

Crime against Women in Kenya-A Review

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Abstract: Violence against women and girls continues to be a global epidemic that kills, tortures, and maims – physically, psychologically, sexually and economically. It is one of the most pervasive of human rights violations, denying women and girls’ equality, security, dignity, self-worth, and their right to enjoy fundamental freedoms. Violence against women is present in every country, cutting across boundaries of culture, class, education, income, ethnicity and age. Even though most societies proscribe violence against women, the reality is that violations against women’s human rights are often sanctioned under the garb of cultural practices and norms, or through misinterpretation of religious tenets. Moreover, when the violation takes place within the home, as is very often the case, the abuse is effectively condoned by the tacit silence and the passivity displayed by the state and the law-enforcing machinery. The global dimensions of this violence are alarming, as highlighted by studies on the incidence and prevalence of violence. No society can claim to be free of such violence; the only variation is in the patterns and trends that exist in countries and regions. Specific groups of women are more vulnerable to violence, including minority groups, indigenous and migrant women, refugee women and those in situations of armed conflict, women in institutions and detention, women with disabilities, female children, and elderly women. Between 15 and 76 percent of women are targeted for physical and/or sexual violence in their lifetime, according to the available country data. Most of this violence takes place within intimate relationships, with many women (ranging from 9 to 70 percent) reporting their husbands or partners as the perpetrator. Across the 28 States of the European Union, a little over one in five women has experienced physical and/or sexual violence from a partner (European Union Agency for Fundamental Rights, 2014). A more recent analysis of WHO with the London School of Hygiene and Tropical Medicine and the Medical Research Council, based on existing data from over 80 countries, found that globally 35% of women have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence. Most of this violence is intimate partner violence. Worldwide, almost one-third (30%) of all women who have been in a relationship have experienced physical and/or sexual violence by their intimate partner, in some regions this is much higher. Furthermore, globally as many as 38% of all murders of women are committed by intimate partners. The paper looks into the various forms of crimes against women, causes and ways of dealing with the crimes.

Key Terms: Gender based Violence, Levels of gender based violence, and Forms of gender based violence

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I. INTRODUCTION

The United Nations defines violence against women as “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” (General Assembly Resolution 48/104 *Declaration on the Elimination of Violence against Women*, 1993).

The issue of violence against women has been an agenda of discussion in international forums. The World Conference on Human Rights in Vienna (1993) accepted that the rights of women and girls are “an inalienable, integral and indivisible part of universal human rights.” The United Nations General Assembly, in December 1993, adopted the Declaration on the Elimination of Violence against Women. It is the first international human rights instrument to deal exclusively with violence against women, a groundbreaking document that became the basis for many other parallel processes. In 1994, the Commission on Human Rights appointed the first UN Special Rapporteur on Violence against Women, entrusting her with the task of analyzing and documenting the phenomenon, and holding governments accountable for violations against women.

The Fourth World Conference on Women in Beijing (1995) included elimination of all forms of violence against women as one of its twelve strategic objectives, and listed concrete actions to be taken by governments, the United Nations, international and non-governmental organizations. While gender-based violence is not specifically mentioned in the 1979 Convention on the Elimination of All Forms of

Discrimination against Women (CEDAW), in 1992 the Committee over-seeing CEDAW implementation adopted General Recommendation 19, which states that gender-based violence is a form of discrimination that inhibits a woman's ability to enjoy rights and freedoms on a basis of equality with men. It asks that governments take this into consideration when reviewing their laws and policies. Under the new Optional Protocol to CEDAW, adopted by the UN General Assembly in October 1999, ratifying States recognize the authority of the Committee to receive and consider complaints from individuals or groups within that State's jurisdiction. On the basis of such complaints, the Committee can then conduct confidential investigations and issue urgent requests for a government to take action to protect victims from harm, bringing the Convention into line with other human rights instruments such as the Convention against Torture.

The United Nations has recently significantly stepped up activities aimed at combating violence against women. The United Nations Secretary-General's 2006 study on violence against women⁵ elaborates on the context and causes of this violence and on its forms, consequences and costs.

The General Assembly adopted four resolutions⁶ in the period 2006–2009 on intensification of efforts to eliminate all forms of violence against women, thus emphasizing countries' concern about the issue. It also built on the Secretary-General's call for developing global indicators, requesting in its resolution 61/142 of December 2006 that such undertaking take place as a matter of urgency to assist governments in assessing the scope, prevalence and incidence of violence against women.

The United Nations is undertaking work on defining and identifying the different forms this violence takes in order to enable accurate assessment and quantification. This is best reflected in the Secretary-General's Campaign UNiTE to End Violence against Women.

The overall objective is to raise public awareness and increase political will and resources. One of the five key outcomes as benchmarks for the campaign to be achieved in all countries by 2015 is the "establishment of data collection and analysis systems on the prevalence of various forms of violence against women and girls".⁷ Three outputs are listed under this benchmark: (1) All countries have undertaken a dedicated population-based survey or module on violence against women and girls; (2) All countries have integrated data collection on violence against women and girls in their administrative and routine reporting systems, including for health, police and justice; and (3) All countries, the international community and other actors commit to ensuring the gender disaggregation of existing data, where possible.

Crimes against Women in Kenya

According to the 2014 Kenya Demographic and Health Survey of Kenya, 4 out of every 10 Kenyan women undergo some form of violence, whether physical or sexual. The Pope noted that violence against women needs to be dealt with. He said at a Mass at the University of Nairobi on Thursday, 26 Nov 2015 that, "In obedience to God's word, we are called to resist practices which hurt or demean women and threaten the life of the unborn."

a) Levels of Gender-Based Violence in Kenya

There are three levels of gender-based violence. These are the home or family level, the community level and the state level.

Violence within the Home:

Domestic violence is the most prevalent form of gender-based violence. It typically occurs when a man beats his female partner. Psychological abuse always accompanies physical abuse and majority of women abused by their partners are abused many times. Physical, sexual and psychological violence against women within a couple and in the family consists of battery, sexual abuse, female genital mutilation and other traditional practices harmful to women and girls, marital rape, dowry-related violence, incest, non-spousal violence like a son's violence against his mother and violence related to exploitation and deprivation of freedom.

Violence against Women within the General Community:

Physical, sexual and psychological violence occurring within the general community include battery, rape, sexual assault, sexual harassment and intimidation in school or work, forced treatments and abusive medication, the exploitation and commercialization of women's bodies which is related to increased poverty that is mainly a result of unbridled economic liberalism. These types of violence occurring within the general community also included contraception imposed on women by constraints or force, forced sterilization or abortions, selective abortion of female fetuses and female infanticide (World March of Women, 2000).

Violence against Women Perpetrated by the State:

Physical, sexual and psychological violence are too often perpetrated or tolerated by states that priorities custom or tradition over the respect of fundamental freedom. In some countries, the rise of religious fundamentalism is extremely disturbing as regards women's right to their economic autonomy and their freedom of choice. The social exclusion of women is so great that it constitutes a new form of apartheid. Women are considered second class beings, of lesser value, deprived of their fundamental rights. Violence against women is also exercised as a weapon of war in situations of armed conflict. It has many forms including murder, rape, sexual slavery, hostage taking and forced pregnancy (World march of Women, 2000).

Coomaraswamy cited in Salami (2000), identified some additional violations of human rights and fundamental freedoms such as the trafficking in women and girls for sex trade, forced prostitution, rape, sexual abuse and sex tourism that have become the focus of internationally organized crimes.

b) Forms of violence against Women

Gender Based Violence; include domestic and sexual violence, human trafficking and harmful practices, such as forced child marriage and Female Genital Mutilation (FGM) is still endemic in Kenya, despite the existence of legislation, administrative directives, judicial sanctions, and awareness-raising efforts by a variety of agencies and the government.

Types of Gender-Based Violence

Commercial Sexual Exploitation: In some developing countries of the world, most girls are made to prostitute under the guise of sex tourism. Sex tourism according to UNICEF Document happens when rich men travel during the holidays from the advanced countries of the world to places like Brazil, the Dominican Republic, and Thailand etc. to have sexual dealings with children of between 13 and 15years.

Rape: Forcing anyone into sexual intercourse against her will is rape. It is a violent, terrifying and humiliating assault. Rape is a pervasive form of gender-based violence. It has long symbolized in a man's ability to have his way with a woman. Most rapists are known by those they attack and they are often the victim's father, partner, neighbor, a date or some other household figure. Rape is considered a crime against a person. In some societies, like India, the rape of a girl is thought to bring shame on her family. The family may consider marrying the girls to her rapist as the only way to recover her honor. In some cases, the girl is condemned to prostitution (Feming, 1999).Rape happens to all ages, educational levels, religions, sexual orientations and physical descriptions. Victims of rape range from a few months old to their 90s (Population Reference Bureau, 2000)

Female Genital Cutting or Female Genital Mutilation

Female Genital cutting (FGC) is a traditional practice that involves cutting or altering the female genitalia as a rite of passage or for other socio-cultural reasons (Mohammed, Ali and Yinger; 1999). Female Genital Cutting according to Population Reference Bureau, (2000) is practiced in 28 African countries and in about 20 Middle Eastern and Asian nations.

Mugenzi (1998) commented that FGC is an act of controlling women sexually. World Health Organization (WHO) (1999), claimed that more than 130 million girls worldwide have undergone female genital cutting also known as female genital mutilation

c) Causes of violence against Women

Social and cultural norms continue to undermine ongoing legal and administrative efforts, helping to sustain gender inequalities, which hinder women and girls from fully exercising their rights and make them vulnerable to preventable death and disability. The patriarchal system in Kenya and many parts of the world combined with absence of rights at the household level, have made women and girls vulnerable to sexual, physical, emotional, spiritual, and intellectual violence. We have to confront the cultural influences that reinforce the feeling that women are mere chattels, that they must be submissive, even in the face of abuse.

The causes of gender-based violence are many and varied depending on the types of violence. Traditional attitudes towards women around the world help perpetuate the violence. Stereotypical roles in which women are seen as subordinate to men constrain a woman's ability to exercise choices that would enable her end the abuse.

Njenga (1999) who was the chairman of the Psychiatric Association in Kenya discussed with women in Kenya on reasons for the rise in gender-based violence. He opined that the causes are quite diverse. One of the causes is the space people live in. The more crowded people are, Njenga commented, the more domestic violence there is likely to be. Njenga (1999) concluded that poverty, which also determines where and how a person lives, is one of the contributing factors.

Financial insecurity is another cause of gender-based violence. Njenga (1999:6) commented that if a man cannot establish his authority intellectually or economically, he would tend to do so physically. Another cause is the image created by the society which portrays a man to be viewed as being strong, educated, creative, and clever while a woman is the opposite of all these traits. The way parents bring up their children, which create disparity between boys and girls, also is a source of gender-based violence in later life

Bitangaro (1999:9) had summarized the causes of violence against women as being deeply rooted in the way society is set up-cultural beliefs, power relations, economic power imbalances, and the masculine idea of male dominance. Saran (1999:19) gave another cause, which she regarded as a myth, she opined that a woman's dress and behavior can cause rape

d) Challenges and Way Forward

The challenge faced by many governments is how to effectively enforce legislation. Implementation needs to be supported by strong national and county mechanisms for the protection of girls and women. These include an effective governmental coordinating body, independent human rights institutions, an impartial and gender sensitized judiciary and police force.

It is time for every man to start doing something to end the scourge of violence against women and girls in their homes and communities. A call to action was made by the President of Kenya, HE Mr. Uhuru Kenyatta when he urged every citizen to join the government's efforts to end violence against women and girls during the #HeForShe (a solidarity movement for gender equality) launch in November 2014. Christy Turlington Burns, Stella Mukasa and Ravi Varma discussed how the developing world can achieve greater gender equality at a panel discussion hosted by the International Center for Research on Women (ICRW). Here are the top 5 things the world must do to reduce violence against women girls:

1. **Provide women with access to legal representation** and opportunities to pursue justice against perpetrators of violence through the formal legal system
2. **Promote gender equality in schools** and widen access to education for girls. It has been proven time and time again that girls enrolled in school are less likely to be married early and become pregnant. If that weren't reason enough, girls that obtain higher levels of education are more likely to find employment and become empowered as a result of their financial contributions to the family and community
3. **End forced early marriage and premature pregnancy**, the leading cause of death of girls between 15 to 19 years of age. With more than 142 million girls expected to marry before they turn 18 over the next decade, programs like Apni Beti Apna Dhan (ABAD), which offer conditional cash transfers to incentivize families to delay their daughter's marriages, will likely help reduce arranged marriages and allow girls to develop both physically and mentally before marriage and child-birth
4. **Bring greater attention to violence** that is perpetrated by a partner or spouse. Stella Mukasa, Director of Gender Violence and Rights at ICRW, told the story of a woman who was forced by her husband to breast feed his dog's litter. When she sought help from the community, her claim was ignored because abuse from a spouse was not considered to be a violation of a woman's rights
5. **Revise marriage laws that are institutionally biased against women**, particularly those that deny women custody over their children, inheritance, and land rights in cases of death, separation or divorce. The revised national constitution in Kenya is one example that has brought about unprecedented rights for women, including the right to oversee property-related transactions, manage family land and resources and retain a portion of land to live on and cultivate if widowed or divorced.

II. SUMMARY AND CONCLUSION

The researcher has looked into violence against women in Kenya paying attention to levels, forms, causes, challenges and way forward to deal with violence against women. The researcher recommends that more empirical research be carried out on this area because the data is very scanty. The government needs to ensure the mechanism it has put in place to deal with violence against women is working. Support system for women should be there to encourage them to report violence meted on them.

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