

2 The Constitutional and Legal Frameworks for the Protection of Women against Violence in Zimbabwe

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1 Introduction

Violence against women is one of the most direct expressions of the power imbalances between men and women. As Kofi Annan once said, “[v]iolence against women is perhaps the most shameful human rights violation. And it is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace.”

Besides being a fundamental violation of human rights, violence against women represents one of the most critical security challenges and is a major factor contributing to poverty; thus reducing violence against women is key to achieving the Sustainable Development Goals in particular goals number 1, 3, 5, 10 and 16. According to the Zimbabwe National Statistics Agency (Zimstats) Quarterly Digest of Statistics for the fourth quarter of 2016, 8,069 women were raped in 2016; 7,752 cases of rape were reported in 2015, 7,000 cases in 2014, 5,717 cases in 2013, 5,412 cases in 2012, 5,446 cases in 2011, 4,450 in 2010.¹ This translates to 22 women being raped daily or an equivalent of one woman being abused every 75 minutes and an average of 646 women being sexually abused monthly. Findings by Zimstats and the United Nations Children’s Educational Fund (UNICEF) also indicate that one in three girls is raped or sexually assaulted before they reach the age of 18. These gross violations of women and children’s rights come against the backdrop of the government of Zimbabwe having enacted the Domestic Violence Act [Chapter 5:16] in 2007, initially viewed as the most progressive law aimed at protecting women against gender-based violence.

2 Background

Zimbabwe is signatory to the international human rights frameworks for women’s rights. Zimbabwe ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1991 which is considered as the women’s bill of rights. Under this Convention states have the obligation to review their legal systems in order to end discrimination and to establish institutions that protect women. As part of the obligations, CEDAW allows for the monitoring of compliance and receives complaints from the signatory states. However, Zimbabwe is not yet a party to the CEDAW’s Optional Protocol of 2000 which allows the CEDAW Committee to receive and consider complaints from individuals or groups from member states. Zimbabwe is also a signatory to the Beijing Declaration of 1995, the Protocol to the African Charter on Women’s Rights of 2003 and the SADC Protocol on Gender and Development of 2008.

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¹ ‘One rape per hour – Zimstat’, *Zimbabwe Situation*, 30 April 30 2017, <<http://www.zimbabwesituation.com/news/zimsit-m-one-rape-per-hour-zimstat/>>.

3 Objectives and Research Questions

The objectives of this study are to:

- analyse the existing constitutional provisions and legal frameworks for the protection and enforcement of women's rights in Zimbabwe;
- review the constitutional and legal gaps in the implementation of laws aimed at preventing and eliminating violence against women; and
- suggest intervention strategies to empower and eliminate violence against women.

The research was guided by the following questions:

- What are the existing constitutional provisions and legal frameworks that allow for the protection and enforcement of women's rights in Zimbabwe?
- What are the constitutional and legal gaps that infringe on the prevention and elimination of violence against women?
- What strategies can be adopted to empower and eliminate violence against women?

4 Significance of the Study

The study provides a major academic contribution to the debates on the justification or validation of women's rights both from a theoretical and practical point of view. The study is a significant step in analysing the role of courts or law enforcement agencies in the effective implementation of laws that protect women and girls from all forms of violence as enshrined in the Constitution of Zimbabwe. The study also provides deeper insights in promoting awareness on the protection and enforcement of women's rights by recommending remedies to flaws in the prevailing legislative laws in Zimbabwe in four areas, namely:

- a) by making reference to comparative and international best practice;
- b) by providing evidence that shows that the protection of women's rights is imperative to the improvement of women's status, their respect and dignity, and eradication of poverty;
- c) that the law is an essential instrument to ensure the enforcement of women's rights as most of these criminal acts take place behind closed doors, and victims are often reluctant to report incidents because of shame, fear of appraisal or because of lack of visible alternatives to their prevailing situation; and
- d) that there is always need for legislative and judiciary reforms aimed at better protecting women's rights and recognition of the inherent dignity and worth of each human being.

The increased knowledge on legal rights and service providers also brings long term benefits to women for responding to gender-based violence as their constitutional right. The study also contributes to the notion of transformative constitutionalism that provides for new or alternative policy perspectives thereby contributing to the work of both civil society and government engagement in efforts towards effective promotion of women's rights and gender equality in Zimbabwe. Of significance, the study provides policy recommendations to strengthen women's capacities for peacebuilding which include ending violence and discrimination and opportunities to secure appropriate redress where rights relating to gender have been violated. Thus, taking into account the importance of pursuing both curative and preventive strategies, the research study underlines the need for multi-sectoral, multi-level and multi-actor

approaches, thereby strengthening the capacity of organisations that defend and enforce policy implementation towards zero tolerance of gender-based violence in Zimbabwe.

5 Conceptual and Theoretical Framework

The novelty and necessity of this research is in the sense that it is informed by the theory of transformative constitutionalism. In the context of this research, transformative constitutionalism is to be understood as the provision of dynamic changes founded on historical processes of women's suffrage and the fight for women's rights as human rights and justice. The transformative nature of the 2013 Constitution is highlighted in the fact that it is founded on the values and principles that recognise the inherent dignity, equality and worth of human beings, which provides a concrete theoretical foundation upon which the promotion and protection of women's rights can be practically implemented and enforced through institutional and societal systemic changes. For example, the judicial system and legislative laws in Zimbabwe recognise women's rights as human rights and the promotion of equality for all through creating a conducive environment for peace, coexistence and development opportunities for all, irrespective of sex, race, ethnicity, class, religion or belief.

Central to the goal of the proposed transformative constitutionalism is bridging the gap between past injustices and today's realities in women's lives in a liberated contemporary Zimbabwe. This also calls for change of mind-sets as well as attitudes and behaviour in the way women are treated in both the private and public spheres. This also implies bringing about changes in laws that oppress and dominate women and make them vulnerable, thereby perpetuating inequalities in society. Transformative constitutionalism and the process of constitution making becomes very critical in putting in place laws that can create new spaces for both men and women founded on the values and principles of human rights, dignity and equality. It also means giving voice to women and enabling them to access justice and ensuring that government puts in place appropriate measures for redress where women's rights are violated. The empowering nature of the transformative constitutionalism and constitution making process will help women have the power to reclaim their legitimacy as active participative agents of change within the private and public spaces as expected by society and traditional institutions in Zimbabwe. This transformative approach to the processes of constitution making and constitutionalism becomes imperative in the formation of knowledge, values, norms and practices that will empower women for sustainable gender equality and gender justice at both personal and societal levels.

6 Methodology

The research employed qualitative research methods which took into account the complex and contested cultural and contextual differences in the nature of causes and issues and narratives around violence against women. According to the UN Declaration on the Elimination of Violence Against Women, violence against women is "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life"². Data was collected from organisations that work with women, human rights organisations, government institutions and agencies including legal institutions and associations that deal with women issues. Data was also collected from individual women who had experienced different forms of violence. Purposive sampling was utilised to identify relevant informants who have an understanding of the interpretation of the 2013 constitutional

² UN General Assembly, Declaration on the Elimination of Violence against Women (A/RES/48/104).

provisions in the context of women's rights and human rights. To complement primary data, secondary data was collected through analysis of the Zimbabwean Constitution, enacted laws, enforcement mechanisms and case analysis. Given the time constraints and limited resources, much of the research was done through literature review and document analysis highlighting the limitation of the study as different categories of vulnerable women would have strengthened the validity of the study. Presentation of results was based on themes derived from the research objectives, research questions and relevant emerging issues.

7 Findings

This section provides the findings that came out of the data collected from various organisations as well as analysis of the frameworks that aim at protecting women against violence in Zimbabwe. Findings are presented in themes which were derived from the research objectives as well as other emerging issues that were selected from the study findings.

7.1 Constitutional Provisions and Supporting Legal Frameworks

Zimbabwe's commitment towards the participation and empowerment of women has been explicitly expressed through the constitution making process of 2013. The 2013 Constitution was created on the founding values and principles of fundamental human rights and freedoms and gender equality among many others. The current transformative Constitution provides better protection and visibility to women's rights than the previous Constitution. The specific provisions for the promotion, protection and enforcement of women's rights in Zimbabwe include the following:

- Section 17 is dedicated to gender and urges the state to promote the full participation of women in all spheres on the basis of equality with men. The section addresses access to resources, elimination of gender based discrimination in policy, law and practice, the protection of women and girls from domestic violence, as well as protection of girls from marriage. The section also provides that both genders must be equally represented in all institutions and agencies of government and women must constitute half of all members of established commissions. The government is currently working on rationalising all commissions since most of them are male dominated.
- Section 80 focuses on the rights of women and highlights the provision for equal opportunities, in political, social and economic activities. It also grants women the same rights as men regarding custody and guardianship of children. Previously, the Guardianship of Minors Act³ was biased towards women, granting automatic custody rights to women, whilst men were restricted to guardianship and access rights. The section also provides that all customs, traditions and cultural practices that infringe the rights of women are void. Women have been vulnerable to all sorts of harmful traditional practices such as early child marriages, forced marriages and genital mutilation.
- Section 85 buttresses the enforcement of fundamental human rights and freedoms by the courts, and granting of appropriate relief and compensation where one's rights have been infringed.
- Section 78 of the Constitution is on marriage rights. It provides that every person who has attained the age of 18 years has a right to found a family and that no person can be

³ Guardianship of Minors Act [Chapter 5:08] (14/2002).

compelled to enter into a marriage against their will. Women have often been forced into marriage and this section prohibits that.

- Section 245 calls for the establishment of the Gender Commission whose mandate is to ensure gender equality, investigate violations and take action. Section 246 mandates the Commission to conduct research into issues relating to gender and social justice and recommend changes to laws and practices which lead to discrimination based on gender.

Due to the acknowledgement that women and girls are often victims of social and economic injustice, it was imperative that legal frameworks and policies be enacted to ensure their protection. These constitutional provisions have been promulgated in various subsidiary legislation, which include the following:

i. Domestic Violence Act [Chapter 5:16]

This is an Act to make provision for the protection and relief of victims of domestic violence. The definition of domestic violence, under the Act, is very wide and includes abuse derived from any cultural or customary rites or practices that discriminate against or degrade women, such as forced virginity testing, female genital mutilation, pledging of women and girls for purposes of appeasing spirits, abduction, child marriages, forced marriages, forced wife inheritance and other such practices.

ii. Marriage Act [Chapter 5:11]

The Act provides for laws relating to solemnisation of civil marriages. Section 20 provides for the circumstances under which a minor may marry and section 21 states that the marriage of a minor without consent is voidable. Section 22 states that no boy under the age of 18 years and no girl under the age of 16 years shall be capable of contracting a valid marriage except with the written consent of the minister. This means that a girl may marry at 16 or less and a boy at 18 or less provided that the minister has consented. The Act goes on further in section 22(2) to state that if a girl or boy goes on to contract a marriage without the consent of the minister, such marriage can be considered as desirable and in the interests of the parties and the minister may validate it in writing. In other words, the minister may retroactively validate a marriage of minors. These sections have been fuelling child marriages.

iii. Termination of Pregnancy Act [Chapter 15:10]

The Act provides for laws relating to abortion and defines circumstances in which a pregnancy may be terminated which are: where the continuation of the pregnancy so endangers the life of the woman concerned or constitutes a serious danger of permanent impairment of her physical health that the termination of the pregnancy is necessary to ensure her life or physical health; where there is serious risk that the child to be born will suffer from a physical or mental defect of such a nature that he will be seriously handicapped; and where there is reasonable possibility that the foetus is conceived as a result of unlawful intercourse.

iv. Customary Marriage Act [Chapter 5:07]

The Customary Marriage Act does not provide for age of marriage, thereby giving leeway for child marriages. Section 5 of the Act states that if the guardian of a woman

withholds consent to marriage, a magistrate may be approached for consent. The basis of having a guardian is that an African woman prior to the Legal Age of Majority Act of 1982 was viewed as a perpetual minor needing a guardian all her life. Section 5(1)(b) states that the magistrate may fix marriage consideration in consultation with the guardian of the woman. Section 3(1) states that for a customary law marriage to be considered valid, it has to be solemnised. This has placed many women married under customary law in a difficult position because not all marriages contracted under customary law have been solemnised. This causes problems especially at the termination of the unregistered customary law union (UCLU). Courts have used the principles of unjust enrichment or tacit universal partnership to distribute property acquired in an UCLU.⁴ The courts will only resort to using any one of the two principles if the plaintiff proves that despite being married under customary law, their case should be determined using general law. This necessitates the invoking of the choice of law process as laid out in the Customary Law and Local Courts Act Chapter 7:05. At the magistrate court level, some magistrates are erroneously using the Matrimonial Causes Act to distribute property in UCLUs. The Matrimonial Causes Act does not apply to an UCLU since it is not solemnised. The correct procedure is to invoke the choice of law process and if a determination is made that the case should be dealt with using general law, the next issue would be whether or not the property to be distributed falls within the monetary jurisdiction of the magistrate's court. If it does, the court should then use either the principle of tacit universal partnership or unjust enrichment to distribute the property. If it falls outside the monetary jurisdiction of the magistrate's court, such case has to be heard at the High Court which has inherent jurisdiction. Several judges have called for an amendment to the laws of Zimbabwe to deal with this anomaly. For all intents and purposes a wife in an UCLU is no different from one with a marriage certificate but she faces prejudice by virtue of the fact that her UCLU is not solemnised.

v. Criminal Law (Codification and Reform) Act [Chapter 9:23]

Section 70 of the Criminal Law (Codification and Reform) Act provides that any person, who has sexual intercourse with a person below the age of 16 years with or without their consent shall be charged with rape or aggravated indecent assault or indecent assault. The law differentiates between consensual and non-consensual sexual activity with a child. The crimes of rape, aggravated indecent assault and indecent assault cover non-consensual sexual assaults upon a child, but the law provides that a child under 12 is deemed incapable of consenting to sexual activity for the purposes of these crimes. There is an inconsistency in the Criminal Law Codification and Reform Act relating to the age of consent.

vi. Children's Act [Chapter 5:06]

The Children's Act was enacted to provide for the general welfare of children. Among other issues, the Act provides for the protection of children from physical and mental violence, neglect, injury, abuse and maltreatment, in line with the requirements of the Charter. The Children's Act is currently under review and a Draft Bill is in place.

⁴ *Mandava v. Chasweka* HH-42-08; *Ntini v. Masuku* HB-69-03; *Muchapondwa v. Madake* HH-32-06; *Feremba v. Matika* HH-33-07; *Kazuva v. Dube* H9-119-10; *Matibiri v. Kumire* 2000(1) ZLR 492; *Jengwa v. Jengwa* 1991(1) ZLR 121; *Chapeyama v Matende and another* 1999(1) ZLR 534; *Marange v. Chiroodza* HH-130-02; *Chikavanga v. Kuyeri and another* HH-319-12. See also WLSA position paper on harmonisation of marriage laws and equality in marriage.

vii. Married Persons Property Act [Chapter 5:12]

The marriage regime in Zimbabwe is currently that of out of community of property, except for marriages entered into before the 1 January 1929. For those who wish to enter into in-community of property marriages, the major impediment is that of the excessive marital power that is bestowed to a husband during the subsistence of a marriage. A husband can alienate property, encumber it or sell it and the wife has no recourse. It would seem prudent to specifically provide that the marital power is excluded from an in-community of property marriage so as to encourage those who want to enter into such a marriage to do so. This would mean that both wife and husband have equal power over their assets during the subsistence of a marriage. Even in instances where there is marriage out of community, courts have stated that the notion of a husband or wife selling immovable property during the subsistence of a marriage just because it is registered in their sole name is untenable.⁵

viii. Deceased Estates Succession Act [Chapter 6:02] and Administration of Estates Act [Chapter 6:01]

Inheritance of immovable property falls under either customary law as governed by the Administration of Estates Act as amended or general law as governed by the Deceased Estates Succession Act. Section 3A of the Deceased Estates Succession Act states as follows: “The surviving spouse of every person who dies wholly or partially intestate shall be entitled to receive from the free residue of the estate, the house or other domestic premises in which the surviving spouse as the case maybe lived immediately before the person’s death.”

In the Administration of Estates Act, due to the fact that under customary law a man may have more than one spouse, the legal position is that the surviving spouse(s) is entitled to the following: “Where they live in separate houses, each wife should get ownership of or if that is impracticable, a usufruct over, the house she lived in at the time of the deceased’s person’s death, together with all household goods in that house”,⁶ or “Where the wives live together in one house at the time of the deceased person’s death, they should get joint ownership of or; if that is impracticable, a joint usufruct over the house and the household goods in that house.”⁷

If a deceased person had one wife then she will be entitled to the following: “Ownership of or, if that is impracticable, a usufruct over the house in which the spouse lived at the time of the deceased person’s death, together with all household goods in that house.”⁸ The phrases “lived immediately before the person’s death” and “lived in at the time of the deceased person’s death” have created challenges in implementation to the extent that women are losing their right to inherit the house because they were not living in the house at the time of the death of the deceased. However, due to the changing family dynamics, there are numerous situations that now exist due to migration. Due to the nature of Zimbabwe’s patriarchal society, it is not uncommon to find a woman living the larger part of her married life in the rural areas especially during the planting and

⁵ *Muswore v. Makanza* HH-16-05.

⁶ Section 68F (2)(c)(i).

⁷ Section 68F (2)(c)(ii).

⁸ Section 68(d)(i).

harvesting season. She may go to the urban home on occasion. Assuming that her husband dies whilst she is in the rural area, a restrictive interpretation of the law may mean that she was not living at the urban home at the time of death and therefore that particular home will not be inherited by her. This situation may also affect women in polygamous unions who may both be predominantly staying in the rural areas but going to the urban home occasionally, usually in turns. Suppose wife A is at the urban home at the time of death and wife B is in the rural areas, a restrictive interpretation will mean that wife B was not living at the urban home immediately before death and thus would stand to lose. And yet another scenario is where lodgers live in the urban home whilst a husband and wife stay in the rural area and survive on the rentals. Should one spouse die, again it would mean that they do not qualify to inherit the immovable property by virtue of the interpretation of the legal provisions.

ix. Guardianship of Minors Act [Chapter 5:08]

This Act covers custody and access in addition to guardianship. It covers parental rights and responsibilities in respect of these issues. Section 3 of the Act effectively provides that the father of children born in wedlock is their guardian. This offends against the equality provision in the Constitution as well as international human rights which require that men and women have equal rights and responsibilities over their children. Section 5(1) of the Act also violates the constitutional provisions on equality and the need to consider the best interests of the child. It provides that “where either of the parents of a minor leaves the other and such parents commence to live apart, the mother of that minor shall have the sole custody of that minor until an order regulating the custody of that minor is made” by the Court. These sections need to be amended to give equal rights and responsibilities to the father and mother of a child with the overriding consideration of the best interests of the child.

x. Deceased Persons Family Maintenance Act [Chapter 6:03]

The Deceased Persons Family Maintenance Act provides some protection for the needs of the family of the deceased who may be disadvantaged by the laws on intestate and testate succession. It applies to the estates of all people regardless of their type of marriage. The Act then provides that any dependent of the deceased may make an application for an award of maintenance from the net estate of the deceased.⁹ The Act gives a definition for net estate which means all the property after paying off creditors.¹⁰ This includes the matrimonial house and household goods which the Administration of Estates Amendment Act and the Deceased Estates Succession Act in some cases stipulate that they should be inherited by the surviving spouse.

xi. Maintenance Act [Chapter 5:09]

The Maintenance Act provides for the making of orders for maintenance of dependent persons and for the enforcement of those orders. Parents are primarily and jointly responsible for the maintenance of their children until the children attain the age of majority or become self-supporting. Where the parent(s) are deceased, the children are to be maintained from the estate of their parent(s) in line with the Deceased Persons

⁹ Section 3(1).

¹⁰ See section 2 (1).

Family Maintenance Act [Chapter 6:03]. This includes adopted children and children born out of wedlock.

7.2 Forms of Violence against Women

Having identified the constitutional provisions and legal instruments that Zimbabwe has put in place to curtail violence against women as well as improve women's access to justice, it was very critical for this study to also identify the most common issues that have continued to affect both rural and urban women and girls across Zimbabwe thereby resulting in the development of the above instruments. Data collected from organisations that deal with women's issues revealed that while efforts are continuously made to curb violence against women's social, economic, cultural and political rights and ensure access to justice, cases are still brought up to their attention. These include cases of sexual abuse, maintenance issues, birth registration, child custody, as well inheritance issues.

7.2.1 Sexual and Physical Abuse

An interview with the Justice for Children Trust revealed that although there are various well-drafted legal frameworks, abuse is still on the increase both towards women and girls, with 164 cases reported through their Harare offices in 2014. This concern was also raised by the director of the Zimbabwe Women's Bureau who further indicated that women are facing sexual abuse at work places, churches and institutions of higher learning. Of importance to note is the reality that in many cases sexual transactions are requested by either male bosses for contract renewal in return, spiritual fathers who are better known as *papas* in some religious circles or lecturers who threaten to fail female students if they turn down the request. The intensity of this form of abuse was also confirmed by statistics compiled and presented by Musasa Project at an All Stakeholders Conference on 25 November 2016 in which 42, 40, 37 and 94 rape cases were reportedly brought through the organisation's Bulawayo, Chiredzi, Gweru and Harare offices respectively implicating those entrusted with authority and power who take advantage of some women because of the dire circumstances they may find themselves in and just due to fear and limited knowledge about their rights.

Despite having the Domestic Violence Act in place, findings revealed that many women and girls continue to experience physical abuse in the form of harassment and beatings from family members and partners for trivial reasons or as a way of some men wanting to exercise their power over women. In many cases, as indicated by a member of the Zimbabwe Women's Lawyers Association, the patriarchal nature of our culture still influences how men relate to women, and this has played a part in the rise of sexual and physical abuses and violence against women. This has continued to happen to such an extent that society has not only almost legitimised such acts by dressing them up as common misunderstandings which every woman should get used to but has seen family support structures, particularly aunts and uncles, even covering up for their relatives or threatening victims when they decide to speak up and seek legal action or redress. Because many women remain dependent on men economically, this further compromises their ability to challenge such men, opting to remain in abusive relationships for survival or for the sake of their children.

7.2.2 Birth Registration

While section 81(b) of the Zimbabwe Constitution emphasises that every child has the right to be given a name and a family name, some women have literally failed to access birth certificates

for their children, particularly the single mothers. As it is biologically true that “every child has a father”, there are trends of the non-fulfilment of this reality. An interview with an organisation whose mandate is to protect and fight for the rights of women through assisting them in accessing birth registration reported an increase in such cases. While stressing an example of the cases that come through the organisation’s desk, polygamous marriages have also contributed to women failing to attain certificates for their children. Sharing an experience in an interview, it was revealed that the organisation was in the process of acquiring birth certificates for the remaining 20 children whose father has six wives and 48 children.

7.2.3 Maintenance Issues

Women have often suffered from the demands of single parenthood whenever maintenance issues are of concern. While it takes two to create a child, women and often young girls are left to look after babies whenever the fathers of the children choose to deny responsibility or abandon them. Difficulties emerge when the needs of the child need to be taken care of by the single parent. While such issues are taken lightly by others, Justice for Children Trust has recorded a total of 2,900 cases that were brought to its attention in 2014 while Musasa Project has also recorded a total of 1,836 cases: Bulawayo 930, Chiredzi 216, Gweru 537 and Harare 153. The slight difference in the total numbers of cases confirms the prevalence of violence against women despite the provisions of the Domestic Violence Act. This indicates how women in Zimbabwe are still disadvantaged despite the Maintenance Act which is operational.

7.2.4 Economic Vulnerability

The informality of the Zimbabwean economy has reportedly seen several women becoming economically vulnerable. This is due to the reality that it is the women who are mostly engaged in informal street trading or vending in order to take care of their families or supplement the husband’s income. In an interview with one of the informants, concern was raised that women had been negatively affected by the recently held *Tajamuka* demonstrations which resulted in many street vendors, who are often women, losing their items and never able to regain their wares after they were either confiscated by law enforcement agencies or vandalised. It was indicated that at most these demonstrations resulted in serious damage to property, displacement of street vendors from their vending points as well as looting of vendors’ goods. Although such kinds of destabilisations are never specifically targeting women, the disruptions have proved to be one of the forms of violence that continue to face the Zimbabwean women. Further, this kind of violence often goes unreported since the victims often cannot identify any specific offender.

Another silent but disempowering consequence of economic vulnerability is the lack of confidence in oneself which further results in women not coming out to possess critical positions when opportunities are presented to them. In many instances, women find themselves being spectators whose decisions are dictated to them by those in strong financial positions. This has resulted in very low esteem in women who therefore continue to lag behind and are unable to drive change or transform their lives.

7.3 Existing Legal Instrument Inconsistencies and Gaps

Another critical step that is important whenever laws and policies are put in place is implementation. For the Constitution to be effective and possibly yield success stories there should be no antagonistic policies or legal frameworks; thus the need for alignment whenever

inconsistencies are noted becomes imperative. This is to ensure that no inconsistencies exist as contradictions in interpretation of policy or legislation create misunderstandings which cause implementation to become disjointed or contested where a certain law is overridden by the Constitution as it is the supreme law. This has also been the centre of discussion by Dziva and Mazambani¹¹ who note how some legal frameworks protect girls from marrying boys without considering how the same frameworks expose the girl child to manipulation. Some of the notable inconsistencies which have also blocked both social and economic justice include:

7.3.1 Marriage Act, Children’s Act and Criminal Law [Codification and Reform] Act

Section 78 of the Zimbabwe Constitution has set the age of marriage at 18 years. This is inconsistent with the Marriage Act which has set the age of marriage at 16 for girls and 18 for boys, which further discriminates against women. Section 70 of the Criminal Law (Codification and Reform) Act provides that any person who has sexual intercourse with a person below the age of 16 years with or without their consent shall be charged with rape or aggravated indecent assault or indecent assault. The law differentiates between consensual and non-consensual sexual activity with a child. The crimes of rape, aggravated indecent assault and indecent assault cover non-consensual sexual assaults upon a child, but the law provides that a child under 12 is deemed incapable of consenting to sexual activity for the purposes of these crimes. There is an inconsistency in the Criminal Law Codification and Reform Act relating to the age of consent. Section 64 provides that the crimes of rape, aggravated indecent assault or indecent assault are committed if the victim is of or under the age of 12 whereas section 70 says that these crimes are committed if the victim is below the age of 12.

The table below explains the current Zimbabwean age of sexual consent in detail:

Age	Provision in terms of the law
Girls under the age of 12	In terms of section 63(2) of the Criminal Law Code, sexual intercourse with a girl below the age of 12 constitutes a crime of rape.
Girls between the ages of 12 and 14	Subsection (2) of section 64 provides that a person accused of engaging in sexual intercourse with a girl of above the age of 12 but below 14 years shall be charged with rape unless there is evidence that the girl was capable of giving consent to the sexual intercourse and gave her consent thereto (in this case the perpetrator faces a lesser charge of having sexual intercourse with a young person).
Girls between the ages of 14 and 16	Sexual intercourse with a girl of between the ages of 14 and 16 with her consent constitutes the crime of having sexual intercourse with a young person.
Girls between the ages 16 and 18	Currently it is not an offence to have sexual intercourse with a girl of 16, with her consent.

¹¹ C. Dziva and D. Mazambani, ‘The Constitutional Court Ruling against Child Marriages in Zimbabwe: A Landmark Decision for Advancing the Rights of the Girl Child’, 33 *Eastern Africa Social Science Research Review* (2007) 73.

7.3.2 Sexual Consent and Marital Consent

Section 64 of the Criminal Code provides that a person accused of engaging in sexual intercourse with a girl of above the age of 12 but below 14 years shall be charged with rape unless there is evidence that the girl was capable of giving consent to the sexual intercourse and gave her consent thereto. This therefore means that the age of sexual consent in Zimbabwe is 12 years. According to the same Act, it is not an offence to have sexual intercourse with a person above the age of 16 years with his or her consent. On the other hand, by virtue of section 78 of the Constitution, consent to marriage is pegged at 18 years. This means that young people are allowed at law to indulge in sex at ages as early as 12 years, but are prohibited from getting married until they are 18 years of age. There is need for a review of the age of sexual consent in Zimbabwe, taking into consideration global trends. Equating the age of sexual consent to the age of consent to marriage can be tantamount to turning a blind eye to the reality that children are indulging in sexual activities early. Yet, setting the age of sexual consent too low might leave children vulnerable to sexual predators and paedophiles.

A topical case that raised so much concern is a Beitbridge man who went after young girls below 16 years and stayed and had sexual intercourse with them until they turned 16 years or more before releasing them. Due to the absence of a law that could be used to convict him since they were consenting to sex, the man was instead charged with kidnapping and sentenced to four years, a verdict which was later nullified by another female magistrate. Further the criminal law does not criminalise some customary practises that promote child marriages such as *kuzvarira*,¹² *kuripa ngozi*¹³ and *chimutsamapfihwa*.¹⁴ Again, the Customary Marriage Act is silent on the age of consent and marriage. Women are therefore vulnerable to early and forced marriages, in contravention of the Constitution which prohibits these harmful cultural practices in section 80(3). While cultural values and practices are important and should be promoted and preserved at every level, the transformative context of the current Constitution advocates the promotion of cultural values and practices that enhance the dignity, respect, well-being and equality of all citizens including women and children.

7.3.3 Marriage Rights

Zimbabwe recognises three types of marriages which are civil law union covered under the Marriage Act [Chapter 5:11] and the registered and unregistered law unions covered under the Customary Marriage Act [Chapter 5:07], although the country offers limited recognition to unregistered customary law unions. Despite recognition of these marriage types, the civil law union seems to be more recognised especially in the event of dissolution of the marriage through death of a spouse or death. This leaves women in registered and UCLUs at a disadvantage with the law. Section 3(1) of the Customary Marriage Act states that for a customary law marriage to be considered valid, it has to be solemnised. This has placed many women married under customary law in a difficult position because not all marriages contracted under customary law have been solemnised. This causes problems especially at the termination of the unregistered customary law union. One of the major clauses that was referred to by informants of this study

¹² This is as practice in which parents pledge their daughters soon after birth although they bring her up until marriage age.

¹³ This is a spiritual appeasement practice in which a virgin is given away as compensation for a murdered person by the perpetrator.

¹⁴ This describes a girl who is given away to her aunt's (father's sister) husband after the death of the aunt.

is the clause in the Children's Act [Chapter 5:06] where 'guardian' is defined as including even the husband of the girl who would have married below the age of 18 years. This does not only seemingly legalise the marriage of children under the age of 18, but also presents the perpetrator as a guardian of the married child.

7.3.4 Married Persons Property Act and Matrimonial Causes Act

There are some notable inconsistencies between the two Acts. While Section 26 of the Constitution makes provision for equality in and at dissolution of marriage by providing for a formula for distribution of property upon divorce, there is no universality in how courts have distributed property particularly when one of the spouses had made non-monetary contributions. In some cases such as *Muswere v. Makanza*,¹⁵ the court ruled that the husband had the right to sell the property without the consent of the wife unless she could have provided evidence that she had directly/indirectly contributed to the acquisition of the property.

7.3.5 Enforcement

Although the state has enacted the Domestic Violence Act, there still exist challenges in the enforcement. The study revealed that in the process of delivering protection order papers, perpetrators tend to escape reception of the paper work, and this defeats the interim order which should protect the complainant up until the dates of court hearing. Legally, once the accused receives the protection order papers, the interim order which is meant to protect the complainant until the court judgement is heard becomes valid. A given example is that of a man who hid his identity from the police officer who had come to serve him with protection order papers. His wife heard him deny his identity but could not come out and confirm her husband's identity to the police officer. This resulted in the man escaping reception of the paper work, and thereby blocking the whole process of the protection order application. This therefore implies that once the perpetrator escapes reception of the protection order paper, the complainant will be at greater risk of being accused even more since the former (perpetrator) will be aware of the intentions of the latter (complainant).

7.3.6 Termination of Pregnancy and Reproductive Rights Regulatory Issues

It is illegal to terminate a pregnancy in Zimbabwe, except as provided by the Termination of Pregnancy Act which permits it only in the case of rape, extreme deformity and incest. Despite the clear exceptions, a gap was identified in the response rate of pregnancy termination following rape. Termination is only permitted after all evidence to prove the rape has been produced and meticulously verified. During the fact finding and verification process, the pregnancy will be growing beyond termination stage. One unique case that has been recorded is the *Mildred Mapingure* case of 2006 in which she eventually gave birth to a child she conceived through rape owing to the failure to ensure timely termination of the pregnancy. In her case, no contraceptive drug was administered to Mapingure let alone advice on alternative means to access the drug, which is a sign of negligence. She had to sue the justice system for damages for the delays which hampered termination of her pregnancy. However, social class plays a very big role in influencing the speed at which a reported rape case gets a judgement.

¹⁵ *Muswere v. Makanza* 2004 (2) ZLR 262(H).

What this means is that those who are poor and merely rely on the course of justice processes sometimes have their cases silenced without any justice rendered.

7.4 Barriers Infringing on the Protection of Women's Rights

7.4.1 Corruption

Corruption is one of the cancerous challenges that continue to directly undermine efforts to protect women from all forms of violence as well as access to economic and social justice. In this study, corruption was identified as one of the day-to-day realities that is creating barricades on women protection and access to economic and social justice despite the availability of legal instruments that have been in place. Examples that were raised during data collection were how women who own pieces of land sometimes have their land invaded and still fail to have the invaders evicted despite having been granted an eviction order by the courts. In such incidents, the police are often implicated in getting bribes for them to relax and ignore the need for assistance to evict the invaders. Again, there are incidents of disappearance of evidence or paper work from the court records, especially when a case involves a highly positioned person in society or those holding positions of authority. Most commonly, this often happens in relation to rape or domestic violence cases where in some cases informants narrate cases of intimidation or further victimisation. This was reported as a factor which does not only block women from accessing justice but also kills their confidence in the justice system. In a different revealed case, informants narrated that women have also been the subject of injustice when they have their goods for sale raided by the municipal police, in particular fruit and vegetables whose shelf life is very short. They will then be asked to recover them at the municipal offices. However, upon getting there, one would be told that the items cannot be located, or that the one who confiscated the items is off duty. This seemingly subjects women to financial losses which some have not been able to recover from; hence they see themselves drowned in the cycle of poverty again. Although, the women accepted that they are aware of the municipal by-laws which prohibit them from selling in the street, they argued that because of poverty they are left with limited options as most of them are single parents who need to fend for their children with the hope of giving them a descent or life.

7.4.2 Cultural Norms and Patriarchy

Section 16 of the current Constitution refers to culture as an important aspect of Zimbabwe's heritage which should always be promoted and preserved as it shapes our identity and character as a people. While cherishing our cultural heritage, values, customs and traditional institutions culture can be one of the sharp-edged elements that does not only defeat women's and girls' efforts to accessing both social and economic justice in many aspects but also exposes them to verbal abuse and eventually psychological abuse. Research revealed that to a large extent in many cultures within Zimbabwe, there are some family support figures whose responsibilities are to provide mutual support, mould families and resolve family conflicts being guided by cultural norms and values. As such, when issues that include domestic violence are brought to their attention, they give advice because all traditional institutions have a mandate to promote social cohesion, co-existence and prosperity for all people. However, it was observed that despite these cherished cultural traditions, some of the cultural values have for a long time stood in the way of justice for some women. For instance, when a wife gets beaten by her husband, the parents, sisters, uncles and aunts (both her and the husband's maternal and paternal relations) often persuade or block the wife from reporting the matter to the police. This has contributed to the large numbers of domestic violence case withdrawals as indicated in a

presentation made by a representative of Katswe Sisterhood during an all stakeholders' meeting organised by the Zimbabwe Gender Commission on 25 November 2016. This was also confirmed by a ZWLA member who further indicated that women who step up and report domestic violence are often subjected to verbal abuse by their husband's relatives. In some cases the manner in which conservative patriarchal societies interpret assault or beating of women by their husbands is that the only reason a wife gets beaten would be that she has done some wrong. As a result this perception instils a sense of guilt within the victim who then feels that indeed they were wrong even though at times it might have been a misunderstanding which could have been settled amicably without one party resorting to violence.

Nevertheless, it is important to note that withdrawals can no longer be made at the police stations, but instead reasons for wanting to withdraw are presented to the magistrate at the court, and they will be considered during judgement. While this was a good step to reduce withdrawals and render justice, the same factor has further subdued women into thinking that reporting domestic violence is not an option if there are chances of them wanting to withdraw the case later on. The transformative context of the current Constitution requires that both men and women respect each other as enshrined in the customary laws of Zimbabwe's traditional institutions and values that advocate for the respect of women. As one informant said: "*mai havarohwi*, implying that historically women have always been regarded as the bedrock of any family and should never be beaten but be respected at all times.

However, because of the economic challenges and evolving nature of cultural values, culture has also influenced the manner in which women are perceived and has also negatively infringed on women's access to resources that include land and mine claims. It was revealed that in most cases women are often requested to form clusters in order to access mine claims, a requirement which is not usually applied to men. This alone in the view of some women implies that women are still looked down upon as not strong enough to stand as individuals and succeed in business. It was revealed that possibly because of how culture has associated women with domestic chores, there is an assumption that what one man can do requires a group of women to successfully achieve the same task. While working in groups can enhance social networking it was the perception of some women that women continue to get smaller allocations of agricultural land than men. In spite of these divergent viewpoints, the study applauded government's efforts to uplift the lives of women through empowerment and protection of women's rights by instituting transformative legislative frameworks in accordance with the current Constitution.

7.4.3 Tedious Paper Work with Financial Implications

In many cases, as indicated by a member of the Zimbabwe Women's Lawyers Association (ZWLA), when women repeatedly face physical abuse they are left with no other option but to apply for protection orders. Although organisations such as ZWLA have taken the responsibility to interpret and assist victims to complete the voluminous application forms required for filing for a protection order, financial costs have also been a barrier. For instance, to apply for a protection order, one requires four sets of application forms which are not readily available for free at any office. These application forms are accompanied by commissioned affidavits, a process which costs an extra USD 4 in addition to the USD 5 cost of filing the application.

Form	No. of pages	Total cost
Application for a protection order DV3	6	10×6=60 cents
Interim protection order DV6	5	10×5=50 cents
Affidavit	1	10 cents
Protection order DV7	5	10×5=50 cents
Total cost per set		USD 1.70
Total cost for the required 4 sets		USD 6.80

This means that for one to file a protection order, they should part with USD 15.80, an amount which many are unable to provide. Further, the DV3, DV6 and DV7 forms do not only have monetary implications but also have too many pages to be fully completed. Section 31 of the Constitution provides that the state must take all practical measures, within the limits of the resources available to it, to provide legal representation in civil and criminal cases for people who need it and are unable to afford legal practitioners of their choice. The Legal Aid Act provides for representation of indigent persons. The Legal Aid Directorate was established to give life to both the Constitution and the Act. However, because of lack of resources, the Legal Aid Directorate has not been performing its mandate to the fullest. This is an avenue that indigent women could use, if the department was capacitated enough. Also related to this is the concern raised by the director of the Zimbabwe Women's Bureau who reported that the organisation has engaged the Zimbabwe Revenue Authority (ZIMRA) and the Ministry of Women's Affairs, Gender and Community Development in a forum whose objective was to assist cross-border traders so that they can equally engage in entrepreneurial ventures. Having raised a concern over Statutory Instrument 64 of 2016 which put women out of the informal trading industry, particularly the cross borders, it was made clear that the Statutory Instrument was never going to be reformed. Instead women were advised to apply for permits in compliance with the current government policy to which many are realised positive gains through entrepreneurship and creation of jobs thereby improving the quality of personal lives and those of their families. However, while most women informants appreciated the efforts taken by government in trying to protect local products, they indicated that the permits cost USD 30 for a product, a cost which many said they could not afford. This was where the problem intensified due to the reality that most of the women cannot afford the required amount. Instead some have resorted to becoming irregular economic migrants, while others have shifted their focus in terms of what they are now importing.

7.4.4 Language Barriers

While the Constitution together with subsidiary legislation aim at protecting women and ensuring their access to justice, most of the paperwork which they are required to complete has non-simplified legal terms that the general citizenry is not familiar with. This challenges the efforts of women who would have turned to the law for justice. Further, English is the only language that is used on any application form. Despite having the liberty to present their issues in any vernacular language to legal practitioners, all applications can only be done in English as there are no translated versions of the forms into any of the languages used in Zimbabwe. This does not only scare both rural and urban women off but also instils a feeling of inferiority, particularly when one fails to adequately express themselves because they cannot understand the required language of communication.

7.4.5 Persons with Disabilities

Whenever a concern of language barrier is raised, many often connect it to dialects. However, a number of critical concerns were revealed by this study. Research findings revealed that persons with disabilities (PWDs) continue to experience gender-based violence of different forms despite the current Constitution clearly stipulating their rights in Chapter 2, section 22. According to this section, the government of Zimbabwe recognises the rights of persons with disabilities in particular their right to be treated with respect and dignity, and that all institutions and agencies at every level must develop programmes for the welfare of persons with disabilities, encourage the development of suitable communication, avail adequate resources and ensure that buildings and amenities are accessible to all persons with disabilities. However, research findings revealed that most institutions that deal with gender based violence or with person with disabilities are not adequately equipped to assist the persons with disabilities due to a number of reasons. The major reason was change of mind-set and attitude towards persons with disabilities, political will and commitment to mobilise adequate resources and offer them opportunities that will improve the quality of their lives as well as lack of holistic approaches to awareness and advocacy regarding the plight and/or potential that people living with disabilities have. As such, this constituency is systematically left out due to the assumption that all humans are able bodied and the misperceptions and stereotypes regarding people living with disabilities.

7.4.6 Restricted Working Schedules

The study found that the ZWLA that provide legal services has established mobile legal clinics through which they offer free legal advice to women. However, mobile legal clinics cannot provide adequate services in situations of rape or sexual abuse. Such cases will have to be referred to the police. In that regard, the Victim Friendly Unit (VFU) was established in 1996 with the aim to render support to victims and also make the environment conducive, private and friendly. Despite such efforts, the VFU, which is housed under the Zimbabwe Republic Police, does not operate on a 24 hour basis as intended upon its establishment. This implies that a woman or girl who has been sexually abused and is in need of the VFU services cannot access them after normal working hours (1700 hrs). This increases the chances of post-rape psychological disturbances and depression which have contributed to young women committing suicide.

7.4.7 Female to Female Brutality

While women are often viewed as mere victims of all forms of violence, the study revealed that despite the establishment of the VFU within the Zimbabwe Republic Police and court sit-ins by lawyers, female- to-female brutality is still experienced. This was further confirmed in an interview with a member of the Zimbabwe Lawyers for Human Rights who reported that female officers sometimes call fellow female complainants by their cases. This would for instance result in a female complainant being referred to as “*mai vekuda maintenance*” which translates to the “lady who is after maintenance” or “*sisi vaya venyaya ye-rape*” which translates to “that sister who has brought forward a rape case”. This being done by fellow women has continued to contribute to women shying away from the justice system and its processes. The transformative context of the current Constitution requires that education becomes a priority for all women and men so as to eradicate ignorance and devaluing of each other as equals before the law, given that the current Constitution clearly indicates that no law may limit an

individuals' right to life, fair trial, human dignity, inhuman or degrading treatment or punishment or servitude (section 86:3a–f).

7.4.8 Poor Handling of Sexual Abuse Cases

Findings revealed that the general citizenry, particularly victims of sexual abuse, have no confidence in the police for they have in some instances proved to be stumbling blocks. This lack of confidence stems from the seemingly insensitive behind-the-counter arrangement that victims find themselves in when they present themselves at the police station to make a rape report. This was raised when another informant indicated that a victim makes their report while every other person in the station is welcome to listen to the report, yet the victim will be in a state of emotional hurt, confusion and possibly trauma. In addition, the language used by the police officers and prosecutors as well as the nature of questions asked to victims sometimes discourage and also traumatises women who would have otherwise confidently brought their cases to the attention of the police, hoping to get justice. For instance, when a girl walks into a police station to report a rape incident, the first set of insensitive questions she is likely to be asked would be whether or not she had cried or screamed, whether she had any physical bruises, how she fought back, and all sort of questions that require her to recount the horrific incident when she needs to be assured of safety before anything else.

Lack of confidence in the police has always trickled down to the justice system. According to one of the key informants, this is true in regard to public prosecutors as well as the members of the police force. In a case referred to during the interview, a victim of rape walked out of the court room crying that the public prosecutor had asked her questions which did not only make her uncomfortable but even devalued her position. This has left many women feeling unrepresented during court cases without realising that the public prosecutor should in fact be their technical representative.

8 Conclusions

Drawing from the findings of the study, the 2013 Constitution of Zimbabwe is transformative as it was drafted with gender consciousness and has therefore been empowering for women. Its provisions do not only call for the protection of women but further provides possible means of ensuring adequate enforcement of related legal frameworks and the setting up of supporting gender and human rights institutions to ensure effective and efficient implementation of the legislative provisions. However, despite the visible efforts put by the government of Zimbabwe and other stakeholders whose responsibility is to ensure the implementation of the legal frameworks, enforcement of the legal frameworks has been challenged by inconsistencies and gaps that have been noted in the legal frameworks. It is also safe to conclude that constitutional provisions and legal frameworks are evidently not well aligned as they should be to ensure adequate protection of women from gender-based violence; yet both instruments should complement each other to achieve the best transformative results. If unresolved, this discord and inconsistencies will continue to cripple the otherwise empowering transformative Constitution which should ideally influence, inform and guard the supporting frameworks.

9 Recommendations

Based on the issues that were unpacked by the study, the following recommendations are made:

1. Alignment of legal frameworks for the protection of women and improved access to justice with the Constitution

The Constitution should inform the legal frameworks for the protection of women and improved access to justice. Here all subsidiary legislation should be aligned to the new Constitution, which is not the case today. Without necessary alignments, women's rights will continue to be abused on the ground. A case in point is the recent constitutional ruling banning child marriages, whereby, with effect from 20 January 2016, "no person may enter into any marriage, including an unregistered customary law union or any other union including one arising out of religion or religious rite, before attaining the age of 18 years".¹⁶ Although this ruling is there, the girl child is still getting married below the age of 18, since the Marriage Act and the Customary Marriage Act have not been aligned to the ruling and the Constitution. This is something which needs to be given attention and addressed with gender lenses in line with the transformative intentions of the current Constitution.

2. Adoption of a holistic approach to gender issues

There is a need for a more holistic approach to the handling of gender-based violence, including everyone who finds themselves in the chain of injustice. This can be done through intensive training for public service providers, which include the police, all those who handle and give support to victims as well as the public prosecutors and magistrates. The respective public and private agencies must continue and intensify the promotion of public awareness of the current Constitution by making it mandatory for all educational institutions from preschool up to university level to understand the basic tenets enshrined in the Constitution in particular with regard to the promotion of gender equality and promotion of fundamental human rights and freedoms in recognition of the inherent dignity and worth of each human being.

3. Stakeholder coordination and engagement

For best practices, there is need for concrete coordination and engagement among all stakeholders that work with and for the rights of women and the relevant policy makers as well as the Zimbabwe Gender Commission, Human Rights Commission and traditional institutions so that culturally relevant solutions are drawn from stakeholders who work closely with the intended beneficiaries of the instruments that have been designed to complement the transformative Constitution.

4. Ensure balance of awareness information to rural and urban women

There is a bold assumption that it is the rural women who have not been able to access information and this has resulted in much focus being put on the rural communities, leaving out the urban communities. Instead, there will always be an imbalance of information with urban women having limited information. This calls for inclusive,

¹⁶ *Mudzuru and Tsopodzi v. Minister of Justice, Legal and Parliamentary Affairs, Minister of Women's Affairs, Gender and Community Development and Attorney General of Zimbabwe* CCZ 12/2015.

holistic and Afro-centric approaches sensitive to the various needs of different categories of women, men, youth and children.

5. Interpretation of legal frameworks to all citizens

Although information is available, most of the available information has not been adequately interpreted to the general citizenry. It is often taken for granted that everyone understands how legal systems function yet only those who work within the systems have the understanding and can interpret legal documents with ease. To cover the gaps, there is a need for mechanisms to ensure access to information about the operationalisation of the legal systems and how one can access and follow-up on the developments within the legal spheres. There is need for more bottom-up and participatory approaches which are inclusive and responsive to some of the assumed knowledge about women's rights and gender-based violence.

6. Addressing gender equality issues

There is also need to address the issue of gender equality in all Commissions as stipulated in section 17 of the Constitution.

7. Maternity leave

Section 67 of the Constitution guarantees an unlimited right to maternity leave to all female employees, but section 18(1) (3) of the Labour Act and section 39 (1), (3) and (4) of the Public Service Regulations set conditions for the enjoyment of the right thereby discriminating against newly employed women. Section 65(7) of the Constitution provides that women employees have a right to fully paid maternity leave for a period of at least three months. The provisions in the Labour Act and the Public Service Regulations are therefore unconstitutional and must be reviewed because they breach the women's right to reproductive decisions.

8. Quota system in Parliament

Section 124(4) of the new Constitution provides for "an additional sixty women members, six from each of the provinces into which Zimbabwe is divided, elected through a system of proportional representation based on the votes cast for candidates representing political parties in a general election for constituency members in the provinces." Though only valid for the life of the first two Parliaments after coming into effect, this has resulted in a significant increase in the percentage of women representation in Parliament from 19 per cent in the previous Parliament to 31 per cent after the 2013 elections. This adoption of the women's quota system by Zimbabwe is in line with relevant international instruments relating to full political rights for women. Such laws include the Universal Declaration of Human Rights, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Political Rights of Women. However, in as much as this gender quota system is expected to influence the Parliament of Zimbabwe towards achieving a 50/50 representation, there is still a lot to be done as there are still disparities in the number of women parliamentarians compared to their male counterparts.

9. Support for the Anti-Domestic Violence Council

The Anti-Domestic Violence Council was put in place to monitor the implementation of the Domestic Violence Act. The Council has a critical role to play in ensuring that as a nation, policies and laws which address gender-based violence are enacted and implemented. However, due to non-allocation of resources by Treasury, it has been very difficult for the Council to fulfil its critical mandate. This Council is established in terms of section 16 of the Domestic Violence Act. The functions of the Anti-Domestic Violence Council include dissemination of information, research and provision of services necessary to deal with all aspects of domestic violence and promotion of the establishment of safe houses for the purposes of sheltering victims of domestic violence including the children pending the outcome of court proceedings under this Act.

10 Areas for Further Research

Whilst this research has highlighted some critical efforts regarding the constitutional and legal frameworks that have been put in place to address the continued violence against women, there is scope for further research in developing an educational framework of best practice that will be useful to all stakeholders as they engage systematically and consistently with the serious human rights violations associated with violence against women and girls. This study may therefore be further developed by unpacking the following issues:

1. The need to explore in detail all factors that continue to inflame distrust in law-enforcing authorities regarding gender-based violence by the Zimbabwean citizenry. This should then lead to the identification and proposition of effective strategies that can be used to re-claim citizens' confidence in these authorities. If the Constitution is taught to all citizens in both formal and informal settings, people will have a better understanding and respect each other as human beings as well as respect the rule of law.
2. There is a need to research the unforeseen insecurities and injustices surrounding people with disabilities, such as speech dysfunction, visual impairments in the justice-seeking process and how these can be addressed to ensure equal access to justice by both able-bodied and PWDs. This study would also get into issues that challenge the proper handling of PWDs by exploring further as a way of gaining deeper understandings on how law-enforcing government agents and human rights agents respond to gender related issues brought before them by PWDs. It is only when laws are properly enforced and appropriate measures are taken to protect PWDs that advocacy work by civil society organisations and human rights agents can achieve their goals of providing adequate legal representation in line with the provisions provided for by the Zimbabwean Constitution.
3. Drawing from the concern over language barriers, it would be necessary to look into the policy issues around access to information for all. This would include issues to do with possible translations of all critical documents that include the Constitution, policies and instruments that have been put in place for the protection of women against violence and any other forms of human rights abuse. While acknowledging efforts made by some gender focused line ministries, all other government agencies and human rights agencies should ensure that documents are written in a language that is easily accessible by all regarding gender-based violence and other gender empowerment and women's rights issues.

4. An assessment of the impact of existing legal frameworks in the advancement of women's rights and the promotion of gender equality in accordance with the Constitution of Zimbabwe and other regional and international instruments such as CEDAW and the United Nations Security Council Resolution 1325 and related resolutions should be done continuously as part and parcel of any programming work. Effective monitoring and evaluation of the existing legal frameworks will ensure availability of critical data and information that should always inform policy making processes.
5. In addition to the global, regional and national frameworks already in place, more research needs to be undertaken on how the Zimbabwean traditional cultures always celebrated women and/or protected women from gender-based violence. Such approaches need to be systematically documented as lessons learned in the contemporary society. Such research would affirm the transformative founding values and principles upon which the current Constitution was crafted regarding recognition of the inherent dignity and worth of each human being, gender equality, equality of all human beings and the rights of women and children in particular.
6. There is need for further research in documenting the success stories regarding the transformative nature of the current Constitution on women rights and identification of gaps that would need to be followed up and strengthened. Women from all levels of society should be able to share their experiences on how the current Constitution has transformed their lives and also what they think needs to be done to improve on the transformative trajectory that the government of Zimbabwe has taken regarding the improving the quality of women's lives instituting appropriate legislative frameworks. There is need to celebrate these achievements through action-oriented research that will in turn inform policy design regarding women's rights and the institution of just legislative frameworks against violence against women in particular, men and all people in general.