

ACKNOWLEDGEMENTS

FIDA Kenya expresses its appreciation to Professor Patricia Kameri Mbote and Mr. Kamau Mubuu who conducted the research and authored this report. We also wish to thank Milly Odongo for editing this report.

We recognize the following organisations for their tremendous contribution to the successful completion of this study: Groots Kenya, Kakamega, Muhoroni Aids Awareness and Counseling Services (MAACS), Civil Society Organisations Network, Kisumu and Solidarity with Women in Distress, Mombasa.

We are grateful to FIDA Kenya clients and all those who participated in the survey through interviews and focus group discussions their input has enriched this document.

We wish to thank FIDA Kenya Council members and FIDA Kenya staff for their contribution and effort to ensure the completion of this assignment. We acknowledge especially the contribution of Jane Onyango and Anne Amadi, immediate former Executive Director and Deputy Executive Director respectively.

FIDA Kenya extends its profound gratitude to UNFPA whose financial support has contributed to the success of this research and publication of this report.

Patricia Nyaundi

Executive Director - FIDA Kenya

CONTENTS

ACKNOWLEDGEMENTS	1
ABBREVIATIONS AND ACRONYMS	4
CHAPTER ONE :: INTRODUCTION	5
1.1 Introductory Background	6
1.2 The Problem.....	6
1.3 Objectives of the Study.....	7
1.4 Rationale for the Study	8
1.5 Definition of Terms	8
CHAPTER TWO :: LITERATURE REVIEW	10
2.1 Introduction.....	11
2.2 Factors relating to Gender based domestic violence	11
2.3. The Legal Framework	13
CHAPTER THREE :: METHODOLOGY	20
3.1 Introduction.....	21
3.2 Sample design and Sampling Procedure	21
3.3 Sites Description.....	21
3.3 Data Sources and Data Collection methods	23
3.4 Data analysis, Interpretation and Presentation	23
3.5 Problems, Constraints and Limitations of the study.....	23
3.6 Consent.....	23

CHAPTER FOUR: DISCUSSION OF THE FINDINGS	24
4.1 Introduction.....	25
4.2 Socio-demographic Characteristics of survey respondents.....	25
4.3 Prevalence, Magnitude and Trends of GBDV and IPV.....	26
4.4 Factors relating to GBDV and IPV	27
4.5 Types of violence and major perpetrators.....	31
4.6 Causes and Consequences of GBDV and IPV	34
4.7 How GBDV and IPV is addressed and the Major actors.....	37
4.8 Challenges in addressing GBDV and IPV	39
4.9 Surmounting the Challenges and the way forward	40
4.10 CASE STUDIES.....	42
CHAPTER FIVE :: CONCLUSION AND RECOMMENDATIONS	51
5.1 Conclusion.....	52
5.2 Recommendations	54
CHAPTER SIX :: BIBLIOGRAPHY	57
1 Books and Articles	57
2 International Instruments.....	57
3 National Laws	58
4 Pending Bills.....	58
CHAPTER SEVEN :: ANNEXTURES	59
1 Survey Questionnaire.....	59
II Focus Groups Discussion Guide	63

ABBREVIATIONS AND ACRONYMS

AIDS.....	Acquired Immune Deficiency Syndrome
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CREAW	Centre for Rights Education and Awareness
CSO	Civil Society Organization
DEVAW	Declaration on Violence against Women
FBO	Faith Based Organizations
FGD	Focus Group Discussion
GBDV	Gender-based domestic violence
GROOTS.....	Grassroots Organisations Operating Together in Sisterhood
HIV.....	Human Immunodeficiency Virus
ICCPR.....	The International Covenant on Civil and Political Rights
ICESCR	The International Covenant on Economic, Social and Cultural Rights
IPV	Intimate partner violence
KAACR.....	Kenya Alliance for Advancement of Children
KDHS	Kenya Demographic and Health Survey
KI.....	Key Informant
KIIs.....	Key Informant Interviews
MAACS.....	Muhoroni Aids Awareness and Counseling Services
SOLWODI	Solidarity with Women in Distress
STI.....	Sexually Transmitted Infections
UDHR	Universal Declaration on Human Rights
UNFPA.....	United Nations Population Fund



1

INTRODUCTION

1.1 Introductory Background

One of the major achievements of the 20th Century was the development of a rich body of international law affirming the equal rights of all human beings.¹ A basic tenet of human rights is that they are inalienable, indivisible and inherent in all persons. Despite these bold pronouncements, many women are yet to realize the enjoyment of rights especially in the private sphere. Women's rights are violated in myriad ways in the private sphere these include, the continued practice of harmful cultural practices and domestic violence.

This study examined gender-based domestic violence (GBDV) and intimate partner violence (IPV) among communities living in four provinces of Kenya namely; the Coast, Nairobi, Nyanza and Western provinces. It is a follow-up to a study conducted by FIDA (K) in 2002 that demonstrated that women are most often violated by their male relations mainly as a result of the skewed power equation at the domestic level.

The 2002 study further revealed that women are discriminated against, as they are not economically empowered to adequately meet their own basic needs and therefore, take charge of their sexuality and livelihoods. This situation predisposes them to mistreatment in key aspects of their lives, which impinge on their status in society including the control over their reproductive rights, health and destiny.

This study was timely because since the year 2002 not much systematic studies have been conducted on the subject. There is, however abundant anecdotal evidence to suggest that GBDV and IPV is not only persistent, but also on the increase as attested to by occasional media reports contained in mainstream local dailies. Further, although there are various initiatives that are being undertaken on gender issues to address the causes of GBDV and IPV in general, its prevalence and magnitude in Kenya, as well as a lasting remedy to the vice is yet to be empirically established.

1.2 The Problem

In spite of the many initiatives that presently exist to address domestic violence in general, Kenyan communities are yet to stamp out or significantly reduce the cases of GBDV and IPV. The victims of this vice in Kenya, like in most other societies and cultures in the world are mostly women. Its ugly face spans from manifest physical abuse and sexual violence, to subtle violations such as verbal abuse and deprivation of their entitlements within the family. The causes of these are well known and documented (FIDA, 1997, 2000 & 2002; CREAM, 2006). They range from the low status society accords to women, to poor policy and legal frameworks that condone or ignore the prevalence and perpetuation of domestic violence. Indeed, violence against women in Kenya has been a recurring theme in FIDA (K)'s Annual Reports and other periodic exploratory studies that the organization has conducted over the years.

One of the main reasons why GBDV and IPV do not recede has to do with the lack of adequate laws to deal with it. Indeed, Kenya has no laws that criminalize domestic violence in spite of her being a signatory to CEDAW. It is no wonder therefore, that a government's study report on domestic violence (n.d.) placed at 44% married, separated or divorced women that have ever been subjected to domestic violence, while a private study placed it at 83% In the 2003 Kenya Demographic and Household Survey (KDHS), 49% of women were reported as having experienced violence since the age of 15. About one in four married, divorced or separated woman had experienced emotional violence by their current or most recent husband; 40% had experienced physical violence, and 16% had experienced sexual violence.

Box 1 :: Violence against Women and Girls in Kenya: Facts and Figures

- ▶ 49% of Kenyan women reported experiencing violence in their lifetime; one in four had experienced violence in the previous 12 months.
- ▶ 83% of women and girls reported one or more episodes of physical abuse in childhood; 46% reported one or more episodes of sexual abuse in childhood.
- ▶ Over 60% of these women and children did not report the event to anyone. Only 12% who had been physically or sexually abused reported to someone in authority such as a village elder or the police.
- ▶ In Kenya, 25% of 12-24 year olds lost their virginity by force.
- ▶ Nairobi Women's Hospital receives an average of 18 cases of rape and incest each day.
- ▶ There is only one shelter for victims of domestic violence in Kenya.
- ▶ A majority of the victims of violence are girls; 60% of women who have experienced violence reported age at first abuse between 6-12 years; 24 percent between 13-19 years.

Source: UNAIDS: Violence against Women and Girls in the Era of HIV/AIDS: A Situation and Response Analysis in Kenya, June 2006, p 6

The implications of the impunity with which society and government treats gender-based violence dehumanizes women, whose concerns are trivialized by the very society in which they play significant social and economic roles. Women have suffered both physically and psychologically through being battered, dispossessed, killed, maimed and verbally abused in violent intimate relationships.

This study thus sought to identify and examine GBDV and IPV with a focus on its prevalence, magnitude, trends, causes and consequences with a view to making information-based suggestions on how to address it. The questions that guided the study are captured in the specific objectives outlined in the next section.

1.3 Objectives of the Study

1.3.1 Main Objective

The main objective of the study was to identify and examine the prevalence, trends and extent of GBDV and IPV in Kenya; its causes and consequences, with a view to determining appropriate interventions to address the vice.

1.3.2 Specific Objectives

The specific objectives of the study objectives were to:

- Establish the prevalence, trends and magnitude of GBDV and IPV among select communities living in four regions of Kenya namely; the Coast, Nairobi, Nyanza and Western Provinces;
- Identify and examine the politico-legal, socio-cultural and economic factors relating to GBDV and IPV among the studied communities;

- Establish the types and forms of GBDV and IPV and its major perpetrators among the selected regions and communities;
- Determine the consequences of GBDV and IPV among the target communities and the challenges it poses to various intervention initiatives by communities, Civil Society Organizations (CSOs) and government agencies committed to addressing gender inequalities and inequities in Kenya;
- Make suggestions on the requisite strategic interventions for addressing GBDV and IPV;
- On the basis of the findings suggest strategic interventions for addressing GBDV and IPV including; policy advocacy and necessary law reform; identify needs, targets and collaborators; and
- Finally, suggest a suitable Monitoring and Evaluation (M&E) framework for strengthening the implementation of interventions recommended by the study.

This study did not lend itself for any hypothesis testing. It was guided by the assumption that GBDV and IPV have been on increase since the 2002 study by FIDA.

1.4 Rationale for the Study

There are several reasons why FIDA (K) conducted this follow-up study. To begin with, this study is aimed at updating data on GBDV and IPV as a core component of the organization's mandate to make legal interventions on gender-based violence for, and on behalf of Kenyan women. Women comprise a huge proportion of those classified as 'poor and vulnerable' in society. They are indeed, the majority of those who are unable to access social justice in its widest sense and legal justice in particular. A study such as this one is therefore, not only useful for exposing the position of women vis-a-vis access to justice, but also for effectively planning, monitoring and evaluating FIDA's intervention work. It is also important, for similar reasons, useful to other like-minded stakeholders.

Another reason why this study is important is to determine and gauge where Kenya is globally in assisting her citizen's move towards realizing the cherished provisions of the various international conventions and legal treaties she has ratified. It is within the mandate of the CSO sector to hold governments accountable and responsible to its people in matters of dispensing justice. It may not be possible to make a strong case for any change without tangible data with which to lobby the government and other stakeholders.

1.5 Definition of Terms

1.5.1 Gender-based domestic violence (GBDV)

The term gender means the state of being either male or female. Gender defines and characterizes all human beings in society and is distinguished by physical/biological and sexual/ reproductive differences. The term 'gender' has however, increasingly acquired a social meaning where it defines how males and the females relate in society. The social meaning of "gender" refers to prescribed social norms and roles based on a person's sex. These norms include gender-based division of labour whereby duties are allocated on the basis of sex. For example, females are

allocated domestic duties belonging to the private sector, such as cooking and washing, whereas males are prescribed duties belonging to the public sector such as decision-making and bread winning.

Thus, when one adverts to the issue of gender today, one is not merely talking about the physical difference that being biologically male/female would entail. One is also talking about social constructions of maleness and femaleness, and this often translates into power relations between men and women. Sex then is distinguished from gender by what one is born as, that is female or male, and therefore it is a biological concept. However, culturally determined patterns of behaviour such as rights, duties, obligations and status assigned to women and men in society (gender roles) are varied even within the same society².

Gender based violence (GBV) is thus violence that is directed at an individual based on her or his specific gender role in a society. While it can affect both females and males, gender-based violence affects women and girls disproportionately. It is violence that establishes or reinforces gender hierarchies and perpetuates gender inequalities. Gender-based violence attacks the fundamental human rights of adults and children alike.

1.5.2 Intimate partner violence (IPV)

Intimate partner violence (IPV) is violence perpetuated by current or former spouses or romantic partners.

1.5.3 Violence against women

The Declaration on the Elimination on Violence Against Women (DEVAW) 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 ... in public or private life”³.

1.5.5 Feminism

A way of perceiving or interpreting a social situation from perspective of women and other marginalised groups in society. It further involves taking concrete action to remedy social inequalities.

2 Judy A. Benjamin & Lynn Murchison, *Gender-Based Violence: Care & Protection of Children in Emergencies, A Field Guide*, Save the Children Federation Inc. (2004)

3 United Nations General Assembly Resolution 48/104 Of 20 December 1993



2

LITERATURE REVIEW

2.1 Introduction

In this section, pertinent literature on GBDV and IPV was reviewed to not only determine the gaps in knowledge on the subject in Kenya, but also to provide a guide for generating appropriate data collection instruments and a sound theoretical basis and perspectives for discussing and presenting the study findings.

Further, the materials reviewed were meant to supplement, complement and enrich primary data collected through survey questionnaires, focus group discussions (FGDs), in-depth individual and groups interviews, Key Informants and case studies. The literature is drawn from text books, journal articles, periodicals, print media and any other documentations relating to gender and women rights intervention programmes that are relevant to the subject of GBDV and IPV.

2.2 Factors relating to Gender based domestic violence

2.2.1 Gender-based Domestic violence

Gender based violence is abuse that is meted on an individual by virtue of their gender. Domestic violence (sometimes referred to as domestic abuse) occurs when a family member, partner or ex-partner attempts to physically sexually, economically or psychologically dominate another. Domestic violence often refers to violence between spouses, but can also include cohabitants and non-married intimate partners. The term “intimate partner violence” (IPV) is often used synonymously. Other terms include wife or husband beating, battering, “relationship violence”, “domestic abuse”, and “spousal abuse”.

Domestic violence occurs in all cultures⁴. People of all races, ethnicities, religions, and classes can be perpetrators of domestic violence. Domestic violence is perpetrated by, and on men and women, and occurs in same-sex and opposite-sex relationships. It takes many forms including physical violence, sexual abuse, emotional abuse, intimidation, economic deprivation or threats of violence. There are a number of dimensions:

- Mode - physical, psychological, sexual, economic and/or social
- Frequency - on/off, occasional, chronic
- Severity - transitory or permanent injury; mild, moderate, severe up to homicide

Domestic Violence is part of a historical process. It is not natural or born of biological determinism⁵. Male dominance over women has historical roots and its functions and manifestations change over time. Oppression of women is therefore political, and an analysis of the state’s institutions and society, the conditioning and socialization of individuals and the nature of economic and social exploitation is required in any analysis of the phenomenon of violence against women. Among the historical power relations responsible for violence against women are the economic and social forces, which exploit female labour and the female body. Economically disadvantaged women are more vulnerable to sexual harassment, trafficking and sexual slavery⁶.

4 See R. B. Flowers, 1987, *Women and Criminality*, Practitioner Greenwood Press, USA.

5 Jeanne Ward, *If Not Now, When? Addressing Gender-Based Violence in Refugee, Internally Displaced and Post-Conflict Settings*. New York: The Reproductive Health in Conflict Consortium (2002).

6 Ibid.

In addition, denying women economic power and economic independence is a major cause of domestic violence against women, as it prolongs their vulnerability and dependence⁷. In the family institution, historical power relations are often played out. While the family is a source of positive nurturing and caring values it also doubles up as a social institution where labour is exploited, male sexual power is often violently expressed and where socialization that disempowers women takes place. In any event, it is in this environment where female sexual identity is often created.

The problem of violence against women in Kenya therefore, has to be understood within a historical and cultural context. Traditionally, patriarchal domination was the norm and men were recognized as having a right to 'chastise' their wives. Female members of households were also subject to male supremacy, which could be enforced through violence. Third parties were however, not allowed to exercise any violence on women and would be punished for it. Domestic 'chastising' was only regulated in that the husband was not allowed to cause physical impairment that would disable the woman from performing her functions in the home. A battered woman had very few forms of redress available to her. Sometimes she could only choose between returning her to her natal home or reporting the matter to established leaders of the community and hope that they would investigate.

This system was facilitated by the fact that marriage was not an affair between two individuals but rather represented familial and clan ties. Stability of the nuclear family was therefore, not as important as having a larger social network⁸. Colonial rule and the attendant introduction of new economic and social structures disrupted this state of affairs. The males moved from their societal setting to search for work outside the community⁹. Family and society ties weakened and people became less interested in what was happening to other members of the community. This had the effect of making women more vulnerable to male aggression given the already prevailing perception of women as subordinate to men. The isolation of the nuclear family from the wider society relegated the problem of violence against women to the personal/ private realm¹⁰.

The British legal system, which was imposed, also contained facets that cast women as subordinate to men within the family. The man was, for instance the head of the household and therefore the owner of the family property. Further, the law recognised the conjugal rights of the man to a far greater degree than those of women and did not recognize the concept of rape within marriage. Moreover, the introduced legal system did not make provision for dealing with violence against women as a special problem within or outside marriage.

The government made an attempt to address some manifestations of this problem in 1966. It set up a Commission on the Law of Marriage and Divorce whose terms of reference included among other things, looking into the status of women in the society¹¹. The Commission considered the problem of wife beating to be pertinent to the issue of status and after examining it, proposed a Bill, which would have criminalized wife battering. The predominantly male Parliament rejected the Bill and justified the practice of wife battering as an inherent traditional right of an African

7 J. Hanmer and M. Maynard eds., 1987, *Women, Violence and Social Control*, MacMillan Academic and Professions Ltd., Hong Kong.

8 Winnie Mitullah et al., *Women Inheritance Laws & Practices*, WLEA, Nairobi (2002). See also J. Hanmer and M. Maynard eds., 1987, *Women, Violence and Social Control*, MacMillan Academic and Professions Ltd., Hong Kong.

9 Id.

10 E. A. Stanko, 1985, *Intimate Intrusions*, Routledge & Kegan Paul, New York, USA.

11 Government of Kenya, *Report of the Commission on Marriage* (1970)

man and also as a matter within the private domain and thus not requiring state intervention. The failure of this Bill to become law means that a woman who is the victim of violence from her spouse has to rely on the general criminal law¹².

Since then, women have been seeking to have the state address their concerns including their need for protection from violence both in the home and outside the home.

2.3. The Legal Framework

A International legal standards on violence against women

2.3.1 Institutionalization of the “woman” issue in international human rights law

In recent times, the norms and standards of international law have developed a concern for the “women” question. This is more so in the field of international human rights law as the problems associated with violence against women have gained increasing recognition by the international community. Many international legal instruments dealing with human rights include the protection of women from violence in their provisions.

The Universal Declaration of Human Rights (UDHR)¹³ in Article 1 states that all human beings are born free and equal in dignity and rights. Article 2 provides that:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 5 provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. The non-discrimination clause in Article 2 read together with Article 3¹⁴ and Article 5¹⁵ mean that any form of violence against women which can be construed as threat to her life, liberty or serenity of person or which constitutes torture or cruel, inhuman or degrading treatment is not in keeping with the spirit and purport of the UDHR and is therefore, a violation of the international obligations of member states.

The International Covenant on Civil and Political Rights (ICCPR)¹⁶ and the International Covenant on Economic, Social and Cultural Rights (ICESCR)¹⁷ also prohibit violence against women. Article 2 of the ICCPR contains a non-discrimination clause similar to that contained in Article 2 of the UDHR. It states:

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

12 Ibid.

13 <http://www.unhchr.ch/udhr/lang/eng.htm>

14 Everyone has the right to life, liberty and security of person

15 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment

16 U.N.T.S. No. 14668, vol. 999 (1976) p. 171.

17 G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49

In addition, Article 26 provides that “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as...sex”. Taken with Article 6.1 of the Covenant, which protects the right to life, and Article 7 which protects everyone from torture or cruel, inhuman or degrading treatment or punishment, and Article 9.1, which protects the right to liberty and servility of person, the Covenant may be construed as covering the issue of gender-based violence.

Article 3 of the ICESCR guarantees the equal right of women and men to the enjoyment of all rights set forth in that covenant and many of the substantive rights set forth cannot be enjoyed by women, if gender based violence is widespread. For instance, Article 7 ensures the right of everyone to the enjoyment of just and favourable conditions of work. This, by implication, requires that women must be free of violence and harassment at the workplace.

2.3.2 The Convention on the Elimination of All Forms of Discrimination against Women¹⁸

The most extensive instrument dealing exclusively with the rights of women is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It is an international bill of rights for women as it sets out practices regarded to be discriminatory and lists actions to be taken to remedy this situation. Although CEDAW does not explicitly deal with violence against women except in the areas of trafficking and prostitution (Article 6), many of the anti-discrimination clauses contained in it provide the basis for the protection of women from violence. In addition, the Committee for the Elimination of Discrimination Against Women has made a number of recommendations, which address the issue of gender-based violence and provide another source of legally binding material at the international level dealing expressly with violence against women.

In General Recommendation 12, adopted in 1989, the committee requested that states include in their reports information about violence against women and the measures taken to eliminate such violence. General recommendation No. 19 formulated in 1992¹⁹ deals entirely with violence against women and explicitly states that gender-based violence is a form of discrimination which inhibits a woman’s ability to enjoy rights and freedoms on a basis of equality with men and asks that state parties have regard to this when reviewing their laws and policies.

It also argues that the definition of discrimination in Article 1 of the Convention includes gender-based violence. Article 1 of CEDAW defines discrimination as “...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in their political, economic, social, cultural, civil or any other field”. Gender-based violence is defined as violence directed against a woman because she is a woman or which affects women disproportionately. It includes physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. The definition of discrimination therefore necessarily includes gender-based violence.

Rural women are recognized as being at special risk of violence due to the prevalence of traditional attitudes in many rural communities and it imposes an obligation on states to ensure that services

¹⁸ 19 I.L.M. 33 (1980)

¹⁹ UN GAOR, 1992, Doc. No. A/47/38.

for victims of violence are accessible to rural women. Family violence is seen to be widespread and present in every part of the world and measures necessary to eradicate it are listed. Lastly, the Recommendation also directs state parties, in their reports to describe the extent of each problem in their countries, the measures taken to prevent and punish the occurrence of such problems and the effectiveness of such measures. Through CEDAW, women's rights are conceptualized as human rights.

2.3.3 The Declaration on the Elimination of the Violence against Women

The Declaration on the Elimination of the Violence against Women (DEVAW) deals exclusively with violence against women. Although it is not legally binding, it sets out international norms, which states have recognized as being fundamental in the struggle to eliminate all forms of violence against women. It defines violence against women in Article 1 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 owing in public or private life."

Violence against women is defined in the Declaration as including but not limited to physical, sexual and psychological violence that occurs in the family. Such violence includes battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, and non-spousal violence related exploitation.

The Declaration is reinforced by the adoption by 189 countries of the Declaration and Platform for Action in Beijing in 1995, reflecting a new international commitment to the goals of Equality, Development and Peace for all women everywhere. Five years later, in June 2000, Member States reaffirmed their commitments to the twelve critical areas of concern in the Beijing Platform at the Beijing +5 session of the General Assembly at United Nations Headquarters in New York, and considered future actions and initiatives for the year 2000 and beyond.

2.3.4 The African Charter on Human and People's Rights²⁰ and the Protocol To The African Charter On Human And Peoples' Rights On The Rights Of Women In Africa²¹

At the regional front, the African Union through the African Charter on Human and People's Rights in Article 18 (3) makes provisions for states to ensure the elimination of every form of discrimination against women and to ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions. This provision is brief and concise but it may be properly construed as conferring very extensive mandate on states to eliminate any form of discrimination against women including practices that constitute violence against women.

The protocol has provisions that relate directly to the issue and states at Article 3(4)

" States Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity, and protection of women from all forms of violence, particularly sexual and verbal violence.

20 Adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986

21 Adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, 11 July 2003

Article 4 on the right to life, integrity and security of the person provides that States parties should enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in *private* or *public* (emphasis ours).

2.3.5 AU Solemn Declaration on Gender Equality

The AU Solemn Declaration on Gender Equality in Africa reaffirms the African countries' commitment to the principal of Gender equality as enshrined in Article 4 (1) of the Constitutive Act of the African Union. It was concluded at the Heads of State and Government meeting in the Third Ordinary Session of the Assembly in Addis Ababa, Ethiopia, from 6-8 July 2004. At Article 9 of this Declaration, the Member states undertook to Sign and ratify Protocol to the African Charter on Human and Peoples Rights to the Rights of Women in Africa by the end of 2004 and to support the launching of the public campaigns aimed at ensuring its entry into force by 2005 and usher in an era of domesticating and implementing the Protocol as well as other national, regional and international instruments on gender equality by all State Parties.

On a general note Kenya has ratified the International Covenants on the Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It is also a party to the African Charter on Human and Peoples Rights. Kenya has also ratified the Convention on the Elimination of Discrimination against Women and in principle, is also supportive of the principles enshrined in the UDHR and DEVAW. Theoretically, therefore, Kenya is committed to safeguarding women and girls from all forms of violence.

Despite the fact that Kenya has ratified these international instruments, many of them have not been incorporated into Kenya's Municipal Law. An international convention does not become part of Kenyan Law until a Bill or Motion passed by Parliament making it an Act of the Parliament of Kenya incorporates it into the domestic law. The effect of ratification without incorporation into domestic law is that although the Kenyan state is bound in international law by an international instrument, the citizenry is not able to challenge government non-compliance within local courts. Judicial precedents in Kenyan courts reveal that whereas courts readily take cognizance of international instruments they are reluctant to apply the same to local situations in the absence of legislation that clearly adopts the international instruments²².

Therefore, despite its willingness to commit itself in international law to women's human rights instruments very little has been done to ensure that Kenya's domestic law conforms to international standards in respect of women's human rights.

B. National legal provisions protecting women from violence

2.3.6 The Constitution

The Constitution of Kenya²³ enshrines in Chapter V, the fundamental rights and freedoms of the individual. These are blanket provisions, which safeguard the rights of men and women alike. They also apply to children.

In Section 70, the rights safeguarded are those to life, liberty, and security of the person and his/her protection of the law. The section states as follows:

...every person in Kenya is entitled to the fundamental rights and freedoms of the individual, that

22 See Echaria vs. Echaria, Court of Appeal, Civil Appeal No.75 of 2001.

is to say, the right, whatever his race, tribe, place of origin or residence or other local connection, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

- a) life, liberty, security of the person and the protection of the law;
- b) freedom of conscience, of expression and of assembly and association; and
- c) protection for the privacy of his home and other property and from deprivation of property without compensation

The freedoms of conscience²⁴, expression²⁵, assembly and association²⁶ are also guaranteed. These rights and freedoms are not absolute, hence in enjoying these; one must respect the rights enjoyed by others and therefore, the public interest. Sections 70–83 expound on these rights. On enforcement of these rights and freedoms, Section 84 empowers any Kenyan whose rights and/or freedoms are infringed upon to apply to the High Court for redress. The High Court has original jurisdiction in such cases.

As far as protection against violence against women and girls is concerned, the Constitution does not provide for it explicitly. What it does provide for however is protection from inhuman treatment or torture or any other form of degrading punishment. This applies to men and women alike. (Section 74)

Under Section 82, there is a blanket provision protecting all Kenyan citizens from discrimination either by law itself or in effect. It provides as follows:

- 82 (1) Subject to subsections (4), (5) and (8), no law shall make any provision that is discriminatory either of itself or in its effect.
- (2) Subject to subsections (6), (8) and (9), no person shall be treated in a discriminatory manner by a person acting by virtue of any written law or in the performance of the functions of a public office or a public authority.
- (3) In this section the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place of origin or residence or other local connection, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.
- (4) Subsection (1) shall not apply to any law so far as that law makes provision-
 - (a) with respect to persons who are not citizens of Kenya;
 - (b) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;

23 Constitution of Kenya, (2000)

24 Section 78

25 Section 79

26 Section 80

- (c) for the application in the case of members of a particular race or tribe of customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons; or
- (d) whereby persons of a description mentioned in subsection (3) may be subjected to a disability or restriction or may be accorded a privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

It is noteworthy from the above provision that the non-discrimination clause does not apply with respect to personal law issues that are governed by customary law (under Section 82 (4) b and c). It is argued that this provision in the constitution not only facilitates but also shields from judicial sanction practices that have the effect of discriminating against women and perpetuating commission of violence against women in the private realm.

2.3.7 The Sexual Offences Act²⁷

The Sexual Offences Act was passed by Parliament in 2006 in response to the rampant sexual abuses reported in the country. A key objective of the Act is to create offences and stipulate sentences with the aim of protecting persons from sexual offences. The Act criminalises sexual relations amongst persons within certain parameters of affinity and thus protects children from sexual relations within the family context.

The Act also defines emerging forms of sexual violence that were not covered in the penal code, such as trafficking in children and presents an attempt to move from the old theory of classifying sexual offences as crimes against morality and address them as the crimes of violence that they are.

2.3.8 The Penal Code²⁸

The Penal Code Chapter 63 of the Laws of Kenya is currently the law under which most cases of domestic violence are prosecuted. This law provides for offences such as murder, attempted murder, grievous harm and assault among others. In instances of physical violence, survivors who report their cases to the police have had the offenders charged with varying offences depending on the degree of the violence meted on them.

The Penal Code is however inadequate with regard to protection where violence is imminent to the potential victim or their children. It thus fails to recognize the differentiated dimensions of domestic violence and only comes into effect after the victim has been violated which may sometimes be too late. Similarly, in cases where domestic violence is on going; the Penal Code fails to provide for the removal of the abuser from the home environment so as to minimize the effects of violence.

2.3.9 The Matrimonial Causes Act²⁹

A lot of domestic violence occurs within marriages and may be in the form of physical violence, marital rape, psychological and economic abuse. The Matrimonial Causes Act provides for reliefs

²⁷ Act No 3 of 2006.

²⁸ Cap 63 Laws of Kenya

²⁹ Cap 152 Laws of Kenya

in the form of separation or divorce where the offending party has been cruel to the victim, has been adulterous, has abdicated conjugal duties or has deserted the victim for over three years. The courts have widely interpreted cruelty as a ground for divorce and may be used to mean psychological violence, physical violence, sexual violence or even economic violence within the marriage. The law falls short of the needs of women in this regard by only punishing the actual offence but does not give the victim an option of getting out of an abusive marriage. This poses a challenge because of all the reasons why women find it difficult to leave abusive marriages such as economic dependency and the social pressure to conform to societal expectations.

2.3.9 Customary Marriage Laws

African customary marriages are recognized in law although not codified anywhere. In most of the communities in Kenya, there are certain ceremonies, which must be performed in order for a marriage to be considered as valid in law. One such ceremony is the practice of giving bride price (dowry) where the husband to be parts with gifts such as cows or cash to the family of the bride. This practice has perpetuated a lot of domestic violence to the woman as many men argue that if they paid to get the wife, then she should be treated just as any other property.

When a customary marriage ends, the wife's family is expected to return to the husband the bride price he paid out to marry her; then only will the marriage be dissolved customarily. Because many women cannot raise the money to pay back the bride price, they opt to stay in abusive marriages. Such customary practices are sanctioned even within our current constitution thus underscoring the need to have a gender sensitive constitution to eliminate such negative practices.



3 METHODOLOGY

3.1 Introduction

This study was carried out in selected areas of the Coast, Nairobi, Nyanza and Western Provinces of Kenya. These study sites were pre-determined by FIDA (K) based on the organization's focus on gender-related interventions in the regions. This study is also a follow-up to a 2002 survey on the same topic in the same four provinces.

3.2 Sample design and Sampling Procedure

The sample for this study was drawn from communities living in the mentioned regions. Individuals who participated in the survey include both males and females who live in urban and rural setting, who are married or single, and work in various professions. The individuals who served as case studies included spouses as well as single men and women of various professions and occupations living in both urban and rural settings. In the rural areas, the study focused largely on mixed farming communities that are dominant in the selected regions that were mobilized using FIDA (K) partners and local administration in the villages.

Targeted key informants that were identified by FIDA (K) for the study included, representatives of organizations concerned with gender issues or gender-oriented community intervention initiatives; FIDA (K) staff in all the four regions of study, religious leaders, elders and local administrators.

A sampling design comprising of multiple sampling strategies was utilized for this study. This aimed at drawing a representative sample having targeted about 30 survey respondents from each region. This was however, marred by the logistics of administrating and retrieving the survey questionnaire. Ultimately, out of about 60 expected survey questionnaires, 51 were retrieved for analysis yielding the tabulated survey data discussed in Chapter Four alongside rich qualitative data obtained through observation, FGDs, and Key informant and group interviews as well as case studies.

For the purposes of gathering specific qualitative data about GBDV and IPV, some participants were targeted, which include FIDA (K) clients, police department personnel, opinion leaders, religious leaders, civil society organizations' representatives, and other relevant actors involved in gender issues in the course of their community interventions work. At least two FGDs were carried out in each region. Each of these FGDs had an average of 8-12 participants. Several individuals were also used as case studies (over 10), and key informants were interviewed to adequately compensate for the shortfall in survey respondents. Overall, the study was designed to capture nuances on the core subject (GBDV and IPV), which could only be best generated through qualitative techniques such as interviews and focus groups.

3.3 Sites Description

3.3.1 Coast Province

The study in this province was carried out mainly in Mombassa. It lies within the coastal lowland, which rises gradually from the sea level in the east to slightly over 76.2m above sea level in the mainland west.

The district is largely cosmopolitan, being inhabited by a host of Kenyan mainland communities co-existing with both the indigenous coastal people like the Mijikenda groups, Akamba, Afro-

Asians and people of Arabic origins. The most popular religion in the province, (particularly in Mombasa town) is Islam. Most of the residents speak Kiswahili language and practice the Swahili culture.

Among residents of Arabic descent, social relationships are mainly governed by sharia norms; whereas residents of African descent are governed by a mix of Arabic-African cultural, especially in the South Coast.

3.3.2 Nairobi Province

Nairobi is treated as a district, province and city. It is the capital of Kenya and largest city. The name "Nairobi" comes from a Maasai phrase 'Enkare Nyorobi', which translates to "the place of cool waters". Nairobi was founded in 1899 and was handed capital status from Mombasa in 1905. Nairobi is also the capital city of the Nairobi Province. Nairobi is the most populous city in East Africa and the 4th largest city in Africa with an estimated urban population of 3 to 4 million. Nairobi is presently one of the most prominent cities in Africa both politically and financially and a home to many international companies and organizations. Overall, Nairobi is an established economic and cultural hub. The Globalization and World Cities Study Group and Network (GaWC) defines Nairobi as a prominent social centre. It has been ranked 58th globally in the list of prominent cities as an economic and cultural powerhouse.

3.3.3 Nyanza Province

Nyanza Province of Kenya, on Lake Victoria, is one of Kenya's seven administrative provinces outside Nairobi; it is at the South-West corner of Kenya. Nyanza Province is located in the South-West corner of Kenya and includes part of the Easter edge of Lake Victoria. This area is one of Kenya's seven administrative provinces outside Nairobi. Nyanza Province is known as the home of the Luo. Other communities who live in the area include the Bantu-speaking Gusii, the Kuria and a few traces of the Luhya. The province derives its name from the 'Sukuma', a Bantu-speaking cultural group living on the Tanzanian shore of Lake Victoria, to whom the word Nyanza means 'a large mass of water'.

The provincial capital of Nyanza province is Kisumu, the 3rd largest city in Kenya. The province has a population of 4,392,196 (CBS, 1999) within an area of 16,162 km². The climate is tropical humid.

The predominant language in Nyanza province is Dholuo, a Nilotic Language whose origins are from Southern Sudan, spoken by the people that go by the same name. Other languages from the many Kenyan communities are also spoken in small pockets by migrants who now reside among these communities.

3.3.4 Western Province

The Western Province of Kenya comprises the districts of Bungoma, Busia, Butere/Mumias, Emuhaya, Kakamega, Lugari, Mount Elgon, Teso, and Vihiga. The province borders Uganda to the West and is one of Kenya's seven administrative provinces outside Nairobi. Situated west of the Eastern Rift Valley, the province is inhabited mainly by the Luhya people. Kenya's second highest mountain, Mount Elgon is located in Bungoma District as well as the famous Kakamega Forest rainforest. The province's capital is Kakamega and harbours a total population of 3,358,776 inhabitants within an area of 8,361 km² (CBS, 1999).

Western Province has diverse physical features, including the hills of Northern Bungoma district and the plains bordering Lake Victoria in Busia District. The highest point in Western province is

the peak of Mount Elgon, while the lowest point is the town of Busia, located near the waters of Victoria. Farming is the main economic activity in the province.

3.4 Data Sources and Data Collection methods

Data for this study were largely obtained from primary sources through field work carried out in various parts of the mentioned provinces. A survey questionnaire and detailed interview schedules/guides were designed and used to capture and tease out nuances on the prevalence, magnitude, trends and causes of GBDV and IPV among the communities living in the mentioned study sites (see Annexure).

Additionally, a literature review was conducted to provide an analytical framework about GBDV and IPV. (See Chapter Two). These data have served as basis for the analyses and discussions presented in Chapter Four.

3.5 Data analysis, Interpretation and Presentation

Survey data collected were subjected to appropriate electronic analyses using the Statistical Package for the Social Sciences (SPSS). Data obtained from FGDs, Key Informants and Case Studies were analyzed along themes derived from the specific objectives of the study to augment, cross-check, enrich and corroborate survey data. Information obtained from secondary sources, (notably literature drawn from textbooks, journals, media reports and documents generated by CSOs and government agencies involved in gender interventions) were also used to supplement, corroborate and provide theoretical perspectives for discussing and drawing conclusions along the objectives of the study.

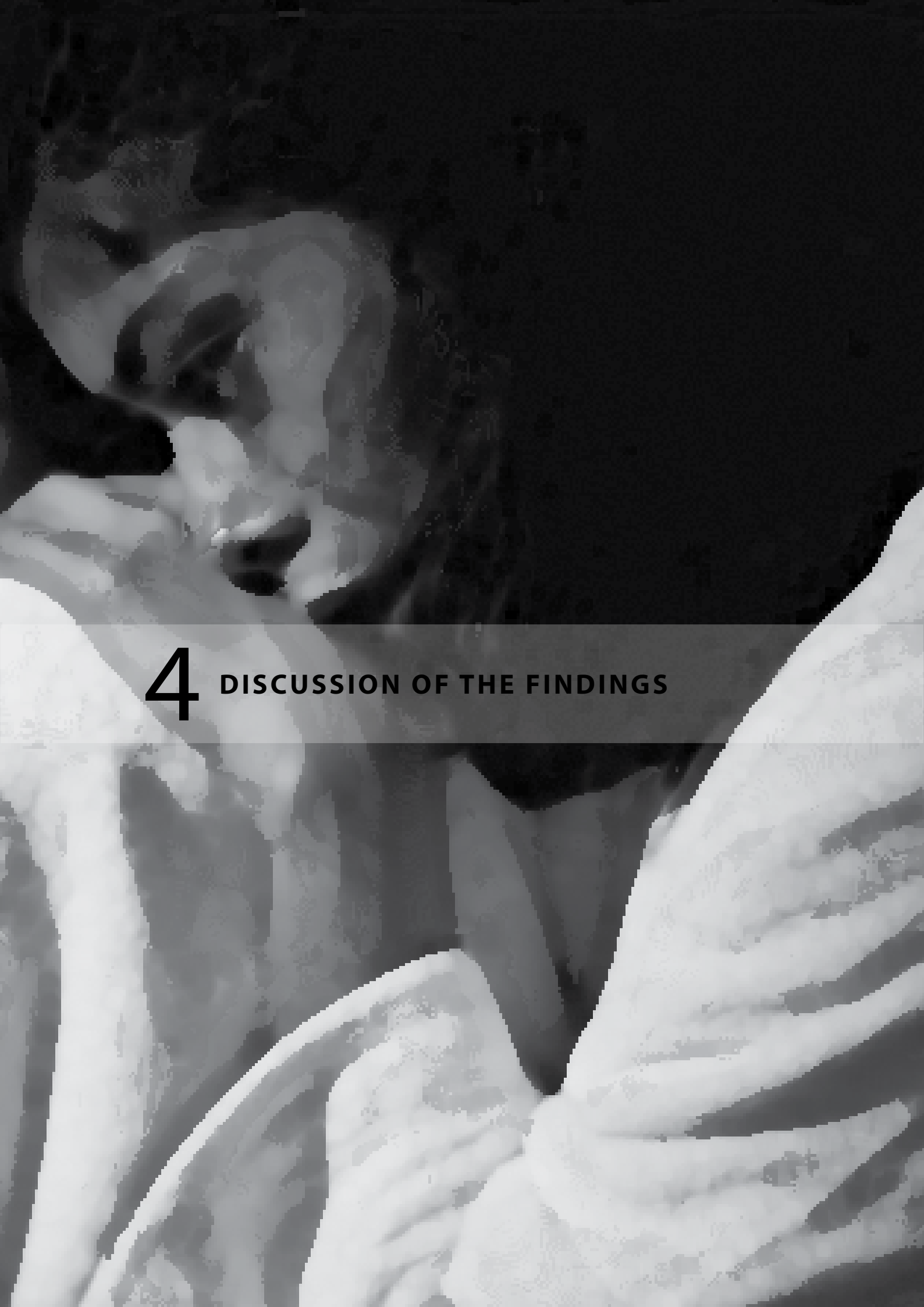
3.6 Problems, Constraints and Limitations of the study

This study faced a few barriers that require mention in order to justify some of the sampling and other errors that may have marred, albeit insignificantly, both its internal and external validity. These are mainly logistical barriers, including having had a few enumerators at the disposal of the researchers to assist in data collection. In Western and Nyanza provinces, long distances were to be covered to access the FGD participants. As such, only very few questionnaires were administered or retrieved for the survey component of the study, which would have enriched its quantitative dimension.

Nevertheless, quite a number of insightful interviews were carried out with the identified key informants and case studies, which sufficiently made up for such shortcomings. Several FGDs were also conducted with stakeholder organizations and communities in all the targeted regions yielding a wealth of information, which largely provide the spine of the study.

3.7 Consent

In carrying out this study, the researchers were conscious of the need to ensure that all respondents consented to being interviewed and to the contents of the interview being used in the report. In instances where FIDA clients were interviewed, FIDA staff sought the consent. In the case of focus group discussions, most of the groups had worked with FIDA and were briefed on the objectives of the study before the interviews were carried out.



4 DISCUSSION OF THE FINDINGS

4.1 Introduction

This chapter summarizes the findings of this study. Multiple strategies and techniques were used to collect data in the four regions mentioned in Chapter Three. The following discussion includes issues drawn from the literature about GBDV and IPV (see chapter two), and begins with the socio-demographic description of the survey sample as a backdrop.

4.2 Socio-demographic Characteristics of survey respondents

The majority of survey respondents were drawn from Coast province accounting for 32.7% of the total survey sample. Western followed this with 28.6% of the participants, while Nairobi and the Nyanza accounted for 22.4% and 16.3% of the participants respectively (see Table 4.1 below).

Table 4.1 :: Distribution of respondents by Province

Province	No. of respondents	Percentage (%)
Coast	16	32.7
Nairobi	11	22.4
Nyanza	8	16.3
Western	14	28.6
Total	49	100

In terms of gender of the respondents for the study, the number of males interviewed was higher than that of the females. Indeed, 56.9% of those interviewed as survey respondents were men, with women accounting for 43.1% of the total survey sample (see Table 4.2).

Table 4.2 :: Distribution of respondents by Gender

Gender of respondents	No. of respondents	Percentage (%)
Female	22	43.1
Male	29	56.9
Total	51	100

According to survey data, all those interviewed were categorized into the age brackets. Those 30 years and below comprise the majority accounting for 58.8% of the sample. Respondents 31-40 years and 41-50 years comprised 19.6% and 17.7% respectively, while those that were 51 years and above accounted for 3.9%.

In terms of marital status, 57.1% of the respondents interviewed were married while another 23.8% were divorced or separated. 16.7% were single and 2.1% widowed.

The type of marriage among participants in the study ranged from civil marriages, cohabitation, to customary marriages. The percentage of study participants who are married under civil law is 29.4%, which is the same as the percentage of those participants who are married under customary law. 41.2% of the participants are cohabitating.

Regarding the educational levels of the participants, 44.7% of the respondents have attained secondary education, 29.8 % have attained primary education, and 25.5% have received tertiary education

Respondents were also asked to indicate their spouse's level of education (see table 4.7). About 52.4% of respondents' spouses have attained secondary education, while 19% have only attained primary education. Another 28.6% had attended tertiary institutions.

The occupation of respondents varied considerably. About thirty two percent of the respondents have professional careers and work as teachers, nurses and technicians. On average 27.5% of the participants were unemployed. Other study participants are housewives (20%) or work in petty trading or farming (20%).

About 30.8% of spouses were professionals and worked either as teachers, or were engaged as workers in the health sector or were technicians. About another 20.5% of the spouses were unemployed, while another 17.9% comprised of artisans. Another 20.5% were peasant farmers, while 10.3% were petty business people.

4.3 Prevalence, Magnitude and Trends of GBDV and IPV

Generally, according to data elicited through FGDs, Key Informant Interviews and survey questionnaire, GBDV and IPV in Kenya is on the rise since the year 2002. The explanation to this finding can be two-fold. First, people may have gained more awareness about their rights and are thus able to recognize gender abuse. Secondly, society may have changed for worse becoming more violent.

Data also attests that 74.5% of the respondents indicated that they have ever been physically abused within the homestead. The rest 25.5% had not been abused (see Table 4.3).

Table 4.3 :: Distribution of respondents by whether ever abused

Ever abused?	No. of respondents	Percentage (%)
Yes	38	74.5
No	13	25.5
Total	51	100

Further, qualitative data (mainly elicited through FGDs and case studies) indicate that this has been due to domestic scuffles, which are intimately tied to poverty within the family. It would also appear that, as people become more aware of their rights, particularly women due to the intensive gender awareness campaigns carried out by CSOs, there is much more reporting of domestic violence. There is also presently a lot more sharing of information regarding gender issues, which includes the issue of violations in many forums including mass media.

However, according to the Director of the CSO Network based in Kisumu, not much of GBDV and IPV is reported in Nyanza region as the communities still consider 'home matters' as private. Although FIDA (K)

has done a lot of awareness as well as successful representation in individual cases in the region, those who report GBDV and IPV to the organization are perceived by others as having made a choice to break their homes.

The most common and frequent types of violence experienced by the respondents are what can be categorized as economic, psychological/emotional. The respondents also experienced various other forms of physical and sexual abuse including defilement and rape. Economic violence takes several forms including deprivation of women by their spouses, violence resulting from sex peddling transactions and denial of women by their male spouses to engage in any form of business. Economic deprivation mainly affects women who are housewives and not engaged in gainful employment or business.

Further, economic violence has to do with differences arising out of inheritance and succession issues. For example, in Kakamega, representatives drawn from a local NGO (GROOTS-Kenya) report that Luhya succession traditions prohibit widows from inheriting land, and that women are often chased away by their in-laws upon husbands death.

Several women who were interviewed for this study reported experiencing this type of violence. Moreover, widows whose husbands have died of HIV and AIDS tend to experience more abuse from his family, often accused and blamed of having caused his death. This is a common perception among communities living in the Western and Nyanza region.

Many women across all regions studied also attested to having experienced physical violence and abuse. According to the director of the CSOs Network in Kisumu, young girls (between 14 and 20 years) have been battered by young men cohabiting with them when they resist peddling sex for money, which the young men later use to buy drugs and alcohol. This particularly affects young girls who live with boda boda (bicycle transport) operators. The latter do not mind their girlfriends engaging in casual sex as long as the money accruing is shared with them. This fact was alluded to by local administrators who said that they occasionally arbitrate on many of these cases. CSOs too, handle a lot of these cases. The latter consist of agencies that bring such cases to the attention of the police and local administration (chiefs and their assistants). They included GROOTS-Kenya, MAACS and Road Works International. In most other instances, elders may be involved in dealing with such cases at community level.

According to an Assistant chief in Kondele, Kisumu young girls are lured into living with young men who evict them from the house when they become pregnant. These cases and forms of violence are becoming very common in the town's low-income areas where young men lock out the young girls they have stayed with for short period from their houses once they are done with them.

Other forms of sexual violence reported include defilement, sodomy, rape, incest and impregnation of underage girls. This is common in Western Kenya, especially in the Khayega and Ciswa areas of Kakamega district. The most common form of sexual violence reported by the women who participated in this study is marital rape. The women expressed that their abusive husbands treat them as property, and therefore, their consent is irrelevant.

4.4 Factors relating to GBDV and IPV

This study reveals that GBDV and IPV is a common feature in the studied regions. GBDV and IPV results from various factors that can be classified into politico-legal, socio-economic, socio-cultural and other related factors

While social and cultural-factors are overwhelmingly responsible for most domestic violence incidences, politico-legal factors were also found to play a significant role in society's embracement of GBDV and IPV.

An examination of the interplay of these factors and the occurrence of the various types of violence is given prominence in the sections that follow.

4.4.1 Political- legal Factors

CEDAW requires state parties to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. The existing legal and political structures do not attempt either directly or indirectly, to deal with these aspects, particularly where it concerns domestic violence. These factors include among others those that relate to poor policy implementation and inappropriate legal attention to the issues that underlie widespread gender-based inequities and inequalities which tend to tie intimately with poor family relationships. Most importantly, GBDV and IPV create a power imbalance between men and women, with women bearing the full brunt of the inequities. According to data generated in this study, existing political and legal structures are unable to adequately address even the least complicated forms of GBDV and IPV at the individual, community or national level. This is work that has largely been left to traditional community structures and CSOs sympathetic with the situation.

4.4.2 Socio-economic Factors

Commitment of governments and the international community is key for implementation of the Beijing Platform for Action. Such commitment is made evident through prioritization of action for the empowerment and advancement of women. States have expressed determination to promote women's economic independence, including employment, and eradicate the persistent and increasing burden of poverty on women by addressing the structural causes of poverty through changes in economic structures, ensuring equal access for all women, including those in rural areas, as vital development agents, to productive resources, opportunities and public services. Some socio-economic factors, which have overwhelmingly influenced occurrence of GBDV and IPV, include those factors related to poverty and the deep-seated gender inequalities and inequities. In all the study sites, respondents, key informants, FGD participants and case studies alike, cited poverty as the underlying cause of most forms of GBDV and IPV. This particular finding ties well with the findings of a study (Domestic Abuse in Kenya) dedicated to FIDA (K), carried out jointly by Population Communication Africa, Ford Foundation, National Council of Women, Kenya (NCWK) and the Canadian International Development Agency, Gender Equity Support Programme (CIDA/GESP) in 2002. In that study 24.3% of respondents acknowledged poverty as a major cause of domestic violence. Another 53.4% "of the respondents" related domestic violence with substance abuse, which can be correlated with frustrations of poverty (Tony Johnston, 2002:26).

According to the director of Muhoroni Aids Awareness and Counseling Services (MAACS), wife inheritance is a major cause of GBDV and IPV affecting women living in Nyanza. Although taking control of a woman's sexuality contributes to the practice of wife inheritance, the key informant believes that in modern times, the primary motivation for a man to inherit his deceased's brother's wife has a lot to do with seeking to access the resources left behind.

A focus group discussion (FGD) held in Nairobi with FIDA (K) monitors also echoed the same premise that poverty is an underlying cause of GBDV and IPV. The participants indicated that most scuffles at the domestic level between spouses largely stem from arguments over resources which then escalate into fights. According to them, the frequency of such occurrences is much higher among people living in the low income areas, especially informal settlements such as

Kibera, Mathare and Dagoretti, as compared to people living in higher income areas where both spouses are likely to be income earners.

Another notable factor in this category is the low levels of knowledge and awareness amongst individuals of both genders on their rights and how to claim and /or protect them. This low level of knowledge and awareness however, in most instances, assume an asymmetrical pattern affecting more women than men. According to data elicited, women are indeed, less exposed and literate than men. By virtue of such ignorance amongst majority of women, they are less empowered to assert their position in the family. According to a key informant drawn from MAACS in Nyanza, men in the region are relatively more knowledgeable and exposed to information about their rights as compared to their female counterparts.

This, coupled with the fact that men traditionally control the family resources, gives men an upper hand in the domestic power equation. Consequently, men usually exert their hegemony in the home through violence on the women to keep them 'scared'. Data derived from an FGD held at FIDA offices in Kisumu, alluded to the fact that women are considered subordinate to men among most communities in the region. Among the Luo community for instance, women are placed at the same social level as their children. Generally, the subordinate position of women within the family among most societies and cultures is kept alive by the fear of both real and imagined violence that men can perpetrate against women.

However, although women comprise the majority victims of GBDV and IPV, there are instances where men have been on the receiving end. For example, data elicited from FIDA (K) monitors in Nairobi, indicate that in informal settlements (Mathare, Kibera and Kawangware) the lucrative trade on illicit brew is largely controlled by women who are sometimes physically abusive towards their husbands.

Such women enjoy an upper hand in the family and will occasionally beat up their male spouses when they are drunk. Sometimes they beat up their men because they steal the alcohol and give it to their female friends, or take the proceeds accruing from the trade.

4.4.3 Socio-cultural Factors

One of the three general thrusts of CEDAW is enlarging the understanding of the concept of human rights, as it gives formal recognition to the influence of culture and tradition on restricting women's enjoyment of their fundamental rights. The impact of culture on the full realisation of human rights for women is also addressed under Article 5 of the Protocol to the African Charter on human and peoples' rights on the rights of women in Africa which advocates for the elimination of harmful practices and requires states parties to prohibit and condemn all forms of harmful practices which negatively affect the human rights of women. This group of factors appears to be the most formidable, accounting for most forms of GBDV and IPV identified in all the study sites. It would appear that there are deep-seated traditions and values among the studied communities that are the basis for abusing women.

Among the Luo for instance, women are regarded as children who must be 'disciplined' all the time or 'reminded' of the position they occupy in the home. Evidence emerging from key informants and FGD participants indicate that this is the same position that is held among communities living at the Coast. Among the Digo for example, a husband may compel his wife to 'have an affair' with another man in order that he may be caught and fined so that the husband will then have made money to spend on drink. Refusal of the woman to do this can lead to a thorough beating or even divorce.

Although traditional beliefs and customs do not appear to be at work in Nairobi, data elicited from survey respondents and FGD participants indicates that women are not perceived as good managers of resources, such that a man will always demand to know how the wife has spent the money she has earned. Moreover, most men will violently demand that they are given the money for 'safe-keeping'.

In Nyanza province, where traditions and customs are largely the reference point for spousal relationships, women suffer all forms of violence by virtue of being accorded low status in society. According to data obtained from MAACS, women are often beaten as reassurance that their husbands still love them. Women have been conditioned through cultural code to accept that a man who does not beat them up once in a while does not recognize them as their spouses or worse still, as women.

A major reason to why men perpetrate violence against women is the custom of bride wealth payment. In western Kenya for example, any 'properly' married man will have parted with several cattle, sheep and goats. These livestock are considered a symbol of status and of great commercial value not only to those who part with them for a bride, but also the recipient family as well. Hence, if the man is disobeyed by his wife, what comes to mind is the number of livestock he has paid to the wife's parents. In that case, he may resort to violence, believing that he is just 'playing around' with his wealth. Thus, it is not a 'big deal' for a man to beat his wife in the eyes of the larger community. It is worth noting that the whole 'bride wealth business' is exclusively a male dominated economic transaction.

Another factor in this category that appears to play a significant factor in GBDV and IPV is the custom of polygamy. This practice, that is still prevalent in both Western Kenya and Nyanza provinces, is overwhelmingly responsible for many domestic scuffles that escalate into large-scale violence. According to most elderly women interviewed, when a man marries a younger wife, he is most likely to neglect the older wife and perpetrate violence against her at the slightest provocation. Violence, especially verbal violence, becomes frequent between the wives and extends to their children.

4.4.4 Other Factors

One factor that emerged as a source of GBDV and IPV in the study is sexual frustration especially among men. According to an FGD held in Shinyalu (Western province), when men partake illicit brew, they are unable to perform sexually. They may vent these sexual frustrations through meting out violence to their female spouses. They will often look for an issue to quarrel about so that their wives will not demand sex.

On the other hand, women do use sex as a weapon to 'discipline' their male spouses, particularly if they have not been providing for the home as required. According to one of the FGD held in Nairobi with FIDA (K) violence monitors, most women living in the informal settlements may not allow their men to have sex with them if they are irresponsible. In such scenarios, men will accuse their spouses of infidelity or vent their frustrations for such denial of sex through violence. For example, a woman in Nairobi stated that she refrains from having sex with her husband in a bid to make him responsible. In other words, women will sometimes use sex as a weapon to coerce their men to act responsibly within the family.

Women's empowerment was also singled out as a factor that underlies GBDV and IPV. It is observed that the more a woman gets empowered, the more there is likelihood of domestic violence. According to information obtained from key informants, particularly police officers and chiefs who often arbitrate on violence cases, men often claim that when their wives make

money or attend gender seminars, they will initiate arguments, which in most instances end up into violence occurrences. Women’s empowerment in general, was one of the reasons cited by men respondents to account to the rise of violence against men. Some women respondents also indicated that ‘in situations where a man is too polite, the woman will take the advantage to dominate and control him’.

In Mombasa, some male respondents reported feeling depressed because they don’t have anyone to speak to about the violence they experience in their homes. A key informant further indicates that in most instances, men are psychologically unable to deal with their frustrations in the manner women can. Moreover, when it comes to fighting, women will use all types of weapons including sex, bottles and household utensils.

According to information obtained at a FGD in Nairobi, some women serving jail terms have been charged with having maimed or killed their male spouses or lovers. Overall, the study illustrates that women are more prone to relationship violence as compared to men

4.5 Types of violence and major perpetrators

The major types of violence observed in the study sites include physical, psychological, sexual/rape and economic violence. In most cases of violence however, some element of physical violence is involved, while psychological violence is inbuilt in all the types of violence. Overall, men are the major perpetrators of all types of violence according to the study. Physical violence, which the most common form of domestic violence), was observed in all areas visited, especially among communities living in informal settlements or slums in the urban areas.

As displayed in Table 4.4 below, men were cited as being the major perpetrators of GBDV and IPV by the overwhelming majority of respondents at 79.2%. The respondents who cited female spouses as perpetrators of violence were 14.6% while those who mentioned in-laws and parents as perpetrators only accounted for 4.1% and 2.1% respectively.

Table 4.4 :: Distribution of respondents by perpetrators

Perpetrators	No. of respondents	Percentage (%)
Male Spouse	38	79.2
Female spouse	7	14.6
In-Laws	2	4.1
Parents	1	2.1
Total	48	100

The nature and types of violence according to survey data (Table 4.5) were denial of conjugal rights (49%), physical abuse (26.5%), infidelity (14.3%) and rape (10.2%). According to data obtained from the FGDs held in Mombasa, Kisumu and Kakamega, denying sex to a spouse is one of the most painful/bitter experiences which may trigger off other forms of violence. Evidence adduced from a case study in Nairobi indicated that usually, ‘the most horrible violence between spouses has its genesis in the bedroom’.

Table 4.5 :: Distribution of respondents by nature and type of abuse

Nature and type of abuse	No. of respondents	Percentage (%)
Denial of conjugal rights	24	49
Physical abuse	13	26.5
Infidelity	7	14.3
Rape	5	10.2
Total	49	100

Other data obtained from key informants drawn from CSOs, FBOs, Case Studies, the police and medical institutions reveal that physical and sexual violence exists in a significant magnitude. According to FIDA (K) violence monitors in Kisumu, Nairobi, Mombasa, Kakamega and Kisumu, physical violence between spouses within the communities they are working, has been there for long and is worsening in terms of the injuries inflicted on the victims.

Testimonies were given by the women who participated in case studies who have been battered by their husbands and have suffered from serious injuries, ranging from deep cuts, rape/defilement and burns, to breaking of bones and severe beatings.

Similarly, a group interview held with police officers handling Gender Desks in Mombasa, revealed that the staff often handles cases where couples appear to have intended to kill each other, which is evident by the injuries that are visible on their bodies.

At one hospital the matron reported that they occasionally receive women on the verge of miscarriage as a consequence of violence meted towards them by their spouses.

The hospital also handles sexual violence cases such as rape, sodomy and occasionally defilement. She highly suspects that there are more cases of the latter nature that never go beyond the family level to safeguard its repute in the neighbourhood. Cases of sodomy, according to her, are common occurrences among the Muslim communities where girls are strictly required to retain their virginity until marriage. In most instances, those who are involved are either members of the family or those entrusted with taking care of the victims.

Further, a significant majority of respondents (48.7%) who said that they had been abused indicated that the abuse happened once in a while, to those whom abuse was a regular event accounted for another 29.3% while 22% were abused most of the time (see Table 4.6).

Table 4.6 :: Distribution of respondents by frequency of such incidents

Frequency of abuse incidents	No. of respondents	Percentage (%)
Once in a while	20	48.7
Regularly	12	29.3
All the time	9	22
Total	41	100

According to the subjects who participated in interviews held with local administrators in Kakamega, Western province, the most common types of GBDV and IPV are serious assaults to women ostensibly for their indiscipline. For the same reason, they may be deprived of support together with their children. This is happening mainly among young couples in the region.

Further, data illustrates that rape and defilement, is becoming a frequent occurrence in certain areas within Shinyalu, Shibuye, Vilebe, Ileshi, Khayega and Ciswa and other areas of Kakamega district. These are very traumatizing experiences for victims.

Further data elicited from the survey shows that knowledge on the existence of GBDV and IPV, its prevalence, perpetrators and frequency of abusive incidences is very high among the communities studied. The study found that 83% of the survey respondents know someone who has suffered some type of abuse. Only 17% of them did not have such knowledge.

The reasons and circumstances underlying abuse (GBDV and IPV) were corroborated by data obtained from survey respondents (see Table 4.7). According to this data, adultery and alcoholism were cited with 41% and 28.2% scores respectively. Other circumstances cited included financial position (20.5%) of the family and the HIV status of spouse (10.3%). Data obtained from a key informant from the police department indicated that most abuse and violence in the homes are associated with drunkenness, substance abuse, unemployment, poverty, families living apart and presently HIV status. A male spouse who is HIV positive tends to be more aggressive and harsh owing to frustrations borne out of stigma and discrimination.

Table 4.7 :: Circumstances behind such abuse

Circumstances	No. of respondents	Percentage (%)
HIV status	4	10.3
Adultery	16	41
Financial	8	20.5
Alcoholism	11	28.2
Total	39	100

It is also noted from survey data that abuse occurred 'frequently' and 'very frequently' as attested to by a combined percentage of 78.3% of the respondents (see Table 4.8). Only 21.7% mentioned that they knew of persons that have rarely been abused.

Table 4.8 :: How often does abuse of persons the respondents know occur?

How often?	No. of respondents	Percentage (%)
Rare	10	21.7
Frequent	24	52.2
Very frequent	12	26.1
Total	46	100

The underlying reasons for frequency of such abuse and violent incidents among the persons they knew were again alcoholism (51.9%) while culture was cited by 25.9% of the respondents. Another 22.2% of the respondents associated such frequent abuses to unsubstantiated immoral behaviour (see Table 4.9).

Table 4.9 :: Underlying reasons for frequency of abuse of persons respondents know

Reasons underlying frequency of abuse	No. of respondents	Percentage (%)
Alcoholism	14	51.9
Culture	7	25.9
Immoral behaviour	6	22.2
Total	27	100

Further, survey data shows that most respondents (68%) have been abused within the precincts of their homesteads with 32% being abused elsewhere. This fact is corroborated by evidence contained in most of the case studies appearing in this report. The reasons cited for these occurrences within the homestead included adultery/infidelity, financial matters, insecurity and male chauvinism. Such abuses largely include verbal abuse and physical violence.

Verbal abuse had a 73.5% score among the survey respondents and men account for 72% of such violence. Overall, according to data in Table 4.10 below, the specific nature of abuses within the homestead includes denial of financial support (45.7%), abusive language (37.2%) and adultery (17.1%). Infidelity, demand for financial support, alcoholism, and arriving home late were stated as significant reasons for the violence within the homestead.

Table 4.10 :: Distribution of respondents by the specific nature of abuse

Specific nature of abuse	No. of respondents	Percentage (%)
Denial of financial support	16	45.7
Abusive language	13	37.2
Adultery	6	17.1
Total	35	100

In conclusion, all forms of GBDV and IPV were observed in the studied regions, that is, physical, psychological and economic as well as sexual violence in its various manifestations.

4.6 Causes and Consequences of GBDV and IPV

4.6.1 Causes of GBDV and IPV

According to data elicited in all regions of study, there are numerous causes of GBDV and IPV. Among the major ones is disputes over ownership and control over property, especially land in

the rural settings. This featured prominently in Western Kenya (Kakamega district) where many women are disinherited by relatives of their deceased spouses. In this region, issues around this dispossession breed all kinds of violence ranging from economic, psychological/emotional to sexual violence. The latter is usually meted out on the women with a view to frustrating them in order that they abandon their claim to inherit property.

In one such case a woman was dispossessed by brothers to her husband on account of his being imprisoned after assaulting her. The brothers vowed to kill her if she did not get out of her marital home. The main motivation was to gain possession of their brother's wealth including land, with full disregard of what would happen to the children of the marriage (see Case Study 1).

Another cause of GBDV and IPV identified was when a spouse got invalid from sickness, accident or simply misfortune. In one of the case studies in Kakamega, a woman was constantly beaten up and later abandoned by her husband after becoming blind on account of a malignant growth in the brain. Ultimately, when she did not leave of her own accord, the husband remarried. Later on she had to flee her marital home after both the husband and the new wife attempted to strangle her. Neighbours who heard her shouts for help rescued her.

The practice of polygamy especially when it results in outright jealousies and competition in the family setting was also identified as a major cause of spousal violence. This was a common reason for spousal violence in rural Western and Nyanza provinces. Most marriages in these settings are either currently or potentially polygamous. In one instance in Shinyalu location of Kakamega district (Western Province), a husband and a younger wife closed the house of the elder wife so that she would be forced leave. The elder wife was given shelter by a neighbor, but continued working in the family farm. Subsequently, she was attacked by the husband and younger wife and was hospitalized for a week.

Other tensions arose when men felt challenged by their wives involvement in women groups' activities on account of which they would make incomes and acquire some financial autonomy. Such men would feel irrelevant and fear losing control of their wives. In such circumstances any sour verbal exchanges would always escalate into violence. In cases of proceeds arising from women groups' activities, the man would always demand a share of the money. This latter observation was a common occurrence in all the study sites.

Drunkenness and other forms of drug abuse is another major cause of GBDV and IPV in all the regions studied. In Nairobi, this was very common among communities living in the slums or informal settlements where incomes are low and men have to perpetually be inebriated in order to cope with daily frustrations or simply have their minds 'engaged'. In such states of mind, the men will demand sex from their female partners who may not agree to provide it. Ultimately, this becomes a cause of quarrels among couples. Mostly, the men would accuse their wives of having affairs with other men, which often leads to violence. One respondent told of how she quarreled with her husband over his demand for sex while the children had not slept. She states, that when she refused, he simply accused her of having had extra-marital affairs. She states that besides the physical injuries she got, she is still psychologically affected.

Having large families, beyond the men's capacity to take care of them was found to be another important cause of GBDV and IPV among the communities studied. This emerged a major concern especially in Nyanza and Western provinces. According to two chiefs that were interviewed as Key Informants in Kisumu, some of the common cases they have handled relate to economic violence meted on children and women. Women often report that, their men have abandoned them on account of not affording to buy essentials in the home. The men resort to taking cheap brew and

living with concubines in town rather than going home to their wives. They indicated that there is very close association between having a large family and occurrence of domestic violence.

According to overwhelming evidence derived from FGDs and key informants, when there are fewer resources at the disposal of the family, violence stems from simple misunderstandings between the spouses. The fact that a man is not able to provide what is required makes them constantly angry and ready to strike at the least provocation or challenge from the spouse.

Another source of GBDV and IPV in Mombasa according to data elicited from a key informant is the Islamic religion and culture which makes both polygamy and divorce quite easy. Usually, the events that precede a divorce are quite torturous to women who are beaten up so that they are compelled to leave. Participants in an FGD meeting indicated that such divorce-related violent incidents are on the increase in Malindi, Lamu and Mombasa.

The laxity of law enforcement agents such as the police was also cited in the FGD forums as one of the major sources of violence, especially sexual violence among children and young adults. It emerged that most police officers are not keen in apprehending the culprits, especially if they are ready to 'buy' their freedom. This position was echoed by a few of the FIDA's pro-bono lawyers who are interviewed as key informants.

Overall, poverty emerged as the main contributant to GBDV and IPV. According to data elicited from FGDs held in Nairobi and Mombasa, the root cause of violence among families and particularly spousal violence is poverty. Spouses quarrel over the scarce resources at home. Poverty, drug and alcohol abuse were also cited as contributors to violence within the home.

According to FGD participants in Mombasa, men who are unemployed and idle will always hang around the home or in the estate, will take cheap brews and should they be left with children for care, they end up molesting them sexually. They are indiscriminate of the child's sex.

4.6.2 Consequences of GBDV and IPV

The most outstanding consequences of GBDV and IPV were the same in all the regions studied. Indeed, according to data elicited from both survey respondents and FGD participants, much of the physical violence results into severe injuries. Several case studies reveal that such injuries are largely inflicted on women. Such injuries range from minor to serious burns, to open wounds, cuts and injuries inflicted using wood, plastic or metallic blunt objects.

It is difficult to determine the full impact of verbal and psychological violence, but it is obvious that there are various forms of traumatic disorders and other conditions that emanates from psychological violence. Most often, violence, especially perpetrated in relation to economic resources such as land, results in victims being pauperized or devastated. In Mombasa for example, a woman had been dispossessed of all that her husband had left behind on top of having been physically beaten for a long period by her brothers-in-law.

According to survey data, there are various consequences for survivors of relationship violence including those that have immediate and life-long implications, emotional depression (7.9%), financial problems (26.3%), injuries and/or death (28.9%), separation/divorce (21.1%) and sexual abuse (15.8%).

Table 4.11 :: Major consequences of domestic violence

Major consequences of domestic violence	No. of respondents	Percentage (%)
Emotional depression	3	7.9
Financial problems	10	26.3
Injuries/death	11	28.9
Separation/divorce	8	21.1
Sexual abuse	6	15.8
Total	38	100

The study reveals that those who are most effected by GBDV and IPV are women and children, who make up 90.5% of those effected by such violence. As for children, data elicited from FGDs and key informant interviews attests to the fact that they are traumatized and lead a scarred life.

According to data obtained from a hospital matron in Mombasa, children who are victims of domestic violence often experience serious physical injures from sexual abuse, and consequently, are emotionally devastated. Some of the children who are victimized have to go through surgical repair of the genitalia or rectum, while others sustain broken hips and torn membranes around the genitalia. Others are known to contract HIV & AIDS or STIs.

According to a key informant from Solidarity with Women in Distress (SOLWODI) the prevalence of HIV and AIDS is very high especially in the informal settlements where most incidences of incest, defilement and rape happen on a daily basis.

4.7 How GBDV and IPV is addressed and the Major actors

The major actors that address GBDV and IPV in the areas studied were cited in FGDs and in key informants interviews from the earmarked organizations they include local administrators, non-formal community institutions and structures, CSOs and individual volunteers.

Major actors who participated in this study from Kisumu include, Road Marks International, FIDA (K), the CSOs Network, MAACS, Provincial Administration (Chiefs and Assistant Chiefs) and Police Officers (particularly those running gender desks). FBOs are some of the conspicuous entities that are not only involved in addressing GBDV and IPV, but also a host of other community problems.

In Kakamega, Western province, GROOTS Kenya stands out as a major actor that works with CBOs, FBOs, local administration and volunteers to address most of the issues that intimately tie with GBDV and IPV among the communities. In the Coast province, FIDA (K) and other CSOs (e.g. ILLISHE Trust, SOLWODI and KAACR) work closely to address the vice. The Catholic Diocese through the Catholic Justice and Peace Commission (CJPC) is another actor in the Coast. In Nairobi, FIDA (K) stands out as a formidable force linking, partnering and working with like-minded government agencies, local administration, Nairobi Women's Hospital, FBOs and CSOs to address GBDV and IPV.

Other major initiatives addressing gender-based violence observed in the studied regions are activities being carried out by various organizations, agencies and community structures including referrals, arbitration; and in the case of FIDA (K), providing legal aid and counseling services to GBDV and IPV

survivors. From the data elicited mainly through FGDs, it emerged that most of the organizations engaged in gender work collaborates very closely with FIDA (K) to address the malaise.

According to survey data (Table 4.12), several methods of addressing GBDV and IPV were cited. These include perseverance (29.3%), separating (14.6%), and revenge (4.9%), seeking for counseling and reporting to authorities or other actors whom those violated perceive can offer help (43.9%).

Table 4.12 :: How respondents deal with spousal abuse

How they deal with spousal abuse	No. of respondents	Percentage (%)
Revenge	2	4.9
Perseveres	12	29.3
Separation	6	14.6
Report to relatives/authorities/others	18	43.9
Counseling	3	7.3
Total	38	100

Further, the majority of respondents (71.7%) said that there exist community-based methods of handling GBDV and IPV. The rest of the respondents (28.3%) indicated that there were no methods at their disposal to address the problem.

Survey data also show that majority of respondents (66.7%), report incidences of GBDV and IPV to some entity. In the four regions selected for this study, those who are affected by domestic violence reported the incident either to the local administration or community elders and religious leaders at the first level depending on the severity of the violence or complication of the case. It is only after these first level community structures are unable to resolve the matter do the victims climb up the ladder to confront more unfamiliar, often complicated and expensive avenues of having their problems addressed. Most of the respondents (79.2%) appear to be aware of these avenues.

The respondents were indeed aware of the various organizations and initiatives addressing gender based domestic violence including the police, chiefs and their assistants, CSOs, FBOs, FIDA and other like-minded actors including collaborating medical facilities in their vicinity. For example, respondents from Nairobi were aware of the work being done by the Nairobi Women's Hospital and the legal aid provided by FIDA.

The evidence exhibited in Table 4.13 further underlines the above-mentioned fact: When victims of GBDV and IPV wish to report the violence they have experienced, they will first seek help from elders and local administrators.

Table 4.13 :: Methods and avenues the community uses to address GBDV and IPV

Methods and avenues	No. of respondents	Percentage (%)
Police	2	8.7
Elders	10	43.5
Local administration	8	34.8
Paralegals	3	13
Total	23	100

4.8 Challenges in addressing GBDV and IPV

Victims of domestic violence reported encountering various challenges when reporting the violence they experienced. These challenges include economic constraints, cultural traditions, attitudes, perceptions, and values. Overall, these barriers result in the underreporting of GBDV and IPV.

According to data elicited through multiple techniques, sexual violence cases are the least likely incidences to be reported on account of the stigma and sometimes 'blame and shame' associated with such occurrences. According to survey data, non-reporting of GBDV and IPV occurrences had a score of 17.8% ranking second after 'culture and tradition'. The latter is closely associated with non-reporting and had a percentage score of 46.6%. Respondents who cited poverty as a challenge accounted for another 15.6% while illiteracy/ignorance and alcoholism accounted for 13.3% and 6.7% respectively (see Table 4.14). This implies that non-reporting which closely ties with culture and tradition is one of the major challenges to stamping GBDV and IPV.

Table 4.14 :: Challenges in addressing domestic violence

Challenges	No. of respondents	Percentage (%)
Non-reporting	8	17.8
Poverty	7	15.6
Culture & Tradition	21	46.6
Alcoholism	3	6.7
Illiteracy & ignorance	6	13.3
Total	45	100

Further data elicited from Western Kenya through FGDs and in-depth interviews with key informants shows that sometimes the insensitivity of local administration and the manner in which they handle GBDV and IPV cases discourage women from reporting occurrences of violence. Other than the long time it takes before action is taken, the attitude of most administrators and police officers towards GBDV and IPV cases is negative. For example, a male police officer was reported to have asked a woman who had been raped to demonstrate exactly how the incident took place.

Paralegal workers who appear zealous in stamping out the vice are discouraged to take cases forward due to how they are handled by police and the courts. Other reasons for non-reporting were poverty and corruption. Poverty implied that women are unable to even afford bus fare to travel and report perpetrators of violence.

Another challenge confronting initiatives to address GBDV and IPV in the regions studied is the lack of cooperation of the children's department with the rest of stakeholders in addressing domestic violence. According to a key informant drawn from the civil society in Kakamega district, the Children's department treats domestic violence issues unfairly and the officers are usually corrupt. They tend to favour the men because they can afford to part with some little money for their use.

4.9 Surmounting the Challenges and the way forward

According to data elicited from surveyed respondents, taking legal measures is one of the most effective method of addressing GBDV and IPV as indicated by 33.3% of respondents. Another 42.9% of them said that traditional structures particularly elders can be an effective method to address the vice at the community level. Another 23.8% also felt that continuous awareness creation among the communities would be an effective solution to GBDV and IPV in the long run (see Table 4.15).

Table 4.15 :: Most effective method suggested

Most effective method	No. of respondents	Percentage (%)
Legal measures	14	33.3
Elders/counseling	18	42.9
Awareness creation	10	23.8
Total	42	100

The point on how effective awareness creation could be a solution to GBDV and IPV is demonstrated in the Table 4 below which shows that 55.3% cited education and sensitization as one of the best approaches to addressing the vice. However, increasing access to justice through committing more resources was an opinion expressed by 44.7% of the respondents.

Table 4.16 :: Best approaches to address domestic violence

Best approach to address violence	No. of respondents	Percentage (%)
Education and sensitization	21	55.3
Increasing access to justice through more funding	17	44.7
Total	42	100

Further data indicate that communities still hold CSOs and FBOs as the main actors in addressing GBDV and IPV as indicated by 51.3% of the respondents. Another 17.9% cited women leaders as a category of society that are and would play a big role in addressing the problem (Table 4.17). Data generated through FGDs and KIs largely corroborate the position that CSOs should be more deeply involved in addressing GBDV and IPV, especially the FBOs, as they are the most influential and accessible in the communities. For example, in Kakamega, FGD participants said that there should be more organizations supporting paralegal work in order to educate communities intensively on their rights. FIDA (K) was also urged to expand its operations in the regions in terms of scale and diversity of services.

Table 4.17 :: Suggested parties for addressing domestic violence

Parties/stakeholders	No. of respondents	Percentage (%)
CSOs & FBOs	20	51.3
Women leaders	7	17.9
Victims	6	15.4
Others	6	15.4
Total	39	100

KIs and FGD participants in both Western Kenya and the Coast province also suggested that CBOs should work closely with government agencies to address domestic violence. They should demonstrate mutual respect while working together in order to organize a strong movement that will deter potential perpetrators of GBDV and IPV. Government processes for giving letters of administration to women after the demise of their spouses should be an area that such alliance would address together to ensure that justice was dispensed expeditiously. Most people in the studied communities believe that once such a 'force' is in place, the cost for accessing justice will significantly be reduced. They further suggested that appropriate capacity be imparted on community-based structures and Provincial administration as the front-line actors in addressing GBDV and IPV.

4.10 Case Studies

CASE STUDY I

ID:	01
Site:	Kakamega
Age:	34 Years
Marital status:	Had been married 8 years at age 20 years.
Current status:	Separated

STORY:

Jane³⁰ was married to her husband for eight years when they separated. After about 6 years into their marriage, Jane fell sick, losing her eyesight in 1998. Later, she was hospitalized for 3 months, while pregnant. Her husband never visited her at the hospital.

She gave birth to their child in 2000, but her husband never provided financial support for the child's well-being. One night, her husband and another woman (his new wife), broke into her home and poured hot water all over her body. She was seriously burnt and taken to hospital by the neighbors. Meanwhile, her husband and his new wife took possession of her house, which she had built with her own proceeds. She was forced to be sleeping in their small kitchen in the compound. After this incident, her husband attempted to kill her one night by strangling her. She was rescued by neighbors who took her to a private hospital.

On learning what happened to their daughter, her parents ensured that her husband was arrested and took her to live with them. He was imprisoned for one-and-half years. Their child died because she could not afford to care for the child properly. Her brothers and their wives are uncomfortable that she is living in the home. However, she has recovered her eyesight.

30 Not real names, identities of the informants in all the case studies have been concealed.

CASE STUDY II

ID:	02
Site:	Shinyalu, Kakamega
Age:	42 Years
Marital status:	widow
Current status:	Separated

STORY:

Beatrice married when she was twenty-one years old and lived with her husband until his demise in 2000. They both worked at Kenya Posts and Telecommunications. They were both athletic, her husband was in the corporation's athletic team and she played volleyball for the corporation. They had started a small shop at Shinyalu centre.

Her in-laws never fully accepted her. After the demise of her husband, her in-laws barred her from attending his funeral so that she could not make any claims to the land the father-in-law had apportioned his deceased son. Her parents-in-law accused her of having bewitched him. Subsequently, the father-in-law sold the land on account that she had taken up to prostitution. He threatened to kill her for having bewitched his son. He insists that she should own up the little business the deceased son left her on.

She has single-handedly educated her two daughters who are presently in high school. She has been unable to access her late husband's final wages from his former employer. The father-in-law has also attempted to access his wages, insisting that his son was never married. GROOTS (K), a CSO has taken up the matter and is assisting to process letters of administration. Beatrice has been trying to do this for a long time, but she says that the government's offices she has visited have not been useful so far.

CASE STUDY III

ID:	03
Site:	Nairobi
Age:	38Years
Marital status:	Separated for 10 years
Current status:	Separated

STORY:

Carol and the man she had married are devout Christians. They met in church where the husband was a preacher. After three years of marriage, and two children, she noticed that her husband was becoming too temperamental. He began verbally abusing her and accused her of prostitution. Later, when he saw that she was not responsive to his accusations, he resorted to physical violence.

One day, she met her husband's sister in town but forgot to pass her greetings to him. Later, when the husband learned of this he beat her so severely, she was hospitalized for a month in Kenyatta National Hospital. From then on, he continued beating her on a frequent basis. Yet she endured the abuse and hoped that it would stop. Overall, Carol felt that she could not divorce her husband because she would be too embarrassed to attend church and face the congregation.

Later, she informed the pastor of the matter, who summoned and counseled her and her husband. Her husband promised not to beat her again, but this did not last for long. He continued abusing her verbally on a daily basis. Later, he told her that they could no longer live together. The husband has now filed a divorce case, which she is ready to grant him as the situation has become unbearable.

CASE STUDY IV

ID:	04
Site:	Vihiga district
Age:	30 years
Marital status:	Separated for 2 years
Current status:	Separated

STORY:

Mary is married to a man of 35 years who has now married another wife accusing her of having bewitched his parents. They have three children (two boys and one girl) aged 8, 5 and 2 years. The nature of violence she has experienced is what she refers to as 'cold war' and occasionally being chased away from the homestead. She is presently seeking maintenance for the children through FIDA (K).

CASE STUDY V

ID:	05
Site:	Kisumu
Age:	29 Years
Marital status:	Separated for 10 years
Current status:	Separated

STORY:

Dorcas has been married for five years and has a 4 year old daughter. She is a petty trader while her husband is in fish business, having a boat and a net. Her problem is that the husband is irresponsible deprives her and her daughter the requisite financial support. He is, in her words a 'slave of alcohol'.

Whenever the husband comes to the house, he shouts obscenities at her and she is slapped if she protests. He deliberately picks a quarrel with her just to get the opportunity to beat her. He persistently tells her to leave his home. She does not know what to do because her parents do not even know the husband.

She reported the matter to FIDA after being referred there by a friend. At the time of the study her case was two weeks old. She is seeking to have the man compelled to maintain herself and her daughter.

CASE STUDY VI

ID:	06
Site:	Vihiga district
Age:	52 Years
Marital status:	Separated for 24 years
Current status:	Separated

STORY:

Brenda left her husband after '8 years of hell' and went back to her parents home. Immediately, she returned to her parents' home she was allocated a small tea farm to enable take care of her two children and a niece whose mother has died two years earlier. In spite of the hostility she got from her brothers and their spouses, she was able to live peacefully until 5 years ago when her parents died. The violence perpetrated by her own three brothers and their wives against her escalated after the demise of her parents.

Her brothers want the land that the parents' allocated to her and she is always being chased out of the house.

Her brothers have conspired to dispossess her of the tea bushes which her only source of income for her and her children. One of the brothers, who is 9 years younger and who smokes cannabis sativa recently attempted raping her. He demanded sex in return for allowing her to stay on the land. Fortunately neighbours rescued her. When the Chief summoned the brother, he simply denied the accusation.

Brenda reported the case to FIDA, but her brothers have not even heeded to the summons served to them by the organization. Sometimes, she hides until it is dark and then sneaks into her house for the night. Fortunately, her daughters and the niece are in boarding school and don't have to live with her brother. However, when they are home for the holidays, she fears for their safety and prefers that they stay with other families as house help.

CASE STUDY VII

ID:	07
Site:	Kisumu
Age:	30 Years
Marital status:	Separated for 10 years
Current status:	Separated

STORY:

Freda is married as to a 40-year-old mukokoteni (hand-driven cart) operator. She has had two stillbirths within the 7 years they have lived together. He beats her senseless on a frequent basis on account of having no children. He wants her to leave in spite of the fact she supports herself through petty charcoal business. He sometimes comes and takes all her proceeds accruing from her trade and spends it on alcohol. The one goat and chicken she owned were sold by the husband, and she is now hopeless. She has spent many cold nights outside in the cold after having been beaten. One time, the husband and his brothers beat her up the whole night accusing her of being a witch. She was unconscious for two days.

She is presently living with her friend in the same neighborhood to avoid being beaten. This has made her husband accuse her of infidelity. She states that the chief and assistant chief to whom she has been reporting the violence are unable to solve her problem. The church has also tried to intervene, but unfortunately this has not helped either. She does not know what to do, or where to go, since her parents are deceased. She has forwarded her case to FIDA, and hopes that FIDA will solve the problem.

CASE STUDY VIII

ID:	08
Site:	Mombasa
Age:	30 Years
Marital status:	Separated
Current status:	Separated

STORY:

Praxidice had cohabited with the man she considers her husband for 10 years and has two children with him. At the tenth year, the man told her to stay on her own until he completes educating his small brothers and sisters, after which he promised he would marry her formally. At the time this study was conducted, she was pregnant, and the man was demanding that she abort. He had also started dating another woman. She reported this matter to FIDA and the organization is trying to pursue the man for the maintenance of their children. Although she has not been physically abused, she is uneasy about the other woman who is in the life of her partner.

CASE STUDY IX

ID:	09
Site:	Mombasa
Age:	28 years
Marital status:	Married/cohabiting
Current status:	Separated

STORY:

Domitila is a housewife. She has three children who are 10, 6 and 1 years old. She states that her biggest problem is being able to provide for her children. The man she has lived with for over 10 years has refused to acknowledge their marriage, and neglects to assist with their education. The man has abandoned her and the older children, and lured the youngest child to live with him in his rural home. Domitila currently lives with her mother.

The cause of the problem was the man's involvement with other women and the physical abuse he meted out on her. She stated that during the 10 years the marriage had been characterized by the 'normal' scuffles, matters however came to a head when he stabbed her twice prompting her to report the matter to the chief who referred her to FIDA.

FIDA is pursuing legal redress so that she can receive maintenance for the children and also a share of the property that was jointly acquired. The husband has ignored both summonses from the organization and continues to harass Joyce.

Presently, she is confused and not sure which way the case will go. She also is wary of her and her children's future. She says that she is most devastated, particularly because the husband refuses to return the youngest child to her.

CASE STUDY X

ID:	10
Site:	Mombasa
Age:	45 years
Marital status:	Married
Current status:	Married

STORY:

Grace's case is what she calls a 'practical divorce' which has not been formalized. Her problem dates to over 15 years ago. Grace and her spouse were married for 23 years. She lived in Nairobi for over 5 years, where she worked in the civil service, before she joined her husband in Mombasa where he had successful business running a cafeteria.

When she and their two children joined her husband in Mombasa, he left the cafeteria for her to run and opened a pub. The last 4 years of their marriage have been hell – her husband evicted her out of the cafeteria business in spite of the fact that she had expanded the business using her own savings from her civil service job. Currently, she is not allowed to step near there or any of the other business premises.

She says that what is most devastating for her is that during the past 4 years her husband has not made love to her, except for the few intermittent rapes which have been very painful for her. On the few occasions, he has been drunk injuring her genitalia, which takes long to heal. She is emotionally disturbed and is under treatment for peptic ulcers. She tries concealing what is happening to her from their children who are away in boarding school.

Although her husband has threatened to divorce her, she is determined to have a fair share of what she has put in the business. Angela approached FIDA for help, but did not qualify for FIDA legal aid services as her earnings exceed Kshs. 5000 per month. After receiving counseling she was referred to a lawyer to assist her in filing for divorce. She does not have full access to her money as she operates a joint account with her husband.



5

**CONCLUSION AND
RECOMMENDATIONS**

5.1 Conclusion

The United Nations has defined violence against women 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 private life.” A 1999 study from Johns Hopkins, reported that abused women are at higher risk of miscarriages, stillbirths, and infant deaths, and are more likely to give birth to low birth weight children, a risk factor for neonatal and infant deaths. In addition, children of abused women were more likely to be malnourished and were more likely to have had a recent untreated case of diarrhoea and less likely to have been immunized against childhood diseases. Domestic violence can severely impair a parent’s ability to nurture the development of their children. Mothers who are abused may be depressed or preoccupied with the violence. They may be emotionally withdrawn or numb, irritable or have feelings of hopelessness. The result can be a parent who is less emotionally available to their children or unable to care for their children’s basic needs. Battering fathers, on the other hand, are less affectionate, less available, and less rational in dealing with their children. Other studies even suggest that “battered women may use more punitive child-rearing strategies or exhibit aggression toward their children.

Violence against women (often called gender-based violence) is a serious violation of women’s human rights. Yet little attention has been paid to the serious health consequences of abuse and the health needs of abused women and girls. Women who have experienced physical, sexual, or psychological violence suffer a range of health problems, often in silence. They have poorer physical and mental health, suffer more injuries, and use more medical resources than non-abused women. Females of all ages are victims of violence, in part because of their limited social and economic power compared with men. While men also are victims of violence, violence against women is characterized by its high prevalence within the family; its acceptance by society; and its serious, long-term impact on women’s health and well-being.

It is discernible from the multiple types of data discussed in the foregoing chapter that GBDV and IPV is prevalent within the communities studied. It is growing in magnitude by the day on account of a myriad of factors. Both qualitative and quantitative evidence elicited from the study show that all categories of violence (physical, economic, psychological/emotional etc.) may not be eliminated in the near future. There is the glaring incapacity of existing structures (both formal and non-formal) among communities in the studied regions to deal decisively with GBDV and IPV.

Beginning with the law, available literature clearly demonstrates that there are no clear enforceable clauses that directly relate to the types of GBDV and IPV discussed in the study. Indeed, most international legal instruments that can provide legal redress for victims of GBDV and IPV, have not been adequately domesticated into Kenyan law. Rather, much of what happens at the domestic level (especially between spouses), lies in the domain of personal law, which is largely governed by traditional cultural codes or customary law. Much of violence that takes place at domestic level is therefore, not criminalized to allow invocation of criminal law. Assaults, for instance are dealt with at sections 250-253 of the Penal Code³¹. The offence of assault is a misdemeanor and attracts a sentence of imprisonment for one year if it is not committed in circumstances for which the Penal Code provides greater punishment. Any assault that occasions actual bodily harm is a misdemeanor attracting a sentence of imprisonment for five years, with or without corporal punishment. In essence, existing multiple sources of law governing relationships and matters of personal life complicates the dispensation of justice in that regard.

A myriad of factors are the reason, not only for the inability of the law to take control over personal relationship matters, but also for the vulnerable position majority women find themselves in most

Kenyan communities. These include the conspicuous dominance of men in informal traditional and formal modern justice delivery structures and institutions, who may not be sensitised on Gender and human rights. Traditional structures and institutions for example, which handle most GBDV and IPV at the 'first level', are basically the domain of men. In addition, these structures enjoy the least interference from the formal justice system.

One finding that clearly emerges out of the study is that women largely bear the brunt of GBDV and IPV. Not only because of their economic disempowerment, but also on account of prevailing negative and deep-seated societal attitudes that impinge on promulgation and application of progressive policies and a legal framework within which women's issues can adequately be addressed. Other reasons for much of women's verbal and physical abuse by their male partners results from adultery/infidelity, drug and alcohol abuse, resource-based conflicts, poverty and male chauvinism.

The most glaring consequences of GBDV and IPV on lives of women emerging from the study range from emotional depression, psychological trauma, physical injuries and death, to perpetual deprivation of their social and economic entitlements. These negative effects also extend to the lives of children, especially within marriages. When it comes to rape, defilement and sodomy, children who are affected experience life-long post traumatic disorder.

Health care workers have the opportunity and the obligation to identify when women's reproductive and sexual health clearly is affected by gender-based violence. Women who have experienced intimate partner abuse are more likely to have a gynecological problems or concerns. These problems include chronic pelvic pain, vaginal bleeding or discharge, vaginal infection, painful menstruation, sexual dysfunction, fibroids, pelvic inflammatory disease, painful intercourse, urinary tract infection, and infertility. Sexual abuse, especially forced sex, can cause physical and mental trauma.

In addition to damage to the urethra, vagina, and anus, abuse can result in sexually transmitted infections (STIs), including HIV/AIDS. Women who disclose that they are infected with HIV also may be subjected to violence. Abuse limits women's sexual and reproductive autonomy. Women who have been sexually abused are much more likely than non-abused women to use family planning clandestinely, to have had their partner stop them from using family planning, and to have a partner refuse to use a condom to prevent disease.

The role of CSOs, specific government agencies, departments and offices feature prominently as key actors in addressing GBDV and IPV in all the regions studied with CSOs, private initiatives and traditional community structures bearing the greatest burden. These actors apply several methods, including giving direct counseling services, reconciliation and legal aid. For most individual women, perseverance appears to be a standard coping mechanism, especially when they have children in a marriage context. Reporting of GBDV and IPV, unless where it inflicts serious injuries, is not common place for majority of women as their lives are largely governed by the cultural code. This situation obtains in spite of the reasonable level of awareness among women on the agencies and bodies to which they ought to report violations.

The major challenges to adequately address GBDV and IPV in the regions and among the communities studied include focusing on economic constraints, cultural values and the laxity of the formal justice system. It is time that the justice system addresses matters of personal law. The existence and operation of multiple norms in addressing GBDV and IPV and other matters pertaining to relationships further complicates the situation. In addition, poverty and low levels of literacy and education among most women, is a formidable challenge to their capacity to engage institutions that can effectively handle their violations. Coordinated efforts and the development of effective referral networks and information systems can maximize scarce resources. Changing people's behavior and attitudes towards violence requires long-term commitment. Community elders and leaders play a big role in handling survivors of domestic violence. As they are influential they can take the lead in introducing awareness and behavior change in the community. They

can create a community based response to violence by stimulating discussions, educating community members about the costs and consequences of abuse, and advocating for nonviolent relationships. Exposing violence and enabling vulnerable and marginalized people to receive necessary services will help break the life cycle of violence and promote the rights of women and girls.

5.2 Recommendations

To surmount some of the challenges raised above, the empowerment of women as a vulnerable social category must be given prominence and priority.

This can be done through a number of key initiatives:

5.2.1 Legal Reform

Indeed, the law must be more proactive in entrenching the protection of women's rights through appropriate reforms. The opportunity to address the law is presently there with the ongoing reforms under GJLOS and probably the pending review and adoption of a new constitution. There is need to ensure the finalization and promulgation of the Family Protection Bill which provides for protection against GBDV and IPV.

FIDA and like-minded groups should lobby for:

- a) Finalisation of the Constitution review process to give firm anchorage to the protection of women from GBDV and IPV.
- b) The promulgation of the proposed the Proposed Family Protection Bill.³² This Bill's sole purpose is to protect victims of domestic violence. The bill is comprehensive in terms of coverage of domestic violence and its promulgation into law will go a long way in providing recourse. It aims at reducing and preventing violence in domestic relations by:
 - i. Recognizing that domestic violence in its various forms is unacceptable behaviour;
 - ii. Ensuring effective legal protection to victims of domestic violence where it occurs by inter alia:
 - empowering the court to make certain orders to meet these ends
 - ensuring a speedy and inexpensive access to court

Part I of the Bill defines domestic violence is defined as "violence against a person by another with whom the victim of violence is or has been in a domestic relationship with"³³. The Bill recognizes that domestic violence can take various forms or shapes, including sexual abuse, physical abuse, emotional and psychological abuse, intimidation, harassment, economic abuse, stalking, forcible entry into the applicants residence where the parties do not share a common residence, depriving the applicant of or hindering the applicant from access to or reasonable share of

32 2007 Draft on File with the authors

33 See section 3 (1) of the Act

facilities associated with the applicant's place of residence, abuse derived from customary and cultural practices which include:

- i. Female genital mutilation,
- ii. Forced marriage
- iii. Child marriage
- iv. Forced with inheritance³⁴

The Bill also elaborates different kinds of domestic relationships. Under it, one is deemed to be in a domestic relationship with another person in any of the following cases:³⁵

- i. Is married to that person
- ii. Has previously married to that person
- iii. Is living in the same house with that person
- iv. Is a family member of that person
- v. Has been engaged to get married to that person
- vi. Or has a child with that person

The bill seeks to guarantee protection to all family members against domestic violence and also covers intimate partner violence. The Bill provides that any person in a domestic relationship can make an application to the court for protection orders.³⁶

- c) Amendment of the Sexual Offences Act to prohibit possible marital rape which is a common form of violation in the domestic context.
- d) The enactment of the Marriage Bill

The Marriage Bill proposes to consolidate the various laws that relate to marriage and divorce in Kenya. The Bill sets out matrimonial rights and liabilities and specifically states that either spouse has authority to pledge the other spouses credit or borrow money in his or her name to use reasonably for purchase of the necessaries for him/her and the children of the marriage. This will be done strictly with due regard to the spouses means and way of life. It is hoped that this proposal if passed into law will serve to reduce incidents of economic violence.

The bill also categorically prohibits the return of dowry and states that one cannot file a suit for return of dowry. This is progressive and will hopefully give women in abusive relations a leeway to get out of such relations without incurring financial liabilities.

34 See section 3 (2)

35 See section 4 (1)

36 See section 7

5.2.2 Awareness Creation and Empowerment of Women

Initiatives for awareness creation and economic empowerment by the relevant government agencies complemented by CSOs should form part of the package that would forge forward the women's cause especially in relation to GBDV and IPV. Specific programs should be hatched and nurtured by the wide range intervention actors and within the variety of options available. Among the communities studied for example, are located many allies including elements within provincial administration, police and a host CSOs (see Chapter Four).

5.2.3 Engaging Cultural Practices and Supportive Institutions

Arising from the data elicited, there is need for greater and deeper delving by FIDA (K) and like-minded partners on culture and related issues and that underpin GBDV and IPV among Kenyan communities in order to fathom into the root causes of the vice. Presently, much of the effort by the organization is directed to legal aid, which in essence is more of treating the symptoms rather than the causes. In collaboration with other willing actors at the grassroots, FIDA (K) can make a difference by devising 'negotiating' or 'dialogue' approaches and techniques rather than 'coercive' and 'intrusive' ones in addressing GBDV and IPV. The organization is best suited to play the leadership and coordinating role, but embracing the said approaches and methods.

5.2.4 Framing New Interventions

Ultimately, embracing new intervention strategies may require repackaging, rebranding and repositioning the programs that touch on fighting GBDV and IPV to strike the 'dialogue' chord. To do this, FIDA (K) may have to work on the organization's image through a well-thought campaign to reverse community perceptions that the organization is out to undermine the family institution. FIDA (K) will also need to formulate its future programmes in line with the proposed National Gender Based Violence Framework currently being spearheaded by the National Commission on Gender and Development.

6. BIBLIOGRAPHY

1. Books and Articles

- Benjamin J. A. & Lynn Murchison, *Gender-Based Violence: Care & Protection of Children in Emergencies*, A Field Guide, Save the Children Federation Inc. (2004)
- Centre for Law and Research International (CLARION), "An Introduction to Gender, Law and Society: Constitutional Debate No. 11," (Claripress Limited, Nairobi 2001)
- Centre for Rights Education and Awareness (CREAW) 2006 *Bride Price: Is it Modern Day Slavery?*; Nairobi: Centre for Rights, Education and Awareness
- FIDA (K) 1997 "Bado Mapambano" Kenyan Women Demand their rights: The 1997 FIDA (K) Annual report on the Legal status of Kenyan Women: Nairobi FIDA (K)
- FIDA (K) 2002 *Domestic Violence in Kenya: Report of Baseline Survey among Women in Nairobi*; Nairobi, FIDA (K)
- Flowers R. B., 1987, *Women and Criminality*, Practitioner Greenwood Press, USA.
- Government of Kenya, *Report of the Commission on Marriage* (1970)
- Hanmer J. and M. Maynard eds., 1987, *Women, Violence and Social Control*, MacMillan Academic and Professions Ltd., Hong Kong.
- Joel Meyer, Reflections on Some Theories of Punishment, *The Journal of Criminal Law, Criminology, and Police Science*, Vol. 59, No. 4 (Dec., 1968), pp. 595-599
- Mitullah W. et al., *Women Inheritance Laws & Practices*, WLEA, Nairobi (2002).
- Rennison C. M., Ph.D. and Sarah Welchans *Intimate Partner Violence*, Bureau of Justice Statistics (BJS) Statisticians Special Report May 2000
- Stanko E. A., 1985, *Intimate Intrusions*, Routledge & Kegan Paul, New York, USA
- Tony Draper, An Introduction to Jeremy Bentham's Theory of Punishment, Bentham Project, University College London, <http://eprints.ucl.ac.uk/653/1/9> <accessed on 13th July 2008>
- Tony Johnson 2002 "Domestic Abuse in Kenya" in *Population Communication Africa Gender series: A Briefing Handbook*; Nairobi: Executive Printers.
- UNAIDS: *Violence Against Women and Girls in the Era of HIV/AIDS: A Situation and Response Analysis in Kenya*, June 2006
- UNFPA, *State of the World Report*, 2005
- Ward J., *If Not Now, When? Addressing Gender-Based Violence in Refugee, Internally Displaced and Post-Conflict Settings*. New York: The Reproductive Health in Conflict Consortium (2002)

2. International Instruments

- The African Charter on Human and People's Rights Adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986
- The Protocol To The African Charter On Human And Peoples' Rights On The Rights Of Women In Africa, Adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, 11 July 2003
- The AU Solemn Declaration on Gender Equality in Africa concluded the Heads of State and Government meeting in the Third Ordinary Session of our Assembly in Addis Ababa, Ethiopia, from 6-8 July 2004.
- The Declaration on the Elimination on Violence Against Women (DEVAW) United Nations General Assembly Resolution 48/104 Of 20 December 1993
- The Universal Declaration of Human Rights (UDHR) <http://www.unhchr.ch/udhr/lang/eng.htm>
- The International Covenant on Civil and Political Rights (ICCPR) U.N.T.S. No. 14668, vol. 999 (1976) p. 171.
- The International Covenant on Economic, Social and Cultural Rights (ICESCR) G.A. res. 2200A (XXI), 21 U.N.GAOR

Supp. (No. 16) at 49

The Convention on the Elimination of All Forms of Discrimination against Women 19 I.L.M. 33 (1980)

3. National Laws

The Constitution of Kenya (2000)

The Sexual Offences Act, Act No 3 of 2006.

Penal Code Cap. 63 of the Laws of Kenya

Matrimonial Causes Act –Cap 152 of the Laws of Kenya

4. Pending Bills

The Family Protection Bill

The Marriage Bill

7. ANNEXTURES

ANNEXURE I :: Survey Questionnaire

A: Research Site Information

1. Location.....
2. Division.....
3. District.....

B: Bio-data and Household Information

4. Name(Optional)
5. Gender: 1. Male 2. Female
6. Age.....
7. Marital Status
8. If Married or divorced/separated, type of marriage
9. Level of Education
10. Spouse's level of education
11. Occupation.....
12. Spouse's Occupation.....
13. Household information: Please fill in the following table

Table B1: Household information (Children, other members, property and Source of Income)

a) Children/	Gender	Age	1. In school 2. Out of school	H/Household main source of income	Approximate Expenditure Per month (Kshs.)
Child 1					
Child 2					
Child 3					
Child 4					
Child 5					
b) Other members (list & Specify)	Gender	Age	1. In school 2. Out of school	Their main source of income	Approximate Expenditure Per month (Kshs.)

C: Prevalence, causes, and magnitude of Gender-based domestic violence

14. a) Have you ever been physically abused within the homestead?

- 1. Yes
- 2. No

b) Yes who was the perpetrator.....

c) Please narrate details of the occurrence giving the specific nature and type of the abuse.

.....
.....
.....

d) How often does such an incidence occur? (Tick one)

- 1. Once in while
- 2. Regularly
- 3. All the time

e) What circumstances often lead to such abuses? (Please narrate in detail)

.....
.....

15. a) Have you ever been verbally/emotionally abused within the homestead?

- 1. Yes
- 2. No

b) If yes, who was the perpetrator.....

c) Please narrate details of the occurrence giving the specific nature of the abuse.

.....
.....

d) How often do such incidences occur? (Tick one)

- 1. Once in while
- 2. Regularly
- 3. All the time

e) What circumstances often lead to such abuses? (Please narrate in detail)

.....
.....

16. a) Does or has your spouse/partner ever given you support to better your livelihood? 1. Yes 2. No

b) If yes, please give details

.....
.....

c) Has s/he ever denied you of anything that you feel is your entitlement?

- 1. Yes
- 2. No

d) If yes, Please give details

.....
.....

e) What, in your view are the reasons behind such denial?

.....
.....

17. a) Has anyone you know experienced either physical or emotional or both types of abuses?

- 1. Yes
- 2. No

b) Please narrate the circumstances that led to such abuses

.....

c) How frequent are such incidences in this community?

- 1. Very rare
- 2. Rare
- 3. Frequent
- 4. Very Frequent

d) What in your view underlies the frequency/rareness of such incidences?

.....

D: Strategies for addressing gender-based domestic violence

18. a) How as an individual do you deal with physical abuses perpetrated by your spouse/partner or other member of the household?

.....

19. a) Have you ever reported an incidence of abuse to anyone, agency or authority?

- 1. Yes
- 2. No

b) If yes, kindly give details including how the matter was resolved.

.....

20. a) Does this community use any methods to handle domestic violence?

- 1. Yes
- 2. No

b) If yes, please mention them and narrate their merits and de-merits in curbing the vice.

c) Suggest what you think are the best and most effective way of dealing domestic violence in your community

.....

21. a) Are you aware of any initiatives/organizations that are involved in addressing domestic violence?

- 1. Yes
- 2. No

b) If yes, please mention them.

.....

c) What do you suggest would be the best way for such initiatives/organizations to approach the issue of domestic violence?

.....

d) What in your view are the major challenges in stamping out domestic violence in your community?

.....

22. a) In your view, which categories of people in your community are most affected by domestic violence?

.....
.....
.....

b) What are major consequences of domestic violence for those categories of people?

.....
.....
.....

23. a) In your view, what type of changes should be made to the law to help fight domestic violence?

.....
.....

b) Suggest the parties that should be involved while making such changes and in what way.

.....
.....

ANNEXURE II :: Focus Groups Discussion Guide

Section A:

Prevalence and extent of GBDV/Intimate partner violence

1. Site of study, group composition and description of participants
2. Whether participants are aware of GBDV/Intimate partner violence in the area, their estimation on prevalence and who the main perpetrators are (men/women?)
3. Major reasons/circumstances that usually occasion GBDV/Intimate partner violence in the area (probe for family-based and other reasons)

Section B:

Types and Forms of GBDV/ Intimate partner violence and the consequences of violence

4. Nature and common types of prevailing GBDV/Intimate partner violence including psychological/emotional, economic and physical bodily abuse (probe in details the forms violence takes and estimated frequency of such occurrences) in the area
5. Consequences of the various types and forms of GBDV/Intimate partner violence in the area
6. Whether participants have experienced any spousal support (men/women);
7. Nature types of such support mentioned in (7) above and the estimated prevalence of such spousal support in the area

Section C:

Strategies for, and challenges of addressing GBDV/Intimate partner violence

8. How the community, individual women/men deal with GBDV/Intimate partner violence in the area
9. Types and forms of interventions to GBDV/Intimate partner violence in the area that the participants are aware of in the areas
10. Existing community level structures, government and civil society actors in the area that are involved in addressing GBDV/ Intimate partner violence (probe on the various initiatives)
11. Performance (success/failure stories) of initiatives focusing on GBDV/Intimate partner violence in the area
12. What participants perceive to be challenges and barriers for success in addressing GBDV/Intimate partner violence in the area

Section D:

Suggestions on the way forward in tackling GBDV/Intimate partner violence

13. Participants' suggestions on how to surmount the identified challenges and barriers to effectively addressing GBDV/Intimate partner violence in general and their area in particular (probe for what they perceive as appropriate individual, community, civil society and government level initiatives)
14. Participants' ideas on who should be involved in processes for addressing GBDV/Intimate partner violence and for what reasons
15. The views of participants on strategies and activities that should be deployed to deal effectively with GBDV/Intimate partner violence generally and particularly in their area

