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**Sexual Violence against Girls in Secondary Schools: The Case of Cameroon and South
Africa**

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DEDICATION

This work is dedicated to all to all victims and survivors of sexual violence. It is also dedicated to all human rights activists especially those working for the promotion and protection of the rights of women and girls.

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ABSTRACT

This thesis sets out to examine the phenomenon of sexual violence against girls in secondary schools in Cameroon and South Africa. This thesis finds out why despite the existence of international, regional and national legal instruments as well as national mechanisms put in place by Cameroon and South Africa, sexual violence remains a problem. More specifically, the thesis compares the gender and other social dynamics that perpetuate sexual violence and how these dynamics are played out in the school environment, the causes of violence against girls in schools in Cameroon and South Africa, the extent to which Cameroon and South Africa have complied with international and regional human rights instruments addressing violence against (school) girls, and how national law and practice especially in the area of education have been tailored to combat sexual violence in schools in Cameroon and South Africa.

The research method is based on an analysis and comparison of sources such as international treaties, national laws and practice, scholarly articles and books as well as reports and other data from governmental, non-governmental and international organisations and bodies, media organs all dealing with sexual violence against girls in general and sexual violence in schools in particular. The findings reveal that that sexual violence against girls in secondary schools in Cameroon and South Africa is fuelled by personal, group and societal factors. Sexual violence is a reflection of the dynamics that promote violence in the society in which it is found. The thesis gives recommendations to the state, educational authorities, civil society and other relevant actors.

LIST OF ABBREVIATIONS

ACHPR: African Charter on Human and Peoples Rights

AIDS: Acquired Immune Deficiency Syndrome

AU: African Union

CEDAW: the UN Convention on the Elimination of all forms of Discrimination Against Women

CRC: the UN Convention on the Rights of the Child

GBV: Gender Based Violence

HIV: Human Immuno-deficiency Virus

STI: Sexually Transmitted Infection

UDHR: Universal Declaration of Human Rights

UN: United Nations Organisation

UNFPA: United Nations Population Fund (formerly United Nations Fund for Population Activities)

VAW: Violence Against Women

WHO: World Health Organisation

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CHAPTER ONE: INTRODUCTION

This chapter provides general information in relation to foundational aspects of the research. It provides a general introduction and contains the elements relevant for a general understanding of the work: the background and context, statement of the problem, scope, objectives, research questions, the methodology and key definitions for the work.

1.1 BACKGROUND AND CONTEXT

Violence against women in general and sexual violence in particular has progressively gained more international recognition as a grave human rights violation. Violence against girls and women has attained pandemic levels and takes varied forms.

Sexual violence cuts across all facets of society and takes place in various settings. Sexual violence affects both males and females. However, higher proportion of sexual violence is perpetrated against females in schools. The perpetrators of violence against women in general and sexual violence in particular in schools are usually male students or staff and the victims are most often female students. The United National Population Fund (UNFPA) notes that

The primary targets of GBV are women and adolescent girls, but not only are they at high risk of GBV, they also suffer exacerbated consequences as compared with what men endure. As a result of gender discrimination and their lower socio-economic status, women have fewer options and less resources at their disposal to avoid or escape abusive situations and to seek justice. They also suffer (...) consequences, including forced and unwanted pregnancies, unsafe abortions and

resulting deaths, traumatic fistula, and higher risks of sexually transmitted infections (STIs) and HIV.¹

Antonowicz states that “within schools, perpetrators ... are most commonly male students or teachers and other staff. Female teachers and students tend to be much less involved as perpetrators. ”² This view is expressed by *Irin news* states that “Schools tend to mirror surrounding social structures and relationships so solutions cannot be found in isolation... Violence against girls is linked to gender relations in which male violence is sometimes accepted, as is female submission and passivity”.³

Sexual violence against girls in schools is widespread in Cameroon and South Africa. This is the case irrespective of efforts at the national and international levels to combat it. Despite the difficulties in getting precise statistical data on the phenomenon, a number of studies provide a pointer. In 2002, Mbassa Menick published a questionnaire-based study whose goal was to ascertain the degree of sexual abuse in some secondary schools in Yaoundé-Cameroon and the level of teacher participation in sexual abuse amongst others. Working on the premise that the number of sexual abuse victims was increasing in Cameroon with most of the perpetrators being teachers, school staff and classmates, the results proved that the incidence rate was 15.9%, with 27.5% being boys and 72.5% girls; with 11.6 as mean age when the abuse occurred.⁴ Antonowicz notes that “In Cameroon, a study found that 30 per cent of sexual violence

¹UNFPA *Strategy and Framework for Action to Addressing GBV*, 2008-2011, 2011, p. 7

²Antonowicz, Laetitia. *Too Often in Silence: A Report on School-based Violence in West and Central Africa*. UNICEF, PLAN WEST AFRICA, SAVE THE CHILDREN WEST AFRICA and ACTIONAID, 2010, p. 23

³“WEST AND CENTRAL AFRICA: Ending the silence on violence in schools”, *Irin news*, 20 May 2010, <http://www.irinnews.org/report/89201/west-and-central-africa-ending-the-silence-on-violence-in-schools> [accessed 16/12/2013]

⁴Mbassa, Menick D. (2002). “Child Sexual Abuse in Schools in Cameroon: Results of a Survey-Action in Yaoundé.” In *Med Trop* 2002: 62: 58-62.

experienced by girls was perpetrated by school boys.”⁵ However, more recent data are not available.

The incidence of sexual violence against girls in schools in South Africa has been reported to be very high. Human Rights Watch notes in a study that “sexual abuse and harassment of girls by both teachers and other students is widespread in South Africa”⁶ Hallman⁷ (whose study shows that in relation to their first sexual encounters, 55 per cent of girls as compared to 94 per cent of boys of between 14-24 indicated that they had been “willing” to participate) reiterates that sexual violence as a huge problem within the South African school system.

It may be observed that in both Cameroon and South Africa, in relation to sexual violence against girls, differences and similarities exist in its causes (such as the ‘myth of the virgin’, corrective rape, wife inheritance, use of girls to settle ‘debts’) and manifestation. These shall be examined in Chapter 3.

1.2 RESEARCH PROBLEM

Sexual violence, as seen above, has been and is still a serious problem in Cameroon and South Africa, as in many parts of the world. The causes of sexual violence against women and girls are varied. This research will examine some causes of sexual violence in Cameroon and South Africa(-socio-cultural (practices that promote male superiority and female subjugation, male-oriented and dominated cultural power structures), economic (female poverty, lack of access to

⁵Supra, note 2

⁶Human Rights Watch (2001). *Scared at School: Sexual Violence against Girls in South African Schools*. New York: Human Rights Watch. http://www.hrw.org/reports/2001/safrica/ZA-FINAL-01.htm#P298_19489

⁷ Hallman, Kelly (2005). *Sexual violence and girls' education in South Africa*, Population Council, New York, p 15

resources such as land, inequality in employment, female illiteracy), political (lack or weak political will, absence of anti-violence programs, insufficient allocation of resources to anti-violence programs, structural aspects that make women more prone to violence), and legal (laws that discriminate against women, absence of clear laws punishing sexual violence, poor law enforcement, ignorance, impunity), or educational and show that sexual violence does not happen in a vacuum but is a reproduction of society as a whole. Its consequences are devastating and can be internal and external, personal and collective. Many cases even go unreported and their effects are a ‘cancerous tumour’ digging slowly and usually covertly but deep into the fabrics of the individual victims, their close ones and families and society. Sexual violence affects not only the direct victims but also the whole society and makes way for further reproduction of violence. Sexual violence is a problem which needs to be handled firmly and effectively through a holistic engagement and intervention.

The government of Cameroon has undertaken some efforts to eradicate sexual violence in general and sexual violence against girls in schools in particular especially by taking steps to contextualise and implement international strategies on eliminating sexual violence against girls. Cameroon has ratified most international treaties, which target the elimination of various forms of violence against women and girl children. This has been accompanied by some national legislation and practice aimed to eliminate this vice. South Africa has also made several efforts at the international, regional and national levels to combat sexual violence against girls. It has gone a step ahead of most emerging and developing countries to enact specific laws to deal with sexual violence. For example, in 2007 South Africa enacted the Sexual Offences and Related Matters Amendment Act, which deals with sexual offences in a comprehensive manner.

This thesis will dig deeper to find out why despite the existence of international, regional and national legal instruments as well as national mechanisms put in place by Cameroon and South Africa, sexual violence remains a problem. The question arises as to whether the persistence of sexual violence against girls is due to limitations in complying with international and regional instruments, weaknesses in domestic legal framework, lack of proper implementation, other factors such as socio-cultural structures, practices and norm, economic difficulties or a combination of all these. There has also been the problem of lack of more recent data on sexual violence in schools in both Cameroon and South Africa and this makes policy and other interventions more difficult.

A comparative study of Cameroon and South Africa in the light of addressing sexual violence in schools considering the international, regional and national legal frameworks is proposed because South Africa has put in place a variety of legislative, policy and other measures to address this phenomenon with varying levels of success and Cameroon which is still lagging far behind especially in relation to the legal and policy framework addressing sexual violence, can learn from South Africa's successes and challenges. It is also necessary to examine specific state action in policy and practice especially in the area of education in general and secondary education in particular to combat sexual violence against girls in schools. Such a comparison will further help to identify the positive and recommendable actions as well as the weaknesses that can be learned from each country's situation and approach. South Africa, with a very high incidence of sexual violence, has taken relatively much action (for example, the 2007 Sexual Offences Act) to tackle sexual violence in schools some of which has been very effective and others not, and Cameroon as well as some other countries will have much to learn from this experience. An examination of the actions taken or not taken so far in Cameroon will also be

useful to provide similar lessons of successes, challenges and failures, possible sources and how they can be handled-

1.3 RESEARCH QUESTIONS

This research work will seek to address the following research questions:

1. The gender and other social dynamics that perpetuate sexual violence and how these dynamics are played out in the school environment.
2. What are the causes of violence against girls in schools in Cameroon and South Africa?
3. To what extent have Cameroon and South Africa complied with international and regional human rights instruments addressing violence against (school) girls?
4. How have national law and practice especially in the area of education been tailored to combat sexual violence in schools in Cameroon and South Africa?
5. What applicable lessons can Cameroon and South Africa draw from each other in combating sexual violence against girls in schools?

1.4 JURISDICTIONS

The research will focus on a comparative study trends, attitudes and measures in place to address sexual violence in schools in Cameroon and South Africa under the light of the relevant United Nations, African Union and national frameworks as well as customary law and practice of both countries.

1.5 METHODOLOGY

The research method will be based on an analysis and comparison of sources such as international treaties, national laws and practice, scholarly articles and books as well as reports and other data from governmental, non-governmental and international organisations and bodies,

media organs all dealing with sexual violence against girls in general and sexual violence in schools in particular. One reason for this is the lack of current data on trends and prevalence on sexual violence and also because of time and financial limitations in conducting interviews or collecting information through questionnaires. However, my personal knowledge as a teacher in secondary schools in Cameroon since 2002 as well as our organisation's (the Positive Peace Group) current sensitisation campaign on sexual violence in secondary schools will give useful insight.

CHAPTER 2: LITERATURE REVIEW ON SEXUAL VIOLENCE

This Chapter sets out to provide definitions of the key terms in order to establish the key elements and a working definition. It also examines existing related literature thereby situating the work in its context and indicating its relevance and its contribution.

2.1 DEFINITION OF TERMS

There has been a lot of difficulty in having exact and generally accepted definitions to terms such as sexual violence, or related terms such as rape or sexual harassment. The Population Council⁸ has noted, “There is no single or universal definition of gender-based or sexual violence. Understandings differ according to country, community and legal context. For instance, prevalent definitions of sexual violence exclude children.”⁹

Baker points out that this absence of a generally accepted and certain definition is an impediment to work on prevention, monitoring and advocacy.¹⁰ It is indispensable to have a consistent and common definition of sexual violence and related terms.

This thesis will now therefore, examine various definitions by institutions, researchers and statutes of the main terms used in this thesis in relation to sexual violence. For consistency and clarity of definitions, we will rely on sources that are generally accepted such as UN Resolutions, Bulletins or Conventions. This is because the definitions in them have been argued, negotiated and accepted by majority of world governments as global standards. We may then refer to independent sources such as researchers for more specific definitions, broadening of the concept or alignment to specific contexts. The terms to be defined include gender-based violence,

⁸The Population Council is an international non-governmental organisation formed in the 1950s and that carries out research on issues of health and development. It is present in more than 50 countries especially in Africa, Asia, Latin America, and the Middle East. (Website: <http://www.popcouncil.org>)

⁹Population Council, *Sexual and Gender Based Violence in Africa: Literature Review*, Population Council, 2008

¹⁰Baker, L. *Gender-based Violence Case Definitions: Towards Clarity in Incident Classification*, International Research Committee, 2007

violence against women, sexual violence, sexual harassment, rape, sexual abuse, sexual exploitation, school violence and partner violence.

2.1.1 Gender Based Violence (GBV)

There was a huge gap in international human rights law in relation in the definition or consideration of GBV for long; even after the adoption of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1979. However, in 1992, with the adoption of General Recommendation No. 19 on VAW (GR 19) by the CEDAW Committee (the body responsible for monitoring the implementation of CEDAW) this loophole was filled.¹¹

The aforementioned General Recommendation puts GBV in the definition of discrimination against women in CEDAW's Article 1 and defines GBV in paragraph 6 as "violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty."¹²

The UNHCR and its implementing partners adopted the above definition and combined it with the definition of VAW in the 1993 United Nations General Assembly Declaration on the Elimination of Violence Against Women¹³. They thus define GBV as follows:

Gender-based violence is violence that is directed against a person on the basis of gender or sex. It includes acts that inflict physical, mental or sexual

¹¹ "Strengthening Health System Responses to Gender-based Violence in Eastern Europe and Central Asia: A Resource Package" WAVE and UNFPA Regional Office for Eastern Europe and Central Asia, <http://www.health-genderviolence.org/training-programme-for-health-care-providers/facts-on-gbv/defining-gender-based-violence/21> [accessed 15/12/2013]

¹² General Recommendation No. 19 (11th session, 1992) Committee on the Elimination of Discrimination against Women. <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

¹³ UN GA Resolution 48/104, 85th plenary meeting, 20 December 1993

harm or suffering, threats of such acts, coercion and other deprivations of liberty.... While women, men, boys and girls can be victims of gender-based violence, women and girls are the main victims... Gender-based violence shall be understood to encompass, but not be limited to the following: a) Physical, sexual and psychological violence occurring in the family, including battering, sexual exploitation, sexual abuse of children in the household, dowry-related violence, marital rape, female genital mutilation and other harmful traditional practices, non-spousal violence and violence related to exploitation.(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking and forced prostitution. (c) Physical, sexual and psychological violence perpetrated or condoned by the State and institutions, wherever it occurs.¹⁴

This indicates that GBV is a more general and encompassing terms which includes aspects such as violence against women, sexual violence and related issues. In this thesis, we shall take just some aspects of the broad definition of GBV as in the aforementioned one to capture the range of issues directly linked to sexual violence in schools. Aspects such as rape, sexual abuse and sexual harassment shall be treated as forms of sexual violence.

As shown by the definitions above, girls and women are the most affected by GBV. UNFPA further lends support to this fact when it states that

¹⁴ “Gender Based Violence”, The National Office for the Prevention of Domestic, Sexual and Gender-based Violence. <http://www.cosc.ie/en/COSC/Pages/WP08000147> [accessed 02/07/2014]

The primary targets of GBV are women and adolescent girls, but not only are they at high risk of GBV, they also suffer exacerbated consequences as compared with what men endure. As a result of gender discrimination and their lower socio-economic status, women have fewer options and less resources at their disposal to avoid or escape abusive situations and to seek justice. They also suffer (...) consequences, including forced and unwanted pregnancies, unsafe abortions and resulting deaths, traumatic fistula, and higher risks of sexually transmitted infections (STIs) and HIV.¹⁵

Therefore, although both boys and girls can be victims of GBV, the incidence is usually higher on the women.

Bloom further offers a definition that highlights the role of unequal power relations arising from the social norms of specific societies around gender issues in creating the framework for GBV to occur, “Gender-based violence (GBV) is the general term used to capture violence that occurs as a result of the normative role expectations associated with each gender, along with the unequal power relationships between the two genders, within the context of a specific society.”¹⁶ This definition clearly indicates that inequalities in status, rights, privileges and power between males and females in any given society create enabling environments for GBV. Juxtaposed with the UNFPA observations above, in most societies, the main perpetrators will likely be male and the main victims, female.

¹⁵UNFPA Strategy and Framework for Action to Addressing GBV, 2008-2011, p. 7

¹⁶ Bloom, Shelah S. *Violence Against Women and Girls – A compendium of Monitoring and Evaluation indicators*, USAID, 2008, p. 14

2.1.2 Violence Against Women (VAW)

Just like GBV, prior to the 1990s, VAW was not explicitly defined in international human rights law, including CEDAW. The 1993 UN General Assembly Declaration on the Elimination of Violence Against Women defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”¹⁷

The above definition is now the most commonly used. Article 2 of the Declaration further states that

Violence against women shall be understood to encompass, but not be limited to, the following:(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.¹⁸

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (commonly referred to as the “Maputo Protocol”) on its part defines VAW as follows:

UN General Assembly Resolution 48/104, A/RES/48/104, 85th plenary meeting 20 December 1993

¹⁸UN GA Resolution 48/104, 85th plenary meeting, 20 December 1993, <http://www.un.org/documents/ga/res/48/a48r104.htm>

“Violence against women” means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war; ...“Women” means persons of female gender, including girls.¹⁹

This definition thus includes the economic dimension of VAW as well as the occurrence of VAW in times of peace or war, in public or private. It also includes the fact that VAW does not include just acts but also threats of such acts.

The most important elements to draw for use in this thesis from the above definitions is that VAW has an economic dimension, occurs in public or private and includes both acts and threats of such acts.

2.1.3 Sexual Violence

The definition of sexual violence is central to this thesis as the focus is on sexual violence against girls in secondary schools. As has been established before, sexual violence is a form of VAW, which in turn is a manifestation of GBV.

The World Health Organization (WHO) defines sexual violence as “Any sexual act, attempt to obtain a sexual act, unwanted sexual comments, or advances, or acts to traffic a person’s

¹⁹ The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Article 1 <http://www.achpr.org/instruments/women-protocol/#1>

sexuality, using coercion, threats of harm or physical force, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.”²⁰

WHO further states that sexual violence

encompasses acts that range from verbal harassment to forced penetration, and an array of types of coercion, from social pressure and intimidation to physical force...includes, but is not limited to: rape within marriage or dating relationships; rape by strangers or acquaintances; unwanted sexual advances or sexual harassment (at school, work etc.); systematic rape, sexual slavery and other forms of violence, which are particularly common in armed conflicts (e.g. forced impregnation); sexual abuse of mentally or physically disabled people; rape and sexual abuse of children; and ‘customary’ forms of sexual violence, such as forced marriage or cohabitation and wife inheritance.²¹

The Population Council defines sexual and gender based violence by adopting, extending and further specifying the WHO definition as follows:

The term **sexual and gender based violence**, in its widest sense, refers to the physical, emotional or sexual abuse of a survivor. This review focuses exclusively on the sexual elements of abuse, and discusses the management of physical and emotional abuse only where it relates to accompanying sexual abuse. The scope of the definition is here expanded to include the forced sex, sexual coercion and rape of adult and adolescent men and women, and child sexual abuse. The definition also includes: The use of physical violence or psychological pressure to

²⁰World Health Organisation and Pan American Health Organisation. *Understanding and addressing violence against women*, Geneva: WHO and PAHO, 2012, p 2

²¹ibid

compel a person to participate in a sexual act against their will, whether or not the sexual act is consummated. A sexual act (whether attempted or consummated) involving a person who is incapable of understanding the nature or significance of the act, or of refusing, or of indicating his or her refusal to participate in the act, e.g. because of disability, or because of the effect of alcohol or other substances, or because of intimidation or pressure.²²

The definition offered by the Population Council is thus much broader and encompasses a range of acts. However, the issue of the will of the affected person is shown to be central here as well as the fact that the perpetrator takes advantage of a situation of weakness or vulnerability. It also indicates that sexual violence includes both the act and the attempt or threat to perpetrate it.

A reading of both definitions indicates that sexual violence occurs in places assumed to be ‘safe’ such as the place of work or in school and is carried out by people who are familiar with their victims such as students or teachers.

Sexual violence could take various forms with some being more common amongst young people.

The Panos Institute points out that

Examples of sexual violence that specifically affect adolescents include dating and courtship violence (for example, date rape); economically-coerced sex (including schoolgirls in poor countries having to take up with “sugar daddies” to afford school fees); sexual harassment and abuse in homes, schools, the workplace and communities; rape and gang rape.²³

²²Population Council. *Sexual and Gender Based Violence in Africa: Literature Review*, Population Council, 2008

²³The Panos Institute, *Beyond victims and villains: Addressing sexual violence in the education sector*, 2003, p 4

Sexual exploitation and abuse have also been included in the definition of sexual violence as common forms of sexual violence in the school context. For example, Antonowicz²⁴ states that

Sexual violence is the umbrella term to refer to any sexual act, or attempt to initiate a sexual act, using coercion, force, threat or surprise. Evidence suggests that sexual abuse and sexual exploitation are common forms of sexual violence in educational institutions across the region.²⁵

Sexual Violence has been classified into various categories. For example, the CDC definition notes that

Sexual violence (SV) is any sexual act that is perpetrated against someone's will. SV encompasses a range of offenses, including a completed non-consensual sex act (i.e., rape), an attempted non-consensual sex act, abusive sexual contact (i.e., unwanted touching), and non-contact sexual abuse (e.g., threatened sexual violence, exhibitionism, verbal sexual harassment).²⁶

The use of coercion, as well as a broad range of types and perpetrators, emerges in the definition made by Rape Crisis²⁷, which states that

Sexual violence is any unwanted sexual act or activity. There are many different kinds of sexual violence, including but not restricted to: rape, sexual assault, child sexual abuse, sexual harassment, rape within marriage / relationships, forced

²⁴ Op. cit.

²⁵ Supra note 2, p 24

²⁶ <http://www.cdc.gov/violenceprevention/sexualviolence/definitions.html>

²⁷ *Rape Crisis* is an organization that supports the work of independent *Rape Crisis Centres* (which provide specialist and confidential assistance to victims) in England and Wales and engages in raising awareness in relation to sexual violence. It also provides victim assistance and is actively engaged in campaigns to end sexual violence in general and rape in particular.

marriage, so-called honour-based violence, female genital mutilation, trafficking, sexual exploitation, and ritual abuse. Sexual violence can be perpetrated by a complete stranger, or by someone known and even trusted, such as a friend, colleague, family member, partner or ex-partner. Sexual violence can happen to anyone. No-one ever deserves or asks for it to happen.²⁸

Some authors have hesitated to use the term sexual violence and have preferred other terms. For example, Sunnari and Heikkinen adopt the terms “sexualised/sexual violence” and make the following distinction adapted from Maynard & Winn:

Sexualised / sexual violence can be defined to include any physical, visual or sexual act that is experienced by a human being, at the time or later, as a threat, invasion or assault, that has the effect of hurting her or degrading her and / or that deprives her of her ability to control intimate contact. This definition includes rape, sexual assault, wife-beating, sexual harassment, incest, child sexual abuse and pornography. These acts are overwhelmingly, though not exclusively, male acts of aggression against women and girls (...)²⁹

Sunnari et al further differentiate between sexualised violence and gendered violence:

Not all forms of violence between the sexes include a component connected with sexuality. For example, many studies show that girls and women in educational environments encounter violence whose core lies in diminishing women’s intelligence (...) Such issues have challenged us to make a distinction between

²⁸<http://www.rapecrisis.org.uk/rapeampsexualviolence2.php>

²⁹Sunnari, Vappu Kangasvuo and Heikkinen, Mervi. *Gendered and Sexualised Violence in Educational Environments*, Second Revised Edition, Oulu University Press, 2003, p 11

sexualised and gendered violence: sexualised violence refers to the cases where one's sexuality is used as a tool. In this division, gendered violence refers to verbal or other conduct that includes stereotypical, discriminatory and disrespectful attitudes towards the other sex.³⁰

What can be tapped from the above position is that sexual violence is tied to discrimination arising from gender and power relations, and involve acts or threats which could be physical, visual or sexual and which hurt or degrade the person against whom it is perpetrated.

Sexual violence in this thesis will be used as an umbrella term manifesting in various forms such as sexual abuse, sexual exploitation, sexual harassment and rape.

2.1.4 Sexual Abuse

One form of sexual violence is sexual abuse. As has been noted before, this is very common in the school setting. The UN defines sexual abuse as “the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.”³¹

Sexual abuse applied in the context of the child refers to

any act, or attempted act of a sexual nature, committed by an adult against a child (or by an older child against a younger child), including inappropriate touching, carried out using force, perpetrated under duress or by taking advantage of a situation of superiority.³²

Here the issue of unequal power, dominance or superiority used on a younger person to achieve a sexual aim is brought out.

³⁰ Ibid, p 12

³¹ Supra note 13

³² The Panos Institute, *Beyond victims and villains: Addressing sexual violence in the education sector*, 2003, p 4

2.1.5 Sexual Exploitation

According to the UN sexual exploitation refers to “any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.”³³

Applied to the specific context of the child, Sunnari et al indicate that sexual exploitation means “any abuse of vulnerability, position of authority or trust, for sexual ends, with remuneration in cash or kind to the child or a third person, or social and political gain resulting from the abuse.”³⁴

They further illustrate the manifestation of sexual exploitation in schools by pointing out that

Sexual exploitation in schools...includes mainly transactional encounters such as good reports or good marks in exchange for sexual acts, or sexual relations as payment for school fees or supplies (girls can also be ‘offered’ by male students to teachers in return for reduced fees)... Male teachers, head teachers and other staff are the primary perpetrators of sexual exploitation in schools according to most studies published in the region. Sugar daddies (older wealthy men who give gifts or pay school fees and supplies to young children, usually girls, in return for sexual favours) are also prevalent in West and Central Africa... The flip-side of sexual exploitation in schools is that teachers can also be subject to sexual harassment from girls who are using this as a survival or education success strategy.³⁵

This indicates that sexual exploitation is a form of sexual abuse. However, in the former there is a kind of ‘reward’ or ‘incentive’ in cash or kind that is added it. Thus, in the case of sexual

³³Supra note 13

³⁴Supra note 29

³⁵ibid

exploitation the perpetrator uses some means to force compliance from the victim through a ‘payment’.

2.1.6 Sexual Harassment

There is consensus in all definitions of sexual harassment examined here that the sexual act involved is unwelcome by the person against whom it is directed. The UN Under-Secretary-General for Administration and Management defines sexual harassment as “any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature...”³⁶

In the aforementioned General Recommendation 19, Paragraph 18, stipulates the key elements of sexual harassment thus

Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her....³⁷

In tandem with the UN definition above, the South African Promotion of Equality and Prevention of Unfair Discrimination Act, defines sexual harassment as “unwanted conduct which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment

³⁶“Procedures for Dealing with Sexual harassment”, Administrative Instruction from the UN Under-Secretary-General for Administration and Management to UN members of staff, ST/AI/379, 29 October 1992, par. 2

³⁷General Recommendation No. 19 (11th session, 1992) Committee on the Elimination of Discrimination against Women. <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

or is calculated to induce submission... and which is related to sex, gender or sexual orientation”³⁸

According to Du Plessis et al., sexual harassment refers to unwanted conduct of a sexual nature³⁹. Prinsloo further expatiates on this by indicating that

The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutually acceptable. Sexual attention becomes sexual harassment if the behaviour is persisted in (although a single incident of harassment can constitute sexual harassment); the recipient has made it clear that the behaviour is considered offensive; and/or the perpetrator should have known that the behaviour is regarded as unacceptable.⁴⁰

All the above indicate that sexual harassment is any direct or indirect sexually suggestive verbal or non-verbal act or behaviour on the part of the perpetrator which is unwanted or unwelcome by the victim. It is also clear from the above that sexual harassment could manifest as a form of gender discrimination and has negative consequences such as humiliation or negative impacts on health and safety.

Sexual harassment could exist in various forms. Prinsloo drawing inspiration from the categorisation by Du Plessis et al presents the very detailed categorisation of sexual harassment:

Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, and is not limited to the following examples:• Physical conduct of a

³⁸ The South African Promotion of Equality and Prevention of Unfair Discrimination, Act 4, 2000, Chapter 1 (1)

<http://www.justice.gov.za/legislation/acts/2000-004.pdf>

³⁹Du Plessis, J V, Fouchè MA & Van Wyk M. A Practical Guide to Labour Law, 3rd edn. Durban:Butterworths, 1998, p 418

⁴⁰Prinsloo,Sakkie. “Sexual harassment and violence in South African schools”, South African Journal of EducationVol 26(2)305–318, 2006, p 306

sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes a strip search by or in the presence of a member of the opposite sex. • Verbal forms of sexual harassment include unwelcome innuendoes, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or to them, unwelcome and inappropriate enquiries about a person's sex life, and unwelcome whistling at a person or a group of people. • Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexual explicit pictures and objects. • Quid pro quo harassment occurs where an owner, employer, supervisor, member of management or co-employee undertakes or attempts to influence or influences the process of employment, promotion, training, discipline, dismissal, salary increments or other benefits of an employee or job applicant in exchange for sexual favours. • Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to his or her sexual advances.⁴¹

In this thesis, the aspects of sexual harassment identified by Du Plessis et al are included in the definition of sexual violence but limited to the school context. In this light, our definition will modify Quid Pro quo harassment in school to refer to the case where a teacher, school administrator or worker influences or attempts to influence the process of admission, promotion, or dismissal of a student in exchange for sexual favours. Sexual favouritism will also be modified in the school context to exist where a person in position of authority in school such as a

⁴¹ibid, pp 306-307

teacher or school administrator rewards only the students who comply with their sexual advances.

Stein states that sexual harassment in schools and universities refers to “unwanted and unwelcome behaviour of a sexual nature that interferes with the right to receive an equal educational opportunity”⁴². However, Sunnari et al⁴³ hesitate again in using the term sexual harassment when referring to the school context. In their opinion,

Some researchers and practitioners feel uncomfortable using the term sexual harassment when referring to behaviour by younger students, preferring to use terms such as “gender bullying” or “gender-based bullying”. Despite the different approaches, it is widely acknowledged that sexually violent and harassing behaviour by both students and staff, does take place in schools as well as universities. According to WHO “For many young women, the most common place where sexual coercion and harassment are experienced is in school”.⁴⁴

Despite the hesitation by some authors indicated above, the term sexual harassment shall be used in this thesis to describe any unwanted or unwelcome behaviour that is of a sexual nature occurring against children in the school environment. Of significance to this thesis, is the fact that the sources discussed above acknowledge that sexual harassment is a serious problem, it occurs within the school context and it involves both staff and students.

2.1.7 Rape

Rape is a common form of sexual violence. UNFPA notes that

⁴²Stein, Nan (2000) *Sexual Harassment in Schools*. National Violence Against Women Prevention Research Center, and Wellesley Centers for Women, <http://www.musc.edu/vawprevention/research/sexharass.shtml> [accessed 14/07/2014]

⁴³ op.cit

⁴⁴Supra note 29

Rape, the most often cited form of sexual violence, is defined in many societies as sexual intercourse with another person without his/ her consent. Rape is committed when the victim's resistance is overwhelmed by force or fear or other coercive means.⁴⁵

The above definition brings to light the violence, coercion or use of force with which rape is perpetrated, carrying out a sexual act without the consent of the victim, for those who have reached the age of consent.

It should be pointed out here that a good part of the secondary school student population are below the age of legal maturity and thus any sexual intercourse with them is considered rape by definition. Since the students in this case are not considered to have reached the age to take informed decisions, they cannot legally give their consent to having sex and any sex with them constitutes statutory rape. In Cameroon the legal age for consent for female is 16 and above and the punishment for rape according to section 296 of the penal code is 10 years imprisonment for those who rape a girl above 16 and 15 to 25 years for those who rape a girl below 16.

In light of the various definitions examined above, this thesis concludes that sexual violence is a form of VAW, which in turn is a manifestation of GBV. It involves mainly the use of force or threats or other forms of coercion, encouragement, motivation, abuse of authority, manipulation in order to cause someone to participate in a sexual act irrespective of its nature, duration or intensity and occurs in various settings with perpetrators known or unknown to the victim. Sexual violence encompasses various acts such as rape, sexual abuse, sexual exploitation and sexual harassment. Within the school setting, sexual violence involves mostly male students and

⁴⁵<http://www.unfpa.org/emergencies/manual/4.htm>

teachers as perpetrators and female students as victims. It is a reflection of the prevailing norms regulating gender and power relations within the societal context of the particular school.

2.2 REVIEW OF EXISTING LITERATURE ON SEXUAL VIOLENCE IN SCHOOLS

Gender based violence in general and sexual violence in schools in particular has been documented by researchers and recognised as a serious problem with very negative consequences. Human Rights Watch cautions that,

Left unchecked, sexual violence in schools has a negative impact on the educational and emotional needs of girls and acts as a barrier to attaining education...Rape and other forms of sexual violence place girls at risk of contracting the HIV/AIDS virus [and this has] taken its toll on the educational system and disrupted education...especially for girls.⁴⁶

Wilson⁴⁷ observes that sexual violence in schools is an old occurrence in Africa, quoting Niehaus who shows the existence of sexual relations between male teachers and female school children as early as the 1950s.⁴⁸ She indicates that the incidence of sexual violence has increased because of bias and prejudice against women.

Leach and Humphreys have argued that violence in schools worldwide is gendered. They note, that some research tends not to recognise that many violent acts in schools “originate in unequal and antagonistic gender relations, which are tolerated and ‘normalised’ by everyday school structures and processes.”⁴⁹ They also indicate that some recent studies on gender violence in

⁴⁶ Supra note 6

⁴⁷ Felicia Wilson (2011), *Gender Based Violence in South African Schools*, International Institute for Educational Planning, p 3

⁴⁸ Ibid, p 4

⁴⁹ Fiona Leach and Sara Humphreys (2007), *Gender Violence in Schools: taking the ‘girls-as-victims’ discourse forward*, *Gender and Development*, 15, 2, 2007, University of Sussex

Sub-Saharan Africa have moved away from a completely ‘girl-as-victim’ approach and have put the limelight on female agency in ‘transactional sexual relationships’, in schools (between students and students as well as between teachers and students). An important point made here for this thesis is the existence of agency and complicity on the part of girls or their families, which complicates the picture and must be taken into consideration. Another issue highlighted by Leach is the fact that much research has focused on the relations between male teachers and female students but some (for example Mensch and Lloyd, 1997; Pattman and Chege, 2000) have also indicated female teacher-male student relationships which means altogether different gender-authority power relations.

The Panos Institute study ⁵⁰ indicates the ambivalence of girls to sexual advances from teachers. Girls were found in the study to be less sure in relation to how to judge sexual advances from teachers as opposed to students. The study results also indicated that girls under study were more tolerant of aggressive sexual advances from boys if the girls were themselves interested in the boys in question. In such a case, they would consider aggressive advances as something normal on the part of the boys and as ‘flattering’ for her. Some older boys in the study perceived sex as a right after some financial or material ‘investment’ had been put into the relationship for as some indicated, “boys want sex, girls want money”⁵¹. The study further pointed to the fact that the expression of masculinity and attitude of boys towards women varies from one context to another and therefore any intervention to address sexual violence should be based on locally dictated but synergetic requirements and contexts. Another issue brought up in the aforementioned Panos study is poverty as a driving factor for sexual violence.

⁵⁰The Panos Institute (2003). *Beyond Victims and Villains: Addressing Sexual Violence in the Education Sector*, Panos Report No 47, London

⁵¹Ibid, p 23

Antonowicz points out that sexual abuse is perpetrated by people of all ages, both known and unknown to the victim with most perpetrators in schools being male students, teachers and other staff.⁵² The vulnerability factors which increase or interact with sexual violence in schools brought out by Antonowicz in relation to children especially girls include disability, socio cultural factors, puberty, economic factors (especially chronic poverty of both students and teachers), and physical factors (such as the location and nature of toilets). The economic factors brought out are very important to this thesis which supports the point made by Antonowicz⁵³ that

Poor girls may engage in transactional sex with teachers, school staff or other adults to financially support their education. In some cases parents may also turn a blind eye in their children's sexual relations with teachers or other adults to mitigate lack of cash to support their schooling. Girls may also engage in risky relationships with sugar daddies either to support their education or in exchange of presents for themselves or contributions in kind to the family revenue. **The lack of economic power of teachers** and other education staff (who receive low salaries and are sometimes posted to remote and poor areas) results in sexual favours from students being seen as a form of compensation.⁵⁴

Antonowicz⁵⁵ notes that “much violence in and around schools is situated within gender-based norms and gender-based socialisation dynamics prevalent in parts of West and Central Africa in which male violence is accepted and which promotes female submission and passivity”⁵⁶ with mentalities being usually formed “on notions of virility, male sexual power and competition

⁵² A study by Jeejeboy and Bott (2003) lends support to this as it finds that many of the forced sexual experiences of young women globally are by someone the girl was already acquainted with and in a familiar setting, such as the home or school

⁵³ *ibid*

⁵⁴ *Supra*, note 2

⁵⁵ *ibid*

⁵⁶ *Supra*, note 2, p 27

which have direct negative consequences on girls and women”⁵⁷. Teachers therefore tolerate violence by boys as “normal” as this also negatively affects reporting of sexual violence. As pointed out above, some poorly paid male teachers also consider sexual favours from girls as a kind of ‘bonus’. In many parts of Cameroon, especially rural areas, some poorly paid teachers refer to this as ‘bush allowance’, in their own view a ‘bonus’ to make up for the low salary.⁵⁸

Another very vital factor brought by Antonowicz’s study is that the fact that impunity for perpetrators of sexual violence encourages further acts of sexual violence with the common administration of mild punishment such as transfer to other schools of teachers found guilty of sexual violence, which exacerbates the problem. Antonowicz⁵⁹ concludes that, in relation to forms of sexual violence and related acts, “education authorities and the teaching corps turning a blind eye to the incident in order to protect the reputation of their colleague, district, school or profession”⁶⁰.

Research has also pointed to the magnitude and negative effects of sexual violence in South Africa and Cameroon. Human Rights Watch notes *Too Scared at School* that “sexual abuse and harassment of girls by both teachers and other students is widespread in South Africa”⁶¹. It also notes that it had documented many cases of sexual violence during the study (such as rape and sexual harassment) perpetrated on girls by male students as well as male teachers, affecting girls in schools irrespective of their age, class or ethnicity.⁶²

⁵⁷ibid

⁵⁸ My personal observations as a teacher as well as discussions with many teachers over the years

⁵⁹ ibid

⁶⁰Supra, note2, p 28

⁶¹Supra note 6

⁶² ibid

Hallman⁶³ points out that sexual violence as a huge problem within the South African school system with official statistics indicating rape in the country to be one of the highest worldwide. In order to support this further, Hallam also quotes some research on sexual violence in South Africa⁶⁴. Hallman (2004)⁶⁵, in a study of forced sexual experience for girls of between 20-24 in KwaZulu, points out that poverty highly contributes in making its occurrence more likely but making reporting less likely.

Prinsloo (2006)⁶⁶ notes that after 1994 different types of legislation have been enacted in South Africa (whose Bill of Rights is considered as one of the most progressive worldwide) to ensure equality in education and opportunities for all learners without distinction. Supported by results from a Medical Research Council study Prinsloo⁶⁷ notes the gloomy consequences on the right to human dignity and the right to education in South Africa caused by discrimination against girls in many schools. Prinsloo⁶⁸ indicates the use of coercion on many girls of 15 or below who have been forced or 'persuaded' to unwillingly engage in sexual relations. In addition, despite the fact that generally girls in South Africa benefit from greater access to education than those in most Sub-Saharan countries, they are confronted with the problem of high rates of sexual violence and sexual harassment which ends up limiting this access to education compared to boys. Prinsloo's suggestion in the aforementioned research which points to a seeming absence of a link between the enrolment rates and academic achievement and sexual violence of girls in comparison to

⁶³ Supra note 7

⁶⁴ which shows (in a study carried out in a South Africa township) that 60 percent of females had had sex unwillingly with many of them indicating that forced sex was a regular occurrence in their relationship

⁶⁵ Hallman, Kelly. 2004. "Socioeconomic Disadvantage and Unsafe Sexual Behaviors of Young Women and Men in South Africa," Policy Research Division Working Paper No. 190, Population Council. New York, NY.
<http://www.popcouncil.org/publications/wp/prd/rdwplist.html#2004>

⁶⁶ Sakkie Prinsloo (2006). *Sexual harassment and violence in South African schools*. *South African Journal of Education*, Vol 26(2)305–318

⁶⁷ *ibid*

⁶⁸ *ibid*

boys between school enrolment and school performance statistics of girls compared to boys in schools in South Africa is countered by Hallman's study which clearly shows a link between experiences of physical sexual coercion, lower school attendance levels and reduced educational achievement for girls as compared to boys.⁶⁹

Wilson in like manner advocates to the state, educational authorities and other stakeholders in education in South Africa a whole-school approach in dealing with gender-based violence in schools, which involves the school administration, teachers, pupils and the curriculum.⁷⁰ She further notes that teachers are key tools for change in a collaborative relationship with students (since teachers are also perpetrators and victims). However, the former to be more effective must grasp and address their various attitudes as well as experiences in relation to gender and violence.

Leach⁷¹ gives an overview of how the issue of gender violence in schools in the developing world has attained international attention, its manifestation in various settings, perpetrators, victims, and the reasons for which this problem persists in the school setting. Leach establishes a number of important connections through the study. First, there is a connection between the sexual misbehaviour or irresponsibility of some teachers, peer violence (specifically amongst students) and corporal punishment with each type of violence feeding the other and "through acts of aggression from students and teachers (including corporal punishment), violence becomes a means of formal and informal control and regulation in schools. The tacit acceptance and normalisation of aggressive male behaviour provides the conditions for antagonistic gender

⁶⁹ Note 7

⁷⁰ Supra note 47

⁷¹ Fiona Leach (2008). *Gender violence in schools in the developing world*, Commonwealth Education Partnerships, pp 28-31

relations and further violence.”⁷² Furthermore, school violence is connected to violence in the home, community and workplace, with the school and the home being just a manifestation of socially engineered gender relations and identity.

It is also pointed out here that “the structures and practices that fill the school day with explicit and implicit rules, norms and symbols serve to guide and regulate behaviour; in so doing, they reinforce the unequal gender relations already reproduced in the home and perpetuate notions of male superiority and dominance”.⁷³

Leach⁷⁴ distinguishes between two types of gender violence: explicit and implicit. Explicit gender violence, Leach points out, is openly sexual and “may involve aggressive or unsolicited sexual advances, other forms of sexual harassment such as touching, pinching, groping and verbal abuse, and acts of intimidation, assault, forced sex and rape.”⁷⁵ Implicit gender violence includes acts that are covertly gendered and have their origin in daily practices in school (which may be directly violent-for example corporal punishment- or help to encourage violence) which strengthen gender differentiation. Leach brings out a very important aspect of gender violence by pointing out the fact that the various types of gender violence are not static but rather change based on various temporal, circumstantial and cultural factors. The solution proposed in this paper by Leach to combat gender violence in schools is to effect changes across the board including “legislation, policies, curriculum and leadership initiatives, teacher education and professional development of head teachers.”⁷⁶

⁷²Ibid, p 31

⁷³Supra note 71, p 30

⁷⁴ ibid

⁷⁵ibid, p 29

⁷⁶ibid, p 31

The role of men in combating sexual violence against women has been highlighted as an indispensable and effective method. Peacock and Levack⁷⁷, presenting the lessons learned for South Africa's Men as Partners Program⁷⁸ indicate that this program has led to sustained positive changes in participants' practices, knowledge and attitudes in relation to violence against women.

Only one major study has been published on sexual violence in schools in Cameroon. Mbassa⁷⁹ published a questionnaire-based study whose goal was to ascertain the degree of sexual abuse in some secondary schools in Yaoundé-Cameroon and the level of teacher participation in sexual abuse amongst others. Working on the hypothesis that the number of sexual abuse victims was increasing in Cameroon with most of the perpetrators being teachers, school staff and classmates, the results proved that the incidence rate was 15.9%, with 27.5% being boys and 72.5% girls with 11.6 as mean age when the abuse occurred. The results further indicated that sexual abuse took the form of rape (38.7%), fondling (54.6%), and pornography (6.7%). Perpetrators were mostly men (86.5%) and in the school setting, it involved classmates (30%), teachers (7.9%) and tutors (7.3%). The research results support my personal observations as a teacher in several schools in three regions in Cameroon as well as newspaper reports of persisting sexual abuse and calls for the implementation of a sexual abuse prevention program in schools. The fact that the study dates back to 2002 with no other data published after that indicates the need to conduct

⁷⁷Peacock, Dean and Levack, Andrew (2004). *The Men as Partners Program in South Africa: Reaching Men to End Gender-Based Violence and Promote Sexual and Reproductive Health*. *International Journal of Men's Health*, Vol. 3, No. 3, Fall 2004, 173-188

⁷⁸ a program with the aim of engaging men in reducing gender-based violence and promoting the constructive role of men in sexual and reproductive health,

⁷⁹ Supra note 4

research and get current data on sexual violence in secondary schools in Cameroon in order to design appropriate interventions.

From the above analysis, it is observable that far more research has been done on sexual violence in South Africa as compared to Cameroon, thus a huge research gap has to be filled in Cameroon. This has also been the same in relation to laws, policy and programs put in place to address the phenomenon. This thesis will therefore conduct a comparative analysis of both countries in order to compare causes, effects and efforts to address the phenomenon, with a view of a positive cross-pollination of ideas. This will help establish differences and similarities highlight the positive efforts as well as the challenges and most likely lead to a better view of the picture and provide more effective solutions to the problem, not just within each country but for the entire region and continent. No study has been done so far comparing the phenomenon of sexual violence in South Africa to that of country in West/Central Africa such as Cameroon. This thesis therefore does a comparison, drawing from existing research, frameworks and practical work.

CHAPTER 3: LEGAL FRAMEWORK ON RIGHTS OF WOMEN AND CHILDREN, AND VIOLENCE AGAINST WOMEN

In this chapter, the national and international instruments that deal with the rights of women and children and which provide the framework for addressing VAW are examined. This is done from the international level to the regional (African) and national levels.

3.1 International Frameworks

We are going to examine some legal instruments of the United Nations, which address directly or indirectly the issue of sexual violence against school girls. These will include the Universal Declaration of Human Rights, the Convention on the Elimination of All forms of Discrimination against Women and the Convention on the Rights of the Child.

3.1.1 The Universal Declaration of Human Rights

The Universal Declaration of Human Rights in its preamble recognizes the inherent dignity and equality of all human beings. It states in Article 1 “All human beings are born free and equal in dignity and rights...”⁸⁰ Article 3 is the non-discrimination clause, which stipulates non-discrimination in relation to the rights and freedoms in the UDHR on various grounds, including sex.⁸¹ Article 3 provides for amongst other things security of the person. Article 26 stipulates the right of everyone to education and further states (in 26 (2)) that “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.”⁸² This is also stipulated in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The UDHR was conceived to be non-binding unlike the ICESCR in which states recognised their legal and moral obligations in

⁸⁰ Article 1, Universal Declaration of Human Rights, <http://www.un.org/en/documents/udhr/>

⁸¹ Article 3, Universal Declaration of Human Rights, <http://www.un.org/en/documents/udhr/>

⁸² Article 26, Universal Declaration of Human Rights, <http://www.un.org/en/documents/udhr/>

upholding the rights contained therein. The implication of these covenants on the issue of sexual violence in schools is that states have an obligation to guarantee freedom from discrimination and respect for the human rights of all; including secondary school girls. All actors in education also have the duty to ensure that education promotes the respect for the fundamental rights and freedoms of all, including girls in schools.

3.1.2 The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is a fundamental instrument in relation to women's rights. The preamble reaffirms fundamental human rights, dignity, equality and non-discrimination based on sex, which state parties have an obligation to ensure. It notes the continuous existence of serious discrimination against women, despite the numerous instruments to prevent this. Article 1 defines discrimination against women 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 the political, economic, social, cultural, civil or any other field.⁸³

Given that sexual violence is manifestation of gender discrimination, Article 2 is very fundamental as it stipulates positive obligations that states commit themselves to undertake in order to eliminate discrimination against women. It states that

⁸³ Article 1, CEDAW, <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; (g) To repeal all national penal provisions which constitute discrimination against women.⁸⁴

Therefore states parties through the above article take the commitment to respect, protect and help fulfil the rights of women in an atmosphere of non-discrimination. This they will do in policy as well as in practice.

⁸⁴ Article 2, CEDAW, <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

Article 10 stipulates the elimination of discrimination between men and women in the field of education. The relevant provisions of the article are provided below:

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training; (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods; (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;⁸⁵

This article therefore requires equality in education, the elimination of stereotypes as well as the reduction of dropout rates-of which sexual violence is one of the causes.

3.1.3 The United Nations Convention on the Rights of the Child (CRC)

The United Nations Convention on the Rights of the Child (CRC) contains a number of provisions which require the guarantee of the rights of the child to education, equality based on

⁸⁵ Article 10, CEDAW, <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

sexes, as well as protection against forms of sexual violence. Article 1 defines a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”⁸⁶ Despite the controversies in relation to the exact age of childhood, this definition generally captures children in our study because they are generally between 8 and 18 years. Article 2 is a non-discrimination clause and requires states parties to guarantee to all children within their jurisdictions the rights enshrined in the CRC without discrimination based on sex amongst others.⁸⁷ Article 19 is very crucial to our topic as it requires protection of children against violence including sexual violence:

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.⁸⁸

⁸⁶Article 1, CRC, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁸⁷Article 2, CRC, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁸⁸Article 19, CRC, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

This article thus requires broad based prevention measures but also includes measures to respond to cases of on-going or past violations with support for the victims or sufferers. Article 28 guarantees the child's right to education based on equal opportunity and requires states parties to "Take measures to encourage regular attendance at schools and the reduction of drop-out rates." Article 34 is even more fundamental as it centres on sexual exploitation and abuse, requiring states parties to take the measures necessary to protect children from such:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials.

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As a follow-up measure, Article 39 requires states parties to "take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; ... in an environment which fosters the health, self-respect and dignity of the child"

3.2 Other Relevant International Standards

The 1993 Vienna Declaration and Programme of Action which was born out of the World Conference of Human Rights (WCHR) marked a turning point in universal human rights in

⁸⁹ Article 34, CRC, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

general and women's rights in particular. It charted the course for human rights and gave great impetus and a clearer route and vision for women and children's rights. It indicated the indivisibility and interconnectedness of all human rights and in particular stated that the rights of women and girls are inalienable and constitute an integral as well as indivisible section of universal human rights and UN Human rights activities. In relation to GBV it stipulates that

Gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person, and must be eliminated. This can be achieved by legal measures and through national action and international cooperation in such fields as economic and social development, education, safe maternity and health care, and social support.⁹⁰

The WCHR called for the intensification of efforts to protect the human rights of women and girls by Governmental, non-governmental, intergovernmental institutions and organisations. The above is very important as it recognises the role culture can play both in the promotion of violence against women, which is pivotal in fighting against it. The WCHR also called for "the eradication of all forms of discrimination against women, both hidden and overt"⁹¹ and emphasised the importance of information especially gender-specific data on the situation of women, urging governments to supply this information in their reports and treaty monitoring bodies to make use of it.⁹² The Conference declaration clearly demonstrates a strong resolve to combat violence against women and fight for its eradication. It strongly states that

⁹⁰ Par. 18, Vienna Declaration and Program of Action, <http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

⁹¹ Par. 39, Vienna Declaration and Program of Action, <http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

⁹² Par. 42, Vienna Declaration and Program of Action, <http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

In particular, the World Conference on Human Rights stresses the importance of working towards the elimination of violence against women in public and private life, the elimination of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism.⁹³

The above is a very firm and fundamental resolve as it specifically identifies certain forms of violence against women, some root causes as well as some measures to combat this. It is also revolutionary that it does not limit itself to the traditional public sphere but also includes the private sphere where more violence against women is experienced also considering the power dynamics in the private sphere, especially the family and the home, more tilted towards men especially in traditional societies such as Cameroon and South Africa.

The Declaration praises the wide ratification of the CRC but also encourages effective domestication of its provisions by states parties. (Par 21) Furthermore, it encourages the promotion of human rights education in schools as a useful tool for the promotion and respect of human rights in an atmosphere of non-discrimination based on sex or other aspects. (Par.33). The WCHR further calls on state parties “to integrate the Convention on the Rights of the Child into their national action plans.”⁹⁴ The Declaration urges states to strongly fight against child abuse and exploitation.⁹⁵

⁹³ Par. 38, Vienna Declaration and Program of Action, <http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

⁹⁴ Par. 47, Vienna Declaration and Program of Action, <http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

⁹⁵ Par. 48, Vienna Declaration and Program of Action, <http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

It further states support for current measures by UN and its specialised agencies to protect and promote the rights of girls and urges state parties “to repeal existing laws and regulations and remove customs and practices which discriminate against and cause harm to the girl child”.⁹⁶

Human rights without enforcement mechanisms are just empty promises. The UN has therefore put in place enforcement mechanisms to ensure the promotion and protection of human rights as well as access to remedies for those whose rights are violated. As Stop Violence Against Women⁹⁷ states

When a nation ratifies a treaty it undertakes both negative obligations (to refrain from actions that violate human rights) and positive obligations (to take affirmative actions to guarantee that human rights are protected). In order to ensure that governments are fulfilling both negative and positive obligations, the United Nations system includes a variety of enforcement mechanisms. Enforcement mechanisms are usually categorized by the type of UN body that receives communications or carries out the monitoring process. There are three broad categories of enforcement mechanisms: (1) charter-based mechanisms, such as the UN Commission on the Status of Women; (2) convention or treaty-based mechanisms, such as the Committee on the Elimination of Discrimination Against Women; and (3) mechanisms contained in UN specialized agencies, such as the International Labor Organization or the

⁹⁶ Par. 49, Vienna Declaration and Program of Action, <http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

⁹⁷ The Stop Violence Against Women website (STOPVAW), a project of *The Advocates for Human Rights*, is a forum for information, advocacy and change in the promotion of women's human rights around the world.

World Health Organization. Each of these bodies monitors either a specific human rights issue or particular treaties. Individuals or non-governmental organizations (NGOs) can bring information about human rights violations, or non-compliance with human rights obligations, to the UN bodies mentioned above through two procedures: complaint mechanisms and reporting/monitoring mechanisms. Each procedure has its own requirements, limitations and outcomes. In choosing to seek enforcement of human rights obligations, advocates should carefully evaluate, first, the mechanisms available to them based on the treaty ratification of their national government, and, second, the desired remedy or outcome for the victims of human rights violations. There are also specific differences between the procedures, such as whether the communication remains confidential, that must also be considered.⁹⁸

3.3 Regional Frameworks

The African human rights mechanism's main human rights instrument is the African Charter of Human and Peoples' Rights which came into effect on October 21, 1986 under the Organisation for African Unity (OAU) which was replaced by the African Union in 2000. The promotion and protection of human and people's (collective or group) rights in Africa is under the direction of the African Commission on Human and People's Rights, which is a quasi-judicial organ. It also functions to interpret the ACHPR and examine complaints submitted by individuals or groups on allegations of the violation of the charter.⁹⁹ In January 2004 a protocol to the ACHPR creating the African Court on Human and People's Rights came into force. The human rights

⁹⁸ http://www.stopvaw.org/enforcement_mechanisms_in_the_united_nations

⁹⁹ See African Charter on Human and Peoples' Rights, Article 45

instruments of the African human rights mechanism which contain articles on violence against women and girls in general and sexual violence in particular include the African Charter on Human and Peoples' Rights, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and the African Convention on the Rights and Welfare of the Child.

3.3.1 African Charter on Human and Peoples' Rights

Article 2 of the African Charter on Human and Peoples' Rights provides for non-discrimination on the basis of sex amongst other aspect.¹⁰⁰ Article 17 provides for the right to education. Article 18 (3) focuses on discrimination against women and children, requiring the state to “ensure the elimination of every discrimination against women and to ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.”¹⁰¹ Combatting discrimination and violence against women is more explicitly followed up and developed in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (also Known as the Maputo Protocol).

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (also known as the Maputo Protocol) is another regional instrument with provisions directly or indirectly linked to protection from sexual violence. This protocol marks a turning point in relation to women's rights in Africa, especially in relation to the relevant legal framework and impetus in efforts to combat violence and discrimination against women in

¹⁰⁰ Article 2, African Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982)

¹⁰¹ Article 18 (3), African Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982)

Africa. The Protocol contains several provisions, which centre on combating discrimination and violence against women. A first important step of the protocol is that it defines some concepts such as discrimination against women or violence against women, which are left undefined in other conventions such as CEDAW. Article 1 provides useful definitions of “discrimination”, “harmful practices”, “violence against women” and “women”¹⁰²:

These definitions, which have been discussed in Chapter 2 of this thesis, stipulate specifically what some concepts such as violence against women and discrimination against women are. Such definitions are indispensable for any efforts to combat them.

Article 2 requires states parties to fight against eliminate all forms of discrimination against women by taking the necessary legislative, institutional as well as any other measure.¹⁰³ States parties also make the commitment to take all measures to eliminate harmful traditional, cultural and other practices founded on inequality (inferiority or superiority) as well as stereotyped roles of both men and women.¹⁰⁴ This is similar to Article 5 in which states are required to “prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards.”¹⁰⁵ Article 4 focuses on the elimination of violence against women in private and public by adopting the required measures, punishing perpetrators and providing information and support to victims.¹⁰⁶

¹⁰² Article 1, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women, <http://www.achpr.org/instruments/women-protocol/>

¹⁰³ Article 2, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women, <http://www.achpr.org/instruments/women-protocol/>

¹⁰⁴ *ibid*

¹⁰⁵ Article 5, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women, <http://www.achpr.org/instruments/women-protocol/>

¹⁰⁶ Article 4, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women, <http://www.achpr.org/instruments/women-protocol/>

This is a broad range of measures which if effectively integrated into national laws, policies and practice by state parties will go a very long way in eliminating violence against women. It provides both for preventive and reactive measures, incorporating punitive, rehabilitative and other measures. Article 12 is also related to this but focuses on the field of education, which is key to this thesis.. It requires states parties to take the necessary measures to combat and eliminate discrimination against women and provide for equality in education and training and to wipe out the promotion of discrimination against women through the perpetuation of stereotypes in school textbooks, syllabuses as well as the media.¹⁰⁷ Furthermore, in relation to sexual violence, it requires states to

- protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices;

- provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment;

- integrate gender sensitisation and human rights education at all levels of education curricula including teacher training.¹⁰⁸

The above article is very central to this thesis as it focuses on preventive, punitive as well as support measures in relation to forms of sexual violence in the school milieu.

¹⁰⁷ Article 12, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women, <http://www.achpr.org/instruments/women-protocol/>

¹⁰⁸ *ibid*

3.3.2 The African Charter on the Rights and Welfare of the Child

The African Charter on the Rights and Welfare of the Child also contains several provisions on education as well as the protection of children from sexual violence. Article 2 defines a child as “every human being below the age of 18 years.”¹⁰⁹ Article 3 forbids discrimination based on sex and other aspects. Article 11 stipulates the right to education. It also encourages state parties to “take measures to encourage regular attendance at schools and the reduction of drop-out rates”¹¹⁰ and to “take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the”¹¹¹. In relation to Child abuse, Article 16 requires the state to protect children against sexual abuse amongst other things from the hands of caregivers and to take punitive and rehabilitative measures.¹¹² Article 27 focuses on sexual exploitation and requires that states parties “protect the child from all forms of sexual exploitation and sexual abuse”.¹¹³

3.4 National Legal Frameworks

The national frameworks of both Cameroon and South Africa contain certain provisions addressing violence against women in general and sexual violence in particular. These are examined below

3.4.1 Cameroon

¹⁰⁹ Article 2, African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), <http://www.au.int/en/content/african-charter-rights-and-welfare-child>

¹¹⁰ Article 11, African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990) <http://www.au.int/en/content/african-charter-rights-and-welfare-child>

¹¹¹ Ibid

¹¹² Article 16, African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), <http://www.au.int/en/content/african-charter-rights-and-welfare-child>

¹¹³ Article 27, African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), <http://www.au.int/en/content/african-charter-rights-and-welfare-child>

The Constitution of the Republic of Cameroon constitution, 2008 (hereafter *the Cameroon Constitution*) stipulates that all persons have the right to physical as well as moral integrity and the right to life and to be treated in a humane manner.¹¹⁴ Women and children are amongst those given special protection and there is the prohibition of discrimination on any ground including gender.¹¹⁵ The Cameroon Constitution is the supreme law of the country, taking precedence over all other laws.

The Cameroon Penal Code no. 67/LF/1 of 12 June 1967 (hereafter *The Cameroon Penal Code*) in Section 296 punishes rape with a prison sentence of five to ten years when the victim is 16 years old or older and 15 to 25 years if the victim is below 16. It states that “[w]hoever by force or moral ascendancy compels any female, whether above or below the age of puberty, to have sexual intercourse with him shall be punished with imprisonment for from five to 10 years.”¹¹⁶

It is considered statutory rape is the victim is below 16 and the prison sentence is between 15 to 25 years as mentioned in section 296 of the penal code, whether or not there is consent from the victim. Penalties could be doubled or a life sentence imposed where the perpetrator exercises some authority or custody of the victim such as is the case with teachers, civil servants, pastors or other religious officials or when the perpetrator is assisted in his act by one or several persons.

Section 297 of Cameroon’s Penal Code stipulates that prosecution for rape is stopped when there is freely consented marriage between the perpetrator of rape and the victim, provided the female victim is 16 and above when the rape was perpetrated.¹¹⁷ This has been condemned by many rights

¹¹⁴ Preamble, Constitution of the Republic of Cameroon, 18 January 1996, amended April 2008

¹¹⁵ *ibid*

¹¹⁶ Canada: Immigration and Refugee Board of Canada, Cameroon: Domestic violence, including legislation, availability of state protection and support services for victims, 2 December 2010, CMR 103371, available at <http://www.refworld.org/docid/4db7b9d92.html> [accessed 1 October 2014]

¹¹⁷ Cameroon Penal Code no. 67/LF/1 of 12 June 1967

groups and civil society organisations who argue that it worsens the state of victims as some are forced by families to marry the alleged perpetrator and end prosecution, especially after financial rewards are given or proposed by families.

Law number 98/004 of April 4th 1998 on the Orientation of Education in Cameroon (hereafter *the Cameroon Education Law*) does not directly address sexual violence but contains a number of articles relating to it. Section 4 states that the general mission of education in Cameroon is to ensure his or her intellectual, physical, civic and moral development and their harmonious insertion in society, taking into account economic, social, cultural, political and moral factors. Section 5 (an elaboration of section 4) states that one of the objectives of education is to initiate pupils and students into a culture and practice of democracy, respect for human rights and liberties, justice and tolerance, the fight against all forms of discrimination, love for peace and dialogue , civic responsibility. Section 6 stipulates that the state guarantees the child's right to education.

In Section 7 the state guarantees to all equality of opportunities in access to education without discrimination of sex amongst others. Section 29 states that school psychological follow up should be carried out for students throughout the school system. Section 32 centres on the concept of the educational community which includes leaders, administrative and support personnel, teachers, parents, students, socio-professional groups, as well as decentralised bodies (such as local councils). Section 35 guarantees the physical and moral integrity of students within the educational system. In this light, corporal punishment and all other forms of violence or discrimination are proscribed. The Cameroon Education Law also submits students to the internal

rules and regulations of the school in which he or she is student, most of which forbid any form of violence carried out by students on other students, teachers or other members of the community. Section 37 indicates that the teacher is the principal guarantor of the quality of education. Section 39 (2) stipulates that the teacher is submitted to the strict respect of existing texts especially the interior rules and regulations of the school in which he or she is teaching. In this light, most schools with internal rules and regulations forbid dating or sexual relations between teachers and students as well as any form of violence on students. For example the internal rules and regulations of Pi and Ju Anglo-Saxon International College, Nono Bilingual College, Christ the King International College, Government High School Wum, Government Bilingual High School Yaoundé amongst others all forbid sexual or even dating relationships between teachers and students as well as between students themselves.

3.4.2 SOUTH AFRICA

The Constitution of the Republic of South Africa 1996 (hereafter *the South African constitution*) stipulates in section 10 the inherent dignity of the human person as well as the right for its respect, preservation and protection.¹¹⁸ It also guarantees the right of all citizens to freedom and security of the person which includes freedom from violence either from private or public sources and bodily and psychological integrity (section 12). It also guarantees the right to life (Section 11). Section 9 proscribes unfair direct or indirect discrimination carried out by the state or a person on any person based on sex, gender, or pregnancy.¹¹⁹ Section 28 stipulates that “children have to be protected from maltreatment, neglect, abuse or degradation” and further states that “A child's best interests are of paramount importance in every matter concerning the

¹¹⁸Act No. 108 of 1996, Section 10

¹¹⁹Ibid, Section 9.

child”, a child being defined here as a person under 18. The right to basic education is also guaranteed in the constitution (Section 29).¹²⁰

The South African Schools Act No. 84 of 1996, Section 3(1) states that “Every parent must cause every learner for whom he or she is responsible to attend a school from the first school day of the year in which such learner reaches the age of seven years until the last school day of the year in which such learner reaches the age of 15 years or the ninth grade, whichever occurs first.” It further states that “a public school must admit learners and serve their educational requirements without unfairly discriminating in any way.”¹²¹

The South African Children’s Act 2005 (henceforth the Children’s Act) is another legal instrument in South Africa which aims at protecting children from many violations including sexual violence. The Centre for Applied Legal Studies, University of the Witwatersrand School of Law explains that,

The Children’s Act established the National Child Protection Register (NCPR). Part A of the register includes a “record of abuse or deliberate neglect inflicted on specific children.” Part B designates individuals who are “unsuitable to work with children.” A person is considered to be “unsuitable to work with children” if he or she is convicted of, among other offenses, indecent assault, rape, or “assault with the intent to do grievous bodily harm with regard to a child.” If a person’s name is listed in Part B of the Register, he or she is prohibited from managing,

¹²⁰Ibid., Section 29

¹²¹http://www.hrw.org/reports/2001/safrica/ZA-FINAL-09.htm#P1381_266919

volunteering, or working at any institutions that serve children, including schools.¹²²

In 1997 the South African Parliament passed the Sexual Offences and Related Matters Amendment Act which was signed into law by the President in 2007 (Act number 32 of 2007). In this act the legal definition of rape is broadened as compared to what existed before. It also establishes a list of sexual offences as well as other aspects such as the management of sexual offences by courts of law, the police or forensic personnel. The Centre for Applied Legal Studies, University of the Witwatersrand School of Law (2014) states in relation to this Act that,

The Criminal Law (Sexual Offences and Related Matters) Amendment Act (Sexual Offences Act) aims “to introduce measures which seek to enable the relevant organs of the state to give full effect to the provisions of this Act and to combat and, ultimately, eradicate the relatively high incidence of sexual offences committed in the Republic.” Substantively, the Act amended the definition of crimes such as rape and codified them into statutory law. The Act also expanded the definition of rape by making it applicable to all forms of sexual penetration without consent, irrespective of the gender of the perpetrator or of the victim. Under the amended Act, children under the age of 12 are legally presumed incapable of giving consent, meaning that any sexual act with a child under 12 constitutes rape or sexual assault. The Act also makes it a statutory offence to engage in consensual sex with any individual under the age of 16. This provision can be used to prosecute educators who engage in ostensibly “consensual” sex with learners. Additionally, where an educator compels a learner to engage non-

¹²² Centre for Applied Legal Studies, University of the Witwatersrand School of Law and Cornell Law School’s Avon Global Center for Women and Justice and International Human Rights Clinic (2014). *Sexual Violence by Educators in South African Schools: Gaps in Accountability*, p 13-14

penetrative sexual behaviour, the Act holds them accountable for crimes of “sexual exploitation” or “sexual grooming.”¹²³

The South African Council for Educators (SACE) Act and SACE Code of Professional Ethics in Education also help to address sexual violence in South African schools amongst other issues. The South African Code of Professional Ethics (in Education) states in Section 2 that “The educators who are registered or provisionally registered with the South African Council for Educators: acknowledge, uphold and promote basic human rights, as embodied in the Constitution of South Africa;”¹²⁴ The Centre for Applied Legal Studies, University of the Witwatersrand School of Law (2014) states that

The South African Council for Educators Act lays out the powers, duties, and composition of SACE, as well as the regulations concerning the registration of educators. The Act stipulates that a person “must register with the council prior to being appointed as an educator.” The Act states that an educator may be removed from the register if he or she was “found guilty of a breach of the code of professional ethics.” The SACE Code of Professional Ethics outlines the conduct that is expected between educators and learners. Educators must respect the rights of learners and refrain from “any form of abuse,” “improper physical contact with learners,” “sexual harassment (physical or otherwise) of learners,” and “any form of sexual relationship with learners at any school.” The Code goes on to describe in detail the processes for the investigation of breaches of the code, the

¹²³ *ibid*, p 11

¹²⁴ http://www.sace.org.za/Legal_Affairs_and_Ethics/jit_default_21.The_Code_of_Professional_Ethics.html

disciplinary hearing, the recommendations of the disciplinary panel and committee, the decisions of the council, and the appeals process.¹²⁵

The South African Protection from Harassment Act 2011 aims at protecting victims or potential victims from sexual harassment. The Centre for Applied Legal Studies, University of the Witwatersrand School of Law (2014) states in relation to this Act that

The Protection from Harassment Act provides for the issuance of orders of protection against harassment. A learner may obtain a protection order against an educator if the educator sexually harassed her in a way that causes or inspires a reasonable belief of causing mental, psychological, physical, or economic harm.¹²⁶

The South African Employment of Educators Act 1998) also helps to prevent and punish misconduct of educators including sexual misconduct. The Centre for Applied Legal Studies, University of the Witwatersrand School of Law (2014) states in relation to this Act that

Under the Employment of Educators Act, educators may be discharged “on account of misconduct.” The Act divides misconduct into two categories: misconduct and serious misconduct. Misconduct includes acts such as conducting oneself “in an improper, disgraceful or unacceptable manner,” assaulting another person, and intimidating other employees and learners. Acts of serious misconduct include “committing an act of sexual assault on a learner, student or other employee,” “having a sexual relationship with a learner of the school where he or she is employed,” and “causing a learner or a student to perform any of [these] acts.” Schedule 2 of the Act describes disciplinary procedures and

¹²⁵ Supra, note 122, p 12

¹²⁶ *ibid*

sanctions for acts of misconduct. Disciplinary hearings must take place within ten working days after the educator receives notice of the hearing and are led by a

Therefore, a number of international, regional and National instruments have been put in place to address discrimination and violence against women in general and sexual violence against students and pupils (girls) in particular. However, at the national level there is a disparity of the local application of these in terms of national law, policy and practice is quite different. This shall be the concern of the next chapter.

CHAPTER 4: TACKLING SEXUAL VIOLENCE IN SECONDARY SCHOOLS: ANALYSIS AND COMPARISON

The focus of this chapter is an examination of the causes of sexual violence against girls in schools against the backdrop of gender and other social dynamics that perpetuate sexual violence and how these dynamics are played out in the school environment. The chapter also undertakes a comparative analysis of measures taken to tackle sexual violence against girls in schools in both countries.

4.1 Causes of Sexual Violence in South Africa and Cameroon

Sexual violence against girls in schools is caused or perpetuated by several factors which are entrenched usually in the culture of societies and the status it ascribes to its women and girls. These factors could be cultural, political, economic, personal or otherwise.

4.1.1 Culture of Violence

Sexual violence against girls in schools in both Cameroon and South Africa could be caused by the existence, promotion and tolerance of a culture of violence

Sigsworth points out that “in South Africa, violence is accepted as a long-standing means of resolving conflict and problems in the family, in sexual relationships, in school, in peer groups, in the community and in political spheres. This social tolerance of violence in general only serves to foster the perpetuation of sexual violence.”¹²⁷ Vogelmann notes that ‘the eulogisation of violence as an appropriate tool to get what one wants means that the committal of violence often does not result in social censorship, but rather provides additional social status to the

¹²⁷Sigsworth, Romi (2009) ‘ANYONE CAN BE A RAPIST...’: An Overview of Sexual Violence in South Africa 2009, Centre for the Study of Violence and Reconciliation (CSV), Johannesburg, p. 15

perpetrator'.¹²⁸ In a similar light some have attributed the increase in violence in general and sexual violence in particular to the political transition in South Africa in the late 1980s and early 1990s.

In Cameroon there is also a general tolerance of the culture of violence and violence is used as a means of solving problems or a way of life. From my observation as a teacher for 10 years in different parts of Cameroon (including Yaounde) various forms of punishment are practiced in several schools, though forbidden by section 35 of Law number 98/004 of April 14 1998 on the Orientation of Education in Cameroon. Also, from my observation, in some parts of Cameroon, such the Centre and South Regions, From my observation and interviews personally for a weekly radio program we (the Positive Peace Group Cameroon) run on human rights, some female students have indicated that violence against them gives them the opportunity to be showered with love and gifts by their partners during the post-battery reconciliation process. Thus, violence has been warped up and confused in the definition of love. Domestic and partner violence are therefore seen as 'normal' and in many cases girls and women have got to the stage of some false sense of consciousness in which they even demand violence. It is not strange to find a girl who would boldly say that if her boyfriend or husband does not beat her it means he does not love her. This indicates a deep structural problem that needs intense efforts over a long period of time to change this mentality.

This culture of violence affects all facets of society including the school. Violence is thus practiced on students by fellow students as well as by teachers and administrators.

¹²⁸Vogelman, L. (1990). 'Violent Crime: Rape', in McKendrick, B. & Hoffman, W.C. (eds.), *People and the Violence in South Africa*. Oxford University Press: Cape Town.

4.1.2 Violence in the Family

Violence in schools could begin from homes when parents are violent on children or show acts of violence on their partners which is in turn copied by their children. The use of violence in homes is also a factor that encourages sexual violence as well as children grow up to learn such a culture. Some find it normal while others seek revenge in others. Vogelmann points out that acts of sexual violence are ‘fuelled by the historical experience of the family, which leads to rage, vindictiveness, and revenge’.¹²⁹ It is most likely therefore that any students who exhibit violence in general and sexual violence in particular come from homes where there is a past or current history of violence.

In relation to sexual violence in South Africa, Sigsworth notes that

Although not to blame for all the sexual assault that occurs in South Africa, research has identified a pattern whereby victims of abuse (whether physical, sexual or emotional) do sometimes become the villains. Perpetrators are often from violent homes, and have suffered physical, sexual and psychological abuse from parents, friends, neighbours or strangers.¹³⁰

Sigsworth further notes that this is also caused or compounded by a breakdown in family relationships: The lack or absence of communication, failure of parents to play their role effectively as well as serious conflict between parents or between parents and children helps to facilitate violence including sexual violence.¹³¹ Family violence is therefore one of the probable causes of sexual violence against girls in schools in Cameroon and South Africa.

¹²⁹ibid

¹³⁰Supra note 127, p. 5

¹³¹ ibid

4.1.3 Gender Inequality

The imbalance of power between men and women in both Cameroon and South Africa is a fundamental structural factor that encourages violence against women in general and sexual violence against girls. The inequality and discrimination open doors for abuse as well as violence. Sigsworth argues in this light that “Unequal power relations between men and women open up a range of opportunities for abuse. In a society where unequal gender relations are coupled with ideologies of sexual entitlement and the availability of women for sexual use, the opportunities for sexual violence are manifold.”¹³² This is most likely manifested in the school milieu which is a reflection of the society in general since the school is not found in a vacuum. There are thus manifestations of gender inequality in the school locale be it in or out of the classroom. Mofett opines that there has been a ‘crisis of masculinity’ in post-apartheid South Africa and that ‘in other words, women (instead of black people) have become the potentially powerful, unstable subclass that must be kept in their place’.¹³³

4.1.4 Cultural Views on Masculinity

Related to the above are views of masculinity within traditional Cameroon and South Africa which encourage violence as well as control over women as central to the definition of masculinity. Sigsworth points out that

Within patriarchy, masculinity is defined in terms of men’s control over women – in relationships, notions of ownership become integral to this definition. Ownership implies sexual (and other forms of) entitlement and the importance of asserting a hierarchy in sexual relationships – because there is an accepted notion of strong-armed masculinity and docile/passive femininity, it is the male who

¹³² *ibid*

¹³³ Mofett, H. (2006). ““These Women, They Force us to Rape them”: Rape as Narrative of Social Control in Post-Apartheid South Africa. *Journal of Southern African Studies*, vol. 32, no. 1, pp. 129-144.

assumes dominance in such a hierarchy. This sense of entitlement often results in the inability of rape perpetrators to see sexual assaults as harmful or criminal. The line between consent and coercion becomes blurred, especially between acquaintances or in relationships, in a society where male sexual entitlement is the norm. In such a society, when sex is not forthcoming from a woman, some men may respond by simply taking it, whether directly, manipulatively or suggestively. This results from men's belief that they are entitled to sexual release every time they become aroused and that this release is the responsibility of the female they are with.¹³⁴

Sexual violence by men in such a society thus becomes accepted or tolerated because it is considered not just as part of masculinity but also as a mere expression of the 'right' of men. Peer pressure could also be a factor that helps to encourage male students to perpetrate violence. Since definitions of masculinity include violence, control over women as well as sexual dominance by male students. Anti-violence programs are necessary to help in the unlearning of the culture of violence. There is also the need to promote peaceful coexistence, mutual respect and non-discrimination within the school system

4.1.5 Personal Factors

Personal factors especially disorders such as personality, psychology or other related aspects could also lead to sexual violence both in Cameroon and South Africa. Sigsworth states that

Individual factors that have been identified as common to perpetrators include: the demonstration of psychopathic tendencies which might find an expression in sexual violence; behavioural problems at early stages in their lives, such as

¹³⁴Supra note 127

impulsiveness and attention deficit disorders; and an under-development or lack of engagement in normal sexual behaviour due to a lack of knowledge about sexual relationships and love relationships in general, compounded by their ignorance about the different ways in which men and women experience sexuality.¹³⁵

4.1.6 Substance abuse

The high abuse of substances amongst men has been advanced as a factor that increases sexual violence against girls and women in South Africa.¹³⁶ In Cameroon, from personal observation in several schools in Yaounde, there is a very high consumption of alcohol by students and many female students who accepted in informal discussions to have been sexually abused by fellow students or by teachers indicated that they were first lulled into consuming alcohol. However, official data were not readily available from educational authorities contacted by me.

The abuse of alcohol has in particular been pointed out as a major cause of increased violence against women. Methamphetamine (locally known in South Africa as ‘tik’) abuse by men in areas such as Western Cape, South Africa have been pointed out as causes of increased violence against women especially gang rape. This highly addictive substance, whose low price is very attractive to the poor is very addictive, causes intense euphoria and even violent behaviour in consumers.¹³⁷

¹³⁵ibid

¹³⁶Department of Health (South Africa). 1998. *South Africa Demographic and Health Survey*.

¹³⁷K.M. Sawyer-Kurian, W.M. Wechsberg and W.K. Luseno. 2009. *Exploring The Differences And Similarities Between Black/African And Coloured Men Regarding Violence Against Women, Substance Abuse, And HIV Risk In Cape Town, South Africa. Psychology of Men and Masculinity*, 10(1): 13–29.

Some researchers in South Africa have also found a strong link between alcohol or drug abuse, violent behaviour, perceptions on masculinity as well as the desire to fit in men's peer groups.¹³⁸

4.1.7 'Corrective Rape'

Homophobia is a major cause of sexual violence in general and rape in particular in South Africa. Despite the fact that all forms of discrimination based on sexual orientation is forbidden by the South African Constitution very high rates of discrimination against Lesbian, Gay, Bisexual, Transsexual and Intersex LGBTI people occur. Lesbians or suspected lesbians face a specific type of victimisation.¹³⁹

This occurs in the form of rape usually by a group of men who claim to be motivated by the desire to 'correct' such 'deviant' sexual behaviour of women which does not conform to traditional gender and sexual roles and orientations. They thus claim that this 'corrective rape' usually accompanied by high levels of violence is out to punish, oppress and 'correct' the sexual orientation and transform the homosexual into a heterosexual. This has been tagged as a hate crime by many organisations and groups.

In Cameroon there have been rumours of corrective rape in some schools in which I have taught but this is very difficult to verify since homosexuality is illegal in Cameroon and there is generally a very high homophobic attitude from the population.

¹³⁸J.R. Mahalik, H.D. Lagan and J.A. Morrison. 2006. Health Behavior and Masculinity in Kenyan And Us Male College Students. *Psychology of Men and Masculinity*. 7:191–202. And J.E. Zweben, J.B. Cohen, D. Christian, G.P. Galloway, M. Salinardi, D. Parent and M. Iguchi, M. 2004. Methamphetamine Treatment Project 2004. Psychiatric symptoms in Methamphetamine Users. *American Journal of Addiction*, 13: 181–190.

¹³⁹Kalus and J Thorpe. 2011. 'Corrective Rape' As A Hate Crime in South Africa: Legal And Practical Considerations. Cape Town: Rape Crisis Cape Town Trust

4.1.8 “Myth of the Virgin” and Ritual Practices

Another worrying practice that has led to an increase in sexual violence especially rape is what has been popularly referred to by the media as “myth of the virgin”. This myth holds that a man can be cured of HIV/AIDS if he has sexual intercourse with a young virgin. Leclerc-Madlala points out that this myth is a potential factor in the rape of infants:

The belief that HIV/AIDS can be cured as a result of sex with a virgin has been identified as a possible factor in the rape of babies and children in South Africa. While the prevalence of this myth has been a matter of concern in local communities for some time, there have been recent attempts to discern the extent to which this belief is exacerbating perceived increases in child¹⁴⁰

Other researchers such as Groce and Reshma have pointed out that the myth in some areas is practised with some variation with the rape by error of the "blind, deaf, physically impaired, intellectually disabled, or who have mental-health disabilities" due to the wrong presumption that they are sexually inactive and most likely virgins due to their disability.¹⁴¹

This contributes to an increase in sexual violence because men who are HIV positive and who believe in this myth do all to have sex with a virgin. This practice was very common in South Africa especially at the end of the last millennium and although there has been a great reduction in it due to efforts by the government and other actors the practice is still being reported.

¹⁴⁰ Leclerc-Madlala, Suzanne (2002). "On The Virgin Cleansing Myth: Gendered Bodies, AIDS and Ethnomedicine". *African Journal of AIDS Research* 1 (2): 87–95.

¹⁴¹ Groce, Nora E.; Trasi, Reshma (2004). "Rape of individuals with disability: AIDS and the folk belief of virgin cleansing". *The Lancet* 363 (9422): 1663–1664.

In Cameroon, as has been the case in neighbouring countries to Cameroon such as Gabon and Nigeria, there has also been ritual-related sexual violence as well as murder of young girls. Many have been killed by adepts of some occult groups and practices who believe that having sex with a virgin as well as using their body parts for rituals can procure them money and power. There was a tremendous upsurge in such ritual rape, killing and mutilation of young girls in Yaoundé-Cameroon at the end of 2012 and throughout 2013 until the government had to clamp down on this practice by deploying the police and even the military to hunt down perpetrators. As stated by The Eye Newspaper in relation to ritual killings,

This phenomenon is very common in Cameroon, especially from the believe that an individual could be offered as a sacrificial lamb to a spiritual realm by another. It is common to hear that some accidents on our highways are provoked by some spiritual powers so as to recuperate the deaths thereof. The numerous deaths often registered at the end of the year (November-December) in Cameroon are often interpreted as deaths pertaining to individuals who have been offered by fortune seekers to these powers. As if this may not be enough, Cameroon since December 2012 has registered a series of physical ritual killings in some of her towns, particularly Yaoundé. Today, Yaoundé is still suffering from these killings particularly in the neighborhoods of Mimboman, Biteng and Nkomo in the Yaoundé IV sub division. According to information gotten from “*www.Cameroon-info.net*”, 18 young women were abducted, murdered and found with brains, eyes and genitals missing. Victims are abducted by motorbike taxi drivers. They are first raped before removal of the needed human body parts

(eyes, sex, breast, heart, kidney) after which they are dumped somewhere.

Victims are generally young girls in the age bracket (15-26) years¹⁴²

4.1.9 Poverty and Economic Difficulties

Poverty and economic difficulties such as unemployment could lead to violence in general and sexual violence in particular both in Cameroon as well as South Africa. Poverty makes girls more vulnerable to sexual abuse and exploitation and also makes men to be more violent. Sigsworth states that

The high levels of poverty and the growing gap between rich and poor are a key risk factor associated with sexual violence in South Africa. Poor housing conditions force children to witness their parents or other relatives engaging in sexual acts; this in turn promotes sexual experimentation without proper guidance.... Poverty increases the likelihood that women will engage in sex work or more subtle forms of transactional sex, and... forces women to carry out a range of daily activities which place them at higher risk.¹⁴³

Furthermore, when parents get overburdened by one or more jobs they cannot perform their parental roles fully, giving allowance for delinquency to creep in. As Sigsworth rightly points out,

Economic hardships go a long way to creating stressful family relationships – emotional withdrawal and emotional distancing is common in these situations and

¹⁴² <http://cameroonlatest.blogspot.com/2013/01/suspected-ritual-killing-of-young-girl.html>

¹⁴³Supra note 127

poverty leads to difficulties in child monitoring and supervision, which increases the vulnerability of children. Parents – particularly from impoverished communities – may relinquish their parental duties because, for instance, they have to go to work a long distance away, and therefore do not exercise the necessary care over their children. The lack of supervision and care of children is therefore a risk factor present particularly in poor communities.¹⁴⁴

Related to this is transactional sex which involves usually a girl in need of financial or material gains who has to offer sex in return. Gender, cultural as well as social norms on sexual behaviour and attitudes create power imbalance in relationships in favour of men particularly when financial transactions are involved. Transactional sex could thus take place. Dunkle et al studying this phenomenon in Eastern Cape in South Africa state that

Women often assert that accepting financial or material assistance from a man means accepting sex on his terms, which very often means without condoms. Women may also face rape and physical violence from men who anticipated that financial outlay would be reciprocated by sex, and women often tolerate physical or sexual violence in order to sustain relationships which provide critical income ... Financial and material exchange as a motivating force underlying sexual relationships is a well-recognised dynamic in the HIV pandemic, particularly in sub-Saharan Africa. Often referred to as transactional sex, it is a motive for women to have sex in situations where they might otherwise refrain, and has been

¹⁴⁴ibid

noted as a potential source of women's vulnerability to gender-based violence and sexual exploitation.¹⁴⁵

4.1.10 Poor Criminal Justice, Referral and Punishment Systems

The existence of a poor, ineffective system of justice for sexual crimes helps to encourage further sexual violence crimes. When crimes go unpunished or perpetrators get weak sentences this leads them to commit further crimes or encourages others to do same. Sigsworth supports this point by stating that

A poor criminal justice response to sexual violence does create a culture of impunity, whereby perpetrators know that there is only a small chance that they will be reported to the police, arrested and convicted of the crime. This means that sexual violence is one of the easiest crimes to get away with in South Africa: and this in turn allows those who are committing such crimes to continue their destructive behaviour unhindered.¹⁴⁶

Related to this is the victimisation of victims in school or the justice system. Sigsworth notes that "The response of the criminal justice system does therefore play a part in the sexual violence problem in South Africa, in as much as it allows perpetrators to go unpunished (and therefore free to sexually violate again) and discourages victims to speak out and seek justice."¹⁴⁷

The criminal justice system in Cameroon is generally characterised by numerous loopholes and many criminals find their way out of the net due to high corruption and the absence of effective investigations for sexual crimes. A written statement submitted by *The Advocates for Human*

¹⁴⁵Dunkle, K.L., Jewkes, R., Nduna, M., Jama, N., Levin, J., Sikweyiya, Y. & Koss, M. (2007). 'Transactional Sex with Casual and Main Partners among Young South African Men in the Rural Eastern Cape'. In *Social Science & Medicine*, vol. 65, no. 6, pp. 1235-1248.

¹⁴⁶Supra note 127

¹⁴⁷ibid

Rights in 2014 to the Committee on the Elimination of Discrimination Against Women point out that in relation to violence against women, “prosecutions by law enforcement and the judiciary are rare” and that there is “widespread impunity for rape enjoyed by perpetrators as a result of the absence of effective investigations and prosecutions”.¹⁴⁸

4.2 Responses to Sexual Violence in Cameroon and South Africa

Faced with the serious problem of sexual violence in the Cameroonian and South African society in general and schools in particular, the state, civil society, educational authorities and other actors have taken steps to address this issue.

4.2.1 Legal and Policy Reform

Legal reform in Cameroon and South Africa could be major indicators for assessing measures put in place to combat sexual violence in general and especially within the school system. Much of the legal reforms generally address sexual violence in society in general irrespective of the milieu. However some have addressed the school in particular. The area of legal reform is one in which South Africa is far more advanced than Cameroon in addressing sexual violence especially within the school system.

In South Africa the sexual violence legal reform process was commenced in 1997 when parliament amended the law through the Sexual Offences and Related Matters Amendment Act, which was signed into law by the South African President in 2007. In the Sexual Offences and Related Matters Amendment Act 2007¹⁴⁹, the legal definition of rape is broadened as compared to what existed before. The definition before was restricted to vaginal sex and now has been extended to include non-consensual penetration. It also establishes a list of sexual offences and addressed procedural matters such as the management of sexual offences by courts of law, the

¹⁴⁸ Written Statement Submitted by *The Advocates for Human Rights* to the 57th Session of the Committee on the Elimination of Discrimination Against Women, February 2014, par. 3

¹⁴⁹ Sexual Offences and Related Matters Amendment Act 2007 (Act number 32 of 2007)

police or forensic personnel. Another instrument addressing sexual offences is the The South African Code of Professional Ethics in Education which prohibits professionally inappropriate conduct such as sexual harassment. The South African Children's Act 2005 is another legal instrument in South Africa which aims at protecting children from many violations including sexual violence. The South African Council for Educators (SACE) Act and SACE Code of Professional Ethics also help to address sexual violence in South African schools amongst other issues. The South African Protection from Harassment Act 2011 aims at protecting victims or potential victims from sexual harassment. The Employment of Educators Act (1998) also helps to prevent and punishing misconduct of educators including sexual misconduct

In Cameroon, such legal reform in relation to sexual offenses has been on the whole rare or inexistent. Generally, specific legislation to combat violence against women is inexistent in Cameroon despite the fact that the country has ratified all the major regional and international instruments protecting human rights in general and women and children's rights in particular. The only legal reform that can be mentioned is Law number 98/004 1998 on the Orientation of Education in Cameroon which forbids any form of violence on students.¹⁵⁰ The Cameroon Penal Code in section 296 punishes rape and forbids sexual relations with minors below 16. However, section 297 absolving a rapist of criminal proceedings if the victim, who must be 16 and above in this case, agrees to marry him has been highly condemned as an encouragement for the perpetration of rape. Worthy of note is also the fact that there is no law or policy addressing sexual harassment, be it in schools or elsewhere.

¹⁵⁰ Section 35, Law number 98/004 1998 on the Orientation of Education in Cameroon

It is worth noting that both Cameroon and South Africa have ratified CEDAW, the Maputo Protocol, the CRC, the Banjul Charter and the African Charter on the Rights and Welfare of the Child

4.2.2 Violence Prevention and Victim Assistance

Some programs to prevent or address violence have been and are being carried out by some non-governmental and civil society organisations in Cameroon and South Africa. In South Africa, Rape Crisis¹⁵¹ developed an online application for users to be able to navigate through a virtual police station, health centre and a court so as to have an idea of the journey they have to undertake to get medical as well as legal assistance. This site also contains video clips of officials as well as service providers to guide the complainant.

Research-oriented advocacy initiatives have also been carried out by some institutions or groups in South Africa. These include the Shukumisa Campaign of the National Working Group on Sexual Offences and the Sexual Offences Monitoring Project (SOAMP) of the University of Cape Town's Gender Health and Justice Research Unit (GHJRU).

Some policies have been undertaken by the Department of Basic Education in addressing sexual violence in schools. The Centre for Applied Legal Studies, University of the Witwatersrand School of Law reveals:

¹⁵¹ Established in 1976, the Rape Crisis Cape Town Trust is a South African organisation established in 1976 supporting the recovery of survivors, seeking justice and making change in communities. Their vision is that of a South Africa in which women are safe in their communities and where the criminal justice system supports and empowers rape survivors in all its interventions. Their mission is to promote an end to violence against women, specifically rape, and to assist women to achieve their right to live free from violence by reducing the trauma experienced by rape survivors, encouraging reporting of rape incidents and facilitating the active engagement of communities in challenging high rape rates and flaws in the criminal justice system. <http://rapecrisis.org.za/>

In 2001, the Department of Education, the DBE's predecessor, published *Opening Our Eyes: Gender-Based Violence in South African Schools*, which has been used to train educators and administrators on how to manage sexual violence in schools. The Department also addressed the issue of sexual violence in schools in *The HIV/AIDS Emergency: Department of Education Guidelines for Educators*, which was published in 2002. In the Minister of Education's introduction, the Minister notes that "[m]ale educators have a special responsibility" and must stop "demanding sex with schoolgirls or female educators." Sex with learners violates the law and is a "disciplinary offense" that "betrays the trust of the community." In 2008, the Department of Education published *Guidelines for the Protection and Management of Sexual Violence and Harassment in Public Schools* (Guidelines). The Guidelines standardise procedures that are meant to assist schools in developing their own comprehensive response programs. Published by the DBE in 2010, *Speak Out* (a handbook) is focused on educating learners about how to deal with cases of sexual abuse.¹⁵²

Apart from policies South Africa's Department of Basic Education has also undertaken programs to tackle sexual violence in schools. The Centre for Applied Legal Studies, University of the Witwatersrand School of Law notes that

In addition to promulgating policies, the DBE has initiated programmes that specifically address sexual violence and harassment in schools. Some of these programmes include a focus on the factors that contribute to school-based sexual

¹⁵² Supra note 122, p 15-17

violence, such as general violence, gender inequality, and lack of education about sexual violence.¹⁵³

Such programs include, the Ubuntu campaign addressing sexual violence and bullying in schools (2012) and the *StopRape* campaign (2013) to raise awareness on sexual violence in South African schools.¹⁵⁴

The South African government has also taken further action by creating the South African Police Service and Family Child Protection Unit which helps amongst others to investigate cases of sexual violence in schools. The Centre for Applied Legal Studies, University of the Witwatersrand School of Law notes that

As a government institution, the South African Police Service has a duty to investigate reports of sexual violence in schools. To fulfil this duty, SAPS created the specialised Family Violence Child Protection and Sexual Offences (FSC) Units in 1995 in an effort to reduce sexually-related crimes.¹⁵⁵

In Cameroon the Ministry of Social Affairs provides counselling services to victims of gender based violence at social service centres throughout the country. Some NGOs have done and are doing considerable work to address sexual violence in Cameroon and have carried out some research especially on the phenomenon of incest, rape and teenage pregnancy, though not specifically on the school milieu. For example, the “Réseaux Nationale des Tantines” (“National Network of Aunties”) RENATA carries out regular sensitisation campaigns on sexual violence in schools, especially rape. They also operate a specialised service for victims of rape. AVLIF and some other organisations offer medical, legal and psychosocial assistance to victims of sexual

¹⁵³ibid, p 15-17

¹⁵⁴ibid

¹⁵⁵ibid., p 28

violence. The Association of Female Jurists provides free legal aid and counselling to victims through three centres in Yaoundé, Douala and Bafoussam as well as through mobile clinics. Women in Action Against Gender Based Violence also provides legal counselling and offers support to victims of violence. Some NGOs such as RENATA also operate hotlines for victims. The Positive Peace Group Cameroon is currently organising a campaign to combat sexual violence against girls in secondary schools in Cameroon, beginning with schools in Yaoundé in the Centre Region and Bamenda in the North West Region. The organisation currently runs a weekly radio program on Radio Health International to sensitise on sexual violence and assist victims in getting proper medical, legal and psychosocial assistance. In her statement to the 57th Session of the Commission on the Status of Women on the theme “Elimination and Prevention of Violence Against Women and Girls”, Cameroon’s Minister of Women’s Empowerment and the Family stated that “regarding the fight against sexual and domestic violence, actions carried out have aimed at building the capacities of stakeholders, disseminating international, regional and national legal instruments and producing and disseminating educational materials”¹⁵⁶.

Furthermore, it has been noticed that much of the work to combat sexual violence has been done by nongovernmental organisations and civil society. South Africa has put in place several policies and programmes to address sexual violence in schools directly, though much still needs to be done to ensure effective implementation and coordination. Cameroon needs to learn much from this as no direct programme or policy has been put in place by the government to tackle sexual violence in private or public schools and much of the action is limited to civil society.

¹⁵⁶ Statement by Professor Abena Ondoua nee Obama Marie Therese, Minister of Women’s Empowerment and the Family of the Republic of Cameroon, 57th Commission on the Status of Women, theme “Elimination and Prevention of Violence Against Women and Girls”, New York, March 2013

CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

In this chapter, the summary of the findings is presented and conclusions are drawn. Recommendations are also provided for the relevant stakeholders.

4.1 Summary

This thesis set out to examine the phenomenon of sexual violence against girls in secondary schools in Cameroon and South Africa. More specifically, the thesis aimed to compare the gender and other social dynamics that perpetuate sexual violence and how these dynamics are played out in the school environment, the causes of violence against girls in schools in Cameroon and South Africa, the extent to which Cameroon and South Africa have complied with international and regional human rights instruments addressing violence against (school) girls, and how national law and practice especially in the area of education have been tailored to combat sexual violence in schools in Cameroon and South Africa. The thesis also examines the applicable lessons can Cameroon and South Africa draw from each other in combating sexual violence against girls in schools.

The thesis points out that sexual violence against girls in secondary schools in Cameroon and South Africa is fuelled by personal, group and societal factors. Sexual violence is a reflection of the dynamics that promote violence in the society in which it is found. Power imbalances that disfavour women, a culture of violence in society, family violence, economic difficulties, absence or poor coordination of anti-violence programs, weak reporting and punishment systems in schools and in the criminal justice system have been seen to be major factors that encourage the perpetration and perpetuation of sexual violence in the school environment. Some factors have been seen to have a higher prevalence either to Cameroon or South Africa.

Specifically ‘corrective rape’ is more specific to South Africa whereas sexual violence as part of occult rituals is more prevalent in Cameroon than in South Africa.

The thesis has also shown that both Cameroon and South Africa have ratified all the major international and regional instruments addressing sexual violence against girls such as CEDAW, CRC, the ACHPR and the Maputo Protocol. However, South Africa has made greater strides in enacting national laws that directly address sexual violence against girls whereas this is mentioned only partially and generally just in the constitution of Cameroon as well as the penal code. In Cameroon, the law has also been totally silent on some forms of sexual violence such as sexual harassment. In Cameroon much of the efforts aimed at combatting sexual violence especially in schools have been generally limited to the civil society. However, there have also been a number of implementation challenges in South Africa such as poor coordination, complacency or poor information and sensitisation on existing laws, policies and practice. Cameroon could positively borrow from South Africa on combating sexual violence against girls in schools in the area of putting in place the appropriate legal framework, policies and programmes. South Africa can as well borrow lessons on the effective interventions of some civil society organisations such as the provision of free legal aid to victims through mobile law clinics by the Association of female jurists in Cameroon. Cameroon could also copy the example of neighbouring country Gabon, which has enacted and is putting much effort to make effective separate laws on various forms of sexual violence including sexual harassment. Both countries have to however put in more efforts in the area of implementation of laws and the putting in place of effective policies and programs.

4.2 Recommendations

There is need to put in more efforts to practically address sexual violence against girls in particular especially in schools. Sexual violence has many negative consequences on the physical, psycho-social and intellectual health of girls in particular and society in general in both Cameroon and South Africa. As mentioned by the Wellesley Centre for Research on Women & Development and Training Services,

Several studies point out that the consequences of SRGBV adversely affect girls' educational attainment. Girls report losing their concentration in class, feeling bad about themselves, missing school, and even dropping out. The health consequences in terms of increased exposure to sexually transmitted infections (STIs), including HIV/AIDS, and unwanted pregnancies are also devastating. Schools in many countries turn a deaf ear to the female student's complaints and many girls do not even complain because of a fear of reprisals, especially from teachers, but also because they believe that nothing will be done.¹⁵⁷

A number of recommendations are made to both private and public actors especially the state, schools, non-governmental organisations and civil society. We can borrow some useful recommendations made by some researchers, treaty bodies as well as others.

4.3.1 To the State

The Committee on the Elimination of all forms of Discrimination Against Women (CEDAW Committee) in 2011 "expresse[d] grave concern about the high number of girls who suffer sexual abuse and harassment in schools by both teachers and classmates, as well as the high number of

¹⁵⁷Women & Development and Training Services (2009) *Unsafe Schools: A Literature Review of School-Related Gender-Based Violence in Developing Countries*. USAID, p. iv

girls who suffer sexual violence while on their way to/from school [in South Africa].”¹⁵⁸ In its concluding observations, CEDAW Committee made the following recommendations to the South African government following its second, third, and fourth periodic reports in relation to addressing violence against women:

-reviewing the State’s multi-sectoral action plan to combat violence against women; adopting comprehensive measures to address violence against women; raising public awareness through media and education programmes about violence against women as a violation of women’s rights; putting accountability mechanisms in place to ensure the implementation of the provisions made in the Sexual Offences Act; ensuring the necessary budgetary allocations for the implementation of planned projects and programmes, including support services to victims; paying special attention to the needs of rural women and those that experience violence based on their sexual orientation.¹⁵⁹

In Cameroon, Section 297 of the penal code needs to be revised because it helps in the perpetuation of rape. As the Advocates for Human Rights state in their aforementioned written submission to the CEDAW Committee:

The Penal Code perpetuates impunity for rape by foreclosing prosecution if the rapist marries the victim: Section 297 specifically stops prosecution for rape when the parties “freely consent” to be married (and are so married) as long as the female victim was above the age of puberty¹⁶⁰ at the time of the sexual assault.

Given the stigmatization that rape victims face in their communities, they may

¹⁵⁸ U.N. Committee on the Elimination of Discrimination against Women, 48th Sess., 17 January – 4 February 2011, U.N. Doc. CEDAW/C/ZAF/CO/4 (5 April 2011)

¹⁵⁹ *ibid*

¹⁶⁰ 16 in the case of the Cameroon Penal Code as sexual relations with a girl below 16 is forbidden according to section 296

have very little choice but to “consent” to marrying their rapist. Since the victim’s family often knows the rapist, it is not uncommon for family members to informally negotiate compensation or marriage as settlement. Provisions such as these, which absolve perpetrators of rape, prevent offender accountability and fail to protect rape victims.¹⁶¹

In her statement to the 57th Session of the Commission on the Status of Women on the theme “Elimination and Prevention of Violence Against Women and Girls”, Cameroon’s Minister of Women’s Empowerment, Marie Abena Ondo, gave the following proposals to combat violence against girls and women:

-The reform of the normative framework aimed at harmonizing domestic laws with international and regional legal instruments ratified by Cameroon; The implementation of the platform for joint intervention in the fight against gender-based violence; the enhancement of the dissemination of the national strategy to fight against gender-based violence; -beyond all these actions, the issue of violence against women and young girls should be analyzed in a different and broader perspective; Although the improvement of the normative and legal framework is relevant, it is also necessary to tackle issues deriving from the economic status of women in the system of production, which is a structural factor.¹⁶²

4.3.2 For Schools, Educational Authorities and Teachers

¹⁶¹ Written Statement Submitted by The Advocates for Human Rights to the 57th Session of the Committee on the Elimination of Discrimination Against Women, February 2014, par. 12

¹⁶² Statement by Professor Abena Ondoua nee Obama Marie Therese, Minister of Women’s Empowerment and the Family of the Republic of Cameroon, 57th Commission on the Status of Women, theme “Elimination and Prevention of Violence Against Women and Girls”, New York, March 2013, p 10

Women & Development and Training Services¹⁶³ provide a detailed list of recommendations for schools, educational authorities and teachers. In relation to schools they recommend that

Schools need to: Develop a clear strategy that tackles gender inequalities in school. It is important to have a whole school approach that allows teachers, pupils, and administrative staff to work together on common goals for making schools safe; Promote a more supportive culture by facilitating and enforcing the reporting of abuse, reducing bullying and corporal punishment, providing effective counselling, and encouraging constructive and equal relationships between students via positive role-modelling and explicit curricula and teaching/learning materials. Foster collaboration with relevant NGOs working on rape, sexual assault, child abuse, domestic violence issues, or HIV/AIDS and sexuality education for the purposes of providing training, counselling, and advocacy services within the school; Consider engaging peer educators (adolescents or young adults who can visit schools to talk to pupils about sexual violence and other issues that concern them), as is currently being done in some instances with HIV/AIDS education.¹⁶⁴

Pertaining to teacher training programs, there is also the need to train future teachers on gender equality as well as enhance their understanding of sexual violence as well as ways of helping to prevent or address it. Women & Development and Training Services (2009) stipulate that it is necessary for teacher training programs to “Increase instruction of future teachers on gender equity, including understanding the negative impact school related sexual violence has on the

¹⁶³ Supra note 157, p. v

¹⁶⁴ ibid

ability of girls and boys to succeed in school, and provide them with strategies to challenge gender discrimination and to stop sexual harassment before it escalates to violence”.¹⁶⁵

It goes on by proposing in relation to the teacher, the school and society at large that

Even the very best curricular materials are ineffective if the teachers using the materials are not comfortable with or competent in the subject matter. Teachers are part of the society and usually carry on the traditional constructions of gender roles. Without adequate teacher training the success of school-based projects is severely constrained. Schools are part of society and reflect traditions and values at the same time that they play a crucial role in social change. In order for major social change to be effectively embedded in schooling, the larger community must understand and support these changes. More specifically, without a clear policy framework that defines, prohibits, and carries penalties for acts of school-related gender-based violence, all other efforts will be less than optimally effective. Several reports emphasize that regulations on gender-based violence and sexual harassment need to be developed, enforced, and widely disseminated in order to be effective and accessible. This includes schools having in place a means of reporting and recording incidences of violent behaviour in schools and of hiring counselors to respond to reports of violence. Schools also need to work with the ministries of education to develop policies on teacher misconduct, and the ministries need to establish a special unit dealing with cases of abuse. Furthermore, sexual relations between students and teachers should be prohibited, the reporting of such instances should be obligatory, and access to avenues of

¹⁶⁵ibid

redress for abuse and exploitation must be improved. Policy implementation must follow policy development, and this may be the greatest challenge of all.¹⁶⁶

Wellesly Centres for Research on Women proposes “curriculum development, youth leadership, teacher training, advocacy and community involvement, and policy development” as ways of addressing violence against women in general.¹⁶⁷

Addressing the power imbalances between men and women that arise through socialisation is a long term but pivotal factor in solving violence against girls in schools. The change process of balancing the power equation must be firmly established in schools. Furthermore, the inclusion of both boys and girls in efforts to combat violence against girls in general and sexual violence in particular is effective because polarising girls and boys as victims versus perpetrators is not only simplistic but counterproductive as well.¹⁶⁸

In her statement to the 57th Session of the Commission on the Status of Women on the theme “Elimination and Prevention of Violence Against Women and Girls”, Cameroon’s Minister of Women’s Empowerment and the Family stated that “Conscious of...weaknesses... and also conscious of its potentials, Cameroon is committed to continuing awareness raising, education, training and advocacy actions for the prevention and the elimination of violence against women and girls.”

4.2 Conclusion

Sexual violence is a human right violation that needs to be properly addressed in Cameroon and South Africa. It has very negative consequences on the individual and the entire community. Cameroon in particular needs to copy from South Africa at the level of the national legal

¹⁶⁶ibid

¹⁶⁷ibid

¹⁶⁸ibid

framework as well as policies and programs to combat sexual violence in schools. Laws in themselves are not enough because there needs to be a deep and genuine change in power imbalances and discriminatory and violent practices against women. Such change should not only be personal but is collective and structural implicating the entire educational community as well as society at large. The school provides a fertile ground for seeds of genuine and sustainable change to be sown and harnessed. Such change must be inscribed into people's hearts and minds through a change in attitudes, assumptions, stereotypes and prejudices backed by genuine changes coming from within schools and school communities. This is very possible and highly necessary if the political will is present and all actors both private and public synergise and intensify efforts to combat sexual violence against girls in schools in Cameroon and South Africa and by extension Africa.

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