

USING FACT-FINDING TO COMBAT VIOLENCE AGAINST WOMEN IN GHANA, UGANDA, AND THE UNITED STATES: LESSONS LEARNED AS A CLINIC STUDENT, CLINIC SUPERVISOR, AND PRACTITIONER

LISA VOLLENDORF MARTIN*

Gender-based violence threatens the lives and livelihood of women throughout the world. Despite this reality, the laws and policies of many states fail to offer women effective relief and protection from violence. To develop policy reforms effective to combat gender-based violence in a particular community, advocates must first obtain a clear understanding of the nature of the problem in that community. Fact-finding is a critical tool that can enable women's rights advocates to gain a clear understanding of women's experience of violence in a particular community by facilitating the documentation of individual human rights abuses and the identification of patterns of conduct that can reveal root causes of a social problem.

In this essay, I will describe the ways in which fact-finding informed my work to combat gender-based violence in three different contexts: (1) addressing domestic violence in Ghana as a student in Georgetown's International Women's Human Rights Clinic ("the Clinic"), (2) addressing female genital cutting in Uganda as a supervisor on a subsequent Clinic fact-finding mission, and (3) addressing the impact of domestic violence on women's ability to obtain adequate housing in the United States as a practitioner at Women Empowered Against Violence (WEAVE). In each of these contexts, the commonalities in the collected stories of women's experiences of violence pointed to unique potential policy solutions.

I. GHANA: GENDER ROLE STEREOTYPES AND PRESSURES TO MEDIATE PERPETUATE DOMESTIC VIOLENCE

On my first day in Ghana, two senior police officials laughed as they recalled an incident in which a man had severely beaten his wife after she discovered him in a compromising position with his mistress. Their punch line: knowing his wife's physical strength, the man pummeled his wife to protect his mistress. Unfortunately, stories like this one were common. In Ghana, as in many states throughout the world, domestic violence is a pervasive and serious threat to women's health and well-being. A 1999 study found that Ghanaian women suffer

* Lisa Vollendorf Martin is a policy attorney at Women Empowered Against Violence (WEAVE) in Washington, D.C., and an adjunct professor at George Washington University Law School. She holds a Juris Doctorate from Georgetown University Law Center and a Bachelor of Arts in Government from the College of William and Mary.

violence at the hands of intimate partners in epic numbers: 33% report having been subjected to physical abuse, 30% report being forced to have sex, and 27% report having experienced psychological abuse including threats, insults, and destruction of property.¹ Despite the pervasiveness and often frightening intensity of domestic violence in Ghana, we learned that women are rarely able to access legal protections from abuse.

Our interviews in Ghana revealed that two primary factors prevented women from accessing legal relief: (1) the entrenchment of widely-held gender role stereotypes; and (2) the extensive pressure placed on women to use mediation as a means for family conflict resolution in family matters. The widespread entrenchment of the belief that women are obligated to submit to their husband's stereotypes makes domestic violence a shameful secret in Ghana. Physical abuse is perceived as appropriate "discipline" for women who fail to fulfill their marital duties. Abused women are believed to "provoke" the violence against them by violating gender norms and disobeying their husbands. Women were reported to provoke abuse by, for example, failing to complete household chores, failing to obtain their husband's permission before engaging in an activity, asking for money, nagging, refusing sex, making insulting comments, and being too independent. Because violence is considered an appropriate response to a woman's failure to fulfill her duties, the experience of domestic violence is shameful to women victims and normalized in the community.

Rigidly stereotypical beliefs about gender roles, women's obligation to submit, and the triviality of domestic abuse were expressed by community members, government officials, judges, religious leaders, customary leaders, and law enforcement personnel. Our interviews revealed that cavalier attitudes of law enforcement officials towards reports of domestic abuse often prevent Ghanaian women from accessing legal protections. A District Court Judge laughed as he recounted a conversation with a constable, who stated, "If I had to arrest everyone who beats, then the jails would be full. And I would be jailed too, because I beat my wife this morning." Police recalcitrance in the context of domestic abuse was particularly likely if a woman had never before reported abuse to the police, if a perpetrator appeared remorseful, or if the victim's injuries "were not serious" or if she was perceived to have provoked the violence.

Law enforcement attitudes belief that women are obligated to submit to their husbands can be dire for female victims of violence. An investigator in the

1. Dorcas Coker-Appiah & Kathy Cusak, eds., *Violence Against Women and Children in Ghana: Report of a National Study on Violence*, 65 (1999). The percentages of women who report having experienced domestic abuse in Ghana are comparable to the percentages of women reporting domestic abuse globally. According to a study by the Population Information Program at Johns Hopkins School of Public Health, one in three women have experienced abuse in their lifetime. See Lori Heise, *Ending Violence Against Women*, POPULATION REPORTS, Series L, No. 11, Johns Hopkins School of Public Health Population Information Program (1999).

Women and Juvenile Unit of the Ghanaian police force (WAJU)² described one case in which a man came to the police station to report that his wife was refusing to have sex with him. He was concerned that if she did not relent soon, he would assault her and be charged with a crime. The investigator invited the woman and her pastor to come to the station and discuss the situation. He told us that if she admitted having refused to have sex with her husband, he would charge her with the crime of offensive conduct resulting in a breach of the peace. Interviews such as this one made clear that the entrenchment of gender role stereotypes and the view of women as inferior not only impedes Ghanaian women from accessing legal relief from abuse, but may result in women being held criminally liable for their “role” in provoking the abuse against them.

Our interviews also pointed to a second major factor preventing abused women from accessing legal protections: the widespread proclivity for using mediation to resolve family conflicts. Interviewees revealed that at all levels of society, women are encouraged and even coerced to mediate their complaints of abuse rather than pursuing formal legal relief. The customary leaders³ we interviewed uniformly considered the involvement of law enforcement in family matters to be a cultural taboo. In their view, marital problems are properly resolved in customary proceedings in which Chiefs and Queen Mothers settle disputes according to customary law. Customary proceedings, however, do not provide women with the same opportunities for relief and protection available in the criminal justice system—customary proceedings are aimed at keeping peace in the marriage and the community and not at ensuring the safety of the battered spouse from further abuse. A Chief described the case of one woman who sought his assistance after her husband struck her in the jaw with a hammer. The Chief recounted how he praised the woman for bringing her case to him instead of the police because the couple had children and the husband would have faced jail time if the case had been prosecuted in the criminal justice system. After hearing from both parties, the Chief fined the husband three bottles of gin, a harsher punishment than usual, because he used a weapon in the beating. Because customary proceedings operate in accordance with traditional beliefs that women are inferior and obligated to remain subservient to men, the settlement of disputes through customary proceedings are unlikely ever to be fair, to protect women

2. WAJU is a specialized unit within the Ghanaian police force trained to address domestic violence and child abuse. In many ways, WAJU has been successful: since the creation of WAJU, the number of women reporting abuse to the police has increased exponentially. Nonetheless, we observed that there remains room for improvement. In spite of their training, several of the WAJU officers we interviewed trivialized reports of abuse and displayed a total lack of concern and respect for survivors of domestic violence.

3. Chieftaincy is an ancient institution in several Ghanaian ethnic groups. Chiefs and Queen Mothers are the customary leaders of many Ghanaian ethnic groups. Historically, Chiefs and Queen Mothers have served as the governors of tradition, the arbiters of customary law (established patterns of behavior believed to be legally required by the ethnic group), and the guardians of peace in the community. Chiefs and Queen Mothers continue to exercise significant authority in their communities, particularly in remote areas far from courts and police stations.

from future abuse, or to adequately compensate women for harms they have suffered

The view that family conflicts, including complaints of domestic violence, are best resolved outside of formal legal processes was widely shared by interviewees. When pieced together, our interviews gave insight into the many layers of pressure placed on women to find an amicable resolution to complaints of abuse. According to interviewees, Ghanaian women subjected to domestic violence typically first turn to family members for help. The near uniform response of family members, as reported by interviewees, was to encourage abused women to work things out with their husbands, be better wives, keep the family together, and keep the situation private. Family members were reported unequivocally to have discouraged women from reporting abuse to the police.

When efforts to end the abuse through family intervention failed women often next turned to religious or customary leaders. According to the religious leaders we interviewed, in such situations women are counseled that family unity is paramount and reminded of their duty to submit to their husbands. The religious leaders emphasized that advising a woman to report abuse to the police was never an acceptable option because it would result in the break-up of the marriage. As discussed above, Chiefs and Queen Mothers were similarly unwilling to involve law enforcement in cases of domestic abuse.

Most shocking was the revelation that religious and customary leaders often go to extraordinary lengths to actively prevent the involvement of the criminal justice system in family matters. Police, prosecutors, and judges described how religious and customary leaders intervene and withdraw complaints of domestic violence from the police and the courts without the consent of the complainant. Police, prosecutors, and judges agreed that such interventions were warranted because most cases involving spouses are more appropriately handled by religious and customary leaders.

Even when women have the determination to resist the pressure exerted by their families and communities and approach the state for help, they must endure numerous additional attempts to mediate the dispute before they have the opportunity to access legal relief. Interviewees reported that the police routinely encourage spouses to settle their disputes informally and refer domestic violence cases to the police department's counseling program rather than to prosecutors. A WAJU investigator described one case in which a woman was beaten so severely by her husband that she lost two teeth. Despite the brutality of the attack, the police referred the case to the counseling program rather than to prosecutors because the couple had been married for several years.

Unsurprisingly, interviewees reported that very few cases involving domestic violence were prosecuted in Ghana. One police investigator could not recall a single case of domestic abuse being prosecuted during his lengthy tenure on the police force. Even in the unlikely event that a case is prosecuted, Ghanaian courts are reluctant to award legal relief in cases of spousal abuse. Judges described

their practice of staying cases involving spousal abuse to give the parties a final opportunity to mediate the dispute, and expressed reluctance to sentence offenders to jail time because it causes too much harm to the family. Our fact-finding interviews made clear that the entrenchment of gender role stereotypes and pervasive pressure to mediate family disputes in Ghanaian society present enormous barriers that prevent abused women from accessing legal protections.

The insights we gained from our interviews shaped our recommendations for policy reform in our report. In particular, we recommended that standard police procedures for processing and investigating domestic violence complaints be adopted to ensure that women are able to access legal protections from abuse. We also recommended that mediation screening rules be implemented in cases involving domestic abuse to ensure that a victim's participation in mediation is voluntary and that she feels safe enough to advocate for her interests.

II. UGANDA: SOCIAL COERCION AND ECONOMIC GAINS ENTRENCH FEMALE GENITAL CUTTING

The Clinic fact-finding mission I supervised in Uganda offered similarly unparalleled insight into factors perpetuating the practice of female genital cutting⁴ (FGC) and potential policy solutions tailored to Ugandan women's experience of the practice. Although the national rate of FGC in Uganda is low, the practice is rampant among several ethnic groups residing in rural communities in eastern Uganda, including the Sabiny, who are concentrated in the Kapchorwa District along the Kenyan border.⁵ The remoteness of these communities and the mountainous terrain of the region pose a substantial obstacle to eradicating the practice because the lack of infrastructure makes travel to the most isolated areas nearly impossible.

As practiced by the Sabiny, FGC inflicts acute and enduring pain and public humiliation on women and girls. Sabiny girls are cut in public ceremonies with

4. The World Health Organization, the United Nations Population Fund, and the United Nations Children's Fund define female genital cutting, also known as female genital mutilation and female circumcision, to include "all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs, whether for cultural or other non-therapeutic reasons." World Health Organization (WHO), United Nations Children's Fund (UNICEF), and United Nations Population Fund (UNFPA). *Female Genital Mutilation: A Joint WHO/UNICEF/UNFPA Statement*. Geneva, Switzerland: World Health Organization (1997). The World Health Organization classifies FGC into four types. World Health Organization, Fact Sheet No. 241, *available at* <http://www.who.int/mediacentre/factsheets/fs241/en>. The Sabiny practice Type I (excision of the prepuce and the clitoris), Type II (excision of the clitoris and labia minora), and Type III (excision of part or all of the external genitalia and stitching or narrowing of the vaginal opening (infibulation)). The type of FGC practiced on a Sabiny girl depends on the circumciser's geographic origin, skill, and mood, the wishes of her parents, and the current trend in the community.

5. Our interviews and research revealed that FGC continues to be practiced by several ethnic groups in Uganda, including the Sabiny, the Pokot, the Tepeth, the Busogas, and the So. In this essay, I will limit my discussion of FGC to its practice in the Sabiny community in Kapchorwa.

crude, unsanitized instruments and without anesthetics. Girls who cry out during the cutting are stabbed or beaten and taunted mercilessly. FGC places the health and well-being of Sabiny women in serious jeopardy, as the practice can cause severe pain, shock, hemorrhaging, urine retention, incontinence, keloid scarring, cysts, sexual dysfunction, difficulties with childbirth, and even death.⁶

Like in Ghana, the accounts offered by interviewees in Uganda illuminated the primary factors contributing to the entrenchment of FGC among the Sabiny, most notably, (1) the coercive social pressures exerted on uncircumcised women, and (2) the economic benefits of the practice to the community. Interviewees repeatedly described the intensely negative social consequences experienced by uncircumcised Sabiny women, which coerce many women to undergo FGC. Uncircumcised women are ostracized, harassed, and humiliated, and even their families may face social alienation. Women who refuse to be cut are considered to be outsiders, and are not considered members of the clan. As such, uncircumcised women are often isolated and abandoned by their friends or family, forced to walk behind their peers, take the last turn, and even refused help by some community members during childbirth.

Uncircumcised women are considered dirty, disease-ridden, and unchaste. Traditions forbid uncircumcised women from performing common chores such as collecting produce from the garden, milking the cows, and going to the community granary because they are believed to contaminate food and endanger the health of other people. One man described how his parents harassed his uncircumcised wife by refusing to share manure, an important resource to Sabiny families, with her when he was out of town.

Uncircumcised women are tormented not only by social alienation but also, during circumcision season,⁷ by the constant fear of being forcibly. A Sabiny man described how one uncircumcised woman's fears were realized when a crowd broke into her house, shouting "give us our daughter!" The crowd carried the woman high above their heads to the circumcision area and held her down while she was cut. Interviewees also described several cases in which girls were tied to banana trees with their legs spread apart and forced to be cut against their will. The fear of being forced to be cut causes some uncircumcised women to give into the pressure and agree to be circumcised.

Interviewees also described the multitude of ways in which a wide spectrum of community members benefit economically and socially from FGC, and therefore feel personally invested in the continuation of the practice. Circumcisers are compensated generously in cash and gifts for their services and are accorded a privileged status in their communities because of their central roles in FGC ceremonies and their perceived association with powerful spirits. Women who

6. World Health Organization, Fact Sheet No. 241, *available at* <http://www.who.int/mediacentre/factsheets/fs241/en>.

7. The Sabiny circumcision ceremonies typically take place between April and December during even-numbered years. Most ceremonies occur during mid-December when the schools close.

undergo FGC (known as “candidates”) are likewise showered with gifts and gain social status after undergoing the practice, which designates their readiness for marriage.

Other community members also reap economic benefits from FGC. Parents of FGC candidates gain social standing by hosting extravagant celebrations, advertising their daughters’ availability for marriage, and, as a result, obtaining a substantial bride price. Some government officials profit from FGC by requiring circumcisers to purchase licenses to practice during each FGC “season.” Traditional health providers gain income from FGC because candidates frequently require medical attention as a result of the practice. The community at large also benefits from FGC through the enjoyment of free food, libations, and celebrations throughout the season at the endless succession of ceremonies and parties. Our interviews made clear that the social and economic investment of community members in the continuation of FGC was a key contributor to the entrenchment of the practice.

The students’ interviews in Uganda exposed the intense social pressures inflicted on women who refused to submit to the knife and the economic and social benefits that give many community members a personal stake in the perpetuation of FGC. In light of these forces and others behind the practice, the students determined that a multi-faceted approach was needed to successfully combat FGC, including both the institution of criminal penalties to disincentivize participation in the practice and extensive sensitization campaigns to educate all facets of the community about the harmful effects of FGC.

III. UNITED STATES: DOMESTIC VIOLENCE AND THE AFFORDABLE HOUSING CRISIS PRECLUDE WOMEN FROM OBTAINING ADEQUATE HOUSING IN WASHINGTON, D.C.

The same insights that fact-finding made possible in my work in Africa also inform my efforts to improve policies impacting survivors of domestic and dating violence in Washington, D.C. In 2005, the U.N. Special Rapporteur on Adequate Housing held a regional consultation on women’s ability to access adequate housing in North America. In connection with the consultation, my colleagues and I worked to document the ways in which domestic abuse can interfere with women’s ability to obtain and retain acceptable housing by interviewing survivors of domestic violence.

Across our interviews, a clear pattern emerged: abused women are often made to become economically and socially dependent upon their abusers, who forbid them from working or attending school, exercise total control over the finances, and isolate them from family and friends. When women leave abusive relationships in such circumstances, they face significant obstacles to obtaining housing because they often have a poor or nonexistent credit history, few financial resources, no support network, and little chance of improving their financial state due to limited or no employment experience or marketable skills.

The overwhelming demand for and catastrophically short supply of affordable

housing in Washington, D.C. makes it exponentially more difficult for women leaving abusive relationships to secure adequate housing—many women remain on the District waiting list for Section 8 vouchers for years to no avail. The lack of affordable housing means that women without strong financial resources must settle for unsanitary, unsafe, or otherwise substandard accommodations, spend more than they can afford on housing, or sacrifice privacy and freedom and turn to shelters. One woman's housing troubles began when her violently abusive husband kicked her out of their house one night in the middle of winter. She had no money, no credit cards, no access to a bank account, and no one to turn to for help. She stayed in two shelters, where she had no privacy and was required to obey numerous rules. She later obtained a low-cost apartment, which was infested with rats and in constant disrepair. Her landlord harassed her and tried to extort additional payments from her. She abandoned her apartment and moved into a crowded temporary housing unit with several relatives. She confided that because of her ongoing housing troubles, she has often considered returning to her husband despite the risk of abuse, because she would at least be guaranteed a roof over her head.

Just as with my previous fact-finding missions, a pattern became manifest in the struggles recounted by individual women. In this case, our interviews revealed that the interplay between coerced economic and social dependence and the affordable housing crisis creates nearly insurmountable obstacles to women's ability to free themselves from abusive relationships in the District. In his final report on women and the right to adequate housing, the Special Rapporteur cited the experiences of North American female survivors of domestic violence and recommended that governments "introduce anti-violence provisions in housing legislation and policies and ensure that domestic violence laws include provisions to protect women's right to adequate housing."⁸

My experiences with fact-finding in Ghana, Uganda, and the United States highlight the value that fact-finding can bring to efforts to combat violence against women around the world. Advocates must understand the experiences of women with gender-based violence in a particular community before effective legal reform is possible. Fact-finding enables advocates to identify patterns in women's experiences of gender-based violence in a particular community, which often point to potential policy reforms that can reduce the prevalence and the harmful effects of violence against women in that community. Perhaps most importantly, fact-finding enables women survivors of violence to tell their stories and play a role in combating future violence against women in their communities and around the world.

8. U.N. Commission on Human Rights, *Report by the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-Discrimination, Women and the Right to Adequate Housing*, 62nd Sess., Agenda Item 10, U.N. Doc. E/CN.4/2006/118 (2006).