

# CHAPTER 7 PROTECTION



Policewomen participating in a 4Ps campaign event.

Photo Courtesy of MWAGCD

Effective response and support give survivors a viable and safe alternative. This chapter explores the enforcement mechanisms in place to respond to VAW and measures that are in place to support VAW survivors in Zimbabwe. The chapter also presents recorded statistics on the use of available protection services by VAW survivors.

### Regional and international instruments

One of the indicators to measure political commitment to end VAW is the ratification and adoption of legal instruments and the existence of institutional mechanisms which facilitate the elimination of VAW. Zimbabwe is a signatory to several conventions to combat gender-based violence, including the Convention on the Elimination of All forms of Discrimination against Women (CEDAW); the African Union (AU) Constitutive Act (July 2000); The Solemn Declaration on Gender Equality in Africa, through which the Union and its Member States commit themselves to the promotion of gender equality (July 2004); The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa in 2008; the Southern African Development Community (SADC) Declaration on Gender and Development of 1997 which commits member states to undertake measures to incorporate gender issues in their programmes (July 2003); and the 2008 SADC Protocol on Gender and Development which has a target of halving VAW by 2015.

### Constitutional provisions

The new constitution states that among Zimbabwe's founding values and principles are gender equality - article 3 (1) (g) and good governance which include respect for women's rights - article 3 (2) (h) (iii). These concur with the calls from women's rights activists that gender equality is enshrined as a founding principle.

### National Objectives

The new constitution contains a new chapter two (Chapter 2) on "national objectives" The objectives include that the State must take measures for the prevention of domestic violence (article 25 (b) and

ensure that no marriage is entered into without the consent of both parties, equality of rights and duties of spouses during the marriage and spouses are given all necessary protection on dissolution of the marriage by death or divorce (article 26). Other objectives related to gender equality include the following:

- i. The State must facilitate developmental measures which protect and enhance the rights of women in particular to access equal opportunities in development- article 13 (3).
- ii. An obligation on the State to create employment opportunities for all Zimbabweans, especially women - article 14(2).
- iii. A duty on the State to promote full gender balance in Zimbabwean society - article 17.
- iv. Female children have to be given the same access as male children to educational opportunities - article 27.

All the provisions are framed in peremptory language suggesting that the State and its institutions and agencies can be held accountable for failing to comply.

### Declaration of rights

The new constitution declares the rights of people including the Right to personal security Right to equality, labour rights, Right to health care and the elaboration of women's rights. The constitution states that all cultural practices that infringe women's rights are void to the extent of their infringement - article 80; a welcome change from the position set out in article 23 (3) of the current Constitution which insulates customary law from the right to equality.

### Establishment of a Gender Commission

Chapter 12 of the constitution pertains the establishment of Independent Commissions supporting democracy. This includes the establishment of a Gender Commission whose members will be chosen on the basis of (inter alia) their knowledge and understanding of gender issues (article 245). The functions of the Gender Commission will include monitoring, investigating, researching, advising on gender issues as well as receiving complaints on such issues - article 246.

## National legislation

Apart from the ratification of regional and international frameworks, an effective legal instrument to end violence against women demonstrates a government's commitment to uphold human rights. As such, the government of Zimbabwe has made great strides in uplifting the status of women through legal and administrative reforms. The main laws in place to address VAW in public and private life include the DVA enacted in 2007 and the Criminal Code.

### *Domestic Violence Act (Chapter 5:16)*

In response to the rising cases of domestic violence and in line with the provisions of the CEDAW committee, the Zimbabwe Parliament enacted the DVA [Chapter 5:16]. The DVA came into being after wide consultations with different stakeholders which include civil society organisations, government departments and communities, (MWAGCD 2012).

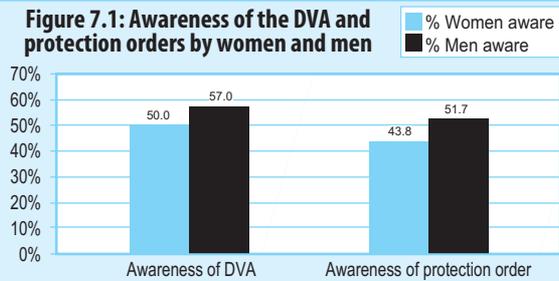
According to the DVA, domestic violence can be defined as "Any unlawful act, omission or behaviour which results in death or the direct infliction of physical, sexual or mental injury to any complainant by a respondent" This definition of domestic violence is broad and includes any harmful cultural or customary practices, 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 similar practices that discriminate against or degrade women.

#### *Awareness of the DVA and protection orders*

Laws are only as effective as legal literacy and access to justice. The survey asked if respondents know of laws in Zimbabwe that protect women and children against abuse and the DVA.

Figure 7.1 shows that a considerable proportion of the population; 50% women and 43% men are unaware of the DVA. A lesser proportion of women (44%) and men (52%) were aware of protection orders.

**Figure 7.1: Awareness of the DVA and protection orders by women and men**



Based on these findings there is need to raise awareness about the DVA and its provisions. People in rural areas are fairly unaware of the DVA due to inadequate awareness and sensitisation activities. It follows that if people are not aware of an empowerment tool such as the DVA, then it is difficult to reduce VAW<sup>27</sup>. Rather, people may continue to be abused in any way. Raising awareness around the Act and its provisions is critical in improving access to justice by women survivors.

### *Gaps and challenges in the implementation of the Domestic Violence Act*

#### 1. *Forms of domestic violence not criminalised*

While the DVA acknowledges multiple forms of domestic violence, there are certain acts of violence that it does not criminalise. For example, Section 4 stipulates that, acts of emotional, verbal, psychological abuse and economic abuse shall not constitute an offence. By implication, the DVA recognises in principle the existence of emotional, verbal, psychological and economic abuse yet it does not criminalise these forms of abuse.

This infers that the majority of women in Zimbabwe will continue to experience these forms of violence but will have no legal recourse until amendments to criminalise emotional, verbal, psychological, and economic abuse have been made. In the same vein, statistics on these types of violence do not appear in administrative data from the police or court records. These gaps justify the need for regular household prevalence surveys instead of relying on the available administrative data.

<sup>27</sup> MWAGCD, personal communication.

2. *Cumbersome protection order application process*  
Despite the above provisions granted by law, women in Zimbabwe still face challenges in applying for protection orders. The process is cumbersome and the processing costs may be prohibitive to women without access to financial resources. To the illiterate women, the legal language involved may scare them and result in communication problems unless they get legal assistance in completing the forms.
3. *Socio-cultural context*  
The Domestic Violence Act has not been fully implemented because of challenges such as resistance from traditional leaders, limited access to legal aid and women's socio-economic dependence and cultural status that impedes their ability to use the protective measures of the law out of fear of family castigation .

### **The Criminal Code**

One of the key mechanisms that are vital to eliminate VAW is to have a deterrent penal code. This also demonstrates government's commitment to end violence against women. This report is particularly concerned with the provisions on rape which are contained in the Criminal Code. For this reason, the Criminal Code makes it an offence for a man to have sexual intercourse with a woman without her consent.

#### *Provisions*

The definition of rape according to the Zimbabwe Criminal Code is when “a male person knowingly has sexual intercourse or anal sexual intercourse with a female person and, at the time of the intercourse the female person has not consented to it or there is a real risk or possibility that she may not have consented to it”. The Code also specifies that rape is not limited to penetration of the male organ but can include the use of an object, or engagement in fellatio or cunnilingus.

The criminal code also criminalises marital rape and wilful transmission of HIV. Deliberate transmission of HIV can attract a penal sentence of up to twenty years

imprisonment. The penalty for rape is imprisonment for life or any shorter period” (Criminal Code).

#### *Gaps*

The code refers to men as the perpetrators in all circumstances under which rape may occur and does not expand to include the rape of men by women. Zimbabwe's Criminal Code is behind other countries' broader definition of rape. For example, in the South African Sexual Offences Act, the definition of rape is applicable to all forms of sexual penetration without consent, irrespective of gender. This simply means that a woman, a man (or a child) can now be raped by another woman or man, (SA Criminal Law (Sexual Offences and Related Matters) Amendment Act, No. 32 of 2007).

#### **The Labour Act**

Women are exposed to VAW both in their private and public spheres including the workplace. As a redress, the Labour Act [Chapter 28:01] was amended in 2002 (Act 17 of 2002) and subsequently in 2005 (Act 7 of 2005) to prohibit the demand for sexual favours in return for recruitment for employment, promotion or any other related activities. The amended Act also extends the prohibition to any form of unwelcome sexual behaviour towards an employee. This protects employees from potential discrimination on the grounds of gender.

In accordance with the law sexual harassment is defined as “unwelcome sexually-determined behaviour towards any employee, whether verbal or otherwise, such as making physical contact or advances, sexually-coloured remarks or displaying pornographic materials in the workplace.”

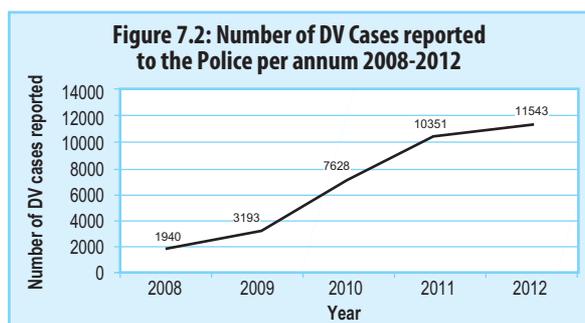
#### **Zimbabwe Republic Police - Victim Friendly Unit**

The police victim friendly unit was established in 1995 to the VFU police violence against women and children, sexual and domestic violence offences. Having started as a pilot project, the ZRP reports that every police station in the country has a VFU.

<sup>28</sup> National VAW strategy.

The protocol on the multi-sectorial response to sexual abuse and violence in Zimbabwe outlines several standard guidelines on how VFU service delivery should be conducted. Some of the guidelines include, maintaining privacy, confidentiality and safety of the victim at all times, treating each case of domestic violence or sexual abuse as priority. The protocol also stipulates that any victim of sexual or domestic abuse has a right to report to any police station in the country. Among other duties, it is also the responsibility of the VFU officer to escort the victim for medical examination but the VFU officer has no responsibility to disclose the results of the examination to the victim or the family. In accordance with the protocol, the police VFU investigators are responsible for investigation, arrest of offenders, and docket compilation.

### Access to services



(Source: Zimbabwe Republic Police Annual Report 2012)

Figure 7.2 shows that there is an increase in reporting of domestic violence. The police annual report indicates significant annual increases of reported DV cases from January 2008 to December 2012.

Care should be taken in interpreting the observed increases as it may be reflective of a true increase in the incidence of VAW or it may just be a result of an increase in reported cases due to increased awareness and impact of the strengthened public campaigns.

Table 7.1 shows that in 2011, the VFU handled 1219 women rape cases, and 3003 children rape cases. In 2012 the number of women rape cases declined by 16% to 1016 and the number of children rape cases also declined by 19% to 2405. The resultant popu-



MWAGCD Director, Caroline Matizha, (left) and police officers from the VFU Unit. Photo courtesy of MWAGCD

lation prevalence of women rape cases is 0.02%. Therefore, the prevalence of rape reported in the survey is 80 times more than that reported to the police in a similar period.

Criteria	Statistic
Number of women rape cases recorded by the ZRP in 2011	1219
Number of women rape cases recorded by the ZRP in 2012	1016
Number of children rape cases recorded by the ZRP in 2011	3003
Number of children rape cases recorded by the ZRP in 2012	2405
Population prevalence of rape in 2012 based on police statistics	0.02

### Gaps

The available data on cases reported to the police:

- Does not show specific information that relates to the type of domestic violence reported. It is therefore difficult to differentiate and quantify domestic violence cases resulting from physical abuse or sexual abuse.
- Is not further disaggregated to ascertain respective provincial levels of sexual and domestic violence.
- Provides no information to profile either the victims or perpetrators so it is even more difficult to decipher the exact number of cases by female victims above the age of 18 and to understand the

- relationship between the victim and survivor.
- Provides no information regarding either withdrawals or referrals.

#### Recommendations

Data capturing by ZRP indicates the relationship characteristics of the abuser and the victim however when reporting the ZRP is encouraged to categorise these relationship factors so that they can be meaningful to end users of the data. The ZRP needs to categorise VAW data in order to make sense of the data.

#### Courts

The DVA specifies actions to be taken by the courts in responding to VAW. These include provisions for counselling and issuing of protection orders.

#### Counselling

To further enhance the intended positive effect of the law on the eradication of domestic violence, Section 11 of the DVA, empowers the court to order the victim, the perpetrator or any member of the family who is affected by violence to undergo counselling.

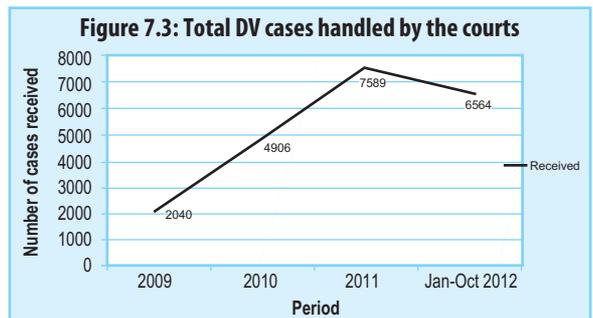
#### Protection orders

In the event that a case of domestic violence has been committed, the DVA makes provision for the complainant to make an application for a protection order. Upon receiving an application for a protection order and before issuing one, the court examines among other things, whether or not a protection order was issued before to the parties concerned, medical evidence and any witnesses if available.

Section 11 of the DVA stipulates that a protection order may prohibit the perpetrator<sup>29</sup> from committing further acts of domestic violence; direct the perpetrator to stay away from any premises or place where the complainant resides, works, attends or frequents. A protection order where appropriate may also direct

the perpetrator to pay emergency monetary relief in respect of the complainant's needs and those of any child or dependant, including household necessities, medical expenses, school fees and mortgage bond or rent payments.

Other provisions include the temporary awarding of custody of any child or dependant of the perpetrator to any person or institution and regulate rights of access by the respondent to such child or dependant. The complainant or any child or dependant of the complainant's all continue to access to their place of residence while the perpetrator is required to compensate for any personal or physical injury, pain, trauma or loss suffered by the complainant. This includes that the complainant or the perpetrator or both undergo counselling by a counsellor with the perpetrator paying all the necessary expenses.



Source: Ministry of Justice and Legal Affairs Provincial Courts Records 2011 to 2012.

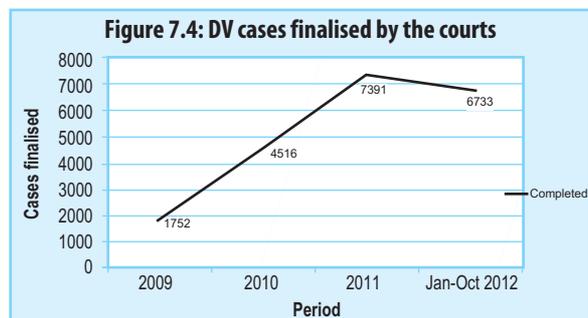
#### Access to services by survivors

Figure 7.3 shows the overall number of domestic violence cases handled by the courts from January 2009 to October 2012. As shown, the number of cases being handled by the judiciary increased significantly during the defined period. The number of domestic violence cases handled by the courts doubled between 2009 and 2010. The figure also shows that already the period between January and October 2012 recorded 6564 cases. Again the increase in the

<sup>29</sup> Referred to as respondent in the DVA.

number of cases should either be interpreted as a natural increase or an increase in access to court services in the specified period. The increase in the number of court cases at court may also be attributed to the fact that the judiciary appointed personnel who are directly responsible for handling domestic violence cases<sup>30</sup>.

### Completed cases



Source: Ministry of Justice and Legal Affairs Provincial Courts Records 2011 to 2012.

Figure 7.4 shows an increase in the number of cases finalised by the courts from 2009. The number of cases finalised increased by 157% between 2009 and 2010. Also, between 2010 and 2011 the number of cases finalised increased by 63%. The steady increase in number of completed cases over the period is an indicator of increased efficiency by the justice system in dealing with cases.

### Gaps

- Data is not disaggregated by sex making it difficult to deduce the number of cases with women victims.
- The relationship of complainant and respondent is difficult to ascertain from available statistics and will require further exploration of individual application forms. This limitation means cases occurring in intimate partnerships cannot be

deciphered from those occurring in the broader domestic setup.

### Issuing of Protection Orders

Criteria	Statistic
Number of applications for protection orders since 2011	3014
Number of protection orders issued since 2011	2931

Source: Harare civil court records.

Table 7.2 shows that 3041 applications for protection orders were received at the Harare Civil Court and 2931 protection orders were successfully issued out. This shows a considerable degree of efficiency in the processing of protection orders by the court. However, for a complete picture of the efficiency it would be more important to understand success rate of all applications and the average time of processing. The data provided was not adequate for this evaluation.

### Support

Comprehensive care and support including medical assistance, free legal services, education, social services, economic empowerment, psychosocial support and provision of shelters is necessary to help survivors to regain their self-esteem, self-confidence and to reintegrate into society<sup>31</sup>. Care and support for survivors of sexual violence includes post exposure prophylaxis (PEP), pregnancy prevention, treatment for STIs and HIV testing. Community based support structures are also crucial for survivor re-integration and rehabilitation of the perpetrators of VAW.

The following case illustrates some of the key gaps in government's response in the country as highlighted in the SADC Gender Protocol 2013 Barometer.

<sup>30</sup> (Direct Communication).

<sup>31</sup> National VAW strategy.

## Zimbabwe: Rape victim sues government for child's maintenance

A Chegutu rape victim has set a new precedent after she sued government for failing to prevent and terminate her pregnancy, leading to the birth of her “unwanted child.”

The woman (name withheld) recently took her case to the Supreme Court seeking an order compelling the government to pay maintenance for her seven-year-old child fathered by armed robbers who sexually abused her at her Chegutu home in 2006.

In her appeal, the woman cited Home Affairs, Health and Child Welfare and Justice and Legal Affairs ministers as respondents. However, state lawyer Advocate Thabani Mpfu dismissed the claims arguing that the ministries cited as respondents in the matter had no obligation to withdraw her assailant's sperm when the woman was raped.

“The police have no obligation to draw sperms or assist in the process of their withdrawal. Applicant purports to talk about negligence where she sets out no legal basis. For instance, police have no obligation to bandage a victim of assault, but their constitutional obligation is to bring perpetrators to book,” Mpfu said. In her submission through Harare lawyer Isaiah Mureriwa, the woman said the cited ministries contributed to the negligence that led to the birth of the child after failing to take measures to prevent the pregnancy.

The rape survivor said the police, the doctor and the magistrate who handled her matter when she fell victim to the sexual attack, all acted negligently resulting in the birth of her child. After being raped, the woman reported the matter to police and expected the officers to provide her with necessary documentation to take to hospital for termination of the pregnancy, but that was not done. She later gave birth in December 2006.

“The financial consequences are what the applicant is seeking in this court as the only remedy to the situation,” Mureriwa said. The lawyer further challenged the use of the term “terminate” arguing his client sought the “prevention” of pregnancy soon after the offence was committed as opposed to seeking termination. Judgement in the matter has been reserved.

*(From NewsDay, Zimbabwe; 29 May 2013; by Charles Laiton)*

## Medical assistance

### Zimbabwe National HIV and AIDS Strategic Plan (ZNASP II) 2011-2015

The National Health strategy is a five year plan developed by the Ministry of Health and Child Welfare (MOHCW). Guided by the national response towards achieving zero new infections, zero discrimination and zero AIDS related deaths by 2015, the strategy stipulates various health interventions required to sustain and improve the health delivery system in Zimbabwe. Of particular importance is the priority to prevent new adult and children HIV infections. According to the strategy, “Zimbabwe aims to reduce the annual infections by 50% by 2015. Zimbabwe has



Nurses participating at 4Ps campaign activity.

*Photo courtesy of MWAGCD*

consistently recorded a decline in HIV incidence from 1.14% in 2006 to 0.85% in 2009<sup>32</sup>.

#### *Guidelines on Post Exposure Prophylaxis (PEP)*

Exposure to HIV mostly occurs through accidental contact with contaminated blood. The ZNASP II stipulates that all people who have been raped should be offered HIV testing and counselling and PEP within 36-72 hours for those who are HIV negative, if HIV positive, the client needs to follow Anti-Retroviral (ARV) adherence guidelines<sup>32</sup>.

PEP services consist of counselling and risk assessment, HIV testing and counselling provision of short term ARV based on the assessed risk and follow up post PEP service counselling (ZNASP II 2011-2015). All Anti-Retroviral Therapy (ART) sites in Zimbabwe are equipped to provide PEP services. ZNASP II seeks to improve availability and access to PEP services countrywide.

#### *Gaps and Challenges on PEP*

The ZNASP II recognises the following as challenges related to access to services:

- Inadequate awareness of PEP services among most people and communities. Subsequently low uptake of PEP services is due to lack of awareness and stigma associated with HIV and rape.
- PEP services are also not available in all health facilities due to lack of qualified personnel to offer PEP.

#### *Priority Strategies on PEP*

In accordance with the ZNASP II, the MOHCW is working towards:

- Strengthening the capacity of service providers to provide PEP, including the police and others. PEP training, awareness and education initiatives are being offered to other service professions including police, firemen, construction workers, shop stewards, and foremen.
- Intensifying education and awareness of PEP in the general population and in particular among people who are at most risk of infection by virtue of their

work. Communities are being mobilised, sensitised and encouraged to access and utilise PEP services especially survivors of sexual abuse (rape and defilement).

- Strengthening community-based HIV counsellors to provide pre-PEP counselling especially for rape and sexual abuse survivors. This will increase both the uptake of PEP and demand for ARVs.

The national PEP guidelines (2007) will be reviewed periodically to ensure that they remain relevant and take cognisance of emerging issues, new knowledge and technologies.

#### *The Protocol on the Multi-Sectorial Management of Sexual Violence and Abuse in Zimbabwe (2012)*



Sister Kurangwa, Adult Rape Clinic Manager, facilitating a sexual assault case management workshop. Photo by Adult Rape Clinic

In response to the need to have standardised and coordinated procedures in VAW service provision across all sectors in the country, the government and development partners including UNFPA, UNICEF, and IOM developed guidelines that outline the principles that guide response to sexual abuse.

The objectives of the protocol are to:

- Strengthen the existing services being offered by the health, police and legal personnel. In this regard, the protocol sets out roles and responsibilities of children and adults, professionals, communities and organisations involved.

<sup>32</sup> www.cdc.gov

- Increase access to health, psychosocial and legal services for both adult and child survivors of gender based violence.

In order to achieve the set objectives, development partners including UNFPA, UNICEF and IOM have supported the:

- Training of nurses, doctors, prosecutors, police and social workers to understand survivor centred approaches as well as referral and coordination mechanisms. A survivor-centred approach means that all those who are engaged in violence against

women programming, prioritise the rights, needs, and wishes of the survivor<sup>33</sup>.

- Refurbishment of selected hospital counselling rooms and police debriefing rooms
- Establishment of one stop centres in Makoni, Mudzi, Marondera and Mberengwa districts. At the one stop centres the survivors can access medical services and legal aid.
- Plans to establish one stop centres in Mashonaland Central, Mashonaland West, Mashonaland East, Masvingo and Matebeleland North where no such services are available.

### Case study 7.1: Adult Rape Clinic (ARC)

The Adult Rape Clinic (ARC) is located at Mbuya Nehanda Maternity Hospital Ward C Parirenyatwa Hospital Complex. The clinic was established after realising deficiencies in the care of survivors of sexual assault and rape in the country. The target group are women and men aged 16 and above. Most clients to the ARC are referrals from the police.

#### Objectives of ARC

The ARC aims to incorporate the medical, legal and psycho-social components of the response into a one stop shop for adult rape survivors; establish a replicable model for a comprehensive response for rape survivors in Zimbabwe; be a key resource centre for the multi-disciplinary training in the clinical management of rape survivors; undertake operational research and advocacy for changes in legislation on rape and create public awareness about the problem of rape and educate the public about prevention and management of rape.

#### Services provided by the ARC

The ARC offers quick access to medical treatment and psychosocial support services to both young and adult rape survivors. It also trains health personnel in the clinical management of rape. This includes counselling to both men and women rape survivors. The counselling sessions normally focus on survivor's worries, concerns, feelings and their prospects. The counselling sessions are crucial as they help the survivors to cope with the situation. Usually some survivors blame themselves for the situation but they need to be helped. The ARC also offers counselling to perpetrators referred from the men's forum.



ARC Delta Awareness Campaign, Zimbabwe.

Photo courtesy of Adult Rape Clinic

<sup>33</sup> www.endvawnow.org

Other services provided include Voluntary Counselling and Testing (VCT); provision of PEP, STI Prophylaxis; free emergency contraceptive pill for the prevention of pregnancy; medical examination and documentation of findings on the medical affidavit and collection of forensic evidence that is critical in the arrest of rapists. The ARC also offers continuous training on management of rape to various government departments for example the Police, Justice and Health personnel.

The ARC conducts and participates in awareness campaigns on sexual violence, at schools and tertiary institutions and in communities. This includes educating women on situations most likely to end up in rape and educating men to respect women.

### **Lessons learnt**

According to the clinic manager, the majority of survivors attended to at the ARC are raped by people they know. Very few women presented themselves early for treatment after the incident of rape and this poses as a challenge especially in accessing PEP or terminating a pregnancy from rape. Women that present at the clinic are relatively unaware on what they should do when they are raped and also the importance of presenting early for treatment.

### **Challenges**

The ARC faces challenges in its operations. The clinic manager indicated that all programs depend on availability of funding.

*Source: Direct communication with ARC*

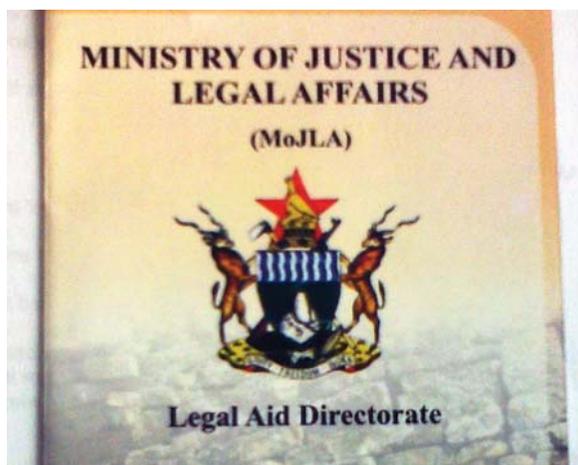
## **Legal aid provision**

The provision of free legal aid to survivors of VAW is crucial to reduce case withdrawals and to ensure the protection of the rights of VAW survivors. Legal services are expensive making them inaccessible to many VAW survivors, which forces many of them to stay in abusive relationships and to withdraw cases<sup>34</sup>. Access to legal aid in Zimbabwe is offered through the help of either the government or through private organisations such as non-governmental organisations.

The multi-sectorial management of child sexual abuse in Zimbabwe also provides the framework for legal assistance for survivors. This includes state representation through the public prosecutor, support to understand and feel comfortable in the courtroom, (by the probation officer and /or Victim Friendly Intermediary) and through legal advice and representation by civil society organisations (Legal Assistance preliminary strategy 2011).

## **The Legal Aid Directorate**

The Government of Zimbabwe established the Legal Aid provision in 1981 to better respond to the needs of persons who cannot afford legal services. Legal assistance can be in the form of legal advice, legal drafting, and legal representation.



*Photo courtesy of LAD*

<sup>34</sup> National VAW strategy.

The Legal Aid Directorate (LAD) became a fully-fledged department in 1997 after the enactment of the Legal Aid Act (Chapter 7:16). Currently, the directorate has offices in Harare and Bulawayo only.

#### *Eligibility for assistance*

The LAD assists men, women and children in civil, criminal and labour matters. According to the Legal Aid Act, a person shall be eligible for legal aid if, in the director's opinion they have insufficient means to obtain the services of a legal practitioner on his own account; have reasonable grounds for initiating, carrying on, defending or being a party to the proceedings for which he applies for legal aid; and are in need of or would benefit from the services provided in respect of the proceedings for which he/she seeks legal aid.

#### *Service costs*

While the LAD does not stipulate any legal fees to its clients, clients are requested to contribute towards a Legal Aid Fund which is used to procure office stationery. The contribution money is also derived from the personal circumstances of each client. One of the factors that determine whether a client is offered free legal assistance is income status. The LAD uses a certain threshold to determine whether a client is gainfully employed. The means test is administered as a way to prevent overwhelming the LAD with people who might otherwise be able to pay for their own legal services thereby disadvantaging the very needy.

Those who are unable to pay the contribution money can still access free legal assistance. This category of people forms the largest number of applicants for legal aid services.

#### *VAW statistics*

While the majority of clients are women who come to seek peace orders and protection orders, issues that relate to the various forms of VAW have not yet been streamlined. As such the directorate cannot disaggregate the cases received into the specific forms of VAW. The directorate receives isolated cases of men who seek protection orders.

#### *Referral system*

The LAD has a referral system in place. Children who require specialised legal services are referred to Justice for Children Trust, an organisation that deals with children legal issues. Older clients are referred to ZWLA, Musasa and Padare. Likewise, these organisations also send their clients to LAD for assistance. Generally, the LAD refers about 20 child cases per week for matters relating to custody and maintenance.

LAD has also partnered with organisations such as the UNDP which are helping the department to produce IEC materials for dissemination to the public

#### *Challenges*

Currently the LAD is not receiving any grants from the government. As a result, no new offices have been opened in other provinces to enable the LAD to have a nationwide reach. The amount of money generated by the contributions to the Legal Aid Fund is not enough to buy office stationery and furniture. In addition, there are no special rooms designed for legal counselling and the LAD does not have vehicles for lawyers to use in executing their duties.

### **Legal Aid by Non-Governmental Organisations**

#### *Zimbabwe Women Lawyers Association (ZWLA)*

ZWLA is a non-governmental organisation formed by women lawyers in 1992.



ZWLA's vision is to seek justice and equality for all. Its mission is to develop, defend and dialogue on women and children's rights. As an organisation, ZWLA aims for a Zimbabwean society where women are empowered and assert their rights within a justice system that treats men and women equally and that is sensitive to the needs of children.

ZWLA targets indigent women and children from all parts of Zimbabwe who are in need of legal assistance and the organisation provides free legal services for the same.

### *Processes and activities*

ZWLA has three main programmes under its ambit. These are legal education, advocacy, and the children legal services programme. The main focus of the legal education program is to create awareness on women's rights to women and children. ZWLA disseminates legal rights information to women through conducting public education workshops, various media, brochures and pamphlets.

ZWLA's advocacy programme aims to ensure that the national laws and policies in place adequately respond to women's needs in conformity with standards set

out in the various international and regional human rights frameworks.

ZWLA's children legal services programme focuses on providing legal aid assistance to children and their representatives, providing legal education on children's rights as well as lobbying and advocating for policy and legal reforms on issues that affect children. The programme also monitors the operations of the victim friendly court which mainly deals with cases of sexual violence against minor children and vulnerable witnesses or complainants who invariably are women.

### **Case study 7.2: Shortening of Protection Order Forms**

The process of applying and completing a protection order form in Zimbabwe has been a cumbersome and prohibitive exercise for most women complainants. According to Zimbabwe Women Lawyers Association (ZWLA), the forms were bulky, repetitive and costly because of their length. This was a challenge to women facing domestic violence because they had to photocopy four sets, (costing money about \$5).

Another challenge was that even ordinary women needed assistance from lawyers to complete the form. To mitigate this challenge, ZWLA and other VAW stakeholders advocated for the shortening of the protection order forms to allow for the speedy completion and a reduction of processing costs such as printing and photocopying.

ZWLA, Musasa, MWAGCD, MJLA and other organisations offering legal assistance to women VAW survivors collaborated to effect changes to the format of the protection order forms. ZWLA drafted the shorter version of the protection order form. Although the process took three years, the engagement by the various stakeholders resulted in a government gazette of the shorter version of the protection order form in November 2012 under the Statutory Instrument SI 145 of 2012. The new shortened version now consists of only 5 pages and it does not require applicants to photocopy four sets as previously done. It is hoped that the new version will be simpler to complete and economical to an ordinary woman and children seeking legal assistance.



Zimbabwe Women Lawyers Association conducting a consultation on protection orders.

*Photo courtesy ZWLA*

## Women and Law In Southern Africa Research and Education Trust ( WLSA)



WLSA is a non-governmental organisation set up in 1987 but formally registered in 1989. WLSA envisions a society where justice is equitably accessed, claimed and enjoyed by women and girls in all spheres of life. WLSA coordinates and supports evidence based interventions to promote and protect women and girl's rights through legal and policy reform and changes to discriminatory socio-cultural practices. Marginalised women and girls are the direct target group for WLSA.

### WLSA programmes

All WLSA programs are implemented within the rights based approach framework. These include:

- **Legal aid and support services:** Under this program WLSA offers legal aid and counselling to indigent women and also drafting of court papers and court representation. Cases handled include domestic and gender based violence; maintenance; divorce;

property and inheritance; guardianship; custody and access to children; labour.

- **Action research:** This involves conducting research on laws and policies affecting women with a view to influencing reform that is based on empirical evidence. This research forms the basis of WLSA action programs. The research takes the form of baseline surveys and three year researches on specific topics.
- **Legal rights education and training:** This program aims to raise awareness on laws and policies that affect women to women themselves, men, girls and boys, traditional leaders, CSOs. It also involves development of training manuals and programs for specific targets such as traditional leaders, justice delivery personnel, peer educators and community popular opinion leaders.
- **Advocacy and communication:** The aim of the program is to influence law reform on laws and policies that affect women and girls and to enhance information dissemination through development of IEC materials, print and electronic media and website.
- **Institutional development:** The aim of this program is to develop the capacity of WLSA and its partners to offer the best services it can and to be more effective in its engagements.

### Case study 7.3: Bringing legal aid and services to the people through help desks and mobile legal aid

As part on initiatives to increase access to justice for women, WLSA in 2012 set up help desks at the Harare Civil Court and gradually expanded to the Norton and Chitungwiza courts. This was in realisation of the fact that most women were finding it difficult to travel to WLSA offices for advice. WLSA research on women's access to justice revealed that some women withdraw cases of violence against perpetrators as they lack knowledge of the legal system and also lack of support from family and significant others. WLSA therefore saw it prudent to bring the law to the people.

This initiative involves having WLSA officers manning help desks on specified days at the courts. The initiative was initially targeted at cases of property and inheritance rights but was expanded to include other legal cases due to demand for the service. Currently WLSA is handling cases of domestic violence; property grabbing, will writing; sexual abuse; divorce; custody and guardianship of children and maintenance. WLSA has seen an increase in the number of people who visit the help desks for advice. For domestic violence WLSA officers assist clients in completing the requisite forms.

WLSA Zimbabwe offers mobile legal aid and services to women and men in Harare (Mabvuku/Tafara); Ruwa; Epworth; Norton; Hopley and Chitungwiza on family law related cases and domestic violence. This initiative was developed after the realisation that women do not only face challenges in travelling to offices of organizations that offer legal aid and services but also that some women are hampered by perceived gender roles from seeking advice. Therefore conducting mobile legal aid and services in areas where people live ensures that those who wish to know their legal rights have an opportunity to do so. WLSA also assists women to complete domestic violence applications and demystifying the legal process so that women feel confident to take cases of abuse to the courts.

## Provision of shelter services

### *Standard Operating Procedures (SOPs) for Safe Homes for GBV survivors in Zimbabwe*

MWAGCD, Musasa and other civil society organisations developed a set of minimum standards for women's shelters in Zimbabwe. The set of standards are officially referred to as Standard Operating Procedures (SOPs) for Safe Homes for VAW survivors in Zimbabwe.

According to these standards:

“A safe house is defined as a home that provides an alternative shelter to survivors of violence. The main purpose is to keep the victim or survivor away from experiencing further harm from the perpetrator. At the same time the woman will be supported to come to terms with their experience and to initiate the legal process. A safe shelter is therefore viewed as a temporary placement necessary to allow the victims or survivors to safely return home or seek other alternatives”.

The set of standards cover the regulations including registration of the shelter, admission into the shelter, service delivery standards, confidentiality, safety and security measures.

While there is widespread acknowledgement for the need for establishment of shelters, few are in place. Also compounding the situation is the inadequacy of resources and the lack of capacity of service providers to ensure quality care. The Committee on the Convention on the Elimination of Discrimination against Women (CEDAW) recommended the strengthening the capacity of existing shelters and establishing more shelters, especially in rural and remote areas, and enhancing cooperation with NGOs providing shelter and rehabilitation to victims<sup>35</sup>.

This research managed to get information from the Musasa Shelter in Harare, and the Mambo Safe Shelter in Gweru.

## Case study 7.4: Musasa

### *Provision of counselling and shelter services*

Musasa is a non-governmental organisation formed in May 1988 with the objective of combating VAW in Zimbabwe.

Musasa offers a wide range of services that includes, shelter and counselling to survivors of domestic violence. Musasa also provides life skills training, legal assistance, and access to basic health assistance.



Women tending the vegetable gardens at the Musasa safe shelter. Photo courtesy of Musasa

<sup>35</sup> National VAW strategy.

### **Access to shelter services by survivors**

In 2011 alone the Musasa safe shelter handled:

- 728 cases of women who survived physical violence;
- 902 cases of women who experienced psychological or emotional violence;
- 654 cases of women who experienced economic violence;
- 96 HIV positive women were counselled;
- 48 cases of women who were raped;
- 61 cases of women who had property inheritance problems;
- 113 women received telephone counselling on various issues, and
- 74 women who were returning clients.

Challenges in provision of shelter and counselling services include that the shelter is overwhelmed with women coming with their young children fleeing domestic violence. Another challenge is that the shelter can only accommodate the mothers. This means the children have to be separated from their mothers. The limiting of clients at the shelter to just the women is meant to ensure lower cost operations.

### **Expanding the shelter into a one stop centre**

Musasa is currently constructing a one stop centre facility with the aim of giving a comprehensive care to VAW survivors. In addition to providing shelter, legal and medical services, the centre is expected to house a police post to ensure that survivors get all the services they need under one roof.

### **Case study 7.5: MWAGCD Mambo Safe Shelter, Gweru**

MWAGCD operates a safe shelter for women and children, survivors of VAW in Mambo, Gweru. The safe shelter has a capacity to hold 4 to 6 people.

#### **Services provided**

Counselling and food is provided by Musasa. Treatment of survivors is funded by NGOs but survivors get medical care through the public health system. Survivors are offered legal assistance by Gweru Legal Projects Centre. For justice survivors are referred to MJLA, VFUs and the courts. Occasionally when there are children who have been abused, they are taken to the Department of Social Services for help.

#### **Statistics**

Records provided by the shelter show that from January to December 2011, 19 women and 4 children sought refuge at the safe shelter. In 2012, the shelter accommodated two women and three children. The safe shelter did not accommodate any women and children for the greater part of 2012.

These figures indicate very low access to the shelter. Reasons for the low access may include accessibility and the lack of public awareness of the facility. However there is need for further exploration to barriers of access by women. There is need to raise the communities' awareness about the availability of shelter services.

#### **Challenges**

The biggest challenge facing the shelter is the shortage of food and blankets to give to the VAW survivors when they present themselves at the shelter. While the National VAW strategy alludes to provision of shelters the issue of state funding to established structures is critical if ever survivors are to access the minimum package of support.



A roadside notice for the Gweru Safe Shelter.  
Photo courtesy of MWAGCD

## Women's economic empowerment

The phrase “women's economic empowerment” specifically describes women's power over their own finances and financial well-being-to have a voice in the financial decisions that shape their lives and the lives of their families so that they can live the lives that they choose for themselves<sup>36</sup>. The benefits of financial decision-making power for women are that it puts women in positions where their voice and influence is strengthened as well as their ability to advocate for themselves and the needs of their families. Women have more power to participate together with men, in the shaping of society, and to make decisions that promote their families and their own well-being<sup>37</sup>.

While there is limited empirical data on how and to what extent economic empowerment of women, especially in low to middle income countries influences gender-based violence, studies in South Africa<sup>38</sup> and Uganda<sup>39</sup> amongst others have shown that women's economic empowerment may positively affect gender relations and decrease women's risk to intimate partner violence.

The following case study is a local government initiative that is being implemented in Chegutu council and encourages women to participate in farming projects. Besides the advantage of generating women, women participating in the initiative have reported improvement in their relationships.

### Case study 7.6: Empowering women through income generating projects in Chegutu Town council

#### Background

This project was borne out of community dialogue within the councillor's ward. Community members raised concerns around GBV during ward meetings. Discussions around the issues identified the underlying factors to GBV as idleness, poverty, cultural beliefs, polygamous attitudes and behaviours. Proposed solutions included economic empowerment programs to make women less dependent on their partners. The project is therefore aimed to increase women's productivity, resourcefulness and empower them socially and economically.

#### Project Activities

Currently this empowerment project involves activities such as formation of support groups with women identified mostly through church visits. The council then facilitates networking of the support groups with support systems such as the Police Public Relations Department, Women Organisations such as Zimbabwe Women Lawyers Association (ZWLA), Musasa, and Justice for Children Trust (JCT). The support



Women in a vegetable garden, Chegutu.

Photo by Eunice Chahwanda

<sup>36</sup> Swedish International Development Cooperation Agency, “Women's Economic Empowerment: Scope for Sida's Engagement,” p. 7 (Dec.30, 2009) <http://www.sida.se>

<sup>37</sup> <http://www.soroptimist.org/whitepapers/WhitePaperDocs/WPWomenAndEconomicEmpowerment.pdf>

<sup>38</sup> <http://r4d.dfid.gov.uk/Output/176730/Default.aspx>

<sup>39</sup> [http://www.actionagainsthunger.org/sites/default/files/publications/ACF\\_Evaluation\\_Report\\_GBV\\_and\\_Livelihoods\\_Northern\\_Uganda\\_final.pdf](http://www.actionagainsthunger.org/sites/default/files/publications/ACF_Evaluation_Report_GBV_and_Livelihoods_Northern_Uganda_final.pdf)

groups are also introduced to neighbouring male and female farmers. The result is that women can get seasonal jobs. Individual women that may be smaller scale farmers are able to partner with successful farmers who then educate them on practical cropping in various crops. In some cases the farmers offer small portions of land so that support group members can plant their domestic vegetable gardens to sustain their families. Apart from the vegetable gardens and the farming contracts, women take turns to manage the groundnuts plot. Women from the support groups formed a cooperative for peanut butter making.

### **Impact**

The results of this project includes that the support groups have enhanced available psychosocial support for survivors and increased women's agency. The project has also alleviated poverty. Women get their own income that is not governed by the traditional family system. Women and children are empowered as children can go to school well clothed. Apart from the farming project, women get independent income from the joint venture ZUVA RABUDA (Sun Has Risen) farm project

## **Conclusions**

- The country has made great strides in localising the instruments through enacting laws such as the Domestic Violence Act, the Criminal Code, Labour Relations Act, and Administration of Estates Act. The new 2013 constitution has several provisions that respond to the advancement of women's rights.
- Despite the presence of laws and policies on VAW, several setbacks affect the country's progress towards achieving the SADC Protocol target of halving VAW by 2015. First, geographical coverage of activities by MWAGCD remain limited due to inadequate funding from the national budget.
- Although the Adult Rape Clinic is offering PEP services to survivors of sexual abuse there is still a shortage of PEP services in public hospitals as well as inadequate awareness of PEP services across the country.
- Another gap identified in this section is that data on VAW from the MOHCW, ZRP, MJLA and the LAD is not disaggregated by age or sex, and by the type of VAW. The data is also not reflective of the number of withdrawn cases by women. As such it is difficult to make inferences on the use of services by VAW survivors.
- The appointment of personnel who are directly responsible for handling domestic violence cases in courts by the judiciary is a commendable effort by government. This has resulted in speedy handling and finalisation of VAW cases by courts. It is hoped that such efforts can be sustained given that the number of domestic violence cases is increasing.
- Government legal aid assistance through the LAD is limited to Harare and Bulawayo. A significant proportion of survivors outside the two major cities who may be in need of such services are not accessing them.
- Due to lack of funding from the government, the Legal Aid Directorate is unable to expand its services to the rest of the country.
- NGOs such as Musasa, ZWLA, WLSA, and Justice for Children trust which offer legal assistance to women and children, are complimenting government efforts.
- A referral system is in place to assist clients with special legal needs to approach any of the NGOs or the LAD for assistance. Legal drafting, assistance in completing protection orders, counselling and psychosocial support and advocacy are some of the services provided by the NGOs.
- The current situation is that the safe shelters are inadequate and those provided by NGOs are overwhelmed with clients needing help.