

"Zarina"

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## CHAPTER 5

# Gender Based Violence

## Articles 20-25



Marching for justice: Sixteen Days of activism against gender violence in Luanshya municipal council. Photo: Albert Ngosa

### KEY POINTS

- Citizens scored the government's performance at 66% based on perceptions of progress made against the GBV targets set for 2015 in the SADC Gender Protocol. This places the country at number two out of the 15 SADC countries.
- Zambia is the only country in the region with an Anti-Gender Based Violence Act. Passed in 2011, the Gender Based Violence Act implementation is still in its infancy, although more cases are being reported.
- Although reliable comprehensive data on extent, response, support and prevention of GBV is difficult to find, statistics show almost half (47%) of girls and women aged 15 years and above in Zambia have experience of physical violence.
- The Gender Based Violence Act provides for setting up of a gender based violence fund.

Table 5.1: CSC scores on gender based violence

	SGDI	CSC
Score	N/A	66%
Rank	N/A	2

Table 5.1 shows that citizens give the government's performance a score of 66% based on perceptions placing the country at number two compared with the rest of the 15 SADC countries. Perhaps the passing of the Anti-

Gender Based Violence Act in 2011 a unique law in that it does not focus on domestic violence like most countries but addresses GBV in a holistic way which could have influenced the outcome.

However, women were more critical than men in that they gave a much lower score of 61% compared to the 69% mark respectively. This could be attributed to the fact that women are disproportionately affected by gender violence.

Like the Constitutional and Legal Rights sector, it is difficult to obtain comprehensive quantitative data that is comparable, so there is no SGDI score for GBV.

### Background

Gender based violence is one of the most common yet unacknowledged and serious human rights violations not just in Zambia but the rest of the SADC region. The Anti-Gender Based Violence Act provides protection for survivors of all forms of gender violence.

Reliable and comprehensive quantitative data on GBV is difficult to obtain. Police statistics are highly contested because of under-reporting of GBV and inadequate data collection tools.

Zambia will join four other SADC countries including Botswana, Mauritius, South Africa (four provinces only)

and Zimbabwe that have rolled out the GBV Indicators Project to measure extent, response, support and prevention of GBV.

The project has been a collaboration of Ministries/ Departments of Gender or Women's Affairs together with Gender Links, central statistics offices, research institutes and other stakeholders.

In Zambia the project will initially be rolled out to four districts - Mazabuka, Mansa, Kitwe and Kasama and then the rest of the country in the second phase. At the time of writing the report, researchers were being trained so that the project could begin in earnest.

According to the 2007 Zambia Demographic Health Survey (ZDHS), almost half (47%) of girls and women aged 15 years and above in Zambia have experienced physical violence.

Several prevention strategies have been adopted including advocacy campaigns. For example civil society and government commemorate the 16 Days of Activism against gender violence on an annual basis. Campaigns are linked to regional and international best practices such as the Red Light Campaign spearheaded by Women and Law in Southern Africa on eradication of violence against women and children.

## Extent of gender violence



*The Protocol urges Member States to endeavour to reduce current levels of gender based violence by half by 2015.*

The year 2012 has witnessed an increase in the number of reported GBV cases in Zambia. The number of cases of defilement, which the law defines as the "unlawful and carnal knowledge of a child under the age of 16," is a concern. In the first quarter of 2012, the police Victim Support Units recorded 615 defilement cases nationwide. Lusaka province reported the highest number totaling 383, followed by Central province with 48 cases.

Cases of assault were 885 for the same period. Similarly, Lusaka reported the highest number of cases, 409, followed by Copperbelt province with 127 cases and Central province with 103 cases.

Gender-based disputes, most of which were over land, totalled 716. Most of these were in the Copperbelt province with 505 cases, followed by Western province with 109.

Negligence to provide support cases were estimated at 690 for the first quarter of 2012, with the Copperbelt province recording 366 cases, followed by Lusaka with 286 cases.

Statistics show that GBV cases are more prominent in urban areas. Out of the total number of 3, 446 for the quarter, 1,265 were from Lusaka province while 1,141 were reported from the Copperbelt province (VSU, 2012).

Early child marriages are on the increase. Customary laws have no minimum age for marriage although statutory law stipulates that no child of 16 years and under can be married. The Ministry of Gender and Child Development is sensitising the traditional and church leaders to discourage the practice. Magistrates' courts are intervening through the use of the Anti-GBV Act which needs to be translated into local languages.

Table 5.2: Gender-based violence statistics

REPORTED OFFENCES	TAKEN TO COURT										NOT TAKEN TO COURT							
	REPORT 2009	REPORT 2010	CONV 2009	CONV 2010	ACQUIT 2009	ACQUIT 2010	W/D 2009	W/D 2010	PEND 2009	PEND 2010	TOTAL 2009	TOTAL 2010	W/D 2009	W/D 2010	PEND 2009	PEND 2010	TOTAL 2009	TOTAL 2010
Murder	29	23	9	9	0	0	0	0	14	9	23	18	4	4	2	1	6	5
Assault O.A.B.H	2605	2791	383	192	25	23	146	166	90	331	644	712	1268	881	693	1198	1961	2079
Defilement	1676	2419	277	240	63	162	32	36	261	627	633	1065	962	1238	81	166	1043	1354
Rape	244	254	60	45	13	17	7	10	33	56	113	128	108	94	23	32	131	126
Muted rape	60	0	15	0	7	0	4	0	6	0	32	0	18	0	10	0	28	0
Indecent assault	188	170	36	23	2	4	14	6	35	75	87	108	77	43	24	19	101	62
Abduction	9	35	2	6	0	1	1	0	1	15	4	22	3	9	2	4	5	13
Neglecting to provide	1811	1715	21	36	3	0	18	52	77	86	119	174	442	296	1250	1245	1692	1541
Child desertion	98	86	6	10	1	0	3	7	16	22	26	39	47	23	25	24	72	47
Infanticide	4	10	0	1	0	1	0	1	4	6	4	9	0	1	0	0	0	8
Abortion	29	21	6	7	0	0	1	0	6	6	13	13	14	8	2	0	16	8
Defilement of imbecile	15	11	4	2	0	0	0	0	3	4	7	6	6	5	2	0	8	5
Malicious damage	169	68	1	5	0	3	0	8	4	13	7	29	41	9	148	30	189	39
Bigamy	22	1	1	0	0	0	0	0	0	0	1	0	10	1	11	0	21	1
Incest	30	41	4	4	0	0	0	1	9	27	13	32	14	4	3	5	17	9
Threatening violence	45	57	4	5	0	2	5	7	5	14	14	28	9	12	22	17	31	29
Unnatural offence	16	17	1	5	0	0	0	0	4	8	5	13	7	2	4	2	11	4
Unlawful wounding	89	67	19	13	4	0	1	5	15	21	39	39	49	17	1	11	50	28
B.H	7		1		0		0		3		4		2		1		3	
F.F.P. of marriage	34	3	4	0	0	0	0	0	0	0	4	0	10	0	20	3	30	3
Human trafficking	9	13	4	6	0	0	0	0	1	2	5	8	4	5	0	0	4	5
Use of insulting lang	53	153	9	35	0	0	3	1	5	20	17	56	9	28	27	69	36	97
Criminal trespass	2	4	1	0	0	0	0	0	0	2	1	2	0	2	1	0	1	2
Depriving beneficiary	260	211	6	16	1	0	5	23	11	48	23	87	48	48	139	76	237	124
Assault on a child	18	42	4	8	0	0	0	2	4	8	8	18	6	11	4	13	10	24
Theft	32	66	10	1	0	0	0	10	6	12	16	23	8	15	8	28	16	43
Disputes	707		0		0		0		0		0		575		575		707	
<b>TOTAL</b>	<b>8261</b>	<b>8278</b>	<b>888</b>	<b>669</b>	<b>119</b>	<b>213</b>	<b>242</b>	<b>335</b>	<b>613</b>	<b>1412</b>	<b>1855</b>	<b>2629</b>	<b>3078</b>	<b>2756</b>	<b>3078</b>	<b>2943</b>	<b>6426</b>	<b>5656</b>

Table 5.2 tracks reported crimes against those that went to court and successfully concluded. This shows that very few reported cases that relate to gender end up with convictions. For example of the 254 cases of rape reported in 2010 only 45 (17.7%) resulted in conviction,

17 were acquitted, 10 were withdrawn and 56 are still pending. This gives a total of 126 (49.6%) that were taken to court. The remainder, just over half were not taken to court. Of these 32 were withdrawn while the rest that were filed were closed.

## Legal



*The Protocol requires that State Parties shall, by 2015, enact and enforce legislation prohibiting all forms of GBV. Linked to this is the obligation that all laws on GBV provide for the comprehensive testing, treatment and care of survivors of sexual offences which shall include emergency contraception, ready access to post exposure prophylaxis at all health facilities to reduce the risk of contracting HIV and preventing the onset of sexually transmitted infections.*

Zambia has set a new trend by developing an Anti-Gender Based Violence Act (2011) which is much more comprehensive than most Domestic Violence Acts in the subregion. It is unique in providing for the setting

up of shelters, an Anti-Gender Based Violence Fund and support services for the abused. The President of Angola José Eduardo dos Santos signed off a domestic violence law at the time of writing in July 2011.

### Zambia: Anti-Gender Based Violence Act passed



Promoting safety in public spaces is key at local level. Faith Ngozi a police officer attending a gender-training workshop at Kabwe district council - Zambia, March 2012. *Photo: Colleen Lowe Morna*

The Anti-Gender Based Violence Act (2011), signed off by Zambian President Rupiah Banda in April 2011 is a major step forward in the fight against Gender Based Violence (GBV) in Zambia. One of the most comprehensive laws on GBV in SADC, the Act gives hope to many women and children who have been subjected to GBV without adequate recourse. It offers a comprehensive framework for protection and means of survival for victims and survivors of GBV as well as prosecution of perpetrators.

Gender-based violence continues to be a problem in Zambia with the number of reported cases on the rise. According to figures, one in five women has experienced sexual violence at some point in their lives. Of all the forms of violence, spousal abuse or domestic violence was the highest form of abuse reported. If implemented by the government agencies and other role players, this will contribute to reducing levels of gender based violence.

The Act comes after more than ten years of advocacy for a comprehensive and effective piece of legislation and has been received well by all sections of Zambian society and particularly women's organisations. The years of ground work have paid off because unlike other SADC countries that have specific domestic violence Acts, Zambia has an anti-gender based violence law which is more far reaching and comprehensive.

The Act takes its inspiration from the gender based violence provisions of Articles 20 - 25 of the SADC Protocol on Gender and Development which calls on States to enact and enforce legislation prohibiting all forms of GBV; discourage traditional norms including social, economic, cultural and political practices; public awareness programmes; adopt integrated approaches; provision of specialised facilities including support mechanisms for survivors of GBV among other obligations.

This is one of the few GBV Acts in SADC that specifically provides for:

- The establishment of a Gender Based Violence Fund to assist victims.
- Establishment of an all-inclusive GBV Committee.
- Establishment of shelters.
- Provision of emergency monetary relief.
- The addressing of harmful traditional practices.

There are, however, some shortcomings identified by organisations like Women in Law in Southern Africa (WLSA). For example the term “domestic relationships” excludes some forms of gender violence such as violence associated with prostitution; violence at the work place; violence by the police and security forces including torture of detained women.

The Act targets:

- Perpetrators of GBV.
- Judiciary who handles cases of GBV when taken to court.
- Police service.

- Government departments.
- Women and men.
- Civil society, the church and other stakeholders.
- The Nation at large.

Government agents and civil society have begun disseminating and sensitising the public on the provisions of the Act and training the judiciary; a communication strategy and putting together a National Gender Monitoring and Evaluation Plan. This is being done in tandem with the reviewing of the National Gender Policy.

Challenges to be overcome include effective implementation; limited financial and human resources; weak monitoring and evaluation strategies; slow court trials; public awareness, especially in rural areas; and types of violence not catered for by the Act. But the Act sets a precedent for other SADC countries. It is a good practise that can and should be replicated.

## GBV response and support



*The SADC Protocol provides that by 2015 state parties shall: Enact and enforce legislation prohibiting all forms of gender-based violence; ensure that laws on gender-based violence provide for the comprehensive testing, treatment and care of survivors of sexual assault; review and reform their criminal laws and procedures applicable to cases of sexual offences and gender based violence; enact and adopt specific legislative provisions to prevent human trafficking and provide holistic services to the victims, with the aim of re-integrating them into society; enact legislative provisions, and adopt and implement policies, strategies and programmes which define and prohibit sexual harassment in all spheres, and provide deterrent sanctions for perpetrators of sexual harassment.*

**Table 5.3: GBV response and support**

Provisions	What is in place?	What needs to be put in place?
<b>Laws/ policies</b>		
Legislation prohibiting all forms of GBV.	GBV Act.	Implementing the Act since it is new.
Ensuring that all perpetrators of GBV are brought to book.	GBV Act, Victim Support Unit, ASAZA.	Implementing the Act since it is new.
Comprehensive testing, treatment and care of survivors of sexual offences - emergency contraception.	One-stop Centres have been put in place in some locations.	To be replicated countrywide.
Access to Post-Exposure Prophylaxis for survivors of GBV.	One-stop centres in all clinics and Hospitals.	Information and sensitisation.
Prevention of sexually transmitted infections (STIs).	One-stop centres.	To be replicated countrywide.
Social and psychological rehabilitation of perpetrators of GBV.	One-stop centres.	To be replicated countrywide.
Review of criminal laws and procedures on sexual offences and GBV to eliminate gender bias and ensure that justice and fairness are accorded to the survivor.	Penal Code was reviewed and a comprehensive GBV Act was put in place.	Implementation of these laws.

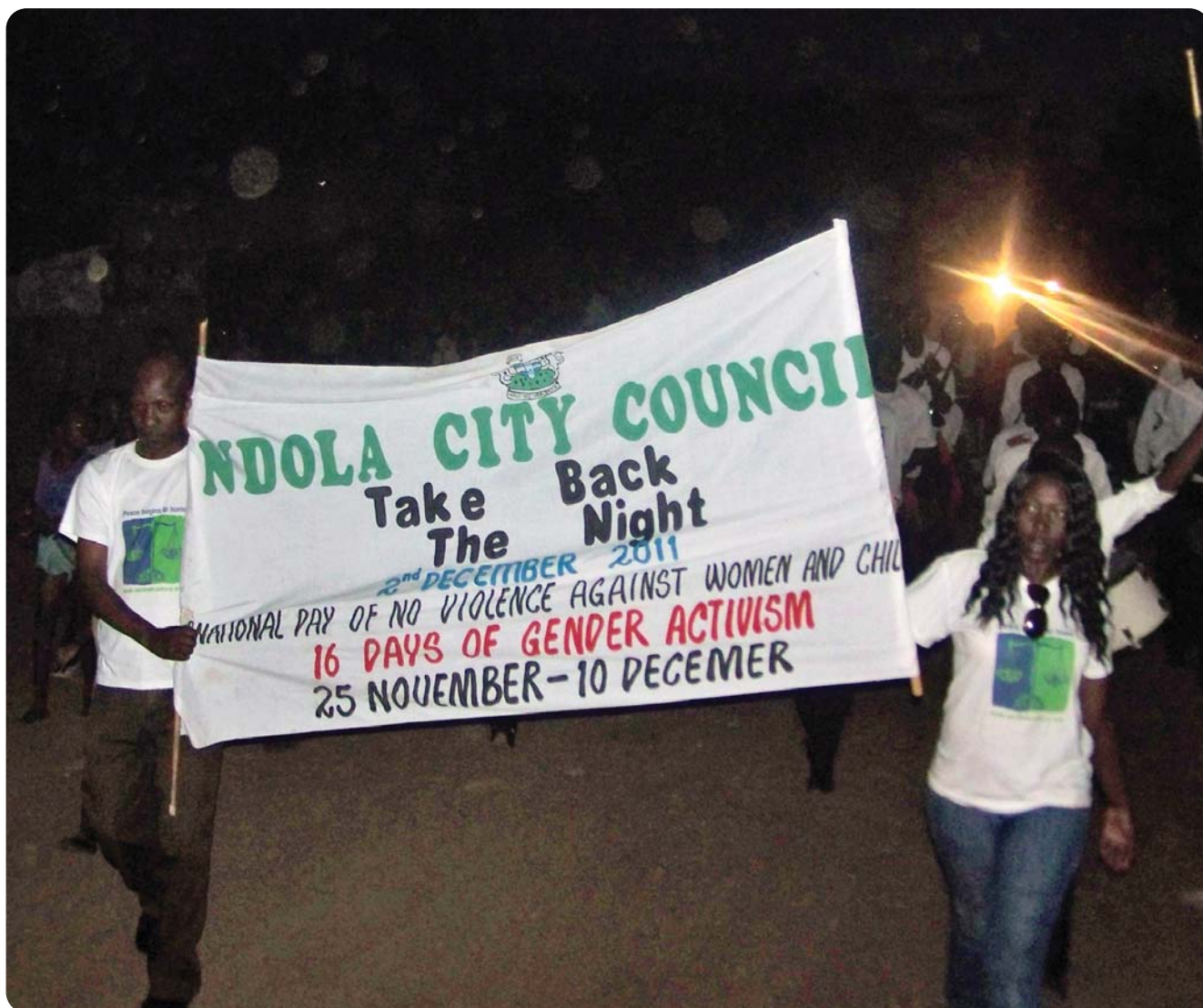
Provisions	What is in place?	What needs to be put in place?
<b>Human trafficking</b>		
Specific legislation to prevent human trafficking.	Passed in 2008.	Implementation.
Mechanisms to eradicate national, regional and international networks.	Country policy and Law and National Response Strategy.	Implementation as these mechanisms are still new.
Harmonised data collection on trafficking.	Plan in place.	Not yet implemented.
Capacity building, awareness raising and sensitisation campaigns on trafficking.	Red Light Campaign by WLSA and Government.	Capacity building for potential victims to recognise the danger. Media are an important player.
<b>Sexual harassment</b>		
Adopt laws, policies, programmes that define and prohibit sexual harassment.	Laws in place.	Implementation.
Gender balance in bodies adjudicating sexual harassment cases.	Although there are females and males, there are more males than females. Victim Support Unit of the Police Service, YWCA shelters and One-Stop Centers and ASAZA Centers.	More females should be appointed.  The services are to be replicated country wide.
<b>Support services</b>		
Cases on GBV to be heard in a gender sensitive environment.	These are not yet in place.	Create gender sensitive environment.
Special counselling services.	One-stop centres.	Still run by NGOs.
Dedicated and sensitive services provided by police units; health; social welfare.	These are in place, Victim Support Units.	Expansion and to be Countrywide.
Accessible information on services available to survivors of gender based violence.	The NGOs, Police Victim Support Units providing information and support.	To be also taken to rural communities.
Accessible, affordable and specialised legal services including legal aid to survivors of GBV.	Being provided for by the Law Association of Zambia (National Legal Aid Clinic for Women), WLSA, IJM and Legal Resources Foundation, Legal Aid Board (Government).	Information dissemination about these services.
Specialised facilities, including support mechanisms, for survivors of GBV.	GBV Act provides for these.	The Act is still new and requires implementation.
Rehabilitation and reintegration facilities for survivors of GBV.	GBV Act provides for these.	These should be put in place.
<b>Training of service providers</b>		
Gender sensitisation training for all service providers engaged in the administration of justice, such as judicial officers, prosecutors, police, prison, welfare and health officials.	Various interest groups, especially NGOs, together Government provide these.	It should be sustained.
Community sensitization programmes for survivors of GBV.	These provided by mostly by NGOs.	Implementation of the GBV Act.
Formal training programmes for service providers.	Police training.	Expansion.

Source: Gender Based Violence Act, 2011.

## Human trafficking



By 2015 states are also expected to: enact and adopt specific legislative provisions to prevent human trafficking and provide holistic services to survivors, with the aim of re-integrating them into society; put in place mechanisms by which all relevant law enforcement authorities and institutions may eradicate national, regional and international human trafficking networks; put in place harmonised data collection mechanisms to improve data collection and reporting on the types and modes of trafficking to ensure effective programming and monitoring; establish bilateral and multilateral agreements to run joint actions against human trafficking among countries of origin, transit and destination countries; and ensure capacity building, awareness raising and sensitisation campaigns on human trafficking are put in place for law enforcement officials all parties.



Participants at the Ndola City Council *Take Back the Night* march during the 16 Days campaign.

Photo: Albert Ngosa

Zambia has an Anti-Human Trafficking Act passed in 2008 to protect citizens from being trafficked as well as prosecute those found guilty. The country is both a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking. Most trafficking occurred within the country's borders and involved women and children from rural areas exploited in cities in domestic servitude or other types of forced labour in the agricultural, textile, and construction sectors. Zambian trafficking victims have also been identified in South Africa, the Democratic Republic of the Congo, and Namibia.

The government increased law enforcement efforts by convicting one trafficking offender under its 2008 anti-trafficking law and investigating and prosecuting three additional suspected trafficking cases. Government-provided protection for victims remained weak; though

the government continued to provide services to victims through partnerships with international organizations and NGOs, the continued lack of shelters significantly hindered appropriate victim care, as victims were, at times, detained in jails alongside trafficking offenders.

A multi-stakeholder process to develop a national action plan has resulted in amplified national campaigns and outreaches to raise awareness about human trafficking. The country developed a 2011-2012 National Anti-Trafficking Plan but no further information on implementation was available to measure outcomes and impact of the plan. WLSA working with partners has embarked on a Red Light Campaign since the build-up to the 2010 Soccer World Cup tournament but continues to date to raise awareness on human trafficking.



## Support services



*The Protocol calls upon states to put in place mechanisms for the social and psychological rehabilitation of perpetrators of gender based violence and establish special counselling services, legal and police units to provide dedicated and sensitive services to survivors of gender based violence. The draft Protocol says shall: provide accessible information on services available to survivors of gender based violence; ensure accessible, effective and responsive police, prosecutorial, health, social welfare and other services to redress cases of gender based violence; provide accessible, affordable and specialised legal services, including legal aid, to survivors of gender based violence; provide specialised facilities, including support mechanisms for survivors of gender based violence; provide effective rehabilitation and re-integration programmes for perpetrators of gender based violence.*

Zambia has established specialised facilities in police stations called Victim Support Units. The country has made noteworthy progress in supporting Coordinated Response Centres (CRCs). These units provide counselling,

legal advice, police services as well as preliminary medical services. Response Centres are housed within health facilities and there is currently a move to roll out more in selected areas of the country.

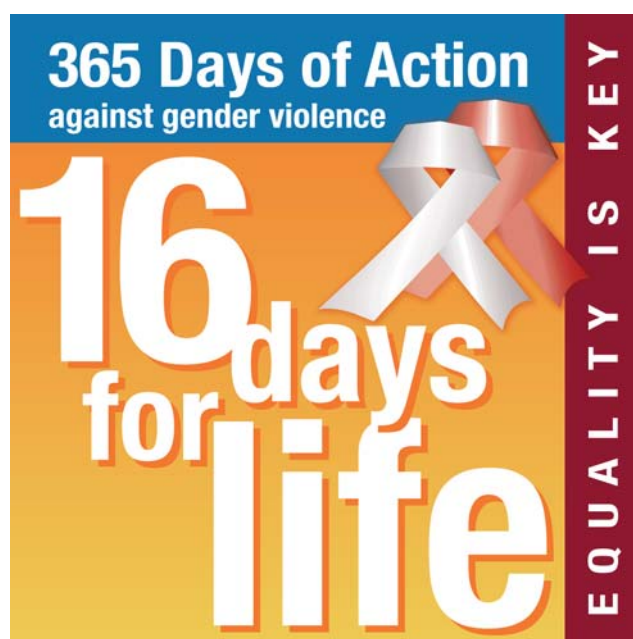
## Integrated approaches

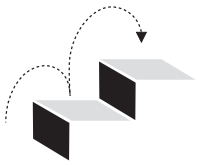


*The SADC Protocol on Gender and Development calls on states to adopt integrated approaches, including institutional cross sector structures, with the aim of reducing current levels of gender-based violence by 2015.*

The new Anti-Gender Based Violence law provides for the formation of a gender-based violence committee to oversee gender-based violence in the country and the setting up of an Anti-Gender Based Violence Fund. It is hoped that this will be harmonised with the National Action Plan to end Gender Based Violence adopted in 2010 by the Gender in Development Division (GIDD) which is now a fully-fledged Ministry of Gender.

Zambia launched the National Action Plan on Gender Based Violence, the National Gender Communication Strategy and the Gender Song on 25 November 2010. The statement by the Vice President read during the launch by the Minister of Gender and Women in Development emphasised the catalytic role of leaders at all levels, including herself, in the struggle to end this scourge. Zambia is the first to launch a gender song that will unite women and men in the work to promote gender equality and equity.





## Next steps

Using the developed guidelines, The Ministry shall intensify implementation through:

- Information and awareness raising: Community sensitisation for survivors of GBV, translations of Anti-GBV Act into seven main local languages and distributing them to major stakeholders, especially traditional leaders as administrators of customary justice.
- Joint Collaborative efforts with various stakeholders including schools, FBOs, traditional leadership, NGOs.
- Media campaigns targeting potential victims of GBV on prevention measures. There will be more use of

community radios to debate and popularise the Act and the Amended Penal Code (2005).

- Tougher penalties to deter offenders from repeating the offences.
- Empowering the Police Service, especially the Victim Support Unit, with adequate transport and other resources.
- Roll out of the gender based violence indicators project at national level to obtain comprehensive data.



Involvement of men is critical to prevention of gender based violence. Men from Thundu village rate government's performance against the 28 targets of the SADC Gender Protocol - Zambia, April 2012.

*Photo: Cynthia Kalizinje*