191>

Federation of Women Lawyers Kenya (2016). *Gender Based Domestic Violence in Kenya Annual Report for the year 2016*. Nairobi: FIDA Kenya.

Fiona, S. (2010). *The Legal Treatment of Marital Rape in Canada, Ghana, Kenya and Malawi- a Barometer of Women's Human Rights*. African and Canadian Women's Human Rights Project (ACWHRP).Nairobi.

García-Moreno, C., Pallitto, C., Devries, K., Stöckl, H., Watts, C., & Abrahams, N. (2013). *Global and*

regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence. World Health Organization.

Gender Violence Recovery Centre (2014). *Annual Report 2011-2012*. Nairobi : GVRRC.

Green, D. (1999). *Gender Violence in Africa: African Women's Responses*. London: Macmillan Press Ltd.

Human Rights Report (2008). *Gender Based Violence in Kenya*. Nairobi.

Humanitarian Practice Network (2014). *Preventing and Responding to Gender-Based Violence* HPN, 77 Overseas Development Institute, London, UK.

Independent Electoral and Boundaries Commission Kenya (2017) Maps <https://www.iebc.or.ke/> Retrieved on 10/6/2017.

Institute of Economic Affairs (2008). *Kenya Economic Report of 2008*. Nairobi: IEA.

International Rescue Committee (2014). *My Action Counts: An Assessment of Gender Based Violence Responses in Nine Counties of Kenya*. Nairobi: IRC Kenya.

Johnson, T. (2002) *Gender Series: Domestic Abuse in Kenya*, (3rd ed). Nairobi, Kenya: Executive Printers.

Johnson, T. (2002). *Kenyan Men: Violence and Abuse* 2nd ed. Nairobi: Population Communication Africa.

Kamau, R. (2016) *Shocking!! Woman in Wajir has knife stuck in head after being stabbed inthe face by her husband*, Nairobi. Kenya.Kenya Demographic and Health Survey (2014). *Report on population and Health Status in Kenya*, Nairobi: Government Press.

Kenya National Beureau of Statistics (2009). *Kenya Population and Housing Census*. Nairobi: Government Press.Kenya National Beureau Statistics and ICF Macro (2010). *Government Report on Domestic Violence*. Nairobi: Government Press.

Kenya Police Service (2011). *Annual Crime Report 2011*. Nairobi: KPS. Government Press.

Khan, A. K., & Krishna, O. (2021). Gender Based Violence & Human Rights Violation In Sub-Saharan Africa: An Insight. *PalArch's Journal of Archaeology of Egypt/Egyptology*, 18(4), 3919-3928.

- Kilonzo, E. (2016) Man in Childless Marriage chops wife's hands in rage, Available at Nairobi-news.nation.co.ke/news/man-in-childless-marrige-chops-wifes-hands-in-rage-photos.
- King, J. (2011). *Prevent Abusive Relationships: Controlling Intimate Relationship from Emotional to Sexual to Financial Control*. Available at http://www.preventabusiverelationships.com/controlling_relationship.php. Accessed on 15/4/2017.
- Liverpool Voluntary Counseling and Testing, Care and Treatment (2014). *Improving the collection, documentation and Utilization of Medico-Legal Evidence in Kenya*. LVCT Nairobi.
- Lukale, N. (2014). Girl's Globe: Harmful Cultural Practices A great Barrier to Women's Empowerment: Available at <https://www.girls'globe.org/2014/02/24/harmful-traditional-practices-a-great-barriers-to-women-empowerment/>.
- Lutta, H. L (2011). *Barriers Faced by Sexually Abused Women in Seeking Legal Justice in Kibera Slums*.
- Mayring P. (2004) Qualitative content analysis. *Companion Qual Res.* 1(2004):159–76.
- Maurice, D. (2013). Gender Based Violence in South Africa: Acrisis of Masculinity. Available at www.e-info/2013/27/gender-based-violence-in-SouthAfrica-a-crisis-of-masculinity/ Accessed on 10/11/2016.
- Mbote, P, K (2001). *Violence Against Women in Kenya: An Analysis of Law, Policy & Institutions*. Geneva, Switzerland.
- Medical Research Centre (2013) *Global and regional estimates of Violence against women: Prevalence and health effects of Intimate Partner Violence and non-partner Sexual Violence*
- Meyersfeld, B. (2010) *Domestic Violence and International Law* (2010) 32
- Mkandawire, B. (2009). Gender Based Violence and HIV/AIDS Impacts on the Malawian Community: *Historical and Scientific*. Vol.162 (1) : 1-14.
- Morrison, A., Ellsberg, M., & Bott, S. (2007). Addressing gender-based violence: a critical review of interventions. *The World Bank Research Observer*, 22(1), 25-51.
- Morrison, C. (2007). *Offending or Chastising? Towards Codifying Domestic Violence*.
- Muluneh, M. D., Stulz, V., Francis, L., & Agho, K. (2020). Gender based violence against women in sub-Saharan Africa: a systematic review and meta-analysis of cross-sectional studies. *International journal of environmental research and public health*, 17(3), 903.
- Munyakho, D. (1990). "Kenya: Creating Legal Awareness at the Grassroots" Inter Press Service.
- Musau J. M., Jackson M. Musau, Leonard M. Kisovili and Warkach K. Tonui (2012). *The Demographic, Socio-Economic and Cultural Factors Influencing Non-Marital Fertility in Makueni District, Kenya*, Kenyatta University, Kenya, 1 (4), 126-135.
- Mutavi, T., Mathai, M., Ng'ang'a, P., Kumar, M., Obondo, A. (2016). Psychosocial outcome among children following defilement and the caregiver's responses to the children's trauma: A qualitative study from Nairobi suburbs, Kenya. *African Journal of Traumatic Stress*, 5(1), 29-32.
- Mutavi, T., Mathai, M., Obondo, A. (2017). Post-Traumatic Stress Disorder (PTSD) in Sexually Abused Children and Educational Status in Kenya: A Longitudinal Study. *Journal of Child & Adolescent Behavior*, 5(5): 357. doi:10.4172/2375-4494.1000357.
- Mutavi, T., Obondo, A. Kokonya, D., Khasakhala, L., Mbuya, A., Njiri, F., Mathai, M. (2018). Incidence of depressive symptoms among sexually abused children in Kenya. *Journal of Child and Adolescent Psychiatry and Mental Health*, 12(1), 40.
- Mutesh, J. (2006). *Promoting Gender Equality and the advancement of Kenya Women: Mapping Best Practices*, Heinrich Boll Foundation, Nairobi, Kenya.
- Muyanga, M. (2011). *Barriers faced by women survivors of GBV in seeking care: The case of Kenyatta National Hospital Gender Based Violence Recovery Centre*. University of Nairobi.
- Nancy, F. R & Pirlott, A (2006) Gender Based Violence : *Annals of New York Academy of Sciences*, 1087: (178-205).
- Natalia, J. And Dupout, S. I. (2005) *Domestic Violence at the Intersections of Race, Class and Gender: Challenges and Contributions to Understanding Violence Against Marginalized Women in Diverse Communities*.

- National Crime Research Centre Kenya (NCRC, 2014) *Gender Based Violence in Kenya*. Nairobi. Government Printers.
- Ngugi Ann M. K. (2008). *A study of impediments to addressing the Sexual and Reproductive Health needs of GBV survivors carried out in Nairobi*. University of Nairobi.
- Nicolson, P. (2010). *Domestic Violence & Psychology: A Critical Perspective* pg 5.
- Okoth, B. (2018). *Makueni Woman Assaulted by heartless Husband Speaks Out*. Available at <https://edaily.co.ke/intertainment/Makueni-Womanassaulted-by-heartless-husband-speaks-out-132724/enews/ekenya>.
- Olungah, O. C. (2006). *The socio-Cultural Context of Maternal Healthcare in Bondo District, Western Kenya: Implications for Safe Mother hood Interventions: A Thesis submitted to the Institute of African Studies, University of Nairobi in Fulfillment of the Requirement for the Award of the Degree of Doctor of philosophy of the UON*
- Omondi, (2008). *Nairobi Gender Violence Recovery Centre Report 2008*. Nairobi: GVRC.
- Ondicho, T. G (1993). "Battered Women: A socio-Legal Perspective of their Experience in Nairobi" A Thesis Submitted in Partial fulfillment of the requirements for the Award of the degree of Master of Arts in Anthropology Institute of African Studies, University of Nairobi.
- Ondicho, T. G. (2000). *Battered women: A socio-Legal Perspective of their Experiences in Nairobi, Kenya*. African Study Monographs, 21(1): 35-44.
- Ondicho, T. G. (2013). *Domestic Violence in Kenya: Why Battered Women Stay*. *International Journal of Social and Behavioural Sciences* 1(4):105-111. Available at <https://www.acaderesearchjournals.org/journal/ijbs>.
- Ondicho, T. G. (2018). *Violence against Women in Kenya: A public health problem*. *International Journal of Development and Sustainability* 7 (6): 2030-2047. Available at www.isdsnet.com/ijds.
- Palermo, T., Bleck, J., & Peterman, A. (2014). *Tip of the iceberg: reporting and gender-based violence in developing countries*. *American journal of epidemiology*, 179(5), 602-612.
- Pollet, L. S. (2011). *Economic Abuse: The Unseen Side of Domestic Violence*. *NYSBA Journal* Pg 40-43. Available at: https://www.nycourts.gov/ip/parent-ed/pdf/economicabusenysbjournal2011_1_1.pdf.
- Population Council (2010). *An assessment of Sexual and Gender Based Violence in Wajir District, North Eastern Kenya*. Nairobi: PC .
- Qaisrani, A., S. Liaquat, and N. Khorkhar, (2016). *Socio-Economic and Cultural Factors of Violence Against Women in Pakistan*. *Sustainable Development Policy Institute*. Islamabad Pakistan.
- Republic of Kenya (2006). *Sexual Offenses Act*. Nairobi: Government Press.
- Republic of Kenya (2010). *The Constitution of Kenya*. Nairobi: Government Press.
- Republic of Kenya (2011). *The National Gender and Equality Commission Act*, Nairobi Government Press.
- Republic of Kenya (2013). *Makueni County First County Integrated Development Plan 2013-2017 August 2013*. Nairobi: Government Press.
- Republic of Kenya (2014). *Anti – FGM Act*, Nairobi: Government Press.
- Republic of Kenya (2014). *Marriage Act*. Nairobi: Government Press.
- Republic of Kenya (2014). *National Crime Research Centre Report on Gender Based Violence in Kenya*.
- Republic of Kenya (2015). *Matrimonial Property Act*. Nairobi: Government Press.
- Republic of Kenya (2015). *National Gender Policy and Devolved Governance Act 2015*. Government Press.
- Republic of Kenya (2015). *Protection Against Domestic Violence Act*. Nairobi: Government Press.
- Republic of Kenya (Revised edition, 2009). *Penal Code, Chapter 63*. Nairobi: Government Press.
- Saltzman (2005). *Domestic Violence and psychological Abuse Facts*
- Stephanie, M. R. (2015). *BIOMED Central: The role of structural and Interpersonal Violence in the Lives of Women: A conceptual Shift in Prevention of GBVBmcwomenshealth.biomedcentral.com/articles/10.1186/s/2905-015-0247 5*.
- Sultana, A. (2011) . *Patriarchy and Women's Subordination: A Theoretical Analysis*.

- Syombua, W. (2014) Factors inhibiting the realization of Legal Justice for Sexual Violence Survivors in Kibera Slums. A Master of Arts in Gender and Development Studies, UON.
- TenHouten, W. D. (2017). Site sampling and snowball sampling-Methodology for accessing hard-to-reach populations. *Bulletin of Sociological Methodology/Bulletin de Méthodologie Sociologique*, 134(1), 58-61.
- Terry, G & Hoare J. (ed) (2007). *Working in Gender & Development; Gender-Based Violence*. Oxfam GB.
- UN general assembly. In Declaration on the Elimination of Violence against Women; UN: New York, NY, USA, 1993.4.
- UN Women, (2015) UN Women Report in Beijing : Combating Gender Based Violence in Africa. New York , USA.
- UNFPA, (2013). *UNFPA Strategy and Framework for Action to Addressing Gender-based Violence 2008-2011*. UNFPA: New York.
- UNFPA, (2015). Reporting Gender Based Violence in Syria Crisis: *A Journalist Handbook*.
- UNFPA, (2016). *Reporting on Gender Based Violence in Syria Crisis: Good Practices in the Media*. www.unfpa.org/gender-based-violence
- United Nations (1979). The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted by the UN General Assembly.
- United Nations (2000). United Nations Millennium Declaration: Millennium Development Goals. New York, UN.
- United Nations (2015). Sustainable Development Goals, New York: UN.
- United Nations (2016). *Violence against Women-Intimate Partner and Sexual Violence against Women*. Fact Sheet No.239. Available at <http://www.who.int/mediacentre/factsheets/fs239/en/>
- United Nations International Children's Education Fund (2000).
- United Nations, (1993). *Declaration on Violence against Women*, UN General Assembly Resolution, 48/104, 20 Dec, 1993. New York: UN.
- Valerie, P. J. (2000). Emotional Abuse of Women by their Intimate Partners: A Literature Review. Available at www.springtideresource.org/resource/emotion-al-abuse-women-their-intimate-partners-literature-review.
- Waki (2008). Waki Report – Commission of Inquiry into Post – Election Violence (CIPEV): Nairobi, Government Press.
- Wanyeki, L. Muthoni (1996) “Human Rights: Breaking the Silence on Domestic Violence”. Inter Press Service. November 29, 1996
- Wiley, B. (2008). The Impact of Psychological Abuse by an Intimate Partner on the Mental Health of Pregnant Women. 115(3) : 377- 384. PMC. Available at <http://www.ncbi.nih.gov/pmc/articles/PMC2253706/>.
- World Bank (2006). *Reducing Violence Against Women: Justice Sector Perspectives. Sector Operational Guide for the World Bank Gender and Development Group*. World Bank.
- World Bank (2013). *Sexual and Gender Based Violence: What is the World Bank doing and what have we learned?- A Strategic Review*. Washington, DC. World Bank Group.
- World Health Organization (2013). *Global and Regional Estimates of Violence against Women: Prevalence and Health Effects of Intimate Partner Violence and non-partner Sexual Violence. WHO Clinical and Policy Guidelines*. Geneva, Switzerland. WHO Press.
- World Health Organization (2014). *Global Status Report on Violence Prevention 2014*. Available at [file:///C:/Users/lmwen/Downloads/9789241564793_eng%20\(1\).pdf](file:///C:/Users/lmwen/Downloads/9789241564793_eng%20(1).pdf).
- World Health Organization (2016). *Violence Against Women: Intimate Partner and Sexual Violence Against Women*. Available at <http://www.who.int/mediacentre/factsheets/fs239/en/>.