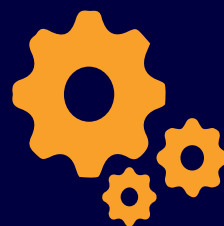
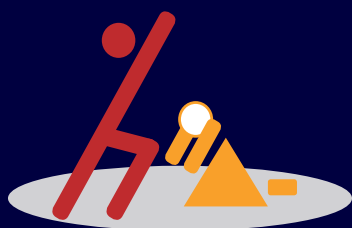




**INSTITUTE FOR
YOUNG WOMEN
DEVELOPMENT**

RESEARCH REPORT



A Situational Study on the Gendered Effects of Conflict on Justice and Social Cohesion in Zimbabwe

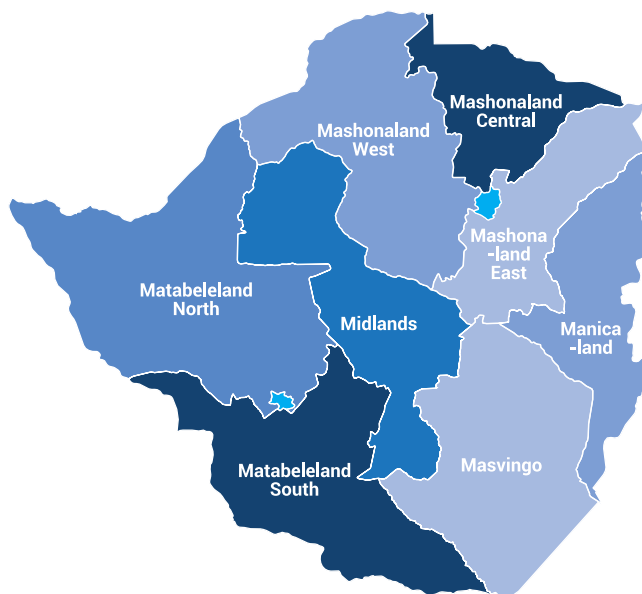
*Case Study of Mashonaland Central
(Bindura, Shamva, Guruve and Mazowe)*

*Never the less
she persisted.*

RESEARCH REPORT

A Situational Study on the Gendered Effects of Conflict on Justice and Social Cohesion in Zimbabwe

*Case Study of Mashonaland Central
(Bindura, Shamva, Guruve and Mazowe)*



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1. INTRODUCTION

Conflict theory



According to the conflict theory by Karl Marx which depicts society as in a never-ending competition for finite resources, gender is best understood as men attempting to maintain power and privilege to the detriment of women.

The theory argues that in most societies, men are a dominant social group which subordinates women in order to maintain power and privilege in society.

To maintain these unequal power relations, men and other privileged sectors of the society have perpetually fought to maintain economic and political power over women. The

exploitation of subordinate groups by the dominant groups generate conflict. Although some progress has been recorded in gender equality in the recent years, there is still a lot of work to be done to change the power structure and to achieve gender balance. Most African households are characterized by owner-worker relationships where women depend on men to attain income and livelihoods. Contemporary conflict theorists suggest that when women become economically independent from men, they gain power in the family structure and create more democratic arrangements in the home, although they may still carry most of the domestic burden¹.

This research report is an analysis of the prevailing situation of the gendered effects of conflict on justice and social cohesion in Zimbabwe using Mashonaland Central as a case study. Data was collected from the four districts of Mashonaland Central namely; Shamva, Guruve, Mazowe and Bindura. The report explores the gender dynamics around access to justice by men and women, structural challenges that inhibit equal access to justice between men and women, conflicts that disrupt social cohesion and how these conflicts affect women and men differently with regards to access to justice and enjoyment of social cohesion. This report identifies political, social, and economic conflicts that inhibit women from accessing justice and enjoying social cohesion.

¹ *Doing It Fairly: A Study of Post gender Marriages, Barbara J. Riesman and Danette Johnson-Somerford Journal of Marriage and Family Vol. 60, No. 1 (Feb., 1998), pp. 23-40*

2. RESEARCH QUESTIONS

What is the nexus between conflict, justice, and social cohesion?



2.1 Central Research Question

This research sought to answer the following central research question:

- *What is the nexus between conflict, justice, and social cohesion?*

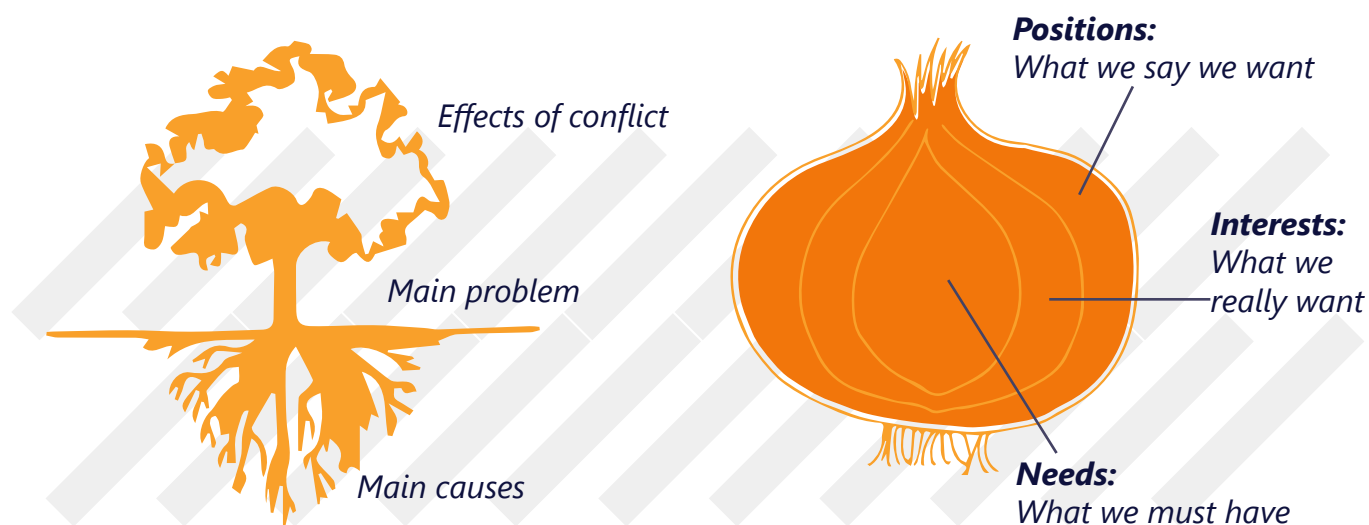
2.2 Sub Questions

To answer the central research question, the research paper sought to answer the following sub-questions:

- *What are some of the conflicts which inhibit women from accessing justice and disrupt social cohesion?*
- *What are the gendered dynamics to these conflicts?*
- *How do these conflicts affect men and women differently with regards to access to justice and social cohesion?*
- *What are some of the women centred mechanisms and solutions to address these conflicts?*

3. METHODOLOGY

Conflict tree and onion tools



To identify and analyse the conflicts that have gendered ramifications on access to justice and social cohesion, the conflict tree¹ and conflict onion² tools were used.

A desk study, which entailed an extensive review of existing literature on gender, conflict, social cohesion, and justice was conducted. Data was collected using questionnaires, Focus Group Discussions (FGDs) and Key Informant Interviews from

Mashonaland Central Province in general and from Guruve, Shamva, Mazowe and Bindura Districts in particular. Respondents for FGD and questionnaires included young women, young men, local authorities and traditional leaders. Respondents for Key Informant Interviews included the Zimbabwe Republic Police, legal practitioners who have a specialty in family law, the Zimbabwe Gender Commission, Ministry of Women Affairs, Community, Small and Medium Enterprises

and other civil society leadership. To ensure gender equality among respondents, the consultant used purposive sampling to identify and select respondents. Data from questionnaires was pre-coded and later processed through SPSS. Qualitative data was analysed using Nvivo. A total of 152 questionnaires were administered in the four districts of Mashonaland Central namely Shamva, Guruve, Mazowe and Bindura as shown by Table 1.

² The conflict tree deals with the difference between structural and dynamic factors, visualizing how conflict issues

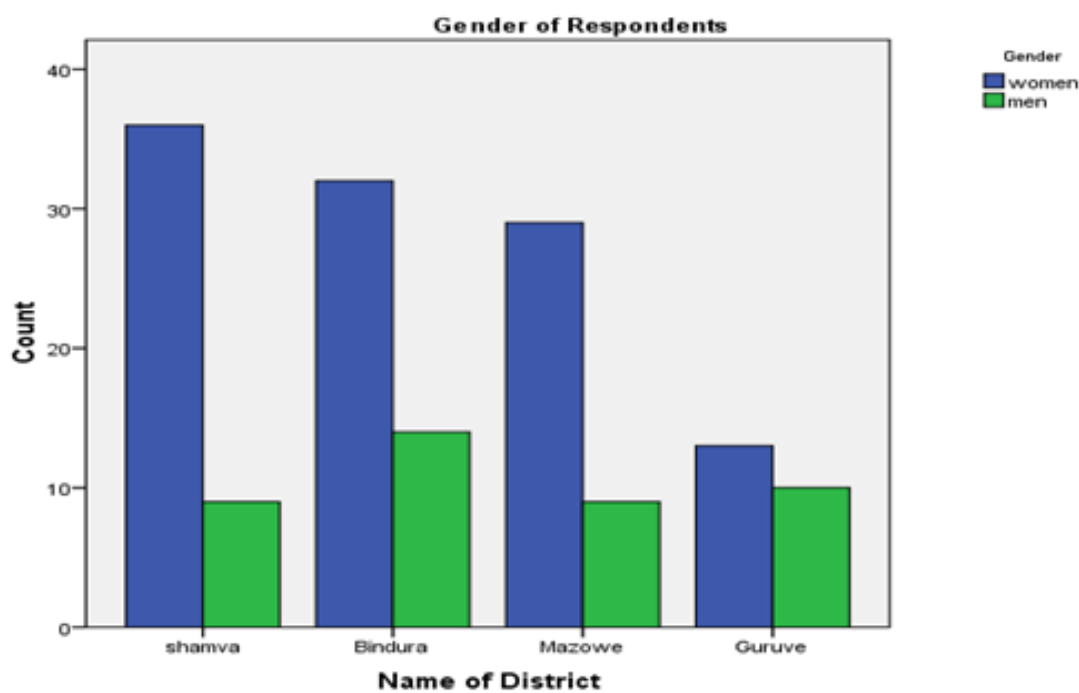
³ The "Onion" framework illuminates certain key elements at play in conflicts and helps us analyse them so they can inform our strategies. Specifically, these include the needs, interests, and positions of parties involved in a conflict from the most superficial to the deepest ones.[link these two aspects.](#)

3. METHODOLOGY


Figure 1: Distribution of participants by district and sex

A total of four FGDs were conducted; one in each of the districts.


| | | GENDER | | |
|-------|------------------|--------|-----|-------|
| | Name of District | Women | Men | Total |
| | Shamva | 36 | 9 | 45 |
| | Bindura | 32 | 14 | 46 |
| | Mazowe | 29 | 9 | 38 |
| | Guruve | 13 | 10 | 23 |
| Total | 110 | 42 | 152 | |



4. DEFINITION OF TERMS

| | TERM | DEFINITION |
|---|------------------------|---|
|  | Conflict | <p>- is the result of a disagreement between actors on the basis of perceived incompatible goals⁴.</p> <p>Disagreements and conflicts are inevitable everyday occurrences – and their resolution may result in constructive change. Conflicts are often analysed at different levels – interpersonal, group/community and national – and in terms of how the levels interact with each other. They can turn into violent conflict when ‘there are inadequate channels for dialogue and disagreement’; when ‘dissenting voices and deeply held grievances cannot be heard and addressed’; and in environments of ‘instability, injustice and fear’⁵.</p> |
|  | Social cohesion | <p>- refers to the extent of connectedness and solidarity among groups in society⁶.</p> <p>Manca A.R. (2014) identifies two main dimensions of social cohesion: the sense of belonging of a community and the relationships among members within the community itself. She adds that the notion of social cohesion stems from a democratic effort to establish social balance, economic dynamism, and national identity, with the goals of founding a system of equity, sustaining the impulses of uncontrolled economic growth, and avoiding social fractures. It is a social process which aims to consolidate plurality of citizenship by reducing inequality and socioeconomic disparities and fractures in the society. It reflects people’s needs for both personal development and a sense of belonging and links together individual freedom and social justice, economic efficiency and the fair sharing of resources, and pluralism and common rules for resolving all conflicts⁷.</p> |

4. DEFINITION OF TERMS

| | TERM | DEFINITION |
|---|----------------|---|
|  | Justice | <p>- <i>is a concept on ethics and law that means that people behave in a way that is fair, equal and balanced for everyone</i>⁸.</p> <p>The 4 types of justice: commutative, distributive, legal, and social. The principle of justice could be described as the moral obligation to act on the basis of fair adjudication between competing claims. As such, it is linked to fairness, entitlement and equality. Justice means punishing actions or words that are wrong and upholding things that are good. This helps ensure that wrongs will be ended and rights will be upheld thereby leading to a safer society for everyone⁹. Access to justice is a basic human right that refers to ensuring an individual's access to courts, including traditional courts and/or legal representation so that legal and judicial outcomes are just and equitable¹⁰.</p> |

⁴ Conflict Sensitivity Consortium, 2012: 2

⁵ Fisher et al., 2000: 6.

⁶ Manca A.R. (2014) Social Cohesion. In: Michalos A.C. (eds) Encyclopedia of Quality of Life and Well-Being Research. Springer, Dordrecht. https://doi.org/10.1007/978-94-007-0753-5_2739

⁷ Ibid

⁸ Sociology and Criminology-Open Access, Justice Scholarly Peer Review Journal, retrieved on the 23rd of December 2020 from <https://www.longdom.org/peer-reviewed-journals/justicescholarly-peerreview-journal-51506.htm>

⁹ Sociology and Criminology-Open Access, Justice Scholarly Peer Review Journal, retrieved on the 23rd of December 2020 from <https://www.longdom.org/peer-reviewed-journals/justicescholarly-peerreview-journal-51506.html>

¹⁰ "You Will Get Nothing" Violations of Property and Inheritance Rights of Widows in Zimbabwe, Human Rights Watch, 2017

5. RESEARCH FINDINGS

5.1 Gender, conflict and social cohesion



Social cohesion is the glue that bonds society together
¹¹. Social cohesion promotes social harmony and a sense of community belonging.

It entails the respect for human rights, a socio-economic system based on distributional equity, and high levels of bringing social capital¹². Although conflict still persists where these attributes exist, its consequences are less severe. There is a positive

correlation between high social cohesion and the ability to effectively manage and transform conflict. In Zimbabwe, the gendered nature of conflict works to undermine social cohesion. The highly gendered nature of conflict means that women and men experience conflict and violence differently. The gendered nature of political violence in Zimbabwe is such that violence is directed at women not only because they

belong to a particular opposition group but also because they are women. The character of the Zimbabwean conflict has been such that women are often specifically targeted with highly gendered forms of violence. Violence against women and girls is a serious challenge in Zimbabwe, especially the violence perpetuated by uniformed forces of men against women and girls¹³.

¹¹ *Social Cohesion and Conflict Prevention in Asia: Managing Diversity Through Development, J Colleta et al, in Conflict Prevention and Post Conflict Reconstruction, The World Bank, June 1999*

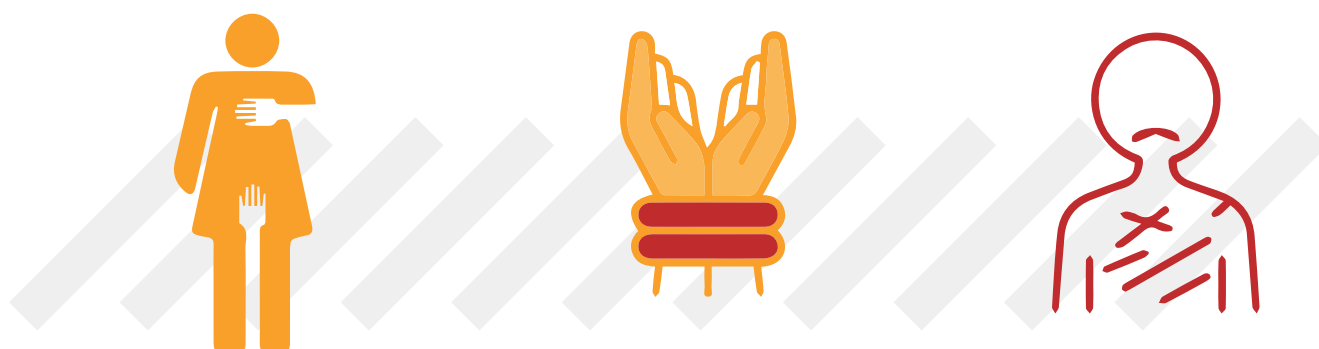
¹² *Violence against Women and Girls in Harare, Zimbabwe, M. Zengenene, E. Susanti, in Journal of International Women's Studies Vol. 20, No. 9 December 2019*

¹³ *Violence against Women and Girls in Harare, Zimbabwe, M. Zengenene, E. Susanti, in Journal of International Women's Studies Vol. 20, No. 9 December 2019*

¹⁴ *Ibid*

5. RESEARCH FINDINGS

5.1 Gender, conflict and social cohesion. Rape - a political strategy



Rape is used as a political strategy to dominate women and to induce fear in the communities that they come from, forcing them to withdraw from participation in the political process¹⁴. Rape is used to correct and discipline women who take part in the political sphere, especially on the side of the opposition parties¹⁵.

In their article on “*Violence Against Women and Girls in Harare, Zimbabwe*”, Zengenene and Susanti chronicle horrific and graphic evidence of extreme sexual violence and rape, including accounts where women were raped, sometimes in front of their children, as a form of punishment for their political views/activities. These powerful illustrations of the highly gendered nature of the violence that is part of conflict amounts to what J. Colleta et al (1999) refers to as the use of women’s bodies as an extension of the battlefield. These women continue to be denied compensation, justice, or even recognition.

The violent and oppressive nature of the Zimbabwean state since independence or even before, has created the conditions that allow a significant degree of social violence. The Zimbabwean political landscape is characterized by deep oppression where opposition political party members are victims of abductions, killings and forced disappearances¹⁶.

¹⁴ Ibid
¹⁵ Ibid
¹⁶ Ibid

5. RESEARCH FINDINGS

5.2 Structural violence as a form of injustice against women and an affront to social cohesion



When the adult male members of a family are killed or forced to disappear, women bear the burden of fending for the children on their own. Although it has been pointed out that the resulting situations have sometimes opened opportunities for women to engage in activities traditionally reserved for men, more often the consequence is emotional, physical, and economic hardship¹⁷. The traumatic experiences of women whose husbands would have been killed or had disappeared, the hardships they face in surviving and in supporting their children alone expose women to social exclusion and a cycle of poverty for those women and their children.

5.2 Structural Violence as a Form of Injustice Against Women and an Affront to Social Cohesion

The term structural violence refers to social arrangements that put individuals and populations in harm's way¹⁸. The arrangements are *structural* because they are embedded in the political and economic organization of our social world; they are *violent* because they cause injury to people (typically, not those responsible for perpetuating such inequalities)¹⁹. The term was coined by Johan Galtung and by liberation theologians during the 1960s to describe social structures—economic, political, legal, religious, and cultural—that stop individuals, groups, and societies from reaching their full potential²⁰.

¹⁷ *Social Cohesion and Conflict Prevention in Asia: Managing Diversity Through Development*, J Colleta et al, in *Conflict Prevention and Post Conflict Reconstruction*, The World Bank, June 1999

¹⁸ *Structural Violence and Clinical Medicine*, PLoS Med. 2006 Oct; 3(10): e449

¹⁹ Galtung J. *Violence, peace and peace research*. *J Peace Res.* 1969;6:167–191

²⁰ *Ibid*

5. RESEARCH FINDINGS

5.2 Structural violence as a form of injustice against women and an affront to social cohesion

In its general usage, the word violence often conveys a physical image; however, according to Galtung, it is the “avoidable impairment of fundamental human needs or...the impairment of human life, which lowers the actual degree to which someone is able to meet their needs below that which would otherwise be possible”²¹. Structural violence is often embedded in longstanding “ubiquitous social structures, normalized by stable institutions and regular experience”²². Because they seem so ordinary in our ways of understanding the world, they appear almost invisible. Disparate access to resources, political power, education, health care, and legal standing are just a few examples. The idea of *structural violence* is linked very closely to *social*

injustice and the social machinery of oppression²³.

From the research findings, women were very concerned about their inability to access their husbands’ earnings or to be able to make decisions on how such is spent. According to the women, the care work which they do is not considered as work, regardless of the fact that they work longer hours taking care of children, cooking, cleaning and even tilling the fields. In fact, part of the reason why marital property in most marriages is only registered in the husband’s name is because housewives are not considered workers/income earners. Work is considered to be those formal and informal activities done by men to earn incomes for their families. This perception

is rooted in societal norms and values where concepts such as “bread winner” are brewed; concepts which disregards care work as contributing to the bread winning-welfare of the household.

There are instances where women even contribute directly to the families’ incomes, but this is still not recognized. This was evident during the Nyamaropa Focus Group Discussions wherein women reported that they do most of the agricultural work, producing tobacco and other cash crops but when these are sold, the money is deposited into their husbands’ accounts even if these husbands are working in Harare and were never involved in the actual farming.

²¹ Galtung J. *Kultuerlle Gewalt. Der Burger im Staat.* 1993;43:106

²² Gilligan J. *New York: Vintage Books; 1997. Violence: Reflections on a national epidemic; p. 306*

²³ *Ibid*

5. RESEARCH FINDINGS

5.2 Structural violence as a form of injustice against women and an affront to social cohesion

The ongoing *Pfumvudza* program wherein communities are getting inputs from the government also epitomizes structural violence in that the lists of the beneficiaries for this program is male dominated. Participants told this researcher that even in instances where the inputs actually go to a female beneficiary, it is their husband's name which should be on the list. This happens even when the husband is not habitually resident at the home; away working somewhere in Zimbabwe or outside Zimbabwe as is the case for many Zimbabweans. There are some women who registered for the *Pfumvudza* Program in their names but had these replaced by the names of the heads of the households to which they belong, which are male. One participant in Shamva had this to say:

“

“Kunyange mukarambana wachera makomba ako epfumvunza, unotongomasiya osara achitopiwa umwe mukadzi”. (Even after you are done all the hard, preparatory work for pfumvudza, a government program supporting farmers with farming inputs, you can still be dumped and this work inherited by another woman)

All matrimonial property: land, cattle, sheep, goats and scotch carts are registered in the male household head's name, thus systematically disempowering women. Using the conflict tree, the researcher was able to conclude that gender inequality both at family and society level is a function of economic vulnerability of women. Economic vulnerabilities of women lower their self-esteem and their dependency on men for survival make them subordinate to the latter. Studies have shown that where women are able to grow out of the shell of economic vulnerability, they were able to challenge gender inequality and introduce democratic arrangements both at family and society levels.

”

5.3 POLITICAL CONFLICTS

5.3.1 Violence against women in politics (VAWIP) as an affront to social cohesion and access to justice thereof



5.3.1 Violence Against Women in Politics (VAWIP) as an Affront to Social Cohesion and Access to Justice Thereof

During elections, women voters and candidates experience devastating sexual extortion, physical violence, harassment and intimidation from their male opponents and contenders in political parties.

The Zimbabwean political landscape has been, since independence, violent in nature. The violent nature of the Zimbabwean politics is such that politics is the preserve of those that can perpetrate violence better, making politics an unsafe venture for women. This deeply impedes their free and fair participation in the process²⁴. For young women, political violence is multi-layered, with women in rural areas who are in opposition politics experiencing the thickest of the

layers. Firstly, the violence targets them as women in general. Secondly, it disproportionately affects them as young women. Thirdly, it affects them as young women who are in opposition politics. Fourthly, it affects them as young women in rural areas where avenues for redress of survivors of violence are almost non-existent.

Women in Mashonaland Central fear both profound physical violence in relation to their electoral participation, as well as more subtle forms of intimidation and domestic violence. Women told this researcher that what is even more worrying is the impunity that the perpetrators of political violence enjoy. They feel that approaching institutions such as the police, which should ordinarily provide redress for such injustices through facilitating arrests and prosecution of the perpetrators, is tantamount to applying for re-traumatization. This deters them from seeking justice.

5.3 POLITICAL CONFLICTS

5.3.1 Violence against women in politics (VAWIP) as an affront to social cohesion and access to justice thereof



Respondents told this researcher that 2008 was the most violent epoch of Zimbabwe's electoral history. Respondents told this researcher that women were raped, widowed and bereaved during the 2008 elections and to date, the perpetrators have not been brought to book. Since the majority of political violence is state sponsored, it is difficult for survivors to bring perpetrators of the violence to book or to get healing.

Candidates often invoke references to the violence of 2008 to intimidate voters into towing the party line and voting for them (shaking the matchbox to remind voters of the 'fire' of 2008). The powerful memory of 2008 is sufficient to instil fear and coerce behaviour, without requiring parties to revert to actual violence²⁵. This effectively makes the political terrain an unsafe venture for women. The traumatic experiences underwent by three opposition political activists Johana Mamombe, Netsai Marowa and Cecilia Chimhiri is a clear demonstration of how unsafe the terrain is for women. While these are women from the urban area, who had access to all institutions of justice including free legal aid, the traumatic experiences can be much worse for rural women.

5.3 POLITICAL CONFLICTS

5.3.1 Violence against women in politics (VAWIP) as an affront to social cohesion and access to justice thereof

“

Sexual violence is also a factor that inhibits young women from participating in politics. Young women from Mashonaland Central reported that we have effectively sealed off the political terrain to inhibit their access thereto. Gaining access into the terrain comes with a huge cost. One young woman who aspires to become a candidate in the 2023 elections told this researcher that men in senior positions in political parties, who are the custodians of the keys to the sealed political terrain demand that:

“Young women open their legs in exchange for the opening of the political terrain. You do not come to the terrain with nothing and expect the gates to be opened for you”.

These rampant cases of sexual violence against young women in politics also attracts backlashes for these young women as their spouses, instead of supporting

them, dissuade them from participating. The ability of women to participate in politics and governance is often shaped by norms and traditions that characterize the majority of African societies. The patriarchal system is so entrenched that the idea that women are inferior to men and that politics and governance are a male preserve is even accepted and internalized by African women themselves. Traditional and cultural beliefs, particularly in rural areas where most African women live, ascribe differential roles to women and men. Traditional beliefs confine women to domestic roles such as caregiving and as such, inhibit them from venturing into public spheres²⁶. Political parties do not ascribe Women Assemblies of political parties' equal significance to other organs of the parties.

Young women from Mashonaland Central told this researcher that some political participation does not only attract

”

26 *Participation of Young Women in Politics and Decision Making in Africa, The African Women Leaders Forum, 2020*

5.3 POLITICAL CONFLICTS

5.3.1 Violence against women in politics (VAWIP) as an affront to social cohesion and access to justice thereof

threats of violence from their political opponents alone, but from their family and community members as well. Some men can go as far as divorcing a wife who chooses to participate in politics. Young married women who want to venture into politics reported that they have a torrid time convincing their spouses and or their in-laws to allow them to participate in politics either as activists or candidates.

This is partly because by virtue of them being young, their marriages are also young *“and have to be protected”* to quote one of the key informants. This is largely because of the widely held societal perception that women who venture into politics are either of *loose morals* or become *loose* in the process. There is a widely held societal belief by men that women who succeed in politics *“slept their way through to high positions”*.

“

These women are constantly being labelled as whores and prostitutes, and their marriages are publicly and grotesquely called into question. Even once elected into office, women politicians cannot escape degrading commentary:

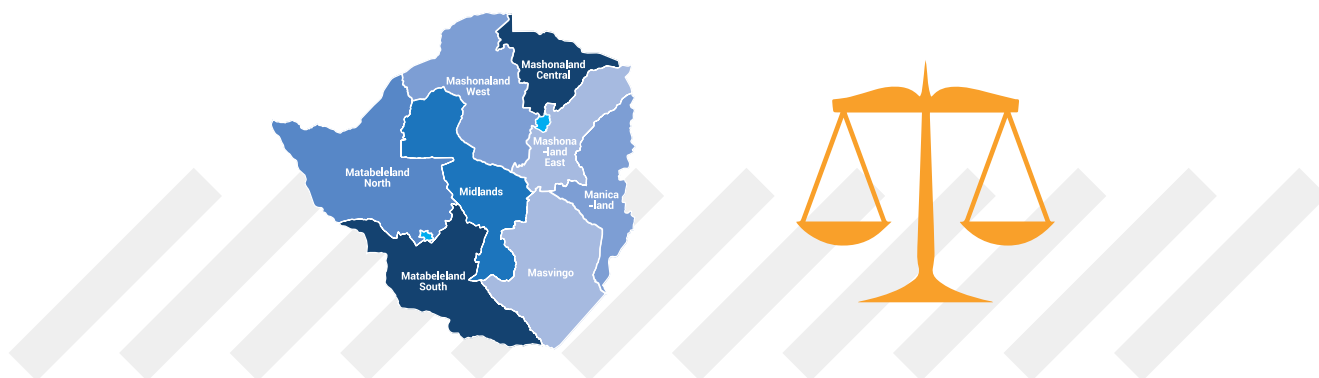
“A woman still cannot question an MP in parliament without being told her thighs are too big.” If a woman candidate is unmarried, she is accused of entering politics to find a husband and it is said “If she can’t run a household, how can she run a constituency?”

Participation in political rallies is seen as a demonstration of ‘loose morals’ because politics is viewed as violent male territory²⁷.

”

5.3 POLITICAL CONFLICTS

5.3.2 Use of chapter 12 institutions: The NPRC and the ZHRC



5.3.2 Use of Chapter 12 Institutions: The NPRC and the ZHRC

With regards to accessing justice, some of the institutions that perpetrate violence (the police and the army) are the ones that should be protecting the citizens from such violence.

As shown on Fig 2 and 3, 80.4% of the research participants indicated that they did not know of the existence of Chapter 12 Institutions (especially the Zimbabwe Human Rights Commission and the National Peace and Reconciliation Commission.) None of the research participants ever approached these institutions to seek redress on any of the political violence cases they experienced (Fig.4 and 5). This speaks to limited knowledge on the existence and functions of these Zimbabwean Institutions that support democracy.

Statistics from the Complaints Handling Department of the National Peace and Reconciliation Commission show that the Department has only received 20 complaints from Mashonaland Central since its inception. The same statistics also show that the National Peace and Reconciliation Commission's Provincial Peace Committee of Mashonaland Central has only convened 4 meetings since its inception. It can be concluded therefore that these institutions, which are supposed to support and promote democracy as stated in the Constitution of Zimbabwe, are little known by the people that are supposed to be not only knowing them, but using them. This is notwithstanding the alleged impartiality and alleged capture of these institutions by the Executive, impairing their independence. "Our independence is qualified", said one very senior member of the National Peace and Reconciliation Commission secretariat.

5.3 POLITICAL CONFLICTS

5.3.2 Use of chapter 12 institutions: The NPRC and the ZHRC

Figure 2: Distribution of Respondents who know the Zimbabwe Human Rights Commission

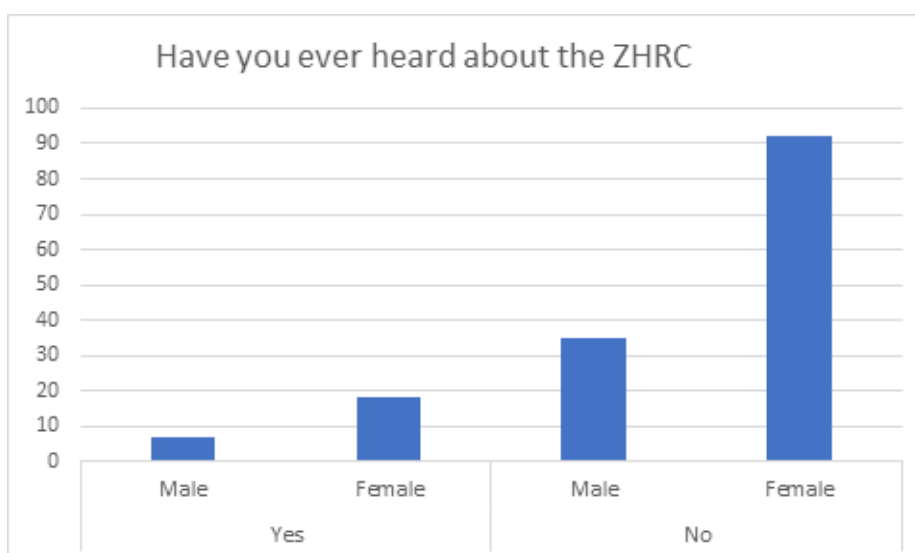
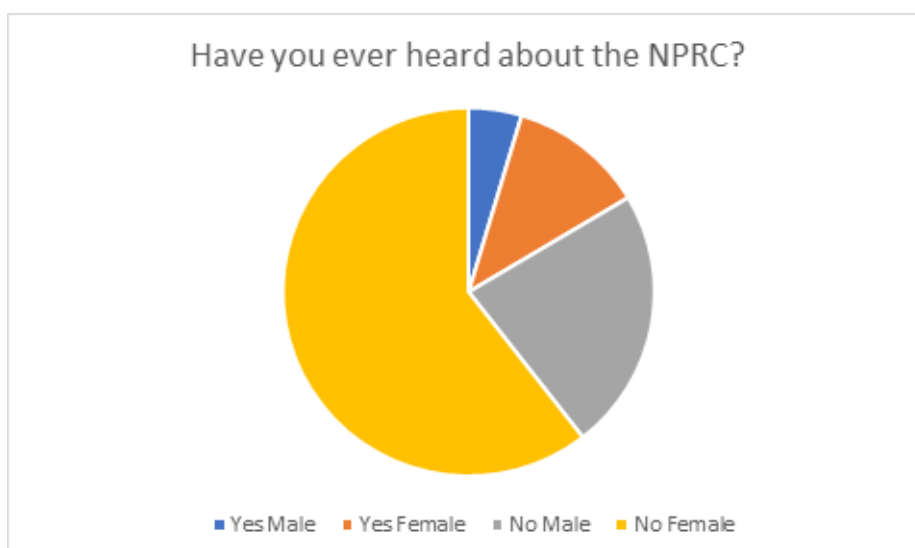


Figure 3: Distribution of respondents who know the National Peace and Reconciliation Commission



5.3 POLITICAL CONFLICTS

5.3.2 Use of chapter 12 institutions: The NPRC and the ZHRC

Figure 4: Distribution of respondents who have approached the Zimbabwe Human Rights Commission

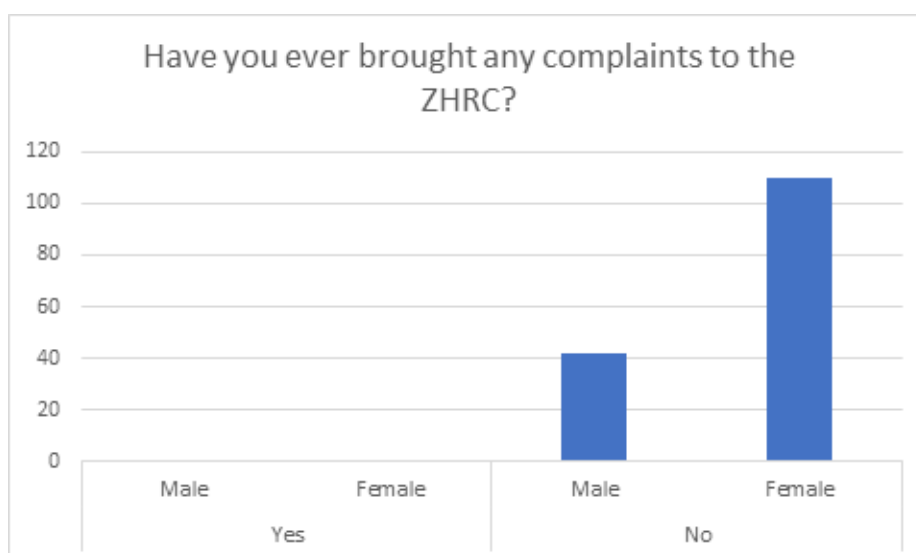
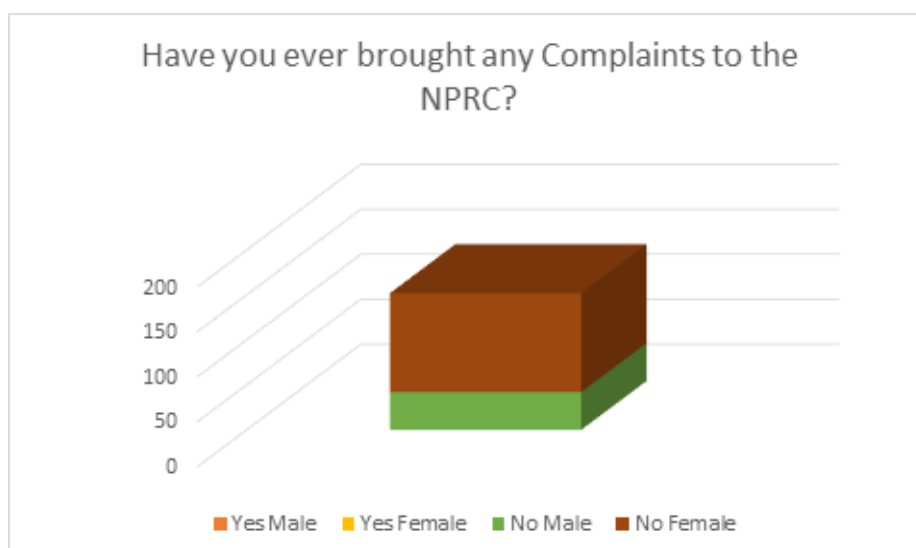
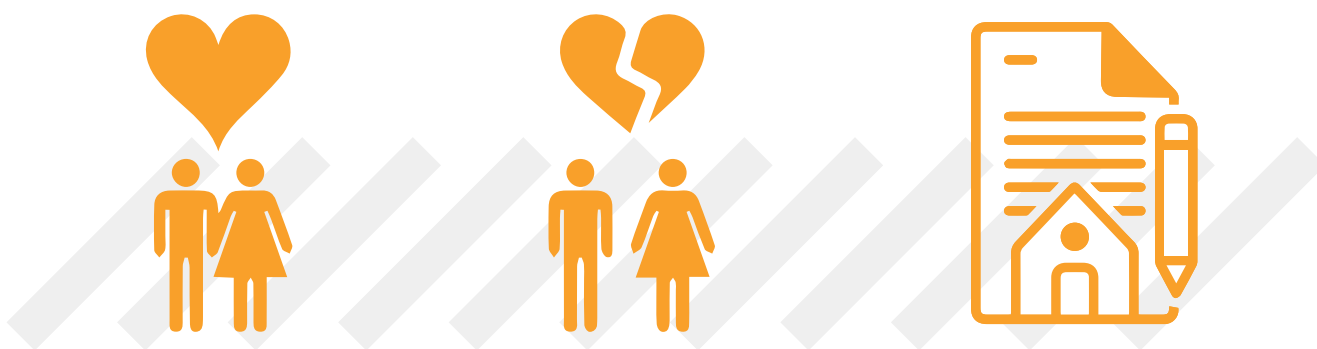


Figure 5: Distribution of Respondents who have approached the National Peace and Reconciliation Commission



5.4 SOCIAL CONFLICTS

5.4.1 Conflict and injustice around property and inheritance rights of women during, marriage, divorce and widowhood



5.4.1 Conflict and Injustice around Property and Inheritance Rights of Women During, Marriage, Divorce and Widowhood

According to the 2012 census, Zimbabwe is home to around 587,000 widows, and most women aged 60 and over are widowed. Of these, the majority are victims of injustice as they have had their property and inheritance rights violated in various ways.

According to Human Rights Watch (2017), in-laws evict thousands of widows from their homes and land, leaving them with no roof over their head, no means of income

and no support networks every year. Because of the African traditional belief system, many widows are accused by their in-laws in particular and society in general for being responsible for the deaths of their husbands and this is often used as the basis for

dispossessing them of their matrimonial property. Once a woman is labelled a witch, she must vacate the homestead and the village, leaving behind her land and other belongings.

Zimbabwe has three categories of marriage. Firstly, there is the civil marriage which is commonly known as the 5.11 marriage. This marriage is registered, monogamous, registered and as such, recognized by the state. The second one is the customary law marriage which is registered and recognized but not monogamous. The third one, which is the most common (over 70 percent of rural women has this marriage according to the Food and Agricultural Organization) is the unregistered customary union. The unregistered customary union is characterized by no official record of the marriage. A woman married under this category of marriage may find it difficult and sometimes impossible, to make a claim to property that was held in the marriage but is formally owned by the late husband or members of his family. For her to make a successful claim she

5.4 SOCIAL CONFLICTS

5.4.1 Conflict and injustice around property and inheritance rights of women during, marriage, divorce and widowhood



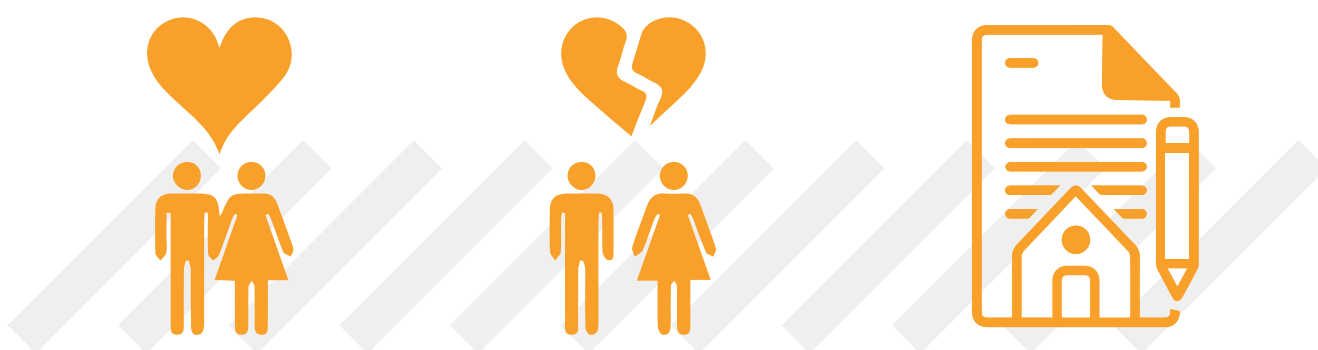
must demonstrate that she was indeed married to him²⁸. This entails relying on in-laws to confirm that she was indeed married to him. In most cases, in-laws are not willing to make this confirmation because they stand to benefit should the widow's claim fail.

Generally, marriages in Zimbabwe are out of community of property. This means that whatever you acquired before the marriage is not considered as matrimonial property unless you explicitly and voluntarily want it to be considered as such. What is considered as matrimonial property is what you acquired during the subsistence of the marriage. The downside is that without property being registered in the name of both parties, as we find today with most women in Zimbabwe, the party in which the property is registered in has the upper hand and may dispose of property without the knowledge or consent of their partner. However, women with

registered marriages have proof that they are married and can use that at the Deeds Registrar to put a caveat on the matrimonial property so that it's not transferred without their consent. This is however difficult to do for those women with unregistered marriages who constitute about 70 percent of the women in rural areas according to the Food and Agriculture Organization of the United Nations. This means that more than the majority of the rural women are unable to stop their spouses from transferring matrimonial property without their consent. Transfer of matrimonial property by one spouse without the consent of the other spouse may amount to indirect disinheritance (direct disinheritance is what is envisaged in the *Chigwada v Chigwada* SC188/20 ruling). Women should therefore ensure that all the property they acquire during the subsistence of the marriage has joint spousal registration so that the property cannot be disposed of without their consent.

5.4 SOCIAL CONFLICTS

5.4.1 Conflict and injustice around property and inheritance rights of women during, marriage, divorce and widowhood



Upon divorce, the Matrimonial Causes Act [Chapter 5:13] applies. What will be deemed as matrimonial property is property acquired during the subsistence of the marriage. The Act advocates for equality by considering direct or indirect contribution to determine how much each spouse gets. Each case to be determined on its own merits.

Upon death, the law currently provides that the surviving spouse automatically gets the matrimonial property, in the absence of a will. Again, women with unregistered marriages suffer most as they strive to prove that they are the bona fide surviving spouses. The Matrimonial Causes Act [Chapter 5:13] is clear that property which is inherited or of sentimental value cannot be shared. This makes it difficult for women to claim the fields or otherwise matrimonial home which was inherited by the spouse from his

parents. This effectively means that women from rural areas, upon divorce, may walk out of marriages with nothing. Although the Zimbabwean law allows women to own and hold property, very few women formally own the property held in their marriage. As a result, their ability to keep the property they shared with their husband upon the death of their husband becomes dependent both on proving their marriage, which can pose great challenges, and on warding off in-laws intent on property grabbing³⁰.

With the recent Supreme Court ruling (*Chigwada v Chigwada* (SC188/20) that allows couples to disinherit each other, women will be further disadvantaged because their husbands can now simply disinherit them of their 50 percent of the matrimonial property and leave them with half of the matrimonial property.

5.4 SOCIAL CONFLICTS

5.4.1 Conflict and injustice around property and inheritance rights of women during, marriage, divorce and widowhood



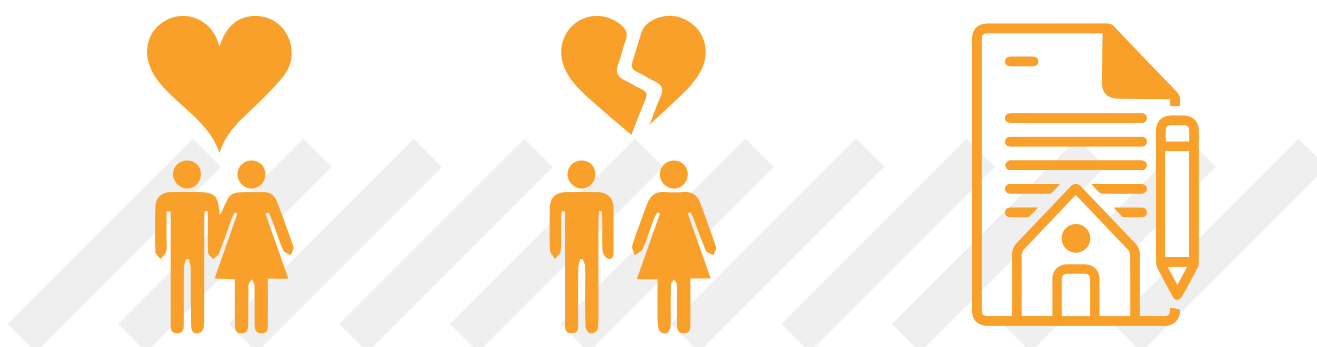
Several women who participated in the Focus Group Discussions experienced profound injustice whereby their in-laws wantonly dispossessed them of their homes, property and other belongings. This was partly because of their ignorance of the law and their property rights. As shown on the graph below, most women do not know how or where to report cases of injustice, that is if they are able to detect an injustice in the first place. This was also partly because of fear of the consequences of mounting serious efforts to claim the property should they lose the challenge. It was also partly because they feared that the relations with in-laws can be strained. They also face strong social pressure to accept property-grabbing by in-laws, some of which, families assert, derives from interpretations of customary laws³¹. Some families assert that under customary laws for their communities, only those “in” the family, i.e.,

men, are entitled to inherit land and property. In Gurube and Shamva Focus Group Discussions, the researcher was told that the courts presided over by traditional leaders do not recognize female children’s rights to inherit the estate of their deceased parents. Widows are sometimes misinformed that they will be protected and provided for by the male in-laws who inherit their spouses’ estates, promises which never materialize.

Most women told the researcher that they do not even attempt to approach formal justice institutions in respect of claiming property rights upon divorce or bereavement because of meagre chance of succeeding in this regard and the difficulties and sophistication of the process. Some do not have the resources to navigate the administrative processes and procedures associated with the process.

5.4 SOCIAL CONFLICTS

5.4.1 Conflict and injustice around property and inheritance rights of women during, marriage, divorce and widowhood



Most of them do not afford legal aid. According to Human Rights Watch (2017), almost all of the women who succeed in mounting legal challenges to reclaim their property are assisted by non-governmental organizations.

As reported by participants during Focus Group Discussions, Institute for Young Women's Development (IYWD) is one such non-governmental organization which has done tremendous work in this regard. As opposed to assisting women whose property and inheritance rights are being violated, which is an unsustainable approach as there would be thousands of women requiring this assistance, IYWD is using a different, more sustainable approach. The organization has managed to influence the traditional justice system in Shamva District wherein they successfully lobbied Chief Bushu, Chief Nyamaropa and Chief Mutumba to include women as traditional court officials. These women play a pivotal role in determining outcomes of matters before the traditional courts. They participate in

registration and assessment of property held in marriage and influence the chiefs to give women 50 percent of the property held in marriage. This is in addition to several other cases which come before the courts presided by the chiefs. This reform of the traditional justice system must however be replicated across the whole country if women are to face justice.

Human Rights Watch (2017) states that elderly widows face dual discrimination; first as widows and secondly as elderly widows. A widow who is perceived as being older faces discrimination and is targeted for property grabbing because of relatives' real or imagined belief that they would be unable to defend themselves³². Violations against older people are common and include discrimination, social and political exclusion, abuses in nursing facilities, neglect in humanitarian settings, and denial and rationing of health care.

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You Will Get Nothing" Violations of Property and Inheritance Rights of Widows in Zimbabwe, Human Rights Watch, 2017

5.4 SOCIAL CONFLICTS

5.4.1 Conflict and injustice around property and inheritance rights of women during, marriage, divorce and widowhood



5.4.2 Gender Based Violence as a Barrier to Social Cohesion and Access to Justice by Survivors of Gender Based Violence

Gender is an important determinant of vulnerability to particular types of violence, which in turn undermine social cohesion³³.

Gender is an important determinant of vulnerability to particular types of violence, which in turn undermine social cohesion. Focus Group Discussions in Bindura, Mazowe, Shamva and Guruve revealed that the majority of victims of Gender Based Violence are women. This is because of the entrenched gender stereotypes and constructions of masculinity that emphasize power, violence, and dominance. This is also coupled with gender roles which perpetuate

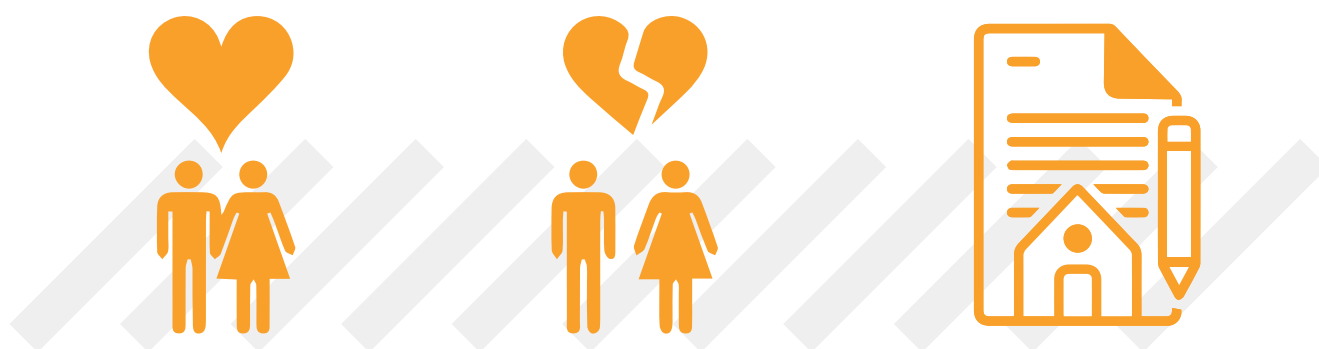
male aggression, thus taking a toll not only on women but also on the men themselves and on society as a whole. Gender Based Violence damages the fabric of society, creating fear in women's lives and socializing children into a culture of violence. It sets up and perpetuates structures based on hierarchy, violence, and humiliation that directly undermine social cohesion. According to the United Nations High Commission for Refugees, Gender-Based Violence refers to harmful acts directed at an individual based on their gender. It is rooted in gender inequality, the abuse of power and harmful norms. Gender-based violence (GBV) is a serious violation of human rights and a life-threatening health and protection issue. It is estimated that one in three women will experience sexual or physical violence in their lifetime³⁴. While Gender Based Violence exists in many forms, physical violence

³³ *Social Cohesion and Conflict Prevention in Asia: Managing Diversity Through Development, J Colleta et al, in Conflict Prevention and Post Conflict Reconstruction, The World Bank, June 1999*

³⁴ *United Nations High Commission For Refugees, Gender Based Violence, Retrieved on the 24th of December 2020 from <https://www.unhcr.org/gender-based-violence.html#:~:text=Gender-Based%20violence%20refers%20to,threatening%20health%20and%20protection%20issue>*

5.4 SOCIAL CONFLICTS

5.4.1 Conflict and injustice around property and inheritance rights of women during, marriage, divorce and widowhood



against women, statutory rape and marital rape were the most common forms reported in Bindura, Shamva, Guruve and Mazowe.

Participants in the Bindura focus group discussion told the researcher that there is not a single day which passes without an incident of Gender Based Violence. Gender Based Violence was reported to be even more rampant in Mazowe District where there is conflict and violence between artisanal miners and sex workers on one hand, sex workers and artisanal miners' spouses on the other hand and artisanal miners and their spouses on another hand. Mazowe, Bindura and Shamva are mining areas which are by nature, conflict and violence ridden. Artisanal miners use violence to gain access to lucrative mining claims and to block rivals from accessing the same. Unfortunately, this violence is imported from the mining claims to the community in general

and to the homesteads, where it is transformed into domestic violence. Participants at the Mazowe focus group discussion told the researcher that four women lives have been lost in this violence. Gender Based Violence increased rapidly because of the Covid 19 pandemic. According to Musasa, Gender Based Violence cases increased by 40 percent during the lockdown, compared to pre-lockdown trends³⁵. This is because the pandemic, in addition to confining couples together for lengthy periods of time, exposed couples to severe economic hardships.

In all the four districts, women reported that it is a nightmare for a survivor of Gender Based Violence to get access to justice. While those living in urban areas have easier access to the formal justice institutions such as the courts, those in rural areas rely on traditional leadership courts to get justice.

³⁵ Office for the Coordination of Human Rights Affairs (OCHA) Zimbabwe: Cluster Status: Protection (Gender Based Violence, 19 February 2021

5.4 SOCIAL CONFLICTS

5.4.3 Marital and sexual intercourse/indecent acts with young persons



Traditional leadership, as an institution that is a custodian of cultural norms and traditions, some of which perpetuate gender inequalities, are limited in their capacities to deliver justice for women victims of gender and other forms of violence. For instance, the judgement that Chief Nyamaropa handed down to a victim of marital rape described in 4.2.1 below is a case in point. It was also reported in Shamva that traditional leadership is the first port of call for victims of Gender Based Violence before they get further assistance from the Zimbabwe Republic Police. Respondents in Shamva reported that in addition to dealing with cases of Gender Based Violence for which they are ill-equipped, victims of violence are required to bring referral letters from village heads to the police.

5.4.3 Marital and sexual intercourse / indecent acts with young persons

Participants in the Focus Group Discussions at Bindura, Shamva and Glendale in Mazowe district all concurred that this is a common form of Gender Based Violence. It was reported that men think that conjugal rights are synonymous with the absence of consent in sexual encounters between married couples.

Marital rape is a form of Gender Based Violence which, for most women, is the most difficult to report. Thus, when it comes to this form of rape, women suffer in silence. Those women that defy the odds to report cases of marital rape often do not get the justice they deserve. A typical example is one case of marital rape that was brought

5.4 SOCIAL CONFLICTS

5.4.3 Marital and sexual intercourse/indecent acts with young persons



before Chief Nyamaropa in Shamva District. Chief Nyamaropa ruled that the complainant must go back and perform her conjugal obligations *“since that is what she came for”*. Some women reported that even the police do not accord marital rape complaints the seriousness that they deserve. Some even laugh at the complainants while some assume roles of marriage counsellors instead of speeding up bringing the perpetrator to book.

Another form of Gender Based Violence which was considered by participants to be prevalent in Mashonaland Central was sexual intercourse and indecent acts with young persons. This means sexual intercourse with a person who has not yet reached the age of consent (determined by state law), whether or not the sexual act is against that person’s will. In the case of Zimbabwe, that age is 16

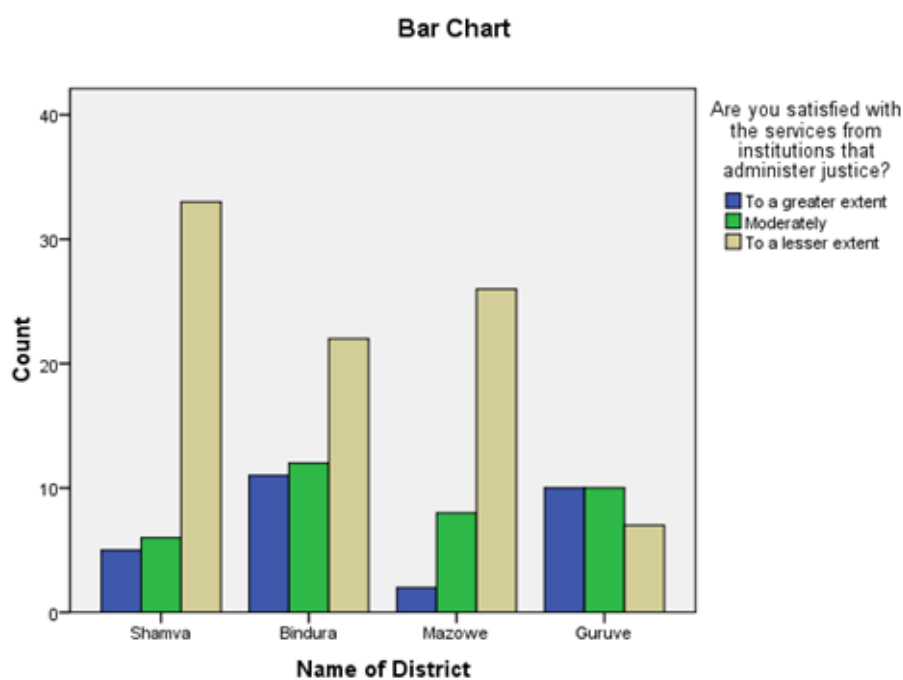
for girls. In all the four Focus Group Discussions, this problem was mentioned. Although women were not willing to provide finer details on this during the Focus Group Discussions, apparently due to fear of reprisals from the perpetrators, they were concerned that it is an issue that warrants the attention of the authorities. This unwillingness was evident during the Nyamaropa Focus Group Discussions where one participant stated that there is a statutory rape case that was reported to the police and was not acted upon. When it became evident that other participants in the Focus Group Discussions were not keen on discussing the issue, it was retracted. Participants were however in agreement that there are several girls under the age of 16 who either get married or are impregnated and in most of these cases, the perpetrators are not brought to book.

5.4 SOCIAL CONFLICTS

5.4.3 Marital and sexual intercourse/indecent acts with young persons

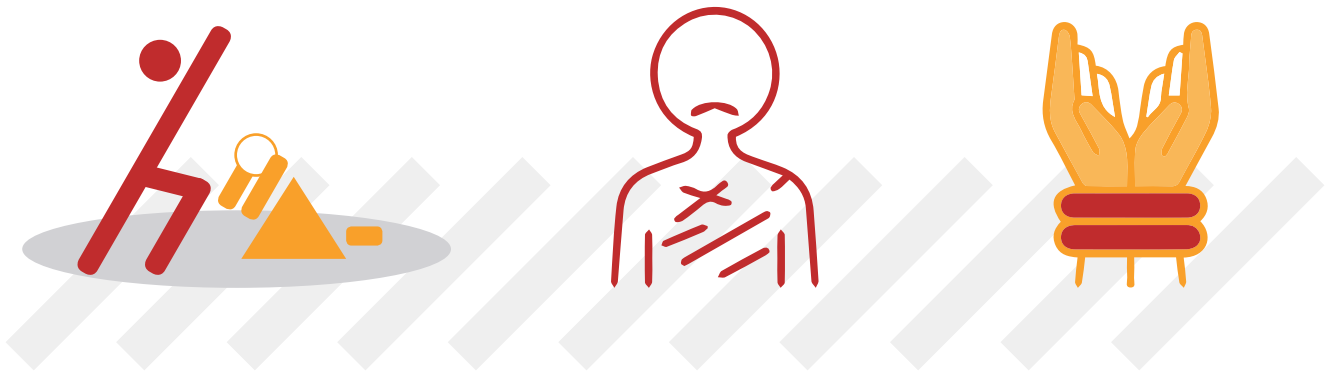


Figure 6: Women appraisal of institutions that administer justice



5.4 SOCIAL CONFLICTS

5.4.4 Assaults



5.4.4 Assaults

This is also another form of Gender Based Violence which is endemic in Zimbabwe. This form of violence is also seriously under-reported because of several factors. In most households, men are the so called “bread winners”. Reporting one’s husband to the police may mean loss of job/income for him due to protracted absence from his work.

Due to reliance of women on their husbands for income, they chose not to report cases of Gender Based Violence to save their livelihoods. Other women fear the scary reality of life after reporting, that is, possible reprisal from the perpetrator.

Some women are ignorant of the law, their rights, procedures and institutions that offer remedies when one’s rights are infringed. Also, women have lost trust in their justice institutions which include the police. During all the Focus Group Discussions, participants rated the police as the most corrupt justice delivery institution in the country. The researcher learnt that some police officers “kill”- (a Shona translation that mean the case documents disappear) cases which could otherwise result in justice. Women are worried about the rate at which cases of Gender Based Violence reported to the police do not proceed to prosecution and conviction because of corruption. When one reports a case of Gender Based Violence, the police, instead of speedily opening a docket, pressurize

5.4 SOCIAL CONFLICTS

5.4.4 Assaults



the complainant into reconsidering their decision to have their husbands arrested. Some women however argued that the reason why police officers do not rush to open cases of Gender Based Violence immediately after receiving the reports is because they have had numerous instances where survivors of domestic violence requested the police to withdraw cases. Once a person reports a case of Gender Based Violence to the police, they are subjected to a ceaseless barrage of insults, blaming and pressure from in-laws and the community. This forces them to reconsider their decisions and to decide to withdraw cases.

It was reported that the majority of survivors of Gender Based Violence try to withdraw cases after reporting, apparently as a result of pressure from in-laws, family members and the community in general. This is because for most women, marriage

is more important than justice. They would rather live with a perpetrator of Gender Based Violence than not to have a husband at all. The fear of divorce by women was very apparent in all the Focus Group Discussions; this fear overrides all the wrongdoings that their spouses could do to them.

The police are reluctant to open cases immediately after victims' report. Young women in Focus Group Discussions expressed concern over re-traumatization at the hands of the police who sometimes mock survivors of Gender Based Violence. It was reported that sometimes the police offer bad advice to the victim, endangering prospects of success in getting the perpetrator convicted. Very few cases proceed to conviction because of what transpires at the police station. This has eroded the trust that the survivors of Gender Based Violence have of the police. That

5.5 ECONOMIC CONFLICTS

5.5.1 Inequalities and injustice around access to land



is why some survivors choose other pathways to justice such as mediation by relatives. It was also interesting to note almost all the cases of Gender Based Violence reported to the police are not first instances or first experiences of the reporting survivor. Most women who participated in the Focus Group Discussions said they believed first instances of Gender Based Violence, unless they are fatal or they result in grievous bodily harm, are not worth reporting. They said they believe that it's only after the incidents persistently recur that one has to report to the police. There is one near fatal case that happened in Nyamaropa area where the victim was hit on the forehead, legs and hands by a hammer and sustained serious injuries. The injured victim was then detained for five days in the matrimonial house by the perpetrator. It was only after the survivor's relatives intervened that the survivor was able to file a complaint to the police.

5.5.1 Inequalities and injustice around access to land

Traditional leadership (chiefs, headmen and village heads) is an institution which perpetuates gender inequalities in Zimbabwe, yet it is the institution that is responsible for allocating land, although this allocation, in terms of the Communal Lands Act, must be approved by the Rural District Council.

In rural areas, land is allocated by the Village Development Committees which are headed by the Village Heads. According to the traditional norms and values, for which the traditional leaders are custodians, only male household heads can own land. This means that land cannot be allocated to women who need and deserve the land.

5.5 ECONOMIC CONFLICTS

5.5.1 Inequalities and injustice around access to land



This is particularly more difficult for young women who are not married are divorced or widowed. In all the four districts, the researcher could not get examples of young, unmarried women who have been allocated land by traditional leaders. This is particularly worrying because land is a symbol of wealth and a source of livelihoods in rural areas. In some rare instances however, traditional leaders allocate land to female divorcees who come back from their husbands with children.

Communal land is predominantly owned by the men in all rural areas. During divorce, it is difficult, if not impossible, for women to claim shares of

communal land and by extension, the matrimonial home from their spouses because the Matrimonial Causes Act states that inherited property or property of sentimental value cannot be shared upon divorce. Husbands would have inherited the fields, matrimonial home, cattle and other properties from their parents, leaving women with nothing.

Although the Communal Lands Act provides for the issuing of Settlement Permits on Communal Land by Rural District Councils, the practice has always been that traditional leaders allocate land, and it ends there. All rural communities researched under this study do not possess these permits. If Rural District

5.5 ECONOMIC CONFLICTS

5.5.1 Inequalities and injustice around access to land



Councils issue Settlement Permits to occupants of communal land in terms of the Communal Lands Act, this would open a window of opportunity for women to have their names registered on these permits as part of joint spousal registration of land. This would enable women to claim the land upon divorce or when their spouses die.

As a result of IYWD work in Shamva District as reported by FGD participants in Shamva, there are some positive developments with regards to women access to and ownership of land in rural areas. With the inclusion of women as officials in the Chief's Courts which was the result of IYWD advocacy work, all divorce matters coming before these traditional courts have ensured that women retain part of the communal land owned by their spouse as part of the divorce settlement.

6. KEY RECOMMENDATIONS

6.1 Recommendations to civil society

6.1 Recommendations to civil society

To promote access to justice by the beneficiaries of its interventions, Civil Society Organisations must facilitate engagement between women and representatives from justice delivery institutions such as the Police, Magistrates, Traditional Leaders, Lawyers etc.

Civil Society Organisations must facilitate engagement between young women in general and young women survivors of violence and the Chapter 12 Institutions, particularly the National Peace and Reconciliation Commission and the Zimbabwe Human Rights Commission.

Civil Society Organisations such as the IYWD, must document success stories about how they influenced traditional courts to have women court officials so that this success can be replicated all over the country.

Civil Society Organisations must design interventions targeted at changing the mind-sets of men on gender equality – Young men must also be beneficiaries of Civil Society Organisations' interventions particularly those that work to achieve gender equality. These include, among other things, involving men in their community structures, training men on gender equality and ensuring that men participate in Gender equality workshops.

Civil Society Organisations must design interventions aimed at addressing economic vulnerabilities of women – access to productive sectors of the economy such as agriculture and mining.

6. KEY RECOMMENDATIONS

6.1 Recommendations to civil society

6.1 Recommendations to civil society

Civil Society Organisations must train their target groups on conflict transformation.

Civil Society must build the capacities women on the law of inheritance, marriage and divorce to protect them from property dispossession.

Closely work with the Zimbabwe Gender Commission, Ministry of Women Affairs, Community, Small and Medium Enterprises, Legal Aid Directorate and other government agencies working on Gender Equality.

6.2 Recommendations to government

Local government (RDCs) must issue Settlement Permits jointly registered between spouses.

Deepen/expand victim friendly services for victims of gender and other forms of violence.

6. KEY RECOMMENDATIONS

6.2 Recommendations to government and young women

6.2 Recommendations to government

Local government (RDCs) must issue Settlement Permits jointly registered between spouses.

Provide free legal services or referrals to legal aid facilities for women pursuing divorce and inheritance proceedings.

Introduce title deeds on communal land so that there can be joint spousal registral of communal land.

6.3 Recommendations to Young Women

Ensure that every incident of Gender Based Violence is reported, including the first incidents.

Take initiatives aimed at challenging inequalities and economic vulnerabilities.

Ensure joint spousal registration of all matrimonial properties.

7. CONCLUSION

Interventions that challenge norms and traditions



Interventions aimed at challenging norms and traditions that perpetuate exclusion and marginalization of women must form the bedrock of any intervention by any organisation that is serious about Gender Equality

This is because law and justice are themselves products of what society considers to be wrong and right and unless this changes, it will be difficult to achieve gender equality. In much the same vein, it is impossible to have social cohesion in the face of gender inequality.

There is a strong correlation between economic vulnerabilities of women and gender inequality. Interventions meant to achieve gender equality must focus on addressing economic vulnerabilities of women. Once women are independent economically, they are more likely to advocate for more democratic arrangements in society. Even when it comes to seeking justice by survivors of

Gender Based Violence, economic vulnerabilities play a key role as most victims fear the realities of life after reporting. In fact, one of the weapons men have used to keep women in a position of perpetual weakness is to deprive them economically.

The IYWD has done great work in reforming the traditional court system; ensuring that women voices are heard therein, influencing outcomes of traditional court proceedings. This is huge success which should be documented and publicized (perhaps in form of a documentary) so that traditional leaders across Zimbabwe can learn. This is very important since the traditional leadership is an institution which perpetuates gender inequalities. Similarly, the IYWD must advocate for the reform of other institutions of justice such as the court system so that women friendly outcomes can also be harvested from the same courts.

