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# Domestic violence: Does the African context demand a different approach?

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## 1. Introduction

Domestic violence—the physical and/or psychological abuse of an intimate partner—is a major public health problem of concern both to the medical and legal professions. As the recent World Health Organization report notes, partner abuse leads not only to physical injury and death but also to severe effects upon the mental health of its victims, including an erosion of self-esteem, depression, anxiety, posttraumatic stress disorder (PTSD), alcohol and drug abuse, and suicide.<sup>1</sup> It also affects the capacity of women the world over to participate as equal and productive partners in their society, economy, and polity.<sup>2</sup> Addressing this problem clearly requires an approach that combines a variety of remedies; legal reforms, public education, and individual psychological change are all necessary. But the remedies that are both possible and likely to be effective in a particular setting must be sensitive to the context in which the violence occurs. Using the United States as a point of comparison, this article discusses the particular context in which partner abuse takes place in Africa in order to explore the remedial strategies that are appropriate there. As part of

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<sup>1</sup> WHO, World Report on Violence and Health 102 (2002) (WHO Report); Heise, Lori, Mary Ellsberg and Megan Gottemoeller, Population Reports: Ending Violence Against Women, Population Reports L-11 ch. 5.3 at 1 (1999) (available on-line at <http://www.jhuccp.org/pr/111edsum.stm>).

<sup>2</sup> For example, studies in Latin America show that women who are domestic violence victims have significantly lower productivity than nonabused women. Inter-American Development Bank, Technical Note 7, Domestic Violence against Women 6 (Mayra Bivinić and Andrew Morrison eds., 2000) (Nicaraguan women who are domestic violence victims earn 57% of what nonabused women do; Chilean women earn only 39%, with the loss in income accounting for 2+% of 1996 GDP).

this examination, I ask what role mental health intervention may play in the African context.

The United States is a country of vast resources in which attention has been focused upon the problem of domestic violence for several decades now. As late as the 19th and early 20th centuries, U.S. law condoned a certain amount of violence against—or “chastisement” of—women by their husbands, and the courts refused to intervene in the private sphere to prevent it.<sup>3</sup> One major consequence of the women’s movement in the latter part of the 20th century was to call attention to the widespread nature of such violence, however, and to begin to develop strategies to address it. Although there is evidence that intimate partner violence has been decreasing, the problem persists at a level that is still unacceptable.

Attention to the problem of domestic violence in Africa is comparatively recent, with studies about partner abuse beginning to appear in the mid-1990s.<sup>4</sup> These studies showed that a vast amount of domestic violence accompanies the life of a woman in most African countries. Yet, the context in which this violence occurs is different in important respects from that in the United States, making the transfer of remedial measures from one setting to the other a problematic enterprise. For example, large numbers of women in Africa live in the countryside and are subject to customary African law, much of which reinforces the subordinate position of women within the family.<sup>5</sup> This traditional sector continues to exist, although its moral authority may be undermined by urbanization and economic dislocation; thus, many customary remedies are no longer effective. At the same time, postcolonial governments are faced with severe economic problems that may prevent them from putting alternative remedial strategies into place, for example, effective law enforcement and adequate medical facilities to handle the physical and psychological injuries occasioned by domestic violence.

This article explores how the context in many African countries may alter the shape of the problem of domestic violence from that in the United States and require giving preference to some remedial approaches over others. In Part 1, I discuss some of the primary ways in which the context of domestic violence in Africa differs from that in the United States, including

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<sup>3</sup> See, e.g., Reva Siegel, “The Rule of Love”: Wife Beating as Prerogative and Privacy, 105 *Yale L.J.* 2117, 2150–70 (1996).

<sup>4</sup> See, e.g., Women in Nigeria, *Breaking The Silence: Women Against Violence* (Elsbeth Robson, ed. 1993); Rosemary Ofeibe-Aboagye, *Domestic Violence in Ghana: An Initial Step*, 4 *Colum. J. Gender and Law* 1 (1994); Women in Law and Development in Africa [WILDAF] Tanzania, *Report of a Pilot Study of Intimate Femicide in Tanzania* (1996); Human Rights Watch Africa, *Violence Against Women in South Africa: State Response to Domestic Violence and Rape* 44–49 (1995); Lisa Vetten, “Man Shoots Wife:” *Intimate Femicide in Gauteng, South Africa*, 6 *Crime and Conflict* 1 (Winter 1996).

<sup>5</sup> Many postcolonial African constitutions exempt certain arenas of life—for example, marriage and divorce, inheritance, and property ownership—from the application of modern statutory and even constitutional law with their prohibitions against sex discrimination. See, e.g., Constitution of Kenya, Ch. 5, Section 82 (1992); Constitution of Zimbabwe § 23 (1998). *But see* Ghana Const. Ch. 5, Art. 26 (1992); Republic of South Africa Const. § 211 (1996); Constitution of the Republic of Uganda, Section 33 (1995) (allowing constitutional challenges to discriminatory practices harmful to women).

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