

1.0 CHAPTER ONE: BACKGROUND

Violence against women is a world-wide phenomenon and derives its roots from the time society started differentiating roles between women and men. On the basis of the nature of the roles, society started to perceive men's roles as being superior to those of women and as such the status of men was given a superior position that resulted in power imbalances and consequently abuse (Sampa et. al. 1994). This phenomenon cuts across class, age, race, religious and national classifications, (GIDD report, 2000).

According to (Shreeve, 1995), evidence suggesting domestic violence dates back 130,000 years to the Neanderthals. In Europe, violence towards women was a common aspect of marriage since medieval times. Up until the nineteenth century, there were no laws in the United Kingdom prohibiting a man from physically abusing his wife (Giddens, 1993).

In the United States of America the first law to recognize a man's right to discipline his wife with physical force was an 1824 ruling by the Supreme Court of Mississippi permitting the husband to exercise the right of moderate chastisement in cases of great emergence, (Browne, 1987). In the case of *Bradley vs. State*, the Supreme Court ruled that a husband was allowed to use salutary restraint in every case of wife misbehaviour without being subjected to vexatious prosecution, (*Bradley vs. State* 1 Miss 156 (1824)). It was not until 1882 when Maryland became the first state to outlaw wife beating and when finally criminalized, a charge of domestic assault carried a punishment of 40 lashes or one year imprisonment, (Howard and Lewis, 1999).

In the 1970s, almost 90 years after the first law making domestic assault a crime in the US, grass roots political pressure increased to employ harsher domestic violence laws such as stricter arrest policies. Arrest policy reform would eventually develop into policies that would require police to respond to family violence in an aggressive manner, (Davis and Smith, 1995).

1.1 INTRODUCTION

Domestic gender based violence is a problem affecting millions of women globally and this problem manifests in various forms, for instance, in the context of marriage or cohabitation, between siblings and between parents and their children (S. Lynn, 2004). However, many feminist researchers have pointed out that domestic violence is a gender neutral term and as such fails to clarify who is the victim and who is the perpetrator, masking the fact that in many relationships women are most frequently subjected to violence by men (Brodsky and Hare-Mustin, 1980). It is for this reason therefore that the focus of this research was specifically on wife battery in order to emphasize on whom the violence is mainly directed at, thus, the term domestic gender based violence will only be retained for convenience purposes.

Wife battery is one of the many dimensions of domestic gender based violence. This form of domestic violence involves overt physical force or violence perpetrated by the husband on the wife. In most cultures, wife battery is often socially condoned therefore making it more frightening (Afronet file, 1999). Also, the inequality existing between women and men fostered by culture has perpetuated domestic violence, and this reflection of culture in the law has made it inadequate in offering protection to women as victims.

Research that exists indicates that wife abuse is a common and pervasive problem and that men from practically all countries, culture, class and income groups indulge in domestic violence (Law Commission of the United Kingdom in Law Commission no. 207, London, HMSO). According to the Zambia Gender Based Violence Report (2000), wife battery is quite prevalent in Zambia and statistics indicate that four in every ten women in Zambia experience violence.

Zambia has demonstrated commitment and political will to deal with gender violence at various levels. At the international level, Zambia has signed and ratified all the major international instruments and is a signatory to the African Charter on Human and People's Rights (ACHPR). At national level, the condemning of various acts which cause physical, sexual or psychological harm or suffering to women and children is enshrined

in the Republican Constitution CAP 1 Article 23. Zambia has also established various institutions which include, Gender in Development Division GIDD which was transformed into Gender and Child Development Division (GCDD). On 8th March 2012 the Republican President Mr. Michael Sata turned GCDD into a full ministry. Other institutions established include the Zambia Women Parliamentary Caucus (ZWPC), the Gender Forum, the Permanent Human Rights Commission (PHRC), and the Victim Support Unit. In March 2000, the Government of the Republic of Zambia adopted the National Gender Policy (NGP), which among other things, outlines a number of measures to combat violence against women (GIDD Report, 2000).

In 1994, the Zambia Police Service established the Victim Support Unit in almost all Police Stations which became operational in 1996. The unit was charged with the responsibility of addressing violation of human rights that are gender based (Human Rights Interview, 2002).

In 1997, Zambia signed the Gender and Development Declaration of the Southern African Development Community in which the Government pledged to take urgent measures to prevent and deal with increasing levels of violence against women and children (SADC, Gender and Development, 1997). The Government of the Republic of Zambia under the leadership of Mr. Rupiah Bwezani Banda introduced the Anti-Domestic Violence Bill (ADV B) to parliament. And most recently, acknowledging the urgency of addressing gender violence, on the 10th of May 2011, the President of the Republic of Zambia gave assent to the Gender Based Violence bill which henceforth became law.

Besides the foregoing efforts, perhaps one of the most important milestones in the fight against gender violence and issues of gender equity and equality in Zambia was the establishment of the Non-Governmental Organizations Coordinating Council NGOCC in 1985 by Zambian women. The NGOCC was born out of the realization that the process of empowering women needed concerted efforts, (The Post 2010, September 23rd).

However despite many efforts that have been made to protect victims of domestic violence and police having made some reforms in responding to domestic violence, the number of domestic assault has continued to escalate and domestic violence has remained a serious issue because of low prosecution of wife battery cases (Chuulu, et. al 2001).

1.2 Statement of the Problem

Despite many efforts in eliminating wife battery at international, regional and national level, the problem has continued to escalate. Many perpetrators of wife battery have continued to evade justice owing to the fact that few cases are being taken to court. (Chuulu, et. al 2001) points out that whereas many cases of domestic violence are reported to the victim support unit, very few of them are prosecuted. For example, a review on the statistics at a named Police Station's Victim Support Unit, records indicate that out of the total forty three (43) cases reported in 2008 only one (1) was taken to court, representing about two percent while 18 cases or forty two percent were withdrawn, 24 cases representing fifty six percent were still under investigation.

1.3.0 Objectives:

1.3.1 Main objective

- To establish factors that lead to low prosecution of wife battery cases in Lusaka urban.

1.3.2 Specific objectives:

- To explore the socio-economic characteristics of victims of wife battery.
- To examine police officer's attitudes towards prosecution of wife battery cases.
- To assess whether or not victim's fear of persecution affects prosecution of wife battery cases.
- To propose policy recommendations for improved prosecution of wife battery cases.

1.3.3 Research Question

- What factors lead to the low prosecution of wife battery cases in Lusaka urban?

1.3.4 Sub-Questions

- What are the socio-economic characteristics of victims of wife battery?
- What is the attitude of police officers towards prosecution of wife battery cases?
- Does victim's fear of persecution affect prosecution of wife battery cases?
- What gender policy recommendations are needed to improve prosecution of wife battery cases.

1.4 Significance of the Study

The results of the study would help to identify and address impediments of the possible causes of low prosecution of wife battery. The results would also help to enhance policy interventions that would strengthen serious enforcement on the part of the police and implementation on the part of the judiciary of the already existing battery laws. This would ensure that many of the reported cases are prosecuted and offenders are convicted or alternative measures are made thereby assuring justice for the victim. The information generated from the study would also add to the already existing body of knowledge.

2.0 CHAPTER TWO: LITERATURE REVIEW

2.1 Background

Gelles and Strauss, (1989) observed that women are more likely to be physically assaulted, beaten and killed in their own homes at the hands of a loved one than any place else or anyone else in society, Gelles and Strauss (1975) cited in Gelles and Strauss (1989) indicated that one out of every six wives reported that she had been hit by her husband at some point in her marriage. These were findings in America in 1975 during the first national family violence survey. This study based on interviews with a national sample of more than two thousand families also indicated that about one woman in every twenty two is a victim of physical abusive violence each year with every battered wife being attacked on average three times a year in the United States of America.

Carrillo (1992) cited in Oyekanmi (1997), indicated that in France ninety nine percent of victims of violence are women while twenty five percent of women cited battery as the reason for divorce.

Hyden (1994) also reported that nine thousand five hundred (9500) assault cases on women were reported annually in Sweden while Ampto (1992) quoted by Ofei Aboagyes (1994) reported that five million assault cases on women were reported annually in Germany. According to the UN (1989) the analysis of assaults on women in two Scottish villages in 1974 revealed that wife assault was the second most common form of violent crime recorded by the police.

Domestic violence 'is prevalent and a largely accepted part of family life in India' (Kumar et al. 2002). The term 'intimate partner violence' is often used to refer to domestic violence. Others use the term 'gender based violence because some husbands are thought to use violence to control wives, (Bott et al. 2005). In a study of rural women, thirty seven percent (37%) in Tamil Nadu and forty five percent (45%) in Uttar Pradesh had been beaten by their husbands. According to Jejeebhoy and Cook (1997), two third of women in rural Gujarat had experienced some form of psychological physical and sexual abuse.

2.2 Prevalence of low prosecution of Wife Battery cases in Zambia

There is not enough scholarly literature documented on low prosecution of wife battery cases especially in Zambia as at now. But there is sufficient grey literature existing in both print and electronic media where issues of wife battery withdraws of cases are exposed at police and court levels. Wife battery is quite prevalent in Zambia and according to statistics four in every ten women in Zambia experience violence. However, these statistics should be interpreted against a backdrop of a tendency of most complainants to withdraw cases of violent abuse for various reasons leading to low prosecutions. The most cited example has been that of women who are economically dependent on their husbands and who have to return to the same household where the assault may have taken place.

This can be best illustrated by the records obtained from the police which indicate that one thousand and sixty (1060) assault cases on women reported in 1999, only 372 proceeded to the stage of arrest and this is without referring to the number of cases that actually went to prosecution and resulted in conviction, (GBV Report, 2000). The most recent example of this trend is a case involving a high profile businessman who is also a law maker. After battering the wife the case went to court but it was very clear that the case would not go anywhere as the couple was seen at the court premises walking hand in hand smiling. The perpetrator was later quoted saying that 'beating a wife was normal and it was because of love', (The Post 2010, September 13).

Another recent case of wife battery involving a high profile government official is the one in Livingstone where a District Commissioner battered his wife after a marital dispute. This case is one of the few which come to the public eye when the victims fear for their lives and decide to break the silence by reporting to the police, (The Post 2010, September 30).

Findings from the Femicide Register compiled by the Young Women Christian Association (YWCA) which has documented the number of women and girls who have

died at the hands of men from 1960 to date, shows that eighty percent of women who die in violent situations are killed by their husbands, (ibid).

Some of the possible factors behind the low prosecution of domestic violence cases include culture (fear of persecution), economic dependence and of victims' level of education, police attitude, public perception and bribes among others. According to Banda, A. (2000) the patriarchal system has given rise to the extension of male dominance over women leaving women powerless or deprived of rights because the patriarchal society continues to make negative male practices very normal.

2.3 Culture

Traditional and cultural practices are important in understanding low prosecution of wife battery cases in the sense that they are bent on the subordination of women and the superiority of men, which is culturally determined. In this case, discrimination is guided by the patriarchal notion that the man is the head of the household, owns and controls everything in it including the wife and children. Most traditional and customary practices regard women as minors to men and hence both their gender and sex roles perpetuate the stereotype view of women, (GBV Report, 2000). Traditional practices like the initiation ceremonies and pre-marriages counseling have been used to articulate the sexual and gender roles of a woman or wife as that of serving or pleasing the man. A woman or wife is conditioned to make her marriage a success by preserving her marriage and keeping her marriage problems secret which may lead to failure to report or withdraw wife battery cases once reported to the police station (GBV Report, 2000).

According to women's rights activist Professor Nkandu Luo, because of beliefs and the socialization process, most women are brought up to tolerate men's behaviour including indecent practices just to stay in marriage, "women would rather protect their husbands and relatives in order to remain in marriages because they think you are only respected when you are married and not single. Some people think respect only comes when one is married", (The Post 2010, December 10).

It is observed that over ninety nine percent of matrimonial cases in Zambia are handled in local courts. But this customary law as generally observed is based on traditions and customs of a particular setting. It has therefore been identified that it is these customary law courts with the highest gender bias. Customary law courts thus exhibit a wide range of biases on the basis of gender.

Customary law allows a man to chastise a wife for wrong doing and does not allow a woman to sue for divorce due to ill treatment by the husband, unless under very extreme circumstances. Such ill treatment may come by way of beatings resulting in bodily harm, for example, loss of teeth, pregnancy, and hospitalization etcetera. Usually when a wife goes to a local court and sues for divorce she does not succeed. The traditional perception of values is that women constitute a sector of society which has low status and are expected to be subordinates. As such, whenever a woman seeks to establish her human rights, customary law would be very reluctant to appreciate that, (Sampa et al. 1994).

In the same vein, as observed by gender activist Joyce Shezongo Macmillan, ‘the most important legal instrument affecting women’s lives in Zambia is the Republican Constitution. As a grand norm, all other laws are only legitimate if they are in compliance with it. As women’s problems originate from gender and sex discrimination grounded in the customs and practices that are often confused with customary law, the non-discrimination clause of the constitution, is to women probably the most important construction of the constitution (i.e. Article 23 (4) (c). it is this clause that frames the laws as they apply to Zambian women. This Article prohibits discrimination except in the very areas that impact on women’s lived experiences such as marriage, devolution of property, maintenance, divorce etc. it achieves this by excluding the application of the non-discrimination clause, (post newspaper, 23/09/10).

The patriarchal principles of women’s subordination within the family form the principles of family law. Various components of customary law treat women as properties of their husbands. Most customs embedded in customary law are now a conduit for rampant violence against women. Violence in marriage is cemented by the traditional belief that a husband is allowed to chastise his wife once in a while as a form

of disciplinary measure. In most traditional settings, beating a wife was considered to be normal custom which is held strongly by the majority demands that wives should be submissive and not reveal domestic squabbles including beatings, (GBV Report, 2000).

Judge Lombe Chibesakunda (2008), former Chair of the National Human Rights Commission observed that sometimes the failures to follow up reports is due to corruption where court officials as well as police officers may be paid off by perpetrators. In other cases the family may not want to press charges. The judge stressed that chances of victims of domestic violence coming to courts are almost nil; “it’s an embarrassment to the family”, the judge said.

2.4 Economic factors

It has been noted that education is not the only influence on domestic violence and prosecution of wife battery cases. Links between domestic violence and education may be complicated, for example, educated households are less likely to experience stress due to poverty (a possible cause of domestic violence), because more educated people tend to have better paid jobs, (Indian Journal of Gender Studies, 2008).

Therefore, the issue of violence against women in Zambia and low prosecution of wife battery cases can be linked to the socio-economic status of women and the strong patriarchal beliefs which reinforce men’s dominance over women, Demographic Health Survey (2000),. While it may be said that the patriarchal beliefs tend to pre-dispose women to various forms of violence it is mostly the attitude of some women themselves and society that tend to perpetuate this scenario. According to the Zambia Demographic Health Survey (2000), about eighty (80%) percent of Zambian wives found it acceptable to be battered by their husbands as a form of chastisement which is a crucial factor in determining the level of prosecution. Out of five thousand and twenty nine women interviewed country wide, seventy nine percent said they should be beaten if they went out without their husband’s permission. Sixty one percent said they should be beaten if they denied their husbands sex, while forty five percent said a beating was in order if they cooked bad food for their husbands.

2.5 Education

According to the Legal Resource Foundation (2001), the majority of Zambians are illiterate and poor hence they do not know their rights are protected by the constitution and therefore they do not know they have the right to challenge their violation. Several previous researchers have found that domestic violence and its eventual prosecution is associated with lack of education, (Bott et al. 2005). According to Martin et al (2002), Indian men are less likely to consider domestic violence less acceptable if educated. However, male education is not the only factor, female education is also effective. In India and other countries, 'the more education a woman has, the less likely she is to report having ever experienced violence, (Kishor and Johnson, 2004). Research by the Gujarat Institute of Development Studies found that sixty percent (60%) of women with no education had been assaulted by their husbands, compared with ten percent (10%) of women with secondary or higher education, (Burton et al. 2000). Women have higher status in Kerala than in the rest of India and this has mainly been attributed to the beneficial effects of education, (Lieten, 2002). According to the Indian Journal of Gender Studies, (2008), a woman is much less likely to experience domestic violence if she is more educated.

Information generated by the Gujarat Institute of Development studies and a study by the International Institute of Epidemiology Network found that education reduces domestic violence, however in both studies the violence did not decline incrementally with each added year of schooling but was most apparent when women attained relatively higher levels of education. However, even a few years of education seem to reduce the risk of domestic gender based violence, (Indian Journal of Gender Studies, 2008).

Educated women are much less likely to think it is reasonable for a man to use violence against his wife. It is hence plausible that attitudes are central to the link between education violence and successful prosecution of wife battery. Thus, the supposition is that there is a cause - effect relationship in which educated people are less likely to consider domestic violence acceptable and therefore not likely to put up with it. On the

other hand, many uneducated women condon violence, indicating that education reduces violence by reducing women's acceptance of it, (Indian Journal of Gender Studies, 2008).

2.6 Police Attitude

It has been noted that in instances where the wife is unfaithful, the police appear more likely than victims to see wife assault as justified. This topic received much interest in the 1980s when researchers observed that police were reluctant to initiate legal response to wife assault, (Chatterton, 1983). Saunders and Size (1986) compared 116 police officers, 39 counselor advocates from battered women's shelters and 52 wife assault victims in the extent to which they viewed wife assault as criminal and arrest as the best response all groups tended to rate marital violence as bad in general. All groups agreed that marital violence was unjustified but police officers were significantly more likely than victims and advocates to endorse the view that violence was justifiable in the specific case of infidelity by the victim. In addition police were significantly less likely than other groups to believe that the best way to deal with marital violence is to arrest the offending party. Hardy and martin (1989) also found that police officers attributed some responsibility for wife assault to the wife. Stith (1990) surveyed 72 married male police officers about their likelihood of responding to scenarios of wife assault by arresting the alleged offender, talking with the couple, and warning or arresting the victim and discouraging arrest of the offender. The four variables in Stith's statistical model were sex-role attitudes, marital stress, approval of marital violence and perpetration of marital violence. In a path analysis of responses to the scenarios, officer's perpetuation of wife assault was related to their attitudes towards marital violence which in turn had a significant contribution to the model's overall ability to explain the likelihood of an anti victim. Officers who admitted to assaulting their own wives were less likely to arrest another alleged wife assaulter.

Police officers' attitudes to arrest may also be affected by their identification with the husband and by the notion of the sanctity of the home. Officers who believe that 'a man's home is his 'castle' may be less inclined to pursue criminal charges. Still other officers believe that if a battered woman stays with her husband then she either likes the abuse or at least deserves it, (Dekeseredy and Hinch, 1991).

2.7 Public Perception

While the mandate of the VSU is commendable, many observers told Human Rights Watch that the VSU was tainted by its association with a Police Force that did not enjoy the confidence of the Zambian people. Karen Doll Manda of the NGO Family Health International asserted that the concept of the VSU is only a step ahead but there is need for a complete overhaul of the police before people can have faith in the VSU as people only go there out of desperation. (Manda, 2002).

Moreover, when faced with a complaint, the VSU all too frequently fail to respond or are ineffective. Most cases of abuse have gone through the VSU but they don't follow-up or do anything about it. "Where there is a docket, I don't know who closes it." Juliet Chilengi – Director of New Horizons Orphanage lamented at this lack of follow-up by VSU. (Human Rights Interview with New Horizons Director, Lusaka, Zambia. June 1, 2002).

2.8 Lack of Co-Operation by Victims of Domestic Violence

Battered women enter the justice system unaware of the realities of the modern criminal justice process. They are often unprepared for the number of court appearances, the lack of input they have about plea negotiations and sentencing, and the amount of protection the defendant receives for his constitutional rights. Victims who expect that the process will be predictable and straightforward are often left dissatisfied with the justice system. In some instances it this dissatisfaction with the system and lack of support that compel victims to request dismissal of charges, (Schmitt, S., 1997).

2.9 Victims' Wishes

In many cases police have chosen not to lay charges at the victim's request. Many women are reluctant to subject their husbands to public humiliation or to risk damaging his reputation or career. Many battered women want the violence to stop but do not necessarily view arrest as the avenue to achieve peace. Some victims are embarrassed and intimidated by the prospect of appearing in court to testify as a witness against their

partner. Practical factors such as the need to find child care or transportation or take time off from work in order to pursue criminal charges are also deterrents for victims.

2.10 Victimless Prosecution

The practice of victimless prosecution developed in response to the fact that victims of domestic violence are often reluctant or unwilling to cooperate with the prosecution of the accused batterer. Prosecution of cases without the cooperation and testimony of the victim is also known as “evidence based prosecution.” This type of prosecution is known as evidence based because it relies upon physical evidence and testimony of third parties to support the charges against the defendant. Victimless prosecution typically works in conjunction with “no drop” policies whereby prosecutors refuse to dismiss domestic violence cases at the request of the victim, (David Jaros, 2005).

There are several techniques employed in victimless prosecution. These techniques include creation of specialized matter courts and prosecution units for the purpose of expediting the legal process and correspondingly reducing the opportunities for offenders to exert pressure on victims to abandon prosecution, and reducing other pressures on victims caused by the often lengthy court process, (Davis Barbara and Caitlin, R., 2001). Furthermore, police officers may be given specialized training in the investigation of domestic violence cases. The officers may be trained to assume that the case will be tried without the in-court testimony of the victim. Here investigators must collect physical evidence including photographs of injuries and damaged property, bloody clothing furniture or other tangible evidence. In this regard, investigators treat domestic violence cases in a fashion very similar to the manner in which a homicide is investigated, (Louise Ellison, 2002).

2.11 Hearsay Evidence

Acts of domestic violence often occur behind closed doors with no witnesses other than the victim and the offender. If the victim does not wish to cooperate, the prosecution starts at a substantial disadvantage. Prosecuting attorneys have developed techniques for filling in evidentiary holes created by uncooperative victims. Among the most important

elements of a victimless prosecution are statements made to police officers by victims and offenders at the scene of the incident. The introduction of the statements of victims into evidence for consideration by the court has not been without question. The 6th Amendment of the constitution of the United States of America gives persons accused of criminal conduct the right to confront witnesses against them. In addition the rules governing the admission of evidence in state and federal courts include a prohibition against the introduction of hearsay evidence, (Celeste, E. Byron, 2005). As with most rules, the prohibition against hearsay evidence has exceptions. In the prosecution of domestic violence cases without the in-court testimony of the victim, prosecuting attorneys have relied heavily on these hearsay exceptions;

- Excited utterances under rule 803(2);
- Present sense impressions under rule 803(3) and
- Statements made to medical personnel under rule 803(4).

Excited utterances are utterances made by a person while under stress and excitement of a traumatic experience. These statements are exceptions to the hearsay rule because statements are made under such circumstances as to be deemed trustworthy. It is believed that a person who is functioning under stress and excitement has less capability of fabricating false statements for the purpose of gaining some advantage, (Celeste, E. Byron, 2005).

Present sense impressions are statement which the declarant makes to another person while the declarant is observing the event or immediately thereafter. It is suggested that present sense statements are credible because the person making them has no time for fabrication or memory failure, (Crawford Vs Washington, 310, 2005).

Statements made for the purpose of obtaining medical treatment are also commonly used as evidence in domestic violence cases. These statements are believed to be trustworthy because the declarant has a vested interest in providing accurate information to medical care providers. This is because providing inaccurate information to medical first responders, nurses, and physicians could result in further harm to a victim. Accordingly these statements have been an important exception to the hearsay rule in cases involving

domestic violence against reluctant witnesses. In the domestic violence context a victim may seek medical attention following an attack and describe to the medical personnel how and by whom the injuries were inflicted. This statement may then be offered as evidence in a trial, (Celeste, E. Byron, 2005).

2.12 Other Interventions (Shelters)

Shelters are places where women fleeing from violent marital homes access temporal and safe refuge. While in these places, women receive counseling and advice on the relevant organisations that can help. In Zambia this service is provided by the Young Women Christian Organisation YWCA. The relevance of these shelters in assisting women as victims of wife battery is supported by Connors (1989) who argues that shelter provision has proved to be the most important service for victims of domestic violence. However, Brodsky and Mustin (1980), and Register (1993) have countered Connors position and instead argue that though shelters provide crisis intervention techniques for battered women, this intervention may not be a solution everywhere. As reported by the Asian and Pacific Network (1990), in Vietnam the Women's Union reject shelters and thus intervene directly in violent situations thereby focusing on men's behaviour.

The situation therefore entails that there is urgent need to address the problem. Workable strategies need to be arrived at, otherwise efforts that have gone in public awareness campaigns to sensitise women on the need to report cases of domestic violence will be in vain. It is therefore the purpose of this research to try and establish the underlying factors and thereby make policy recommendations.

3.0 CHAPTER THREE: METHODOLOGY

3.1 Study Design

This study adopted a mixed method design. The descriptive and explanatory designs used qualitative methods. A mixed method approach was considered so that the researcher could have a holistic picture of what the phenomena of prosecution was like (Shepard and Green, 2003 ; Neumann, 2006).

3.2 Descriptive Study Design

Using the arguments of descriptive research by Bless and Achola (1983), the researcher opted to give an accurate account of the characteristics of wife battery and its prosecution. It also includes the estimates of how frequently some events occur or of a proportion of people within a certain population sharing certain views or acting in a certain manner. The subject of the investigation is precisely determined before the research starts. Therefore this research utilised a descriptive design in order to bring out the characteristics of the problem, for example, the frequency of wife battery, the social economic characteristics of the victims of wife battery - that is, whether they come from high, medium or low social economic status. The description also included the number of wife battery cases reported, those taken to court and those that are withdrawn by way of reviewing the records at the selected police stations.

3.3 Explanatory Study Design

This is a type of research which is usually used when an explanation is sought for relationships between variables. The explanatory research component of the design was structured such that the researcher would be in a position to elicit associations of wife battery and prosecution and not simply to describe them. This is an argument Bless and Achola, (1983) advances for research that takes an explanatory view.

3.4 Study Area

The study was conducted in Lusaka urban district of Lusaka province because it provides easy access to respondents of diverse cultural background. Lusaka urban district is situated in the central part of Zambia and covers fourteen (14) police stations which include: Lusaka central, Matero, Emmasdale, Woodlands, Kabwata, Chilenje, Chelstone, Ngwelere, Chawama, Chilanga and Kafue. Lusaka Central and Matero are Grade A Stations, meaning that they cover a bigger jurisdiction of not only residential areas but also industry and business premises and the two stations are headed by superior officers of the rank of Superintendent. The rest are Grade B Stations, meaning that they cover a smaller area as compared to Grade ‘A’ Stations and are headed by superior officers of the rank of Assistant Superintendent (Establishment Register for Zambia Police, 2010).

3.5 Study Population

The population of the officers in Lusaka urban police stations was 3500 who are destined in 14 various police stations. There are two grade A stations namely Matero and Lusaka Central while the rest are grade B stations which are Woodlands, Chilenje, Kabwata, Chelstone, Simon Mwansa Kapwepwe, Chawama, Kanyama, Makeni, Chilanga, Ngwelere, and Emmasdale. The officers from the 5 selected stations belonging to prosecutions department and VSU had a defined population of 143 officers. These were 58 VSU officers and 85 prosecutors. The selection of these two departments had been due to the fact that they are the ones who deal with cases of wife battery at station level and courts respectively. Included also in this population were 20 survivors of wife battery and 25 Church leaders from Chipata Compound, Northmead and Kabwata giving a total of 188.

3.6 Sampling Procedure

Two stations which are Matero and Lusaka Central are grade A while the rest are grade B stations. One grade A station was selected out of the two by way of lottery method using a simple random system. Only 5 out of these 12 grade B stations were also picked by

way of a simple random system using a lottery method. To select the 5 required stations, all the 12 grade B stations were assigned with numbers on pieces of papers to identify with the stations. A raffle was conducted by folding and mixing these papers then putting them in a box and shaking them. After each shaking someone was asked to pick one. The number that was picked with that identity was the station where the sampling frame was drawn. This was done with placement meaning that you have to put back the selected unit during the selection process. If it was re-picked, then you do not consider it but put it back. This made the population to remain constant.

Since the focus of the study was on Victim Support Unit and Prosecutions officers all names of VSU officers and their sub-groups of men and women, at each selected stations were listed to select a sample for each selected station. Prosecutors are all based at Lusaka Division and their selection was based on the list of their names provided about their population following the same simple random system. Here the stratified sampling and proportionate procedure was used. This was so because the selected stations had variations in population. The procedure helped to balance the sample and avoid bias. In this regard, a sampling fraction for VSU and Prosecutors sampling frame to come up with the proportionate sample size. This is denoted by $f_h = n \div N$ where small n is for the sample size and capital N for the population. The sample size of the study was 112 and the population was 188 which gave a sampling fraction of $112 \div 188$ giving 59% of the population as a sample size. Out of the sample size of 113 respondents, 5 VSU coordinators, 12 senior prosecutors, 25 church leaders were purposefully selected while 20 battery survivors were conveniently selected. This was so because VSU coordinators and senior prosecutors are very few who are very experienced hence getting all of them. On church leaders, because there was no proper official list for the registered churches with the registrar of societies and the survivors was due to the fact that their stay at YWCA drop in shelters was not permanent.

3.7 Study Sample

The sample size of this research was one hundred (100) respondents; 20 survivors of domestic violence from YWCA shelter, 35 victim support unit officers, 25 police prosecutors and 20 key informants (church leaders).

3.8.0 Data Sources

Data that was collected comprised two sources – that is, primary and secondary sources;

3.8.1 Data Collection

Data was collected through actual field research using questionnaires and interview guides in order for the study to capture specific and detailed information from the respondents' narrations, suggestions, opinions, views and comments. This data constituted the main source of information for the study. The questionnaires that were used had both closed and open ended questions. Closed ended questions were used to give a choice of answers, some questions only required, for example, a 'yes' or 'no' response. Structured questions were used in order to allow for an easy comparison and quantification of the results. On the other hand, open ended questions were used in order to leave respondents free to express their answers as they wished. Questionnaires were administered to victim support unit officers, public prosecutors and church leaders. Primary data was also collected through the use of an interview guide. This method was used because there was need for more specific and detailed information in order to facilitate comparison of the reactions of different participants. The interviews were structured in the sense that a list of issues that were investigated were made prior to the interview. The list contained some precise questions and their alternatives or sub-questions depending on the answers that were given to the main questions (Bless and Achola, 1983). Interview guide was used when collecting information from survivors of domestic violence at YWCA where focused group discussions were conducted.

3.8.2 Primary Data

Primary data was collected through actual field research using questionnaires and interview guides. This data constituted the main source of information for the study. The questionnaires that were used had both closed and open ended questions. Closed ended questions were used to give a choice of answers, some questions only required, for example, a 'yes' or 'no' response. Structured questions were used in order to allow for an easy comparison and quantification of the results. On the other hand, open ended questions were used in order to leave respondents free to express their answers as they wished. Questionnaires were administered to victim support unit officers, public prosecutors and church leaders. Primary data was also collected through the use of an interview guide. This method was used because there was need for more specific and detailed information in order to facilitate comparison of the reactions of different participants. The interviews were structured in the sense that a list of issues that were investigated were made prior to the interview. The list contained some precise questions and their alternatives or sub-questions depending on the answers that were given to the main questions, (Bless and Achola, 1983). Interview guide was used when collecting information from survivors of domestic violence at YWCA where focused group discussions were conducted.

3.8.3 Secondary Data

Secondary data is data that has been collected by other investigators in connection with other research problems or as part of the usual collection of social data as in the case of population census. This is second hand data or at least once removed from the original event such as a summary of important statistics, newspaper column based on an eyewitness account (Neil Salkind, 2004). Thus, secondary data in this study included statistical data mainly from official records and reports from the police; major records where offences of wife battery are recorded from 2007 to 2010. These include the Occurrence book, Crime register, Records book and the Court register; and Non Governmental Organisations like YWCA, WILDAF, WILSA and many others which deal with gender issues.

3.8.4 Data Collection Techniques

3.8.5 Focused Group Discussion

Focused group discussions were held to elicit information from survivors of domestic violence. A focus group discussion (FGD) is a good way to gather together people from similar backgrounds or experiences to discuss a specific topic of interest. The group of participants is guided by a moderator (or group facilitator) who introduces topics for discussion and helps the group to participate in a lively and natural discussion amongst themselves. The strength of FGD relies on allowing the participants to agree or disagree with each other so that it provides an insight into how a group thinks about an issue, about the range of opinion and ideas, and the inconsistencies and variation that exists in a particular community in terms of beliefs and their experiences and practices. Krueger, R.A. (1988).

3.8.6 Interview Guide

Data collection through this method was in form of structured interviews. The researcher had a much more precise goal of gaining an insight into the experiences of the victims of wife battery. This method was used because there was need for more specific and detailed information in order to facilitate comparison of the reactions of different participants. The interviews were structured in the sense that a list of issues that were investigated had been made prior to the interview. The list contained some precise questions and their alternatives or sub-questions depending on the answer to the main questions, (Bless and Achola, 1983). Interview guide were used when collecting information from survivors of domestic violence at YWCA where focused group discussions were conducted.

3.8.7 Pre-Test

Before the final data was collected, a pre-test was carried out in order to ensure that the data collection instruments and questions were appropriate for the research.

3.9.0 Data Analysis

Data was analysed using mainly qualitative methods though quantitative methods was used for part of the structured questionnaires.

3.9.1 Quantitative Data Analysis

Upon collecting information from the field, all questionnaires were checked to ensure uniformity, consistence and completeness. Quantitative data collected through questionnaires was coded and then analysed using statistical package in Social Sciences SPSS. SPSS was used in the quantitative data analysis because it helped to obtain frequencies and percentages in an accurate, precise, easier and fast way. Methods for verification and analysis of quantitative data included frequency tables, cross tabulation and measures of variability. This was done in order to understand patterns and relationships between variables.

3.9.2 Qualitative Data Analysis

Qualitative data was collected through note taking in focus group discussions and open ended questions of the questionnaires. This data was analysed manually using content or thematic analysis. This technique involved compressing and categorizing many words into fewer content categories which were based on explicit rules of coding. The coding involved building and applying a concept dictionary of fixed vocabulary of terms on the basis of which words were extracted from the textual data for coding or statistical computation. Qualitative content analysis can involve any kind of analysis where communication content (speech, written texts, interviews images etc) is categorized and classified, (Robert Weber, 1990)

3.10 Ethical Considerations

Considering that the subjects of this study were human beings and sensitive records of the Zambia Police, there was need to ensure that the subjects were protected from any kind of harm, therefore, ethical issues were taken into account. Thus, first and foremost, consent from relevant authorities was sought in the case of Zambia Police and YWCA shelter. Owing to the sensitive nature of the records that were reviewed in the selected police

stations, the researcher ensured that information that was obtained from these records was kept confidential – that is, information obtained was restricted to the researcher and used only for academic purposes; secondly, direct and informed consent was sought from participants at YWCA shelter. Participants were treated with utmost respect and also confidentiality was exercised. Lastly, having had put all the said issues into consideration, clearance to proceed with the research was sought from the Ethics Committee of the University of Zambia.

3.11 Limitations of the Study

Due to limited resources, the study was conducted only in selected areas of Lusaka province, which included five (5) police stations – Matero, Chilanga, Chelstone, Woodlands, and Chawama. This meant that not all the police stations were interviewed; however this was mitigated by ensuring that the selected sample was as representative as possible. Furthermore, owing to the sensitive nature of the topic that was researched, there was a possibility of non-responses from participants which was however mitigated by employing more skill and caution when soliciting for information and also by making follow ups.

3.12 Work Plan

Data collection was done from January 2011 to March 2011. This time allowed for an exhaustive collection of information from the identified respondents. However, the initial steps involved obtaining letters of authority from Zambia Police and YWCA. Thereafter, clearance to proceed with the research was sought from the Ethics Committee of the University of Zambia. After this, the final research commenced and data that was collected was organized and analysed before writing the report. The activities and approximate time frames are as illustrated in the work plan schedules.

4.0 CHAPTER FOUR: RESEARCH FINDINGS

4.1 Introduction

This chapter presents findings based on the information collected from the selected respondents who participated in the study. The chapter shall begin by describing the demographic characteristics of all the participants, then findings from the victim support unit and the police prosecutors. This shall be followed by data collected from church leaders and finally findings from the survivors of wife battery. Data has been organised and presented according to the sequence of the four objectives of the study starting with the victims' socio-economic status, police attitude, and victims' fear of stigmatisation. However, presentation of socio-economic factors have been disaggregated into economic and socio factors.

4.2 Socio-Demographic Characteristics of Respondents

The sample size of this study was one hundred (100) respondents broken down as follows; 20 YWCA shelter survivors of domestic violence, 35 victim support unit officers, 25 police prosecutors and 20 key informants (church leaders). Of the total participants, Table 1 shows that 57 respondents were female while 43 were male representing sixty two percent (62%) and thirty eight percent (38%) respectively. The study shows that the majority of the participants were female. The table also revealed that the majority of the survivors of domestic violence representing eighty five percent (85%) were below thirty five years (35) of age.

Table 2: Demographic Characteristics of Respondents (N = 100)

AGE GROUP	Survivors of Domestic Violence n (%)	Police Prosecutors n (%)	VSU Officers n (%)	Church Leaders n (%)	Total
24-35	17 (84.5)	13 (52.2)	17 (49.0)	10 (49.8)	57
36-45	3 (14.6)	7 (28.4)	15 (42.7)		25
46-65		5 (20.1)	3 (8.4)	10 (50.4)	18
Sex					
Male		17 (68.0)	11 (31.2)	15 (75.1)	43
Female	20 (100.0)	8 (32.3)	24 (69.0)	5 (15.0)	57
Level of Education					
Primary	2 (10.0)				2
Junior Secondary	13 (65.1)				13
Senior Secondary	5 (25.4)	8 (31.6)	20 (56.5)	9 (45.3)	42
Tertiary		17 (68.0)	15 (43.1)	11 (54.5)	43
Marital Status					
Married	20 (100.0)	13 (52.0)	30 (86.4)	13 (65.2)	76
Single		12 (48.4)	5 (14.2)	7 (34.6)	24
Total	20 (100.0)	25 (100.0)	35 (100.0)	20 (100.0)	100

4.3 Wife Battery Cases Withdrawn Due to Victims' Economic Status

Figure 1 shows a total of sixty (60) police officers from the victim support unit and prosecutions were asked to respond as to how often cases of wife battery were withdrawn because victims could not support themselves financially. Forty six (46) respondents representing seventy six percent (76%) said very often, seven respondents representing twelve percent (12%) said quite often while another seven (7) representing twelve percent (12) said often.

Figure 1: Proportion of Reported Wife Battery Cases Withdrawn Due to Victims' Economic Status (N=60)

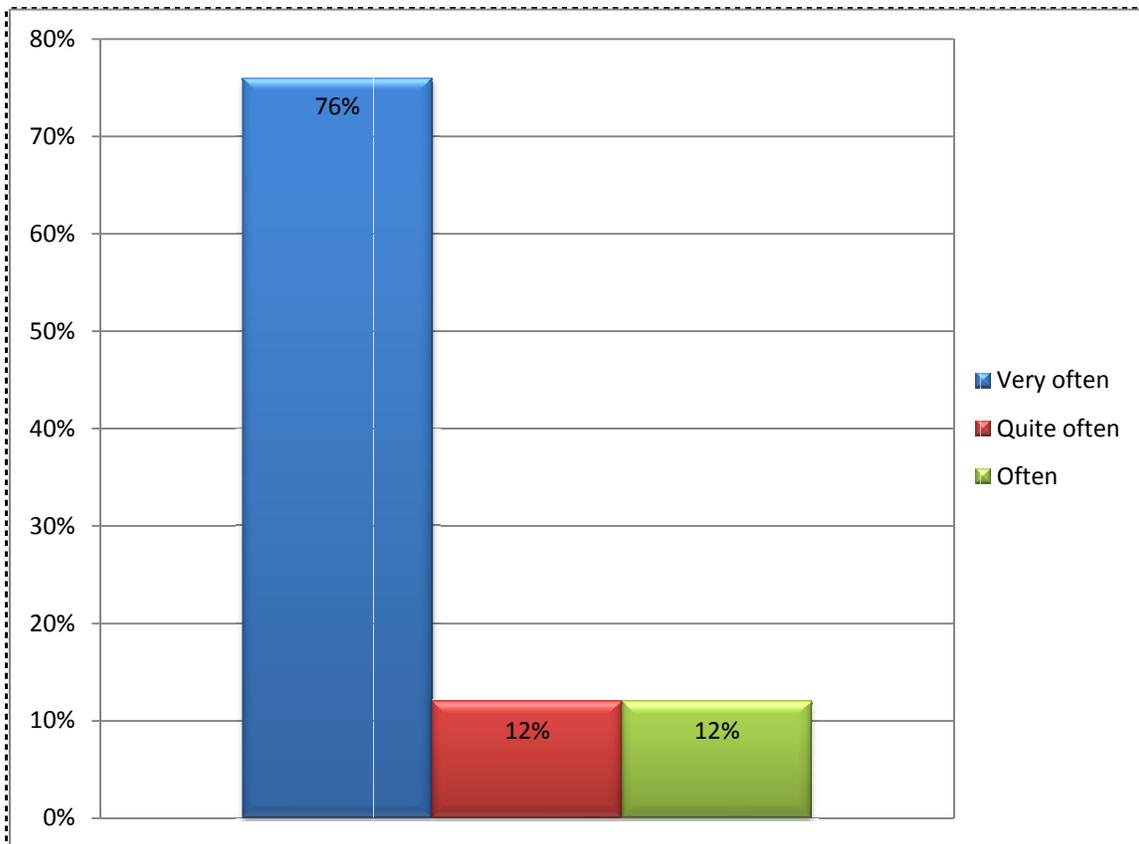
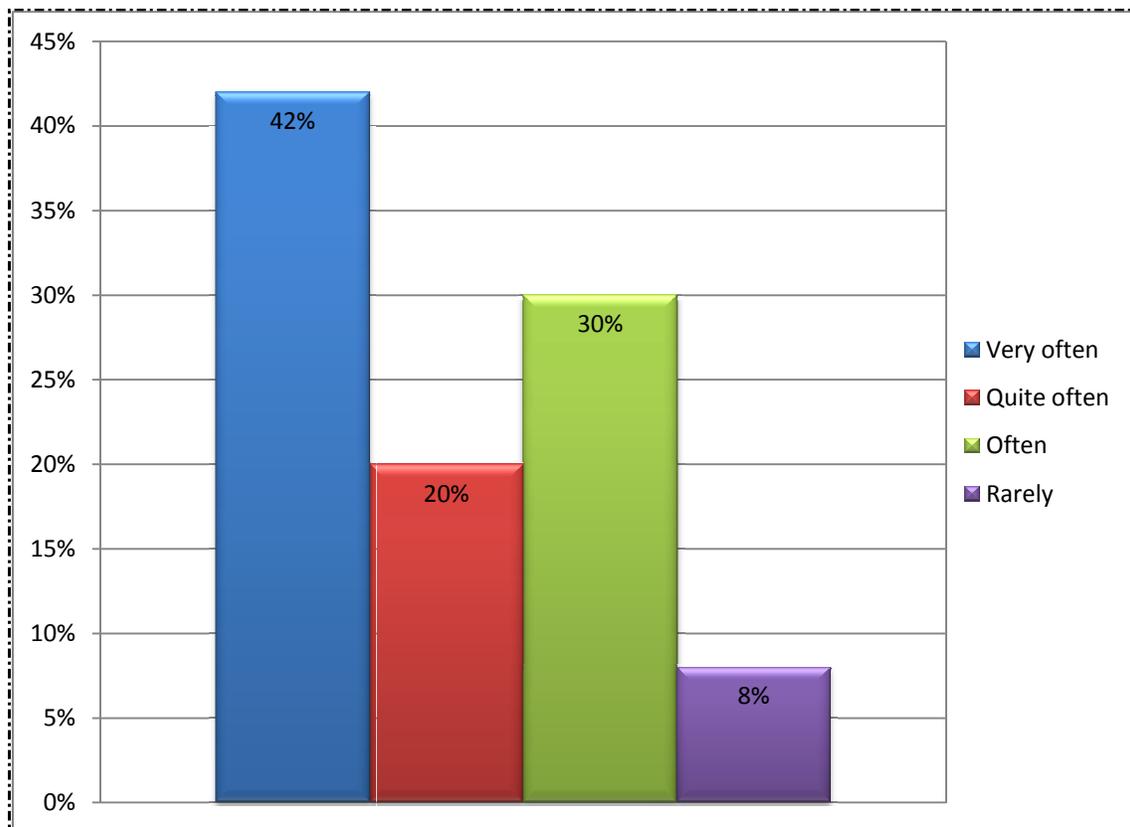


Figure 2 shows responses from officers who were asked how often victims of wife battery withdrew cases of wife battery despite having their own source of income. The study revealed that twenty five (25) respondents representing forty two percent (42%) said very often, 12 (20%) said quite often and 18(30%) said often while 5(8%) said rarely.

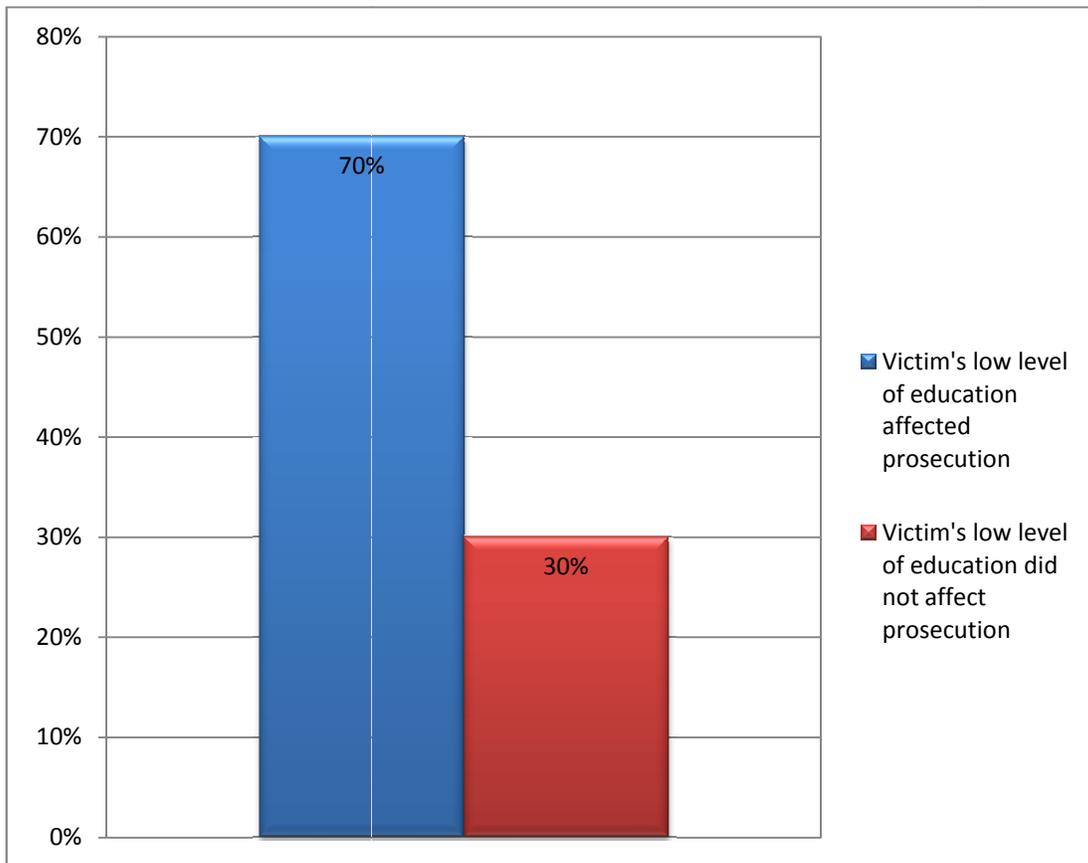
Figure 2: Proportion of Reported Wife Battery Cases Withdrawn Despite Victims Having Own Source of Income (N=60)



4.4 Education Background of Victims of Wife Battery

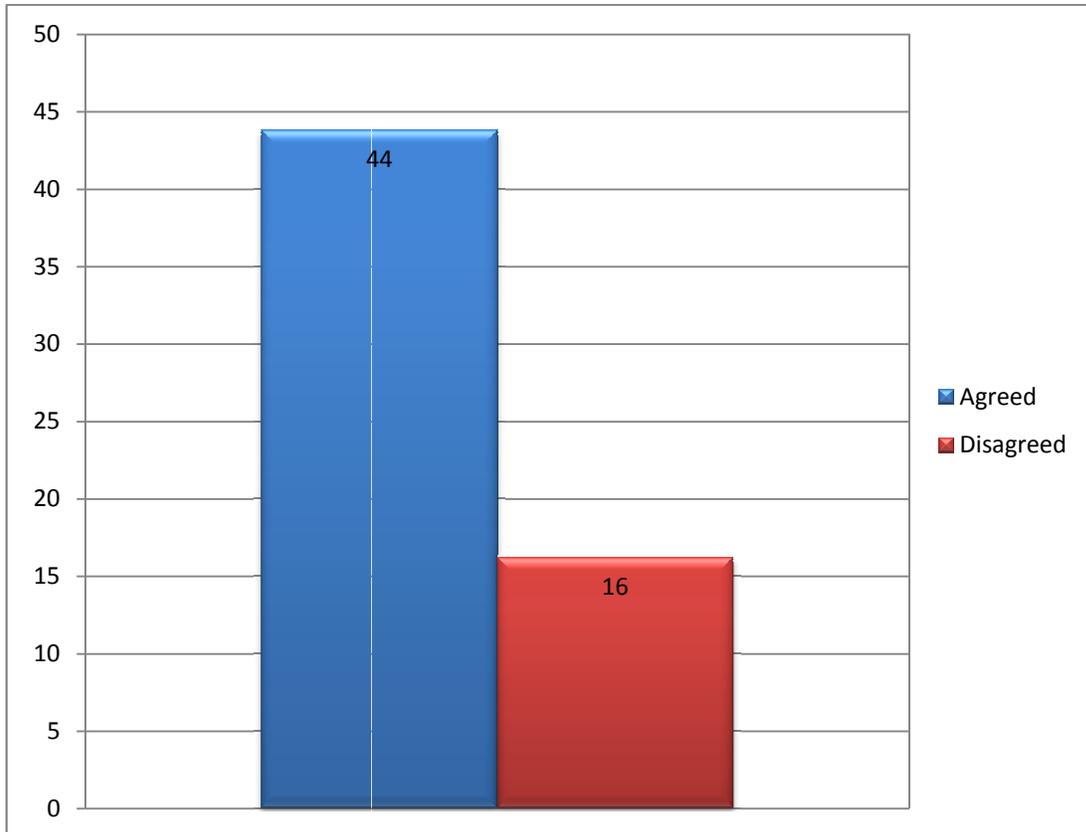
Police officers from the victim support unit and prosecutions were asked whether victim's level of education affected the prosecution of wife battery cases. Figure 3 shows that the majority forty two (70%) respondents said victim's level of education affected the prosecution of wife battery while eighteen respondents representing thirty percent (30%) reported that level of education did not affect the prosecution of wife battery cases.

Figure 3: Proportion of Respondents' Views on the level of education of victims affecting Prosecution of wife battery (N=60)



According to Figure 4, the majority (73%) of the respondents agreed that many victims of wife battery withdrew cases of wife battery due to lack of information while only twenty seven percent (27%) disagreed.

Figure 4: Number of Respondents who viewed lack of information as reason why victims withdrew cases of wife battery



4.5 Police Officers' Attitudes towards Prosecution of Wife Battery

Objective number two sought to establish whether police attitude affected the prosecution of wife battery cases. Various questions were asked to assess how officers reacted to different scenarios concerning victims of domestic gender based violence. Respondents were asked to express their opinion on the seriousness of wife battery. As presented in Figure 5, thirty three (33) respondents representing fifty five percent (55%) thought wife battery was a very serious case while fourteen (14) respondents representing twenty three

percent (23%) thought wife battery was serious. Twelve respondents thought it was slightly serious and only one (2%) thought it was not serious.

Figure5: Proportion of Police Perception about the Seriousness of Wife Battery Cases (N=60)

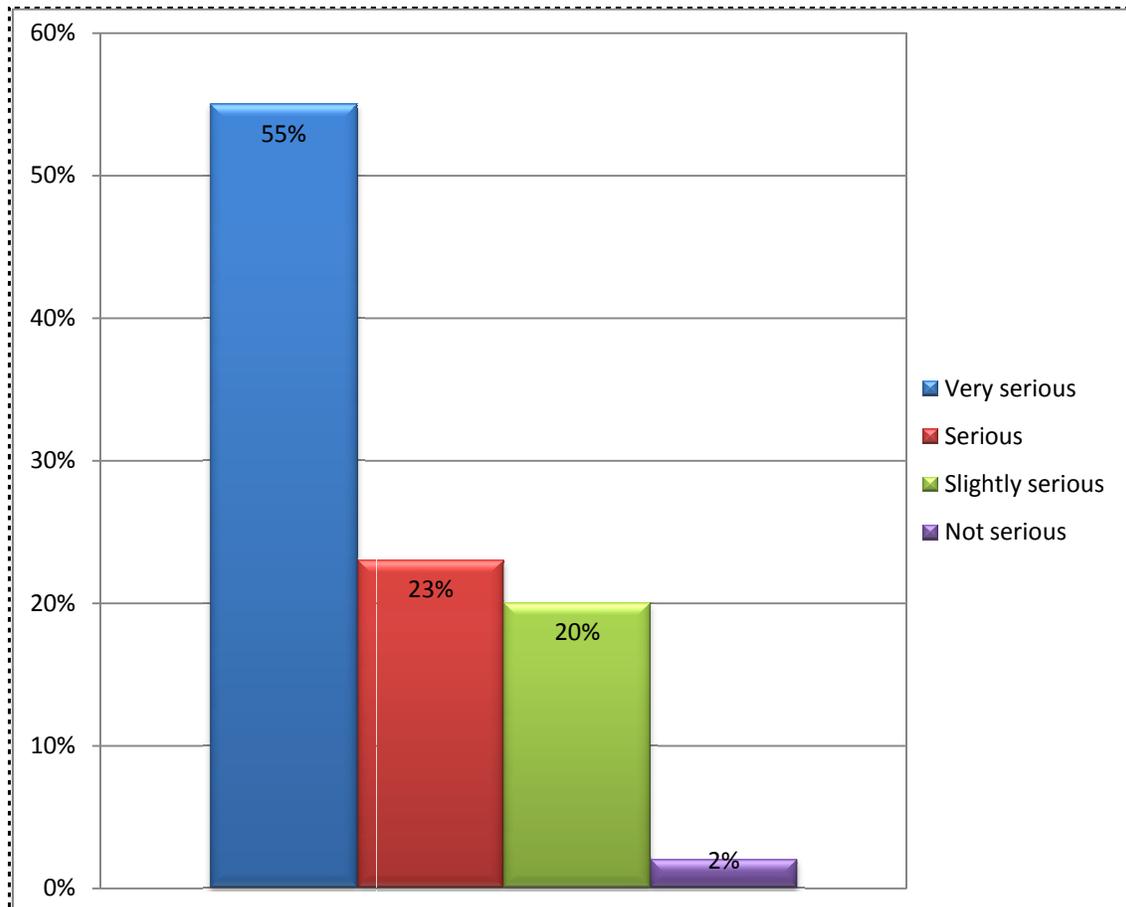


Figure 6 shows police officers' perceptions about having a man sent to jail by the courts of law for wife battery. This question was meant to assess whether officers encouraged withdrawals because they believed it was not good to send a man to jail due to cultural values which in turn may affect their attitude towards wife battery cases. According to the study it was revealed that twenty two officers (22) representing sixty three percent (63%) felt that it was okay to send a man to jail if he beat up his wife, only two (2), six percent (6%) said no while eleven (11), thirty one percent (31%) said sometimes it is okay to send a man to jail.

Figure 6: Perception about Sending a Man to Jail for Wife Battery among Police Officers (N=60)

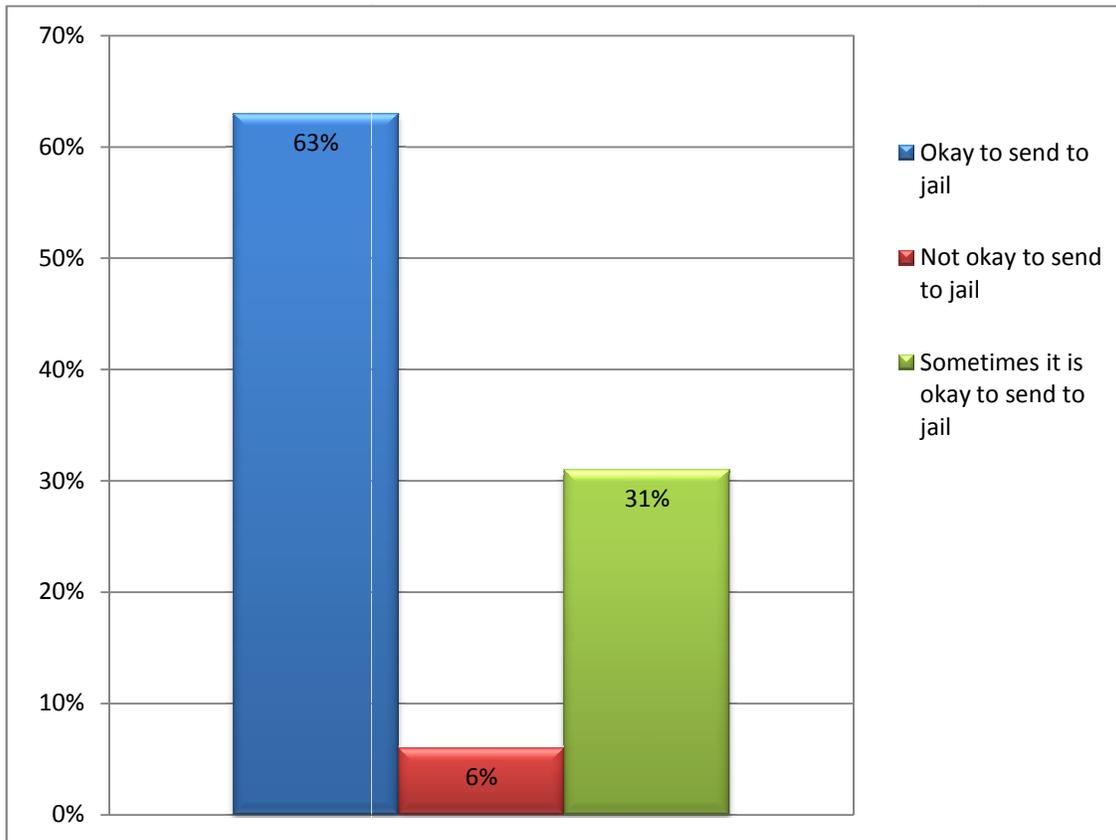


Table 3 shows responses from Police officers and church leaders who were asked whether the current law is adequate in protecting wives as victims of domestic gender based violence. The majority 56(70%) of the respondents agreed that the current law was adequate in protecting wives as victims of domestic gender based violence while 24(30%) disagreed.

Table 3: Is the current law adequate in protecting wives as victims of DGBV(N=80)

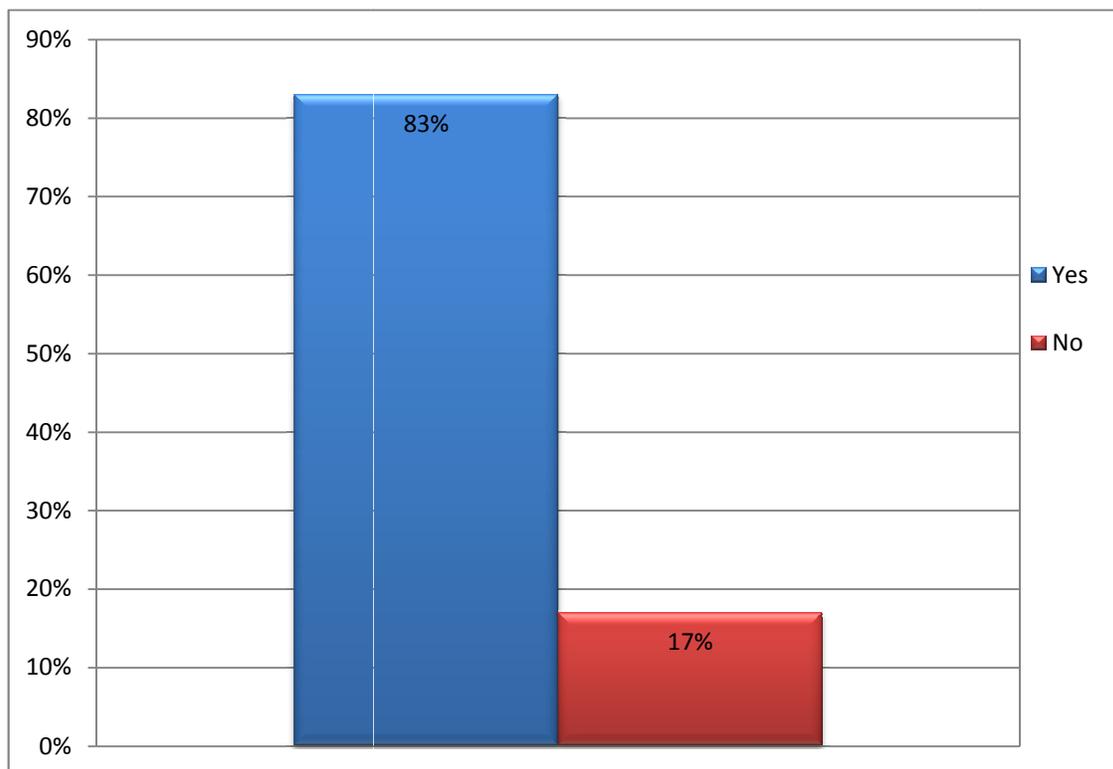
Item	Yes	No	Total
#	56	24	80
%	70	30	100

4.6 Victim's fear of persecution affecting prosecution of wife battery cases.

Objective number three sought to establish if victims' fear of persecution had a bearing on the prosecution of wife battery. Therefore in order to address this objective, all the participants in the study were asked to state whether cases of wife battery are withdrawn because victims feared the opinion of relatives or society.

Figure 7 shows that the majority of the respondents who participated in the study representing eighty three percent (83%) said yes to the question while only seventeen percent (17%) said no.

Figure 7: Proportion of Respondents who viewed victim's fear of persecution as the reason why victims withdrew cases of wife battery(N=100)



4.7 Narrations, Suggestions, Opinions, Views, Recommendations and Comments from the Participants.

In order for the study to also capture specific and detailed information from the respondents, narrations, suggestions, opinions, views and comments were gathered through focused group discussions and open ended questions infused in the questionnaires. This approach of collecting information was meant to bring out experiences of the victims of wife battery and also capture data that may have been left out in the closed ended questions of the questionnaires.

The various responses that were gathered from the survivors of wife battery indicate that the majority of the participants only went to the police after the incidences of battery at home had escalated to very serious levels. Furthermore, out of those victims who reported to the police, the majority only went to report as a way of instilling fear in their husbands and not necessarily to have the assailant jailed. Hence, most participants said they went to the police only to have their husbands disciplined since they had no capacity to do so on their own. The study also revealed that among the victims that sought the intervention of the police, many did so because they had realized that their relationships were beyond redemption and hence they had nothing to lose. However, most respondents preferred holding on to the relationship hoping for the problem to go away as opposed to going to the police.

Respondents were also asked if they would withdraw cases of wife battery if they had their own source of income. Most respondents said they would not withdraw such cases from the police if their husbands were very abusive but if they had been beaten only once or a few times participants said they would withdraw or totally not report such cases. Among the various reasons that were given for not pushing through with prosecution included the fact that most participants believed that being beaten was not wrong if the wife was at fault and in some instances was indicative of their husbands' love. These participants were however quick to categorize the type of beating that was tolerable. If the beating involved slapping or slight shoving, the majority of the participants felt that

such beating could be tolerated and thus did not warrant reporting to the police. However, if fists, kicking and use of other objects were involved, some participants felt such aggression needed to be reported if it persisted. Some participants felt pressured to stay in abusive relationships due to children whom they felt should grow up with both parents.

Yet still, other participants indicated that even when they had an interest in pursuing the course of justice, sometimes it was difficult or even impossible to do so because of the attitude of some police officers. Mary Chanda, 'not her real name' narrated that her husband of thirteen years had beaten her several times. When she finally decided to go to the police because the situation was getting worse, Mary said the police discouraged her from going to court insisting that the offence was not very serious and that she was not serious with taking the case to court. The police kept telling her to consider the welfare of the children let alone the marriage. 'We know u are not serious you will come to withdraw the case just go and think about it', the police insisted.

Another victim of wife battery narrated that she had been in marriage for nineteen years and that her husband beat her once. Nancy, 'not her real name' said when she was beaten she did not go to the police because she believed she was the one who was wrong since she did not tell her husband where she had gone on that material day. Nancy said however her relatives had told her to report to the police if she wanted but she felt that since her husband was not in the habit of beating her she saw no point especially that she was the one to blame. Nancy also explained that her social economic status was not a factor in deciding whether to go to court or not, adding that when she was beaten she never went to the police even when she had her own source of income. According to Nancy, whether one works or not they should report to the police if their husbands are very abusive.

Concerning whether the current law is adequate in protecting victims of wife battery, respondents seemed to hold varied views. Some of the respondents said the current law was adequate since the courts were able to send a person to jail if convicted for assault and this they said is provided for in section 248 Cap 87 of the penal code of the laws of

Zambia. These respondents went further to criticize the enactment of the new Anti Gender Based Violence Act which they said was a an unnecessary and bad law that risks ending up barren on shelves like its sister law – sexual harassment, (Sec. 137A of Cap. 87). The following reasons were hence cited; the Anti GBV Act was said to be a duplication of some already existing and effective laws, for example, assault Occasioning Actual Bodily Harm, Sec. 248, Unlawful Wounding, Sec. 232, Grievous Bodily Harm Sec. 229, Murder Sec 200 and several other provisions of the penal code. A person may even be charged with attempts to commit any of such offences under Sec. 389 down to Sec. 392 of the Penal Code. These provisions are more specific and certain in terms of degrees of injuries and circumstances under which they are committed as opposed to naming offences ranging from mere word utterances to serious injuries in a blanket tag, ‘GBV’. Therefore the penal code is competently placed to deal with these offences already.

Furthermore, the respondents pointed out that the Anti GBV Act is likely to conflict with the penal code as regards the law enforcer’s choice of which offence to charge the accused with. This comes about because the objective of the Anti GBV Act is equally punishment. For instance, it was argued that why should a law enforcer opt for GBV when the extent of the injury calls for grievous bodily harm? Is it possible that GBV can offer a higher sentence upon conviction than the latter? Perhaps one should argue that the Anti GBV Act unlike the penal code comes with incentives to help the family in an event of imprisonment of the breadwinner. It was stressed that such an undertaking is not sustainable. Is the Anti GBV Act trying to offer an alternative to the failures of the social welfare department? According to some respondents, this department failed because funds are either misappropriated or stolen by controlling officers. Funds at the social welfare office are not accessible by the beneficiaries. The respondents further argued that currently there are many orphans on the streets as a result of failures of the office to help them. Therefore, even if NGOs advocating for Anti GBV Act had funds to help victims of GBV, the question is how much should be a family allocation? Is it going to carter for children’s school fees and feeding for the whole family and for how long?

In addition, GBV is practically difficult to implement successfully. This is because it deals with persons whom to a larger extent are either intimately connected or are close associates usually such persons do not want their partners to go to prison. A victim support analysis revealed that ninety (90%) of such cases are withdrawn just at the police investigation level. Even if the law enforcers refuse to allow withdraws and take them to court, victims do not turn up to tender evidence, and the new Act has no provisions as to further course of action in such an instance. Reasons for this vary from love to culture. Therefore, some respondents explained that perhaps the Anti GBV Act should end at sensitisation and to engage the community in discussions not prescribing punishment as punishment is already provided for in the penal code.

Others explained that the current law was not adequate since there were no specific provisions of wife battery in the penal code saying that wife battery falls within the general category of assault which include occasioning actual bodily harm (OABH), unlawful wounding and grievous bodily harm (GBH). The participants explained that since these categories do not discriminate on the basis of gender there is an inherent inability to fail to deal with the unique nature of assault that takes place between spouses. It was therefore for this reason that most assaults that take place between spouses never go very far because in most cases victims do not easily avail themselves to give testimony.

Therefore, lack of willingness to testify by victims of wife battery was stressed by most police prosecutors and victim support unit officers as being the major barrier. Most participants thus felt that a law should be enacted to compel victims of wife battery to testify against their husbands. This measure they said was the only sure way of having many wife battery cases prosecuted. This point was echoed by many participants from the different groups of the study that were interviewed.

The study further revealed that efforts to effectively prosecute wife battery cases were being hampered by lack of protection of the victims of wife battery. Most victims even after reporting to the police have to go back to their husband's houses. This leaves them

vulnerable to further abuse or intimidation either from the husband or relatives. In other instances it is the victims themselves who tend to feel sorry for their spouses due to the nature of the relationship. As a result most victims end up being discouraged to go ahead and appear in court against their assailants. A number of participants thus recommended that the institutional and legal framework needed to be strengthened by specifically addressing gender based violence cases. Support structures like the Community Services Directorate which houses the victim support unit and drop-in-centers like the YWCA and many others needed to be sufficiently funded.

Others stressed the fact that the response rate of the police from the time a complaint is made to arrest sometimes gives the offender time to dissuade the victim not to go ahead with the case. Standard procedure is that when a victim complains to the police about an alleged assault they are supposed to be issued with a medical report which will require an expert in the medical field to sign. After the medical report is signed by a medical expert it is supposed to be taken back to the police where a statement is recorded from the complainant and a docket of case opened. It is only after this stage that the police can make a follow-up. However, this process may take time resulting in many victims being discouraged along the way. Therefore in most instances, the lapse of time may also cause other victims to get discouraged or persuaded by their assailants to act otherwise. Hence many complainants after being issued with medical reports never come back to the police so that a follow-up can be made. This situation was thus attributed to the inadequacy of the law because it does not provide for a speedy arrest of the offenders of wife battery due to what many called unnecessary procedures.

Other participants suggested that advocacy was needed, thus a lot of sensitization and awareness campaigns should be made in order to raise awareness and hence equip wives with information regarding their rights and also to empower them with life surviving skills. Further still, others suggested that society should also focus on programmes to counsel husbands on the dangers of beating a wife and also inculcate Christian values in them.

5.0 DISCUSSION OF KEY FINDINGS

5.1 Introduction

This chapter presents the discussion of findings and therefore, the main issues that have been presented in the previous chapter shall further be highlighted and discussed in relation to the objectives of the study and literature that has been reviewed. Hence, this chapter also gives an overview about what other authors have written regarding wife battery and narrations, suggestions, opinions gathered from the participants. In this chapter, like the preceding chapter, data has been organized and presented according to the sequence of the four objectives of the study starting with the victims' economic dependence, police attitude, victims' educational status and victims' fear of stigmatization.

5.2 Victim's Economic Dependence¹

Objective number one of this study sought to establish if the victim's financial position (economic dependence) affects the prosecution of wife battery. People from different sections of society have always argued that gender based violence in general and wife battery in particular has always been as a result of the compromised socio-economic status of women in society. Different schools of thought have stressed the fact that women are vulnerable because of their financial dependence on men which in most cases results in failed prosecution of wife battery cases. The discovery made by this research however had mixed results. Whereas the wider view held by people was confirmed, another question regarding this position was also raised, indicating that it is not always the case that victims withdraw wife battery cases due to their financial dependence on men.

According to the Zambia Gender Based Violence Report, (2000), statistics of the prevalence of wife battery in Zambia should be interpreted against a backdrop of a tendency of most complainants withdrawing cases of violent abuse for various reasons.

¹ To assess if the economic status of victims of wife battery has influence on prosecution of such cases;

The most cited example has been that of women who are economically dependent on their husbands and have to return to the same household where the assault may have taken place. The report further points out that this can best be illustrated by the records obtained from the police which indicate that one thousand and sixty (1060) assault cases on women reported in 1999, only 372 proceeded to the stage of arrest and this is without referring to the number of cases that actually went to prosecution and resulted in conviction.

The foregoing argument can, in part, be supported by evidence from this study which has also shown that in many instances victims of wife battery have time and again withdrawn cases of assault perpetrated by their husbands because they cannot support themselves financially. From the various responses obtained in the study, it immediately becomes apparent that most withdrawals at the police stations have been as a result of victims complaining that they had nothing to eat at home because the sole bread winner had been incarcerated. The majority of police prosecutors and victim support unit officers were able to confirm that in many instances after victims of wife battery report to the police and the perpetrator brought to book, the complainant would again come back to ask for the case to be discontinued. Therefore, prominent among the various reasons which victims have indicated as bases for withdrawing wife battery cases is the failure to support the family due to lack of income.

Hence, the study was able to confirm that victims' lack of income has a bearing on the prosecution of wife battery cases and in a vicious circle, lack of prosecution renders wives vulnerable to more violence. This view is also held by the Indian Journal of Gender Studies, (2008) which has stated that women bear a disproportionate burden of the world's poverty. Statistics indicate that women are more likely than men to be poor and at risk of hunger because of the systematic discrimination in employment and control of assets. Being poor can also mean they have little protection from violence.

The study however discovered that there were also statistics of wife battery cases being withdrawn by victims who were in gainful employment. Police prosecutors and victim

support unit officers were able to indicate that there were also a number of wife battery cases being withdrawn by victims who had an income. A case in point is the one involving a named TV personality who was beaten by her husband and reported the case to the police only to end up withdrawing the matter and this was also despite the Anti GBV Act being in place, (The Post 2012, Postbag Column, February 27).

The foregoing scenario is supported by responses from participants who were also asked if they would withdraw cases of wife battery even if they had their own source of income. Most respondents said they would not withdraw such cases from the police if their husbands were very abusive; but if they had been beaten only once or a few times participants said they would withdraw or totally not report such cases. Among the various reasons that were given for not pushing through with prosecution included the fact that most participants believed that being beaten was not wrong if the wife was at fault and in some instances was indicative of their husbands' love. These participants were however quick to categorize the type of beating that was tolerable. If the beating involved slapping or slight shoving, the majority of the participants felt that such beating could be tolerated and thus did not warrant reporting to the police. However, if fists, kicking and use of other objects were involved, some participants felt such aggression needed to be reported if it persisted. Some participants felt pressured to stay in abusive relationships due to children whom they felt should grow up with both parents.

Another victim of wife battery narrated that she had been in marriage for nineteen years and that her husband beat her once. Nancy, (not her real name) said when she was beaten she did not go to the police because she believed she was the one who was wrong since she did not tell her husband where she had gone on that material day. Nancy said however her relatives had told her to report to the police if she wanted but she felt that since her husband was not in the habit of beating her she saw no point especially that she was the one to blame. Nancy also explained that her social economic status was not a factor in deciding whether to go to court or not, adding that when she was beaten she never went to the police even when she had her own source of income. According to

Nancy, whether one works or not they should report to the police if their husbands are very abusive.

In some instances wife battery cases failed to reach prosecution stage despite the husband not being in any meaningful employment. This scenario therefore raises the question that economic dependence was not the only reason why wife battery cases were not being prosecuted.

Despite women's financial dependence being the highly proclaimed factor for low prosecution of wife battery cases, it is however not necessarily the only reason that explains the phenomenon of low prosecution. The revelation is that women do not want to hold on to the relationship purely because of the financial dependence on men. The issue that comes to the fore here is that of the sanctity of marriage. According to Ferraro and Boychuk, (1992), most women's first response when hit by a partner is not to leave immediately, file for divorce and never look back. In many cases, a woman calling for help with a battering partner is not declaring an end to the relationship, she is asking for help to control his violence. At the point of prosecution many women ask the court for help for their abuser rather than imprisonment. When marriage occurs, the state and state sanctioned religion intervene to ensure that both parties take their obligation to matrimony seriously. Even in the case of no-fault divorce the dissolution of marriage is much slower. Informal social control is very clear and strong. Divorce represents failure and should be avoided unless all possible remedies have been exhausted especially if children are involved.

Hilton (1993) also further consolidates the foregoing argument by stressing that most battered women want the violence to stop but do not necessarily view arrest as the avenue to achieve the peace. In fact, many victims are terrified that their husbands will exact revenge if charges are laid. Still others are embarrassed and intimidated by the prospect of appearing in court to testify against their partner. In many cases, police have chosen not to lay charges at the victim's request. Many women are reluctant to subject the husbands to public humiliation or to risk damaging his reputation or career.

All these arguments therefore go to show that women's economic dependence on men is not the only cause of low prosecution of wife battery cases. This does not however mean that the argument should be totally dispelled. It cannot be denied that the economic status of women affects a lot of decisions which they make. Refusing to go through with prosecution after being battered is one of the decisions which are affected. This study was able to confirm the position that many cases fail to be prosecuted because of women's financial dependence on men. However, care must be taken to avoid laying more importance on this factor alone without taking other variables into consideration.

5.3 Education Background of Victims of Wife Battery cases²

The second part of objective number one of the study was aimed at establishing whether the educational background of the victims has an effect on the prosecution of wife battery cases. In order to achieve this goal, various categories of respondents were interviewed. The first category comprised police officers from the victim support unit, prosecutions and church leaders. From this category only the respondents' views were elicited. The other category comprised the victims or survivors of wife battery themselves. In the latter category the study focused on the education attainment of the victims who were interviewed and compared this with the various decisions they made regarding prosecution of wife battery.

According to the majority of the respondents who were interviewed, the study was able to establish that the level of education of the victims is indeed one of the important factors in the prosecution of wife battery. It is common place knowledge that education is power and that decisions made by a person by and large reflect on the educational attainment of each individual. When a person is educated it also follows that they have the power to make informed choices. Education in many respects entails empowerment, therefore it is no surprise that a large number of women who experience violence in their homes also have low or no educational attainment. In the same vein, the study revealed that most of

² To assess whether the education background of victims has a bearing on the prosecution of wife battery cases;

the victims who went to the police to withdraw cases of wife battery after reporting or refused to go to court had a humble educational background. Many of these victims only had a secondary school level of educational attainment, with the majority being below grade nine. The officers narrated that when victims of domestic violence went to the police to report that their husbands had assaulted them, it was more or less out of coercion either by family members or neighbours. Some of the victims did not even know that they needed to report to the police. Officers explained that in many instances they were at pains in trying to explain to the victims the importance of taking the perpetrators

5.4 Police Officers' Attitudes towards Prosecution of Wife Battery cases ³

Objective number two of this study sought to establish if the police attitude affects prosecution of wife battery cases. In order to do this, the study had questions for the respondents which were tailored to gauge how officers from both the victim support unit and police prosecutors reacted to certain situations. These situations included how the two sections of the Zambia Police viewed the seriousness of wife battery; whether wife battery was a good case to go to court; whether they felt it was okay to send a man to jail for battering his wife; and if they felt that the current law was adequate in dealing with wife battery cases.

Failure to prosecute wife battery has been attributed by some quarters of society to inadequate attention paid to such cases by the police. The attitude of the police in dealing with wife battery cases has now and again come up as one of the hindrances to the effective prosecution of such cases.

The above view is also held by Saunders and Size (1986) who compared 116 police officers, 39 counselor advocates from battered women's shelters and 52 wife assault victims in the extent to which they viewed wife assault as criminal and arrest as the best response. All tended to rate marital violence as bad in general. They also tended to see the violence as not normal with the advocates being more extreme in this response. All groups agreed that marital violence was unjustified; however, police officers were

³ To examine police officer's attitude towards low prosecution of wife battery cases.

significantly more likely than either victims or advocates to endorse the view that violence was justifiable in the specific case of infidelity by the victim. In addition, police were significantly less likely than other groups to believe that the best way to deal with marital violence is to arrest the offending party.

The findings of this research are also able to partially confirm the above revelation and indeed the perception held by many people. However, the study revealed that most of the officers who were talked to seemed to appreciate the seriousness of wife battery and as such the majority were able to categorize wife battery as a very serious offence. In addition, most respondents were also able to point out that arrest and prosecution of wife assaulters was the best course of action. The implication therefore is that officers did not condone wife battery.

Further still, the officers also indicated that wife battery was a good case to take to court hence removing the notion held by many people that wife battery cases had a low prosecution rate because officers believed such cases were not good to take to court. Bearing in mind that the attitude of the police officers towards wife battery cases can also be affected by inadequacies of the law, the study included questions to gauge officer's perception about the adequacy of the law in prosecuting wife battery.

The information gathered from other research participants did not support the data collected from the police. This study was able to establish that police attitude is a factor in the prosecution of wife battery cases. According to the findings, some participants indicated that even when they had an interest in pursuing the course of justice, sometimes it was difficult or even impossible to do so because of the attitude of some police officers. Mary Chanda, 'not her real name' narrated that her husband of thirteen years beat her several times. When she finally decided to go to the police because the situation was getting worse, Mary said the police discouraged her from going to court insisting that the offence was not very serious and that she was not serious with taking the case to court. The police kept telling her to consider the welfare of the children let alone the marriage.

‘We know u are not serious you will come to withdraw the case just go and think about it’, the police insisted.

The cascading effect of police attitude has in some instances resulted in victims who end up discouraged to follow through with prosecution. This view has been supported by Ford et.al (1983) who has stressed that in many respects, victim’s nonparticipation is a self-fulfilling prophecy attributable to the actions of prosecutors, judges and defense attorneys. In a bid to test victim’s commitment to have their husbands prosecuted, prosecutors persistently ask victims if they really want to follow through. In some instances prosecutors may even give victims reasons for not pursuing charges: for example, that it will cost the defendant money that might be better spent on the family; that it will create more stress and conflict in the family. Given all these reasons, victims may feel that if they chose to proceed, they may not have the support of the prosecutors. It further stresses that in other instances prosecutors may elect to wear down a victim’s resolve to proceed with prosecution by requesting continuances (adjournments) thereby necessitating multiple trips to court Ford et. Al. To further consolidate this position, Walker, (1997) pointed out that often women are made to feel responsible for their own victimization through screening questions; are you still living with this man? Have you filed for divorce? Why do you stay with him? Such questions make battered women feel little support in seeking to prosecute their partners; this situation arises out of the officers’ attitude towards wife battery cases.

Others respondents stressed the fact that the response rate of the police from the time a complaint is made to arrest sometimes gives the offender time to dissuade the victim not to go ahead with the case. Standard procedure is that, when a victim complains to the police about an alleged assault, they are supposed to be issued with a medical report which will require an expert in the medical field to sign. After the medical report is signed by a medical expert it is supposed to be taken back to the police where a statement is recorded from the complainant and a docket of case opened. It is only after this stage that the police can make a follow-up. However, this process may take time, resulting in many victims being discouraged along the way. Therefore, in most instances, the lapse of

time may also cause other victims to get discouraged or persuaded by their assailants to act otherwise. Hence many complainants after being issued with medical reports never come back to the police so that a follow-up can be made. This situation was thus attributed to the inadequacy of the law because it does not provide for a speedy arrest of the offenders of wife battery due to what many called unnecessary procedures.

On whether the current law is adequate or not, varied views were gathered. Some of the respondents pointed out that the current law was adequate in protecting victims of wife battery because there are provisions under our laws which provide for the prosecution of wife battery perpetrators. In line with this argument, many respondents cited section 248 Cap 87 of the penal code which provides for prosecution of assault offences. The respondents said the current law was adequate because the courts were able to send a person to jail if convicted for assault. These respondents went further to criticize the enactment of the new Anti-Gender Based Violence Act which they said was an unnecessary and bad law that risks ending up barren on shelves like its sister law – sexual harassment, (Sec. 137A of Cap. 87). The following reasons were hence cited, the Anti GBV Act was said to be a duplication of some already existing and effective laws, for example, assault Occasioning Actual Bodily Harm, Sec. 248, Unlawful Wounding, Sec. 232, Grievous Bodily Harm Sec. 229, Murder Sec 200 and several other provisions of the penal code. A person may even be charged with attempts to commit any of such offences under Sec. 389 down to Sec. 392 of the Penal Code. These provisions are more specific and certain in terms of degrees of injuries and circumstances under which they are committed as opposed to naming offences ranging from mere word utterances to serious injuries in a blanket tag, ‘GBV’. Therefore the penal code is competently placed to deal with these offences already.

Furthermore, the respondents pointed out that the Anti GBV Act is likely to conflict with the penal code as regards the law enforcer’s choice of which offence to charge the accused with. This comes about because the objective of the Anti GBV Act is equally punishment. For instance, it was argued that why should a law enforcer opt for GBV when the extent of the injury calls for grievous bodily harm? Is it possible that GBV can

offer a higher sentence upon conviction than the latter? Perhaps one should argue that the Anti GBV Act unlike the penal code comes with incentives to help the family in an event of imprisonment of the breadwinner. It was stressed that such an undertaking is not sustainable. Is the Anti GBV Act trying to offer an alternative to the failures of the social welfare department? According to some respondents, this department failed because funds are either misappropriated or stolen by controlling officers. Funds at the social welfare office are not accessible by the beneficiaries. The respondents further argued that currently there are many orphans on the streets as a result of failures of the office to help them. Therefore, even if NGOs advocating for Anti GBV Act had funds to help victims of GBV, the question is how much should be a family allocation? Is it going to cater for children's school fees and feeding for the whole family and for how long?

In addition, GBV is practically difficult to implement successfully. This is because it deals with persons whom to a larger extent are either intimately connected or are close associates usually such persons do not want their partners to go to prison. A victim support analysis revealed that ninety (90%) of such cases are withdrawn just at the police investigation level. Even if the law enforcers refuse to allow withdraws and take them to court, victims do not turn up to tender evidence, and the new Act has no provisions as to further course of action in such an instance. Reasons for this vary from love to culture. Therefore, some respondents explained that perhaps the Anti GBV Act should end at sensitisation and to engage the community in discussions not prescribing punishment as punishment is already provided for in the penal code. However, some doubt was cast on this position because when asked whether there should be a law to compel wives to testify against their husbands in wife battery cases, it was discovered that the majority of the officers wanted such a law to be enacted.

Despite stating that the law on wife battery was adequate, however, indicating that there should be reforms only points to the fact that actually the current law was not adequate and subsequently this can be a factor which has a bearing on the officer's attitude. The major reason why officers felt a law should be enacted is the refusal by victims of wife battery to testify against their husbands when cases reached prosecution stage. Bannon et

al (1975) supports this position by stating that a principle reason prosecutors cite for their unwillingness to accept cases of wife assault is what they consider high rates of victim caused case attrition. It is well documented that many battered women do seek to withdraw charges after filing. Reports from traditional jurisdictions around the United States of America indicate that 50%-80% of battered women will drop charges either by requesting dismissal or by failing to appear in court as a witness. The observation therefore that was made by the study is that because of the high incidences of victims of wife battery failing to follow through with prosecution, many officers' interest to prosecute such cases was greatly affected.

Therefore, negative attitude by the police in dealing with wife battery cases (which can be attributed to inadequacies in the legal framework) has largely impeded prosecution. Henceforth, many respondents suggested that in order to improve prosecution of wife battery cases, a law should be enacted to compel victims to testify against their assailants and also not to allow victims to withdraw such cases. Victimless prosecution typically works in conjunction with "no drop" policies whereby prosecutors refuse to dismiss domestic violence cases at the request of the victim, (David Jaros, 2005).

However, other officers argued that the said section of the penal code is not adequate in addressing gender based violence that takes place between spouses. Others explained that the current law was not adequate since there were no specific provisions of wife battery in the penal code, saying that wife battery falls within the general category of assault which includes occasioning actual bodily harm (OABH), unlawful wounding and grievous bodily harm (GBH). The participants explained that since these categories do not discriminate on the basis of gender there is an inherent inability to fail to deal with the unique nature of assault that takes place between spouses. It was therefore for this reason that most assaults that take place between spouses never go very far because in most cases victims do not easily avail themselves to give testimony.

The study further revealed that efforts to effectively prosecute wife battery cases were being hampered by lack of protection of the victims of wife battery. Most victims even

after reporting to the police have to go back to their husband's houses. This leaves them vulnerable to further abuse or intimidation either from the husband or relatives. In other instances it is the victims themselves who tend to feel sorry for their spouses due to the nature of the relationship. As a result most victims end up being discouraged to go ahead and appear in court against their assailants. A number of participants thus recommended that the institutional and legal framework needed to be strengthened by specifically addressing gender based violence cases. Support structures like the Community Services Directorate which houses the victim support unit and drop-in-centers like the YWCA and many others needed to be sufficiently funded.

In summation therefore, as regards police attitude, the study revealed a number of issues. First and foremost, many of the officers interviewed were able to indicate that wife battery was a very serious case and felt that arresting and prosecution of the perpetrators was the best course of action. Secondly, conflicting views were received on whether the current law is adequate in addressing wife battery. Whereas many respondents felt that the current law was adequate, a contradiction arose when the same respondents were in favour of reforms to the legal framework by enacting a law to force victims of wife battery to testify against their husbands and also not to withdraw such cases. Lastly but not the least, the study was able to establish that despite the officer's appreciation of the seriousness of wife battery as a criminal offence their interest in effectively handling such cases was largely hampered by victim's refusal to testify. This scenario can be traced down to the law which does not sufficiently provide or cater for wife battery offences. As such, most officers dealing with such cases seem to have developed a negative attitude. Hence, police attitude has been identified as one of the bottlenecks in the prosecution of wife battery.

to court. Yet still, in some cases, victims did not even know that such atrocities could go to court and the perpetrator receive punishment.

Responses obtained from church leaders were also overwhelmingly in support of the officers' narrations. Church leaders explained that time and again some of their church

members have confided in them about the violence in their homes. According to the church leaders, many of the victims of wife battery they counseled exhibited elements of ignorance about legal remedies available. The church leaders narrated that in the event that they were not able to talk to the culprits they always advised the victims to go to the police but only with great persuasion. It is therefore clear to see that with little information due to level of education, victims of wife battery can only but end up making wrong decisions that consequently perpetuate their exposure to more violence.

The above argument is supported by the Legal Resource Foundation (2001), which has stated that the majority of Zambians are illiterate and poor hence they do not know their rights are protected by the constitution and therefore they do not know they have the right to challenge their violation. What also became apparent in the study was that victims' level of education affected prosecution in the sense that victims of wife battery with low or no educational attainment were more tolerant of being beaten. As such, this category of victims find it difficult to proceed with reporting to the police let alone push through with prosecution.

To further consolidate the above sentiments several previous researchers have found that domestic violence and lack of prosecution is associated with level of education, (Bott et al. 2005). According to Martin et al (2002), in India and other countries, 'the more education a woman has, the less likely she is to report having ever experienced violence, (Kishor and Johnson, 2004). Research by the Gujarat Institute of Development Studies found that sixty percent (60%) of women with no education had been assaulted by their husbands, compared with ten percent (10%) of women with secondary or higher education, (Burton et al. 2000). Women have higher status in Kerala than in the rest of India and this has mainly been attributed to the beneficial effects of education, (Lieten, 2002). According to the Indian Journal of Gender Studies, (2008), a woman is much less likely to experience domestic violence if she is more educated.

More support for the above arguments is provided by studies conducted by the Gujarat Institute of Development studies and a study by the International Institute Epidemiology

Network which found that education reduces domestic violence, however in both studies the violence did not decline incrementally with each added year of schooling but was most apparent when women attained relatively higher levels of education. However, even a few years of education seem to reduce the risk of domestic gender based violence, (Indian Journal of Gender Studies, 2008).

Educated women are much less likely to think it is reasonable for a man to use violence against his wife. It is hence plausible that attitudes are central to the link between education, violence and subsequent prosecution. Thus, the supposition is that there is a cause - effect relationship in which educated people are less likely to consider domestic violence acceptable and therefore not likely to put up with it. In the event that wives who are educated are beaten they are always knowledgeable of the options available and are quick to want to seek legal redress. On the other hand, many uneducated women condone violence, indicating that education has a positive impact on the prosecution of wife battery cases by reducing women's acceptance of violence (Indian Journal of Gender Studies, 2008).

The study was therefore able to reveal the interdependence between education and prosecution of wife battery. Through interaction with some survivors of domestic gender based violence it was clear that the majority of the victims who had a humble educational background were also highly dependent on their husbands. As a result a vicious circle is created whereby due to low level of education women become disempowered leading to high dependence exposure to domestic violence and then wrong decisions culminating into low prosecution of wife battery cases. Therefore for effective prosecution to take place, women must be equipped with relevant and appropriate education which should make them productive and self reliant. In the words of Nyerere, education liberates from the constraints of ignorance and dependence as well as to increase people's mental freedom to their control over themselves. In light of the foregoing therefore, educating women has several advantages, it does not only liberate women from the ignorance and the shackles of oppression by men but also helps improve their social-economic status and thus empowerment, Edstrom et al (1970).

5.5 Victim's fear of persecution affecting Prosecution of wife battery cases⁴

Civilization has set many aspects of humanity in motion, inevitably bringing change to many fronts of human existence. While in some areas change has been quickly accepted as having a positive impact on life, in other areas it has met with opposition and its acceptance has been gradual. An example of where change has not been smooth is in the area of human tradition. While culture itself is known to be in a state of flux and hence it has intertwined with the dynamic wheels of modernity, however, it has carried with it some old traits that have had a negative effect on society. The suppression and oppression of women is one such area where the negative attributes of some cultural traits are being felt. This study therefore went flat out to establish the link between culture (fear of stigmatization) and the low prosecution of wife battery cases.

Many are the times that women have been restricted to do certain things or make particular decisions all in the name of culture. There is no place on earth where this is more evident than in the home. This study established the influence culture has on house wives regarding making decisions which may be perceived as going against their husbands. Very often than not, victims of wife battery usually find themselves torn between culture and their own right to life. Many women are told that marriage is sacred, as such, it should be preserved at all costs. It is an open secret to learn that most house wives who have passed through the hands of some traditional counselors are taught to accept a beating by way of running into the bedroom as opposed to outside or worse still to the police. It is thus against this backdrop that many victims of wife battery usually have second thoughts about going to the police and those who eventually make up their minds about reporting such atrocities will have overcome many barriers.

A large percentage of cases have failed to be prosecuted because victims feared what their relatives from both sides or even members of the community may think, say or do to them. According to the responses obtained from both the questionnaires and the interviews, many respondents were able to attest to the fact that there were many cases

⁴ To explore how victim's fear of persecution relates to low prosecution of wife battery cases

which failed to go to the courts of law because some victims of wife battery feared to be stigmatized as having failed to keep a home. In most instances however, the influence not to have cases of wife battery prosecuted comes from the relatives to the husband. A wife may fail to follow through with prosecution due to pressure from the in-laws. This pressure usually ranges from gentle persuasion to open threats. Sometimes the in-laws may confront the victim of wife battery and tell them that they will have nothing to do with the children should the wife decide to push through with the case. Faced with such a scenario, sometimes victims are pushed in a corner with limited choices. For fearing to be labeled as a bad person a wife who is actually a victim fears more victimization.

The fear of relatives by victims of wife battery which is largely imbedded in culture has been acknowledged by many quarters of society. According to the Gender Based Violence Report (2000). A woman or wife is conditioned to make her marriage a success by preserving her marriage and keeping her marriage problems secret. The report has further stressed that most traditional and customary practices regard women as minors to men and hence both their gender and sex roles perpetuate the stereotype view of women. Traditional practices like the initiation ceremonies and pre-marriages counseling have been used to articulate the sexual and gender roles of a woman or wife as that of serving or pleasing the man., (GBV Report, 2000).

The patriarchal principles of women's subordination within the family form the principles of family law. Various components of customary law treat women as properties of their husbands. Most customs embedded in customary law are now a conduit for rampant violence against women. Violence in marriage is cemented by the traditional belief that a husband is allowed to chastise his wife once in a while as a form of disciplinary measure. In most traditional settings, beating a wife was considered to be a normal custom which is held strongly by the majority demands that wives should be submissive and not reveal domestic squabbles including beatings, (GBV Report, 2000).

Judge Lombe Chibesakunda (2008), Chair of the National Human Rights Commission observed that chances of victims of domestic violence coming to courts are almost nil;

according to the judge most victims of wife battery feel that “it’s an embarrassment to the family”.

The study thus revealed that most women had been brought up to believe that it is right for a husband to beat them, hence the decision to have the violence reported and prosecuted wrecks feelings of apprehension because they believe they are doing something wrong. This wrong perception which usually culminates in fear of relatives is what has resulted in many cases of domestic gender based violence fail to be prosecuted.

5.6 Lessons for Improved Gender Policy Intervention⁵

The Penal Code of the Laws of Zambia provides for wife battery under the general category of assault. Many people have argued that these provisions of assault are adequate in addressing domestic gender based violence or wife battery in particular. It is however important to realize that wife battery as an offence is quite different from other forms of assault because of the unique nature of the relationship between the victim and the offender. Whereas the ultimate goal of prosecution for assault between strangers is punishment, this may not necessarily always be the case with wife battery and this perhaps explains why prosecuting wife battery cases is very problematic.

It has been discovered that many victims of domestic gender based violence who go to the police to report do not do so in order to see their husbands get a jail sentence. By and large, though these victims report to the police, they still have an interest to continue with marriage depending on the level of violence. This observation was also made by Ferraro and Boychuk (1992), who argued that most women’s first response when hit by a partner is not to leave immediately, file for divorce and never look back. In many cases a woman calling for help with a battering partner is not declaring an end to the relationship, she is asking for help to control his violence. At the point of prosecution many women ask the court for help for their abuser rather than imprisonment. Thus, in as much as many people would want to see perpetrators of wife battery receive punishment, this may not always be the wish of the victim. This is evident in the high incidences of withdrawals and in

⁵ To propose policy recommendations for improved prosecution of wife battery cases.

some cases victims' refusal to testify against their assailants. Does this situation therefore mean that such cases should be thrown out of the public legal domain? On the contrary, wife battery cases now more than ever need legal intervention. The big question is what type of intervention should be employed?

Empirical evidence suggests that the current law is not adequate in dealing with domestic gender based violence due to its inherent failure to provide alternative punishment for perpetrators other than imprisonment. Martins, (1978) has stressed that arrest and jail sentences are not universally accepted as appropriate consequences for wife assault as most battered women are more interested in their partner's rehabilitation than punishment. Jaffe and Burris (1981) also echoed the above sentiments when they observed that women in shelters often wish to continue their marriage if only the violence would stop. In line with most women's wish, various attempts have been made to promote treatment for wife assaulters as opposed to incarceration.

In supporting the above claim, Saunders and Size (1986), observed that although assaulted women might be afraid to denounce their partner before the police or in court, when consulted in less threatening environments they express a wish for protection for themselves and for treatment for their abuser.

An effective social-legal approach is thus needed to provide alternative forms of punishment that may give a transformative opportunity to offenders while at the same time balancing the need to protect the victim and trying to preserve the family in cases where there is need to do so. The importance of this approach should lie in the understanding that most victims of wife battery refuse to proceed with prosecution because they would want to save the marriage. The approach of providing alternative interventions has been known to work in some developed countries where there are court mandated treatments for wife batterers. The decision however to select which intervention is appropriate should be assessed on a case by case basis bearing in mind the differential profiling of wife batterers, the gravity of the offence and the willingness or lack of it by both parties to reconcile.

6.0 CONCLUSION

The importance of gender equality especially in the contemporary world cannot be overemphasized. However, in order for gender equality to be attained, there is need to ensure that women are emancipated from the bondage of suppression. It is this recognition that has seen the fight against gender based violence receive center stage in recent years. However, low prosecution for perpetrators of wife battery has continued to be a major setback in this quest. Thus, the thrust of this research came from the need to better understand the phenomenon of low prosecution of wife battery by delving deep into the problem and attempt to establish the underlying factors.

The study was able to identify four variables that had a strong link to the problem under investigation which included; victims' economic dependence, police attitude, victims' level of education and victims' fear of persecution, and through the interviews various responses were collected. The study revealed that many cases of wife battery failed to be prosecuted because victims had no income to sustain themselves since the bread winner had been locked up. The responses gathered indicated that in many cases, victims of wife battery would come back to the police station barely after a few hours or just a day to plead with the officers to have their husbands released. One of the major reasons that most victims give as a basis for withdrawing cases is their inability to support the family in the event that their husbands are sent to jail.

Some victims however refused to push through with prosecution because they felt threatened by their relatives who may have been in disagreement with the victims' decision. Victims' lack of education was also identified as one of the contributing factors to low prosecution of wife battery. The study revealed that the majority of the victims who went to report instances of violence at home were of low educational status. The three aforementioned factors combined would easily be grounded into women's economic dependence on men as the major reason for increasing domestic gender based violence. Caution should however be taken not to solely rely on these economic factors in the quest for solutions. As shown by the study, there have been many instances where victims of wife battery have refused to follow through with prosecution despite being

financially independent. The study also revealed that in some instances victims withdraw cases even when the husband was not employed.

Police attitude was yet another cause for low prosecution of wife battery cases. This factor is however precipitated by the complicated nature of the relationship between the victim and the perpetrator. Despite officers' appreciation of the gravity of wife battery and willingness to prosecute perpetrators, their efforts are usually frustrated by the victims' insistence to withdraw such cases or failure to testify. It is therefore this situation that has resulted in poor attitude by officers when dealing with wife battery cases. These factors however are not mutually exclusive and hence sometimes may occur simultaneously putting victims in very awkward situations.

The study also revealed that the current law is not adequate in protecting victims of wife battery hence many respondents suggested that reforms be made for an effective approach to the problem. An important observation that was made is that besides imprisonment, some other forms of intervention also need to be introduced with the primary focus of providing rehabilitative services to the assailants. It is important to note that applying the wrong intervention to a problem only brings about undesired results and hence perpetuating the problem. Need thus arises to come up with appropriate legal-social interventions in a wife- husband assault.

7.0 RECOMMENDATIONS

The study found out that most perpetrators of wife battery fail to be prosecuted because victims decline to testify against these assailants. Therefore in order to improve prosecution of wife battery cases, the government should enact a law to compel victims of wife battery to testify against their husbands especially in very serious circumstances where the life of the victim is threatened.

The other problem that police prosecutors pointed out as a hindrance to effective prosecution of wife battery cases was the failure by victims to show up at court. In order to circumvent this problem, a law should be enacted to allow for a wife battery case to proceed without the testimony of the victim as is the case in other countries, for example, Canada.

The study also revealed that in many instances that a victim of wife battery reports to the police they seek help to stop the violence and not necessarily to send their husbands to jail. Therefore there should also be provisions in the law for alternative forms of punishment for perpetrators of wife battery besides imprisonment, for example, court mandated rehabilitative or treatment programmes.

An effective approach of dealing with any problem is to tackle it before it happens. It is undeniable that gender based violence has been perpetuated by culture through the agents of socialization, it is therefore important to note that the problem can only be addressed by changing people's mind sets. An effective instrument in this quest is to engage in extensive sensitizations and awareness campaigns in communities especially the younger generation (pupils and students). Currently, the department in the Zambia Police charged with this responsibility (Community Services Directorate) is underutilized and usually not supported financially and logistically. Therefore the government through the police high command and all stake holders should step up funding allocations to the Community Services Directorate CSD in order to enhance its operations.

In order to keep track of habitual wife batterers there is need for proper record keeping of perpetrators at all VSU offices. Therefore victim support unit coordinators should ensure that records of wife battery are kept whether a case goes to court or not. This is important because the appropriate course of action to take in any particular wife battery case sometimes can be informed by the profile of the perpetrator.

Table 3: Work plan schedule, Part I for the study on wife battery in Lusaka urban

Activity No.	Activity	Personnel	August 2010				December 2010				January 2010					
			Week				Week				Week					
			1	2	3	4	1	2	3	4	1	2	3	4		
1	Preliminary approval of research proposal	Supervisor														
2	Obtaining of letters of authority	Researcher														
3	Submission of proposal to Ethics Committee	Supervisor and Researcher														
4	Pre-testing of questionnaires	Researcher														
5	Standardising of questions and questionnaires	Researcher														

Table 4: Work plan schedule, Part II for the study on wife battery in Lusaka urban

Activity No.	Activity	Personnel	January 2011				February 2011				March 2011			
			Week				Week				Week			
			1	2	3	4	1	2	3	4	1	2	3	4
6	Data Collection	Researcher												
7	Organisation of collected data	Researcher												
8	Data analysis and interpretation	Researcher and supervisor												
9	Report writing and presentation	Researcher												

Table 5: Tentative Budget for the Study on Wife Battery in Lusaka Urban

No	Description	Units	Days	Cost/ Day	Total Cost (K)
1	Stationary				
	Bond paper	3	1	30,000	90,000
	Pencils	5	1	3000	15,000
	Pens	5	1	5,000	25,000
	Note books	2	1	15,000	30,000
	Sub-Total				160,000
2	Secretarial				
	Typing	3	10	15,000	450,000
	Binding	3	1	100,000	300,000
	Sub-Total				750,000
3	Transport & Lunch				
	Transport		90	20,000	1,800,000
	Lunch		90	50,000	4,500,000
	Sub-Total				6,300,000
	Total				7,210,000

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9.0 APPENDICES

Appendix 1: Interview Guide for Survivors of Domestic Violence Low Prosecution of Wife Battery - Case of Lusaka Urban

Introduction

Dear respondent

My names are McMillan M. Jere and I am a student at the University of Zambia pursuing my Master of Arts degree in Gender studies. As a partial fulfillment for the programme, students are required to research on topics of their choice. As a topic of choice, domestic gender based violence (wife battery) captured my interest mainly because of my profession as a law enforcement officer. Be informed that you have been purposively selected as a source of valuable information. In addition, information collected through this research is strictly for academic purposes and therefore shall be kept confidential. You are also free to choose to participate in this research and therefore you can choose to pull out at any time. However, your participation will be most valued.

QUESTIONS;

How long has the violence been going on?

Did you decide to go to the police the first time it happened?

Would you agree to have your husband jailed for beating you?

Have you ever been pressurized by your husband's relatives not to report the case to the police or take it to court?

Do your relatives or parents encourage you to stay on in marriage despite your husband beating you?

Do you think it would be easy to take the case court if you were earning enough money?

Would you withdraw the case because your husband is the bread winner?

In your opinion do you think the current law is adequate in addressing domestic gender based violence?

Do you think the victim support unit officers are very helpful when dealing with such cases?

What do you suggest the government should do to help women facing such problems?

Appendix 2: Questionnaire for Victim Support Unit Officers Low Prosecution of Wife Battery - Case of Lusaka Urban

Introduction

Dear respondent

My names are McMillan M. Jere and I am a student at the University of Zambia pursuing my Master of Arts degree in Gender Studies. As a partial fulfillment for the programme, students are required to research on topics of their choice. As a topic of choice, domestic gender based violence (wife battery) captured my interest mainly because of my profession as a law enforcement officer.

Be informed that you have been purposively selected as a source of valuable information. In addition, information collected through this research is strictly for academic purposes and therefore shall be kept confidential. You are also free to choose to participate in this research and therefore you can choose to pull out at any time. However, your participation will be most valued.

SECTION A: RESPONDENTS' BACKGROUND INFORMATION

Respondent sex? Male [] Female []

How old were you at your last birthday? []

What is your marital status?

Married []

Single []

Divorced []

Widow/widower []

Separated []

What is the highest level of education you have attained?

(a) Primary education []

(b) Secondary (8-9) []

(c) Secondary (8-9) with in-service training []

- (d) Secondary (10-12) []
- (e) Secondary (10-12) with in-service training []
- (f) Tertiary (college/University) []

What is your occupation?

How long have you been serving in the same capacity?

- (a) Less than 12 months []
- (b) 1 year []
- (c) Two years []
- (d) Three years but less than seven years []
- (e) Seven years and above []

SECTION B: DOMESTIC GENDER-BASED VIOLENCE (WIFE BATTERY)

Do you know what wife battery is?

- (a) Yes []
- (b) No []

Are there specific provisions of wife battery in the penal code?

- (a) Yes []
- (b) No []

If no to question 8, why do you think this is so?

How serious do you think wife battery is as an offence?

- (a) Not serious []
- (b) Slightly serious []
- (c) Serious []
- (d) Very serious []

11. Are there some victims who withdraw cases of wife battery?

- (a) Yes []
- (b) No []

12. How often do such cases of wife battery go to court?

- (a) Very often []
- (b) Quiet Often []
- (c) Often []

- (d) Rarely []
13. Do you think wife battery is a good case to take to court?
- (a) Yes []
- (b) No []
14. In your opinion, can a wife be a good witness in an assault case against her husband?
- (a) Yes []
- (b) No []
- (c) Sometimes []
- (d) Very rarely []
15. If your answer to question 13 is (b) or (d), does this affect your motivation to take such cases to court?
- (a) Yes []
- (b) No []
16. In your opinion, is it ok to send the man to jail because he has beaten up his wife?
- (a) Yes []
- (b) No []
- (c) Sometimes []
17. How often are cases of wife battery withdrawn because the victim cannot support herself financially?
- (a) Very often []
- (b) Quiet often []
- (c) Often []
- (d) Rarely []
18. How often do victims come to plead with officers to release their husbands because children have nothing to eat at home?
- (a) Very often []
- (b) Quiet often []
- (c) Often []
- (d) Rarely []

19. Are there victims who withdraw cases despite having their own source of income?
- (a) Yes []
- (b) No []
20. If yes to question 16, how often does this happen?
- (a) Very often []
- (b) Quiet often []
- (c) Often []
- (d) Rarely []
21. Are there instances where victims withdraw cases even if their husbands are unemployed?
- (a) Yes []
- (b) No []
- (c) Sometimes []
22. Do you have instances where cases are withdrawn because victims feared the husband's relatives?
- (a) Yes []
- (b) No []
23. In your opinion do you think victim's lack of education has an effect on the prosecution of wife battery?
- (a) Yes []
- (b) No []
24. Do you think sometimes victims withdraw cases because of ignorance?
- (a) Yes []
- (b) No []
25. Do you think there should be a law to force victims to testify against their husbands?
- (a) Yes []
- (b) No []

26. In your opinion is the current law adequate in protecting wives as victims of domestic gender based violence?
- (a) Yes []
- (b) No []

27. How do you think wives as victims of domestic gender based violence can better be protected by the law? Explain

.....

.....

28. What problems do you face when dealing with such cases? Explain

.....

.....

.....

What suggestions would you make to address the problems mentioned in question

.....

.....

.....

THANK YOU VERY MUCH FOR YOUR CO-OPERATION

- (c) Secondary (8-9) with in-service training []
 - (d) Secondary (10-12) []
 - (e) Secondary (10-12) with in-service training []
 - (f) Tertiary (college/University) []
5. What is your occupation?
6. How long have you been serving in the same capacity?
- (a) Less than 12 months []
 - (b) 1 year []
 - (c) Two years []
 - (d) Three years but less than seven years []
 - (e) Seven years and above []

SECTION B: DOMESTIC GENDER-BASED VIOLENCE (WIFE BATTERY)

7. Do you know what wife battery is?
- (a) Yes [] (b) No []
8. Are there specific provisions of wife battery in the penal code?
- (a) Yes [] (b) No []
9. If no to question 8, why do you think this is so?
-
-
-
10. How serious do you think wife battery is as an offence?
- (a) Not serious []
 - (b) Slightly serious []
 - (c) Serious []
 - (d) Very serious []
11. Are there some victims who withdraw cases of wife battery?
- (a) Yes []
 - (b) No []

12. How often do such cases of wife battery go to court?
- (a) Very often []
 - (b) Quiet Often []
 - (c) Often []
 - (d) Rarely []
13. Do you think wife battery is a good case to take to court?
- (a) Yes []
 - (b) No []
14. In your opinion, can a wife be a good witness in an assault case against her husband?
- (a) Yes []
 - (b) No []
 - (c) Sometimes []
 - (d) Very rarely []
15. If your answer to question 14 is (b) or (d), does this affect your motivation to take such cases to court?
- (a) Yes []
 - (b) No []
16. In your opinion, is it ok to send the man to jail because he has beaten up his wife?
- (a) Yes []
 - (b) No []
 - (c) Sometimes []
17. How often are cases of wife battery withdrawn because the victim cannot support herself financially?
- (a) Very often []
 - (b) Quiet often []
 - (c) Often []
 - (d) Rarely []

18. How often do victims come to plead with officers to release their husbands because children have nothing to eat at home?
- (a) Very often []
- (b) Quiet often []
- (c) Often []
- (d) Rarely []
19. Are there victims who withdraw cases despite having their own source of income?
- (a) Yes [] (b) No []
20. If yes to question 16, how often does this happen?
- (e) Very often []
- (f) Quiet often []
- (g) Often []
- (h) Rarely []
21. Are there instances where victims withdraw cases even if their husbands are unemployed?
- (a) Yes [] (b) No [] (c) Sometimes []
22. Do you have instances where cases are withdrawn because victims feared the husband's relatives?
- (a) Yes [] (b) No []
23. In your opinion do you think victim's lack of education has an effect on the prosecution of wife battery?
- (a) Yes [] (b) No []
24. Do you think sometimes victims withdraw cases because of ignorance?
- (a) Yes [] (b) No []
25. Do you think there should be a law to force victims to testify against their husbands?
- (a) Yes [] (b) No []
26. In your opinion is the current law adequate in protecting wives as victims of domestic gender based violence?
- (a) Yes [] (b) No []

27. How do you think wives as victims of domestic gender based violence can better be protected by the law? Explain
28. What problems do you face when dealing with such cases? Explain
.....
.....
29. What suggestions would you make to address the problems mentioned in question 28?.....

- (f) Tertiary (college/University) []
5. What is your occupation?
6. How long have you been serving in the same capacity?
- (a) Less than 12 months []
- (b) 1 year []
- (c) Two years []
- (d) Three years but less than seven years []
- (e) Seven years and above []

SECTION B: DOMESTIC GENDER-BASED VIOLENCE (WIFE BATTERY)

7. Do you know what wife battery is?
- (a) Yes [] (b) No []
8. Do you subscribe to husbands beating up their wives as a way of exercising discipline?
- (a) Yes [] (b) No []
9. How wide spread do you think wife battery is in Zambia?
- (a) Very spread []
- (b) Quiet spread []
- (c) Not very spread []
10. Would you encourage a wife to report to the police if she has been beaten?
- (a) Yes []
- (b) No []
- (c) Sometimes []
11. Do you think there should be a law to force victims to testify against their husbands in assault cases?
- (a) Yes [] (b) No []
12. Do you know of instances where cases of wife battery are withdrawn because victims feared their husband's relatives?
- (a) Yes [] (b) No []
13. If yes to question 12, how common is this trend?

- (a) Very common []
 - (b) Common []
 - (c) Not common []
14. In your opinion do think victims' lack of education has an effect on the prosecution of wife battery?
- (a) Yes [] (b) No []
15. In your opinion is the current law adequate in protecting wives as victims of domestic gender based violence?
- (a) Yes [] (b) No []
16. If yes to question 15, explain
-
17. If no to question 15 explain.....
-
18. How do you think wives as victims of domestic gender based violence can better be protected by the law? Explain

THANK YOU VERY MUCH FOR YOUR CO-OPERATION