THE VICTIM OF DOMESTIC VIOLENCE AND THE CRIMINAL JUSTICE SYSTEM IN KENYA: A CASE FOR RESTORATIVE JUSTICE?

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ABSTRACT

Violence against women is an obstacle to the achievement of the objectives of equality, development and peace under international human rights law. Studies both in Kenya and US show the effects of spousal abuse on the woman, the family unit, the community and the economic and social development of the state. The specific phenomena of spousal abuse will be examined with the aim of exploring how the narratives of the individual victims of spousal abuse in Kenya can inform the global debate on the suitability of alternative dispute resolution in addressing domestic violence as a human rights violation.

By examining the social reality of the domestic violence victim in Kenya, the paper will try to explain the role of the social and cultural context of the victim in determining the efficacy of a justice system to deliver its promise of ensuring access to justice for those within its jurisdiction. The data from a survey conducted in Kenya will be analyzed to determine the impact of gender on victim’s decision-making and experiences with abuse. A comparative analysis between the experiences of victims in Kenya and the US will be undertaken to determine the role of gender on spousal abuse victims.

The paper argues that the justice system should be accessible to all individuals irrespective of their social and cultural background. This is a universal interest that all States share. Far from destroying universal efforts to address violence against women, the thesis will further the goal of feminism by urging for the inclusion of diverse perspectives on human rights violations in the development of theories and strategies that seek to address domestic violence.
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