

Lessons from Ghana: The Challenges of a Legal Response to Domestic Violence in Africa

I. Introduction

Every day, in countries around the world, women are abused by their intimate partners¹ and face difficulties in accessing the social services and legal remedies necessary to address and prevent this violence. Domestic violence is indeed a global epidemic that requires global strategies for effective prevention. International human rights instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)² have been created in an effort to address the common global problem of discrimination against women and the violence that often results from gender inequality. While such international instruments are crucial to creating legal frameworks to prevent violence, their broad-sweeping perspective cannot account for the different realities that women face in individual countries around the world. Depending on their country and culture, women face particular obstacles that impact their ability to escape violent relationships.

Although some women in the United States face barriers to accessing legal services, the legal system is largely on their side, at least in principle, when it comes to preventing domestic violence and prosecuting abusers. The vast majority of women in Africa, however, do not have the support of a legal system that condemns domestic violence. Out of the fifty-four countries in

¹ The United Nations Development Fund for Women reports, “At least one out of every three women around the world has been beaten, coerced into sex, or otherwise abused in her lifetime—with the abuser usually someone known to her.” UNIFEM, *Facts and Figures on Violence Against Women*, citing to *Ending Violence Against Women*, Population Reports, Issues in World Health, Series L, Number 11, XXVII, Population Information Program, the Johns Hopkins School of Public Health, December 1999. See http://www.unifem.org/gender_issues/violence_against_women/facts_figures.php [Mar. 11, 2006].

² United Nations, Convention on the Elimination of All Forms of Discrimination Against Women (1979). Available online at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

Africa, only two—South Africa and Mauritius—have adopted laws against domestic violence.³

As a result, most women in Africa have no possibility of legal recourse against their abusers, or can prosecute them only under general assault provisions, which do not provide the specific protections and services that so many domestic violence survivors need.⁴ In recent years, local women's rights advocates have begun pushing for the creation of laws to prevent domestic violence in some African countries, such as Ghana. These advocates have faced considerable resistance and an uphill battle to garner popular support for these laws, in spite of the fact that many African countries have ratified CEDAW and other international instruments supporting women's rights.⁵

During 2003 and 2004, I spent eight months working as a full-time volunteer in Ghana at Women's Initiative for Self-Empowerment (WISE), a local non-profit organization that serves survivors of domestic violence and strives to empower all Ghanaian women.⁶ WISE was founded in 1999 as the first non-profit organization in the country to offer psychological counseling services to survivors of domestic violence. It also operates one of only two shelters for domestic violence survivors in the country, and is one of several non-governmental organizations advocating for passage of Ghana's proposed Domestic Violence Bill.⁷ Through my work at WISE, I was exposed to the significant problem of domestic violence in Ghana and learned first-hand of the considerable obstacles that domestic violence survivors in Ghana and

³ Bowman, Cynthia. *Symposium: Theories of Domestic Violence in the African Context*, 11 Am. U.J. Gender Soc. Pol'y & L. 847 (2003). South Africa passed the Prevention of Domestic Violence Act in 1993, and Mauritius passed a bill to prevent domestic violence in 1997.

⁴ Human Rights Watch, *Just Die Quietly: Domestic Violence and Women's Vulnerability to HIV in Uganda*, Vol. 15, No. 15(A), 42, 52 (August 2003). Online at www.hrw.org/reports/2003/uganda0803/.

⁵ Agyei, Juliette Ayisi. *African Women: Championing Their Own Development and Empowerment—Case Study, Ghana*, 21 Women's Rights L. Rep. 117, 120 (2000).

⁶ See website for Women's Initiative for Self-Empowerment (WISE) at www.wise-up.org.

⁷ Network for Women's Rights in Ghana (NETRIGHT), *Ghana NGO Alternative Report for Beijing + 10*, August 2004 [hereinafter referred to as Ghana NGO Alternative Report]. Online at http://www.wildaf-ao.org/eng/IMG/doc/Ghana_ENG-2.doc.

throughout Africa face in accessing legal remedies. I was simultaneously impressed by the strength of the women's rights movement in Ghana, and the tireless and thorough efforts of advocates to build support for the Domestic Violence Bill.

The struggle to pass the Domestic Violence Bill in Ghana continues to this day, with continued, but slow, forward progress. This paper argues that Ghana can serve as a valuable case study to predict the types of obstacles and resistance that advocates in other African countries may face when seeking to pass similar laws. The lessons learned in Ghana may also provide advocates with promising strategies for success. This paper will first describe in Part II the general problem of domestic violence in Africa, and then in Part III will discuss some of the challenges to combating domestic violence on the continent. Part IV will present existing legal responses to domestic violence in Africa, with a particular focus on Ghana. Part V will explore the potential limitations to using the law to combat domestic violence in Africa, and Part VI will present proposals for mobilizing support for domestic violence laws in Africa, drawing in part on the lessons learned in Ghana.

II. The Extent and Nature of Domestic Violence in Africa

From a women's rights perspective, the struggle against domestic violence in Africa is part of a much larger struggle for gender equality.⁸ Customary law in Africa—which operates largely apart from, and sometimes in addition to Western-style legal systems—often treats women as subordinate to men: “For example, under most African systems of customary law, women have no right to inherit from their husbands, are not regarded as sharing ownership of marital property, are excluded from ownership of land, and are almost without remedy upon

⁸ Bowman, *supra* note 3, at 852. Bowman's article presents several interesting theories that African writers and advocates have used to explain the prevalence of domestic violence in Africa, including rights theories, feminist theories, “cultural explanations,” “society-in-transition” explanations, and “culture of violence” explanations.

divorce.”⁹ Furthermore, the tradition of paying a “bride price” for women in some African countries supports the attitude that a woman is the property of her husband and her husband’s family clan.¹⁰ Even more “modern” laws adopted in some African countries continue to discriminate against women. In Uganda, for example, as in other countries in the region, women are required to meet a higher evidentiary standard than their husbands in order to obtain a divorce.¹¹

Cultural attitudes in many African countries also support the notion that a husband has the right to “discipline” his wife using corporal punishment.¹² As a Ghanaian newspaper recently reported, “The era of customary law appears to permit the right of punishment for husbands in some ethnic groups. It has led to a prevalence of wife beating in some communities.”¹³ The exact prevalence of domestic violence in Africa is difficult to determine, as few countries collect reliable statistics on the problem, and cases of domestic violence are largely underreported. A recent national study in Ghana, however, revealed that one in three women had been physically abused by her current or most recent intimate partner.¹⁴ It is likely that abuse rates are comparable in other African countries, given the similar cultural context and system of customary law that many of these countries share.

Domestic violence leads to particular complications in Africa due to the prevalence of HIV/AIDS. Due to violence or the threat of violence, many women do not have the option of

⁹ *Id.*

¹⁰ *Id.* at 853.

¹¹ Human Rights Watch, *Policy Paralysis: A Call for Action on HIV/AIDS-Related Human Rights Abuses Against Women and Girls in Africa*, 32 (December 2003). Under the Divorce Act in Uganda, a woman can only get a divorce by coupling a claim of adultery with a claim that the adultery was incestuous, bigamous, or part of a polygamous marriage. There is no such legal requirement for men.

¹² “The Hagging Over Domestic Violence Continues,” *Public Agenda*, May 2, 2005 (Accra, Ghana) [hereinafter referred to as *Public Agenda*]. Online at www.peacewomen.org/news/Ghana/May05/Violence.html. ; Human Rights Watch, *supra* note 4, at 55.

¹³ *Public Agenda*, *supra* note 12.

¹⁴ *Id.* It is likely that the study underestimates the actual prevalence of domestic violence, due to women’s reluctance to report abuse by their husbands.

consenting to sex, negotiating safer sex, or determining the number and spacing of their own children.¹⁵ Abusive husbands may force their wives to have sex without using condoms, thus increasing women's risk of pregnancy and HIV infection.¹⁶ They may also prevent their wives from seeking health services once they are infected with the virus.¹⁷ A study in Uganda found that once women are known to be HIV positive, they may be evicted from their homes and abandoned by their husbands and their neighbors.¹⁸ Without economic autonomy, these women find it difficult to escape abusive relationships and to survive once they have been infected with HIV and ostracized by their families and communities.¹⁹

III. Challenges to Combating Domestic Violence in Africa

Advocates and law-makers seeking to combat domestic violence in Africa face a number of significant challenges. The courts and police are often unwilling to assist domestic violence survivors because of a strict separation between the public and private sphere: the perception that "private" domestic disputes are not to be dealt with by public law-enforcement and court systems is still prevalent in much of Africa.²⁰ Women experiencing abuse may understandably be reluctant to turn to unsympathetic judges and police for assistance. One Ghanaian judge recently stated his opinion that "(i)t is un-Ghanaian for a man to be sentenced into imprisonment because he slapped or pushed his wife," an opinion shared by others in the country.²¹ Even if some

¹⁵ Human Rights Watch, *supra* note 11, at 31; Author's note: Women's difficulty in negotiating contraceptive use appears to be more prevalent in developing countries than in industrialized countries. Condoms and oral contraceptives tend to be less available to women in developing countries due to their expense and the inaccessibility of pharmacies to women in rural areas.

¹⁶ Human Rights Watch, *supra* note 11, at 30.

¹⁷ *Id.*

¹⁸ Human Rights Watch, *supra* note 11, at 31.

¹⁹ *Id.*

²⁰ Human Rights Watch, *supra* note 11, at 34-35; "Ghanaian Women Demanding Protection from Violence," *Ghanaian Chronicle*, Nov. 8, 2004 (Accra, Ghana) [hereinafter referred to as *Ghanaian Chronicle*]. Online at www.peacewomen.org/news/Ghana/Nov04/Violence.html.

²¹ *Ghanaian Chronicle*, *supra* note 20.

judges are sympathetic, women may also be discouraged from reporting abuse because of the long delay before the issue is resolved in the courts.²²

Police corruption, which is widespread in Africa, also impedes attempts to assist domestic violence survivors and prosecute abusers.²³ Police are known to accept bribes from abusive husbands in exchange for agreeing not to send their files to court, and victims of abuse are sometimes charged “unofficial fees” by the police upon making reports.²⁴ With no laws in place to dictate how they should respond to domestic violence, police have the discretion to decide how to classify an offense and whether to refer victims of domestic violence for medical treatment.²⁵

Overarching the problems with courts and law enforcement in Africa is the more general problem of inadequate infrastructure and resources. As one author noted, “[e]ven if domestic violence codes and remedies were in effect, many African states simply do not have the administrative and law enforcement capacity to implement them.”²⁶ In Ghana, the Ministry of Women’s and Children’s Affairs is understaffed, under-resourced, and overworked.²⁷ There are only two small domestic violence shelters, run by local non-profit organizations, to assist survivors of abuse in a country of over twenty-one million people.²⁸ Both of these shelters are located in or near the capital city of Accra; no shelters are available to women in more remote, rural areas. African countries that are poorer than Ghana likely have even fewer resources and social services available to assist domestic violence survivors.

²² *Id.*; Ghana NGO Alternative Report, *supra* note 7, at 9.

²³ Human Rights Watch, *supra* note 11, at 34.

²⁴ *Id.* at 35.

²⁵ *Id.*

²⁶ Bowman, *supra* note 3, at 859.

²⁷ Ghana NGO Alternative Report, *supra* note 7, at 11

²⁸ *Id.* at 9; CIA, “Ghana,” *The World Factbook*, online at <http://www.cia.gov/cia/publications/factbook/geos/gh.html> [Mar. 11, 2006].

IV. Existing Legal Responses to Domestic Violence

Despite these significant challenges to creating and enforcing laws to address domestic violence, some attempts have been made to introduce anti-domestic violence legislation in Africa. In the mid-1990s, following the Beijing Fourth World Conference on Women in 1995, African women activists began to focus more attention on documenting the problem of domestic abuse within Africa and lobbying for passage of domestic violence codes.²⁹ South Africa passed the very first Prevention of Family Violence Act on the continent in 1993, which it then revised and replaced with its current Domestic Violence Act in November 1998.³⁰ South Africa's bill provides protective orders to survivors and defines "domestic relationships" broadly, including two people who "share or have recently shared the same residence."³¹ The country has also passed a separate bill outlawing marital rape. Mauritius, an African island located in the Indian Ocean east of Madagascar, passed the second bill in Africa to prevent domestic violence in 1997.³²

Around the same time that these two laws were passed, awareness was also building in Ghana about the need for a Domestic Violence Bill. In 1998, the Women and Juvenile Unit (WAJU) was created in Ghana's police force to specifically deal with issues of violence against women and other abuses of human rights, and to document patterns and types of crimes against women and children.³³ Two years later in 2000, a spree of serial killings of women in Ghana

²⁹ Bowman, *supra* note 3, at 847-48.

³⁰ *Id.* at n3.

³¹ Republic of South Africa, "Domestic Violence Act (1998)," *Government Gazette*, Vol. 402, No. 19537, 4 (Dec. 1998). Available online at <http://annualreview.law.harvard.edu/population/domesticviolence/domesticviolence.htm>

³² Bowman, *supra* note 3, at n3.

³³ *Ghanaian Chronicle*, *supra* note 18; U.S. State Department Bureau of Democracy, Human Rights, and Labor, "Ghana," *Country Reports on Human Rights Practices 2004*, released February 28, 2005. Online at <http://www.state.gov/g/drl/rls/hrrpt/2004/41606.htm>.

spurred activists into action.³⁴ Local women's rights advocates formed a coalition and took to the streets to protest these murders of women, as well as the wider problem of violence against women in the country.³⁵

That same year, women's rights organizations and government organizations prepared a private member's motion for Parliament to enact a domestic violence bill.³⁶ After Ghanaian President John Kufour was elected at the end of 2000, he established two new ministries to serve the needs of Ghana's women and girls: the Ministry of Women's and Children's Affairs and the Ministry of Girl-Child Education.³⁷ In spite of this mark of progress in working toward gender equality, President Kufour and the Ghanaian Parliament have been slow in passing the Domestic Violence Bill. The draft bill, which has yet to be approved, has sparked contentious ongoing debate, and is on record for having the widest public consultation³⁸ of any bill in Ghana's legislative history.³⁹

Ghana's proposed Domestic Violence Bill would provide protective orders for victims of domestic abuse. The draft bill defines domestic violence broadly, including physical, sexual, economic, emotional, verbal or psychological abuse, or harassment within a previous or existing domestic relationship.⁴⁰ Like South Africa's bill, it also includes a broad conception of a domestic relationship. Ghana's draft bill specifically includes "house help in the household of [the abuser]" as a type of protected domestic relationship, reflecting the reality that women and

³⁴ WISE, "Ghana's Domestic Violence Bill: Update on Lobbying and Outreach, Activity up to December 2003," author's copy distributed at WISE Lobbying Strategy Workshop (Dec. 2003); *Ghanaian Chronicle*, supra note 20.

³⁵ WISE, supra note 34.

³⁶ Dovlo, Elom. *International Law and Religion Symposium: Religion in the Public Sphere: Challenges and Opportunities in Ghanaian Lawmaking, 1989-2004*, B.Y.U.L. Rev. 629, 651 (2005).

³⁷ *Ghanaian Chronicle*, supra note 20.

³⁸ "Public consultation" is a process by which the content of a proposed bill is made available to the public for discussion and feedback from the community.

³⁹ Author's email correspondence with Adolf Awuku Bekoe, Coordinator of the Coalition on Domestic Violence Legislation in Ghana, Dec. 3, 2005.

⁴⁰ Author's copy of Ghana's draft bill, entitled "Domestic Violence Act 2003," 1-2.

girls working as live-in domestic help in Ghana often face abuse in the home. In addition to creating the protection of restraining orders for abusive domestic relationships, the draft bill would also repeal Section 42(g) of Ghana's Criminal Code, 1960 (Act 29) which states that a wife cannot revoke her consent in marriage "until the parties are divorced or separated by a judgment or decree of a competent Court."⁴¹ By repealing this section of the Criminal Code, the bill would give women the option of prosecuting their husbands for rape during marriage.⁴²

Advocates working to pass Ghana's proposed Domestic Violence Bill into law have conducted a number of lobbying and outreach activities to inform Members of Parliament, political parties, regional constituencies, and the media about the importance of the bill.⁴³ The National Coalition on Domestic Violence Legislation in Ghana, established in 2003, is leading this advocacy in partnership with local women's rights organizations and other supportive agencies and individuals. The Coalition and its partners have conducted sensitization workshops with Members of Parliament and other influential government leaders, organized forums with political party representatives, conducted education campaigns in each of Ghana's ten regions, and met with traditional rulers, religious leaders, and media representatives to encourage their support of the bill.⁴⁴ Programs and debates about the Domestic Violence Bill have been aired on national television and radio, and local newspapers have covered the progress of the bill and the arguments of its supporters and opponents.⁴⁵ On March 8, 2004, hundreds of women and men took to the streets in Ghana's capital city in an International Women's Day march to support passage of the Domestic Violence Bill. Advocates hoped that further raising public awareness

⁴¹ *Id.* at 18.

⁴² Email correspondence with Adolf Awuku Bekoe, *supra* note 35.

⁴³ WISE, *supra* note 34

⁴⁴ *Id.*

⁴⁵ *Id.*

about this proposed legislation would make it a critical issue during Ghana's Presidential elections later that year, and help move it swiftly into law.

Advocates' efforts have been met with mixed reactions by the public, however. The marital rape provision of the draft bill has proven especially controversial. Proponents stress that Section 42(g) of Ghana's Criminal Code is discriminatory, and therefore inconsistent with Ghana's 1992 Constitution, as well as the international conventions it has ratified, including CEDAW.⁴⁶ Opponents have launched a negative campaign largely focusing on the marital rape provision. They claim that the bill is intended to break up homes and would lead to an undesirable increase in litigation and divorce.⁴⁷ This was actually the official position of the Ministry of Women's and Children Affairs (MOWAC) under former Minister Gladys Asmah.⁴⁸ Adolf Awuku Bekoe, current coordinator of the Coalition on Domestic Violence Legislation in Ghana, reports that since new Minister Hajia Alima Mahama has been appointed, the Ministry is now more supportive of the bill, but the previous damage MOWAC's negative campaign created still persists in some quarters, impeding progress.⁴⁹ The Ministry continues to recommend deleting the draft's marital rape provision, claiming this omission would enable the bill to pass through Parliament more quickly.⁵⁰ Indeed, the government remains reluctant to criminalize rape within marriage by including the repeal of Criminal Code Section 42(g) in the bill.⁵¹

⁴⁶ Email correspondence with Adolf Awuku Bekoe, *supra* note 39.

⁴⁷ Dovlo, *supra* note 36, at 652-53, 655; Email correspondence with Adolf Awuku Bekoe, *supra* note 39.

⁴⁸ Email correspondence with Adolf Awuku Bekoe, *supra* note 35. Opponents also include some religious leaders, eminent local personalities like the director of Ghana's law school, and some traditional rulers. Author's email correspondence with Adolf Awuku Bekoe, Dec. 9, 2005.

⁴⁹ Email correspondence with Adolf Awuku Bekoe, *supra* note 39.

⁵⁰ *Id.* The final decision about whether to include the marital rape provision in the bill will be made after results from the second round of public consultation have been presented to Ghana's Cabinet. Email correspondence with Adolf Awuku Bekoe, Dec. 9, 2005.

⁵¹ *Id.*

Many traditional rulers and religious leaders in Ghana are opposed to the bill on other grounds as well.⁵² Some traditional rulers feel the bill reflects an undesirable imposition of Western values, and see the proposed legislation as “destructive, rather than helpful, to family life within the cultural context of Ghana.”⁵³ There are also religious leaders, both Muslim and Christian, who are also opposed to the bill. Christian leaders have expressed concern that the law disregards the Christian principle of reconciliation, and feel that adopting the law would require the community to abandon Christian values.⁵⁴ In addition, some Muslims fear that the bill’s provisions will allow women to “threaten and dominate their husbands,” and will lead to the disintegration of marriages.⁵⁵ They also feel the proposed legislation threatens family life, claiming that it could prevent parents’ ability to effectively discipline their children, and will create disrespect in families by giving women more power than men.⁵⁶

Advocates have worked hard to counter these misconceptions and myths about the bill. The Ark Foundation, a local domestic violence shelter, organized an inter-church leadership forum in 2005 in an effort to reach out to Christian leaders for support.⁵⁷ Some of the leaders in attendance agreed to give sermons to their congregations on issues of gender and domestic violence. Over the past couple of years, advocates have also conducted regional consultations and education programs with citizens and traditional rulers throughout the country. The Ghanaian Cabinet recently ordered the Ministry of Women’s and Children’s Affairs to conduct a second round of public consultation about the bill, which was just completed.⁵⁸ This outreach has proven largely effective at garnering support for the legislation, as the Coalition on Domestic

⁵² Dovlo, *supra* note 36, at 651; *Ghanaian Chronicle*, *supra* note 20.

⁵³ Dovlo, *supra* note 36, at 655.

⁵⁴ *Id.*

⁵⁵ Dovlo, *supra* note 36, at 653.

⁵⁶ *Id.*

⁵⁷ *Public Agenda*, *supra* note 12.

⁵⁸ Email correspondence with Adolf Awuku Bekoe, *supra* note 39.

Violence Legislation in Ghana reports that a majority of the public now supports passage of the bill.⁵⁹ The Coalition is now turning its attention to lobbying Parliament, the final obstacle it must overcome before the bill can be passed into law.⁶⁰ The Coalition has recently launched a campaign to gather signatures of support in 230 constituencies throughout Ghana that it will present to individual Parliamentarians.⁶¹ After years of widespread and persistent advocacy, the Coalition and its partners appear to be nearing their goal of seeing a law against domestic violence passed in Ghana.

V. The Limitations of Using the Law to Combat Domestic Violence

In light of the already extensive and impressive efforts of Ghanaian advocates, what more could be done to encourage Parliamentarians to provide legal protections to survivors of domestic violence? Some are quick to point to international human rights law as a tool to compel Ghana to pass the Domestic Violence Bill. Ghana ratified CEDAW in 1986, but has yet to incorporate the Convention's provisions into the laws and practices of the country.⁶² Under CEDAW, states are obligated to create laws that protect women on an equal basis with men, and to modify or abolish existing laws or customs that discriminate against women.⁶³ Ghana also ratified the Convention on the Rights of the Child in 1989.⁶⁴ The Attorney General and Minister of Justice in Ghana cited both of these conventions in their memorandum on the Domestic Violence Bill: "By ratifying these conventions, the Republic has taken on the obligation to protect certain groups and provide the special care and assistance required for the physical and

⁵⁹ *Id.*

⁶⁰ *Public Agenda*, supra note 12.

⁶¹ Email correspondence with Adolf Awuku Bekoe, supra note 39.

⁶² *Public Agenda*, supra note 12; Ghana NGO Alternative Report, supra note 7, at 10.

⁶³ See United Nations, Convention on the Elimination of All Forms of Discrimination Against Women, Article 2(c), 2(f) (1979); Human Rights Watch, supra note 11, at 37.

⁶⁴ *Public Agenda*, supra note 12.

mental well being of women and children among others.”⁶⁵ Such statements may lead some to believe that Ghanaian lawmakers view international conventions as binding documents that should guide the structure of their legal system.

Despite the promising sound of such statements, in reality the international conventions that Ghana and other countries in the region have ratified have little practical pull in much of Africa.⁶⁶ Human Rights Watch cites an example from Uganda, quoting a Member of Parliament in the country who proclaims: “Uganda rushes to ratify international conventions to look good but when it comes to domesticating them it drags its feet.”⁶⁷ The same seems to be true of many other countries on the continent. Modern legal frameworks in general, and international legal frameworks in particular, are viewed by many as an imported Western construct and are resisted by some in the name of culture.⁶⁸ One author examining the Domestic Violence Bill and other culturally controversial laws in Ghana urges that “since there are often feelings that Western norms are being imposed on Ghanaians, it will not be sufficient for lawmakers to argue from the standpoint that the laws are being passed because Ghana is signatory to various international conventions.”⁶⁹ This reality challenges advocates to find other, more culturally sensitive means of urging and convincing lawmakers to pass gender-progressive laws.

Even if more African countries eventually pass laws providing protections against domestic violence, it is foreseeable that problems enforcing these laws will arise, thus limiting their practical effectiveness. In Ghana, for example, previous bills that have clashed with cultural norms and religious beliefs have proven difficult to enforce.⁷⁰ If the community does

⁶⁵ Dovlo, *supra* note 36, at 652.

⁶⁶ Agyei, *supra* note 5, at 120; Human Rights Watch, *supra* note 4, at 43.

⁶⁷ Human Rights Watch, *supra* note 2, at 43.

⁶⁸ Dovlo, *supra* note 36, at 654-55.

⁶⁹ *Id.* at 657.

⁷⁰ *Id.* at 654. The author refers specifically to the Intestate Succession Law of 1985, Religious Bodies Registration Law of 1989, and the Criminal Code Amendment Act of 1998.

not widely support such laws at the time of their passage, individuals may continue to deal with violence through traditional means, rather than turning to the protections of the law. Domestic violence issues in Ghana have traditionally been dealt with by family tribunals, which tend to be male-dominated and insensitive to gender issues.⁷¹ Without widespread community acceptance of the proposed bill, individuals may continue to turn to family tribunals rather than utilizing the legal system once a domestic violence law is passed.

Women's lack of education about their legal rights may also inhibit some women from using laws once they are in place to protect them: "Numerous factors combine to limit African women's access to justice. A lack of access to formal education, limited legal literacy, and a lack of familiarity with the language of the courts may make court navigation difficult."⁷²

Advocates must continue to engage in targeted outreach and education in order to ensure that communities understand and support the protections that domestic violence laws can provide, so that victims can choose to make use of such laws once they are passed.

Finally, the limitations of African police forces and medical facilities present additional barriers to using the law to combat domestic violence. It is often difficult to collect medical evidence to support domestic violence cases in Africa, since there are few medical facilities in rural areas where many women live, and even urban facilities may have inadequate resources to collect medical evidence.⁷³ Many victims may also be unable to afford expensive medical tests, even if they are available.⁷⁴ Moreover, the problems of corruption and gender-insensitivity within many African police forces will likely continue to present a significant challenge to the enforcement of domestic violence laws.

⁷¹ Ghana NGO Alternative Report, *supra* note 7, at 10.

⁷² Human Rights Watch, *supra* note 11, at 36.

⁷³ Human Rights Watch, *supra* note 11, at 34.

⁷⁴ *Id.*

VI. Proposals for Mobilizing Support for Domestic Violence Laws in Africa

Despite the considerable obstacles to using the law to combat domestic violence in Africa, there is reason for advocates around the world to remain optimistic and plan for the future. Though advocates' progress on the African continent is slow, it is still progress: laws against domestic violence have been passed in South Africa and Mauritius,⁷⁵ and the proposed bill in Ghana appears likely to pass into law as well. The United Nations, United States, African governments, and advocates each have a role to play in mobilizing support for more domestic violence laws in Africa.

The United Nations must continue to organize world conferences on human rights and women's rights, and provide scholarships to allow more African activists to attend. Such conferences provide women and men from around the world the opportunity to come together, compare strategies, learn from each other, and return to their countries to mobilize for change. Earlier United Nations' conferences, such as the Beijing Fourth World Conference on Women, have helped motivate governments to make necessary changes in their laws, and there is hope that future conferences may continue to inspire positive legal change.⁷⁶

The United States also has a critical role to play in the process. The United States must ratify CEDAW in order to help encourage Ghana and other African countries to implement the Convention. As a world leader, it is shameful that the United States has failed to join the 179 countries world-wide that have ratified this treaty to ensure the basic human rights of women.⁷⁷ While CEDAW and other international human rights laws currently have little practical force in Africa, it is possible that Ghana and other African nations would be more likely to implement

⁷⁵ Bowman, *supra* note 3, at n.3.

⁷⁶ Paul, Subrata. *Combating Domestic Violence Through Positive International Action in the International Community and in the United Kingdom, India, and Africa*, 7 Cardozo J. Int'l & Comp. L. 227, 244 (1999).

⁷⁷ See website of the Committee to Ratify CEDAW at http://www.womenstreaty.org/facts_countries.htm#have.

their provisions if world leaders like the United States were willing to do the same. In addition to ratifying CEDAW, the United States can also provide much-needed resources to African advocacy groups like the Coalition on Domestic Violence Legislation in Ghana. The Coalition in Ghana has already completed an impressive amount of outreach to raise awareness and garner support for the Domestic Violence Bill, but it continues to be constrained by a lack of adequate funding to carry out the level of advocacy needed to succeed in its national campaign.⁷⁸

Providing financial assistance to African domestic violence coalitions and ratifying CEDAW are two concrete ways that the United States can help facilitate an increase in domestic violence legislation in Africa.

At the more local level, African governments and advocates must continue to educate people about proposed domestic violence laws with sensitivity to existing cultural norms. As one author writing about controversial laws in Ghana has urged:

Lawmakers should employ a cross-cultural, universal approach in educating the people to accept such laws. The various public debates carried on about the laws also reveal that there is the need for lawmakers to involve civil society through adequate consultation. This is especially important in a society where most people are illiterate and unaware of the laws of the state.⁷⁹

Concerted efforts at carrying out wide-scale public consultation and outreach in Ghana have proven successful in building support for the proposed Domestic Violence Bill. Other countries seeking to pass such laws should consider making similar efforts, in order to increase the probability of successful passage and enforcement of gender-sensitive laws, while at the same time maintaining a national sense of cultural identity and autonomy.

Finally, the United Nations, United States, and African governments all have a critical role to play in continuing to empower and mobilize African women. In recent years, women

⁷⁸ Email correspondence with Adolf Awuku Bekoe, *supra* note 39.

⁷⁹ Dovlo, *supra* note 36, at 657.

activists have successfully organized for legal reforms throughout the world: “In country after country, as well as in the international arena, women have come together out of necessity with the hope of combating domestic violence.”⁸⁰ Women’s advocacy has resulted in the creation of legal protections and services for domestic violence survivors where none previously existed.⁸¹ The empowerment of women is responsible for much of this positive change. Governments and other actors worldwide can continue to facilitate women’s empowerment in Africa by providing African women with resources to realize their visions for a more positive future, and by offering African women educational opportunities to gain the skills necessary to better understand and assert their rights, and to advocate for change.

A critical means of empowering African women is to increase the number of women in leadership and decision-making positions on the continent. Currently, African women are noticeably underrepresented in all levels of government, as well as in business and other influential sectors of society.⁸² In Ghana, for example, women currently make up only 8% of Members of Parliament, 8% of Ministers of State, and 6% of District Chief Executives.⁸³ No women serve as Regional Ministers in Ghana.⁸⁴ Women’s representation in decision-making positions is just as dismal, or worse, in most other African countries.⁸⁵

Some African NGOs are making efforts to address the lack of women in leadership in Africa. Women’s Initiative for Self-Empowerment (WISE) in Ghana, for example, recently launched the WISE Institute for Empowerment and Leadership Development (WIELD), a program specifically targeted at fostering a new generation of African women leaders on the

⁸⁰ Paul, *supra* note 76, at 241.

⁸¹ *Id.*

⁸² “Background Information,” The WIELD Foundation. Online at <http://www.wieldfoundation.org/background.htm>.

⁸³ *Ghanaian Chronicle*, *supra* note 20.

⁸⁴ *Id.*

⁸⁵ The WIELD Foundation, *supra* note 82.

continent.⁸⁶ WISE initially formed to work on domestic violence prevention, and sees increasing women's representation in decision-making roles as a critical part of its mission. The Ark Foundation, another organization working to end domestic violence in Ghana, launched the Women's Law and Human Rights Institute with similar goals in mind.⁸⁷ Women in Africa have identified a critical connection between increasing women's leadership and empowerment and ending forms of gender discrimination and violence against women. In the interest of promoting global human rights and preventing domestic violence, the global community must be willing to support them and join them in their efforts.

VII. Conclusion

The women's rights movement is alive and active in Ghana, as it is in other parts of Africa. Advocates in Ghana, recognizing the specific challenges that domestic violence presents in the African context, are working hard to pass legislation to address domestic violence in the country. They have made admirable strides, but have also faced considerable obstacles along the path to passing the draft Domestic Violence Bill. Advocates in other parts of Africa can benefit from the lessons learned in Ghana when crafting their own approaches to introducing and promoting domestic violence laws. The United Nations, United States, and African governments also have a critical role to play in facilitating the passage of more laws against domestic violence in Africa.

There are considerable challenges to using the law to address domestic violence in Africa, but this fact alone is not reason for advocates to abandon their efforts: "While it is true that laws don't necessarily translate into real-life changes, legal precedent can be a powerful tool

⁸⁶ See website of The WIELD Foundation at www.wieldfoundation.org.

⁸⁷ See website of The Ark Foundation at www.arkfoundationgh.org/wlhri/background.htm.

for reform and the legal system can be a catalyst for change.”⁸⁸ Two countries in Africa have recently passed laws to prevent domestic violence, and efforts to pass similar legislation in other African countries are spreading. Given the experience of advocates in Ghana, advocates throughout the continent should feel encouraged that persistence, combined with cultural sensitivity, can eventually lead to legal change. With continued efforts to pass and enforce laws against domestic violence, and hopefully with increased support from the global community, the world will continue to witness a positive domino-effect of legal change throughout Africa.

⁸⁸ Paul, *supra* note 76, at 243.