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Challenges of Implementation of the Anti-Gender-Based Violence Act 2011 in Zambia

A case study on pursuing strategic advocacy actions
for the effective implementation of the Anti-Gender-Based Violence Act
by examining the level of its operationalisation in two districts

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Avocats Sans Frontières (ASF, meaning lawyers without borders) is an international NGO specialising in the defence of human rights and support for justice in countries that are in fragile and post-conflict situations. For 25 years, ASF has been implementing programmes which improve access to justice for persons in vulnerable situation. It has field offices in Burundi, the Central African Republic, Chad, Democratic Republic of Congo, Morocco, Myanmar, Tunisia, Uganda, and Zambia.

ACRONYMS AND DEFINITIONS

ADR	Alternative dispute resolution
Anti-GBV Act	Anti-Gender-Based Violence Act, 2011 (No. 1 of 2011), adopted on 15 April 2011
ASF	Avocats Sans Frontières
CID	Criminal Investigations Department
CSO	Civil society organisation
DAO	District Administrative Officer
FGD	Focus group discussions
GBV	Gender-Based Violence
GEEA	Gender Equity and Equality Act, 2015
HIV/AIDS	Human immunodeficiency virus/ Acquired immune deficiency syndrome
KII	Key informant interviews
MCDSW	Ministry of Community Development and Social Welfare
MGCD	Ministry of Gender and Child Development
NGOCC	Non-Governmental Organisations' Coordinating Council
OSC	One Stop Centre
PAN	Paralegal Alliance Network
P2P	Peer to peer
SADC	South African Development Community
SGBV	Sexual and Gender-Based Violence
SIGI	Social Institutions and Gender Index
SOP	Standard operating procedures
TOR	Term of reference
UN	United Nations
UNDP	United Nations Development Program
VAW	Violence against women
VSU	Victim Support Unit
WILDAF	Women in Law and Development in Africa
WLSA	Women and Law in Southern Africa
YWCA	Young Women's Christian Association
ZDHS	Zambian Demographic and Health Survey

Gender-Based Violence (GBV): in 1993, the UN drafted the Declaration on the Elimination of Violence against Women recognising the urgent need for the universal application of human rights for women. This attitude was also reflected in the Anti-GBV Act: "Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or in private life." Gender-based violence has become an umbrella term for any harm that is perpetrated against a person's will, and that results from power inequalities that are based on gender roles. Around the world, gender-based violence almost always has a greater negative impact on women and girls. For this reason, the term "Gender-based violence" is often used interchangeably with the term "Violence against women" (VAW).

GBV survivor: a principle that rejects the notion that women are powerless and unable to take control over their lives, but does recognise that assistance is needed to empower them, to enhance and support them to deal with the many challenges that they face. Hence, the term "GBV survivor" and not victim is consistently used in this study.

Executive summary

Gender-based violence (GBV) is endemic in Zambia, with half of Zambian women having experienced some form of GBV in their lives. Zambia is ranked 116 out of 145 countries in the World Economic Forum's Global Gender Gap Index, which renders it as one of the countries in the world with the highest levels of gender inequality.¹ The passing of the Anti-Gender-Based Violence Act (Anti-GBV Act) is a marked progress in the struggle against pervasive violence which has its roots in social and gender exclusion and power imbalance, horizontal inequalities and poverty. However, five years after enactment, implementing the Act and other laws and policies in Zambia that promote and protect persons from GBV has been far less successful. Comprehensive protection provided for under the Act requires people not only to know their rights but also for the local legal structures to be adapted, and for legal and non-legal actors to be equipped to meet the specific needs of the GBV survivors.

Avocats Sans Frontières (ASF) with the support from the European Union led a field case study to examine the lacunae in implementation, and the barriers that exist which impede GBV survivors to seek protection under the Anti-GBV Act. The study is a component of the project "Women's Rights and Access to Justice in Zambia" which is currently implemented by ASF in partnership with the Young Women's Christian Association of Zambia (YWCA). The study focuses on two project locations in the Northwestern province, Kasempa and Solwezi.

The study uses primarily qualitative data collection methods, which was of fundamental importance to also document the communities' perceptions and experiences of GBV and how they deal with GBV related issues and offences; the multiple avenues they pursue to achieve certain outcomes through available social, cultural and legal mechanisms. Having this insight is significant to understand the shortcomings in national efforts to implement the act and the local disparities.

KEY FINDINGS

The participants' preference to address GBV cases is still the customary dispute resolution mechanisms, due to high costs and length of court processes, and language barriers. Most survivors are not familiar with the methods of adjudication in the formal system. There is a perception in the communities around Kasempa that the police and judiciary offer only retributive justice whereas the customary system provides restorative justice, which is the end justice users preferred method of dispute resolution. In addition, people's perception is that with the traditional system they would get some sort of compensation, whereas in the formal legal system they would get a conviction, without the much needed money that will help in the recovery and restitution of the survivor.

Gender stereotyping, social norms and attitudes perpetuate widespread notions that women are subservient to men, and forms of domestic violence are often condoned. This notion of assigning the man as the provider and the head of the family often puts the woman or the GBV survivor in a subordinate position, making it difficult for her to speak out on GBV and report cases. Although the Anti-GBV Act is clear that a single act of violence or abuse constitutes an offence, participants expressed that **the "degree" of violence should be key in considering whether or not the act is considered an offence.** Some respondents were of the opinion that ordinary slapping, hitting and pinching should not be classified as GBV.

Through the focus group discussions (FGDs) and key informant interviews (KIIs), it is seen that challenging traditional views that are barriers to the implementation of the Anti-GBV Act is fundamental and has to be argued consistently using a rights-based approach. Various perspectives and knowledge from the community have to be taken into account to reach the community and generate dialogue on the devastating consequences of GBV on individuals as well as communities, and open entry points allowing using the Anti-GBV Act in a way that is familiar, inclusive and accessible.

1. <http://reports.weforum.org/global-gender-gap-report-2015/the-global-gender-gap-index-2015/>.

One of the ways to operationalise the Anti-GBV Act is to have a systematic plan to conduct sensitisation that includes different actors and members from the community using different strategies to open up dialogues and conversations on a complex issue such as GBV. Mobile legal clinics have been successful in disseminating information on support available for GBV survivors. However, these efforts are marginal compared to the needs and have to be urgently scaled up.

While the Anti-GBV Act provides for the victim to file a complaint personally or through a close friend if the victim is a child or a person with mental disability, **there is much reluctance to file a complaint due to diverse reasons such as stigma, humiliation and fatalistic acceptance of the situation.** When GBV survivors do seek help, it is mostly for the counselling, reconciliation and mediation services. Help is sought when there is economic abuse, and the desired outcome is to either discipline the husband or to order him to pay maintenance. Often GBV related offences are counselled and mediated by service providers.

Protection and occupation orders are significant measures guaranteed under the Anti-GBV Act. However, most participants, especially **the duty bearers, conveyed that they had no clarity on the application and implementation of protection orders and occupation orders.** They did not have an understanding of the civil remedy aspect of the protection order, the violation of which would make it a criminal offence. There are also serious lapses in collection of evidence due to diverse reasons such as lack of infrastructures, resources, transport as well as relying solely on physical evidence for sexual and gender-based offences (SGBV).

Comprehensive, integrated support services and care is notably absent in Kasempa, whereas in Solwezi there is a One Stop Centre (OSC), which is located in the hospital premises and a drop-in centre in Kimasala. Common guidelines, protocols, safety and security plans need to be developed to provide survivor-centred care and assistance. Similarly, there are no written guidelines or protocols on coordination, case management and harmonization of referral pathways.

Shelters are quintessential to ensure effective legal redress of GBV while removing the survivors from risk of further violence from the perpetrator. Shelters provide refuge and could be a place to empower survivors through a systematic process of counselling, legal and economic empowerment which is integral to break the cycle of violence. The Act stipulates that shelters must be established. The Ministry for Community Development and Social Welfare (MCDSW) is mandated to establish shelters. There is one YWCA run shelter in Solwezi but this is inadequately funded and can only house 7-8 women at a time. There were mixed reactions from the participants on the shelters. While some found it to be a refuge from violence, the others were of the opinion that the family should play a central role in taking care of the person who has suffered violence.

While that Act provides for counselling services, it has been observed that cultural and religious beliefs, practices and norms often permeate into the counselling approaches and techniques of service providers.

The Gender Task Force is constituted in Kasempa and Solwezi and as per the Act convenes either to discuss the mandatory quarterly reporting requirements or to participate in campaigns and events promoting women's rights. In the meeting with the Task Force members, it was revealed that there should be improved communication between the different sectors on the implementation of the Anti-GBV Act, where the Ministry for Gender and Child Development (MGCD) should take the lead in developing standard operating procedures. There is also a much needed clarification sought from the district level actors on the mandates and roles of the two key ministries, MGCD and MCDSW, with regard to the implementation. There is much anticipation from the district level actors to tap into the Anti-GBV Fund. The total amount in the Anti-GBV Fund is currently 100,000 Kwachas and there needs to be concerted advocacy efforts to augment this amount.

The data reveals that there is a marked difference between service providers who had attended GBV trainings and those who had not had the opportunity to be part of such trainings. This is seen directly in the way they organise care and respond to GBV issues. Most of the duty bearers expressed that although they know of the Anti-GBV Act, they did not know the exact provisions under the Act. They requested training on applying it in their work. Further, there is a huge need to develop survivor-centred counselling approaches, which empower and support the autonomy of the survivor. Mediating GBV cases is common and therefore, service providers need specific training and guidance that mediation should not be a prerequisite to the filing of a complaint or pursuing the case in court.

ADVOCACY RECOMMENDATIONS

The final section of the study provides for recommendations on focus areas for advocacy. Considering the practices and perceptions identified in the field, as well as the barriers that prevent achieving the full intent of the Anti-GBV Act, it is necessary to have a broad, holistic approach to push forward for actions that not only challenge the structures and set views on GBV and the law, but also offer solutions, resources and technical expertise to implement various aspects of the Act. The recommendations for advocacy, particular to the implementation of the Act, are broadly clustered under four identified action fields, and advocacy focus issues are identified under each field with strategic activities suggested, including the person of interest or target groups who would be the focus of the advocacy actions:

1. An efficient and effective comprehensive legal framework that helps secure protection and recourse from GBV.
2. Large-scale public awareness and sensitisation of the full scope of the Act.
3. A more effective coordination of stakeholders to deliver comprehensive, integrated, survivor-centred services.
4. Strengthened actors at every level.

TABLE OF CONTENT

1. INTRODUCTION	10
1.1 Objectives of the study	10
1.2 Methodology: approach, tools and limitations	11
1.3 Context	13
1.3.1 Gender-based violence in Zambia	13
1.3.2 Law and policy response to gender-based violence in Zambia	13
1.3.3 The Anti-Gender-Based Violence Act	14
2. FINDINGS	18
2.1 Implementation barriers: informal norms and stereotype gender roles	18
2.1.1 Customary system the first entry point	18
2.1.2 Social norms and attitudes that perpetuate gendered disparity and violence	19
2.1.3 Decision-making rests with the man, family and the community	20
2.1.4 Perceptions of gender-based violence	20
2.1.5 Generating meaningful dialogue around the Anti-GBV Act	21
2.1.6 Perception of the formal justice system as being retributive	22
2.2 Prevention	22
2.2.1 Need to innovate community sensitisation efforts on the Anti-GBV Act	22
2.2.2 Violence against sex workers	23
2.3 Barriers to filing complaints	23
2.3.1 The underlying reasons for the complainant/survivor to seek help for GBV offences	23
2.3.2 Preference to counselling and mediation intervention	24
2.3.3 Breaking the cycle of violence	24
2.3.4 Sexual violence	25
2.3.5 Distinctiveness and degree of gender-based violence	25
2.3.6 Police response and assistance	26
2.4 Pursuing legal action	26
2.4.1 Protection and occupation orders	26
2.4.2 Court processes	27
2.4.3 Collection of evidence	28
2.4.4 Compensation and restitution of GBV offences	29
2.4.5 Paralegals plug the dire shortage of lawyers	29
2.5 Comprehensive, integrated support services and care for complainants/survivors	30
2.5.1 Absence and/or shortage of integrated response service centres	30
2.5.2 Shelters	31
2.5.3 Counselling and mediation	33

2.6	Coordination, administration mandates under the Anti-GBV Act.....	33
2.6.1	Gender Task Force	33
2.6.2	Need for horizontal and vertical communication channels	34
2.6.3	The MGCD and the MCDSW	35
2.6.4	Anti-Gender-Based Violence Fund	35
2.7	Capacity development strategies	35
2.7.1	Opening up continuous decentralised learning opportunities for different constituencies	35
2.7.2	Peer to peer workshops on Anti-GBV Act.....	36
2.7.3	Integrated, multi-sectorial model to implement the Anti-GBV Act	37
2.7.4	Alternative dispute resolution of GBV offences.....	37
3.	ADVOCACY RECOMMENDATIONS.....	38
	REFERENCES.....	42
	ANNEXES	44



1. INTRODUCTION

1.1. ■ OBJECTIVES OF THE STUDY

ASF in partnership with YWCA is currently implementing a project entitled “Women’s Rights and Access to Justice in Zambia”. The project locations are in Northwestern Province (Solwezi and Kasempa) and Northern Province (Mbala and Kasama).

The project focuses at the first instance on women and their legal empowerment, but also works with other stakeholders such as men, traditional leaders and public institutions, among them the Victim Support Unit (VSU) and prosecution services in the police force for GBV cases. The project rejects the notion that women are powerless and unable to take control over their lives, but does recognise that assistance is needed to empower them, to enhance their legal literacy and to deal with the many challenges that they face. Hence, the term “GBV survivor” and not «victim» is consistently used in this study. Based on this premise, since the start of the project in 2015 until now, an array of activities such as legal empowerment, legal advices, capacity building of YWCA staff, paralegals, counsellors as well as collecting strategic data that will inform evidence-based advocacy have been implemented. One of the core components of the project² is to lobby and advocate for the enforcement and implementation of the Anti-GBV Act at all levels. The project activities also include prevention, protection, effective follow-up and prosecution of cases and dealing with the impact of GBV on survivors and their families.

The project is in the final phase with advocacy activities planned based on field data, on the present study as well as on the data that is gathered by YWCA. After consultation with ASF’s partner YWCA and other stakeholders engaged in GBV, one of the key areas for advocacy identified is to put in greater efforts that will add impetus for the effective implementation of the Anti-GBV Act 2011. The advocacy actions will be based on the perceptions, practices and services available on the ground, and the opportunities and challenges this presents for the implementation of the Act. It is well known that the Act as such is a positive step towards the elimination of GBV. Its full implementation remains highly challenging and as a result, civil society organisations (CSOs) continue to fill the gaps left by the weak response of the authorities.

The primary objective of this study is to have an understanding of the level of implementation of the Anti-GBV Act in two project locations by examining if key measures stipulated in the Anti-GBV Act, are applied, operational and enforced. In doing so, challenges and opportunities will be identified which would support formulating and pursuing specific advocacy actions that would engage decision-makers and actors working on GBV to push forward for the implementation and realisation of key provisions specified in the Anti-GBV Act. The advocacy recommendations are based on findings from consultations and data gathered from an array of actors from key institutions, traditional leaders and advisers, CSOs, the community (men, women and adolescent girls), GBV survivors, service providers and others, on their experiences and perception of the legislation in providing protection and preventing gender motivated violence that is so pervasive in the communities. The final section of the study will propose recommendations for advocacy that would attempt to influence and promote improved implementation of the Anti-GBV Act of 2011.

Based on the analysis of the data and information gathered, the key research question is: given the Zambian GBV context, and the lived experiences of people, what measures and actions need to be taken by the government in order to implement and enforce the Anti-GBV Act so that persons (notably women and girls) who are at risk and survivors of gender-based violence have improved avenues of protection and redress under the Anti-GBV Act of 2011?

2. Result 4 of the project seeks to achieve “effective advocacy to influence and promote 1) the domestication of international instruments on women’s rights, 2) better implementation of the Anti-GBV Act, 3) Legal aid. See ASF project document: Women’s Rights and Access to Justice in Zambia.

1.2. ■ METHODOLOGY: APPROACH, TOOLS AND LIMITATIONS

The study is based primarily on qualitative research to highlight the community's perceptions and experiences with GBV and the legal provisions in the Anti-GBV Act. This provides an opportunity to increase understanding about the complexity of the local context in which GBV takes place. Such an understanding would help in identifying the gaps in interventions, and the barriers that exist which will inform actions that work towards the full implementation and enforcement of the Anti-GBV Act. The research was undertaken in three stages: reviewing and understanding the ongoing work in GBV and the Zambian context; developing tools with ASF's project staff and its partner YWCA; and in-country collection of data with ASF Project Officer based in Lusaka, YWCA Northwestern site Coordinator and interpreters.

The ASF Project Officer, YWCA site Coordinator and interpreters were introduced to key concepts of the study, the research tools and ethical considerations for collecting data on sensitive issues such as GBV. They were introduced to gathering data through qualitative data gathering methods such as FGDs and KIIs. The research tools were reviewed in the local language (Kaonde) and interpreters were familiarised in the process of data collection. In Kasempa and Solwezi, ASF and YWCA staffs assisted in data collection, facilitated introductions, and access to communities, occasionally supporting FGDs and providing insight into prevailing community dynamics that influence the operation of the Act.

The purpose of using a qualitative method of data collection is to have a deeper insight into people's perceptions, experiences and how they deal with GBV issues and offences in their lives and in their communities as well; the multiple avenues they pursue to achieve certain outcomes through available social, cultural and legal mechanisms. With this, as the starting point, the aim was to collect and analyse data beginning from bottom-up, end-users for whom GBV is a harsh reality of everyday life. Qualitative data collection method was also suitable to get an understanding of the underlying norms, behaviour and attitudes related to GBV, and the influence and implications this has on efforts invested to enforce and implement the Act. Around 80 respondents participated in this study as shown in the table below. A table on the type, number of FGDs and location is listed in the Annex.

FGDs Number of Participants		In-depth interview of GBV survivors		KIIs Number of Participants		Study site
Male	Female	Male	Female	Male	Female	
11	13		5	5	1	Kasempa
10	13			5	4	Solwezi
				4	9	Lusaka (CSOs and institutions)
21	26		5	14	14	Total

Data was also collected through interviews with key informants representing CSOs engaged in GBV work and government institutions, service providers and duty bearers mandated to implement the Act. The three data collection tools that were primarily used were: document review and semi-structured interviews for FGDs and KIIs. The FGDs comprised of not more than 5-6 participants from diverse groups such as men, women, young women, girls, traditional leaders, community leaders, paralegals and survivors. This allowed for an insight into how different members of the community agree, disagree and reflect on GBV and their views and opinions on legislating on GBV. The purpose of the FGD was explained to the participants, as well as the confidentiality obligation, consents and that they had no obligation to participate. They could decline to be part of the FGD at any time.

The study site focuses on two of the four project locations: Kasempa and Solwezi in the North-Western province of Zambia. The selection of the study sites includes a remote district with farming communities (Kasempa) and urban, mining area with varied communities, diverse authorities and high levels of migration (Solwezi). Both sites have high levels of vulnerability to GBV and offers different perspectives in their given milieu.

Solwezi is the capital of North-Western province with a population of around 65,000 people. It is known as the new “Copper belt” with a large migrant population working in the mines. There are three mines in Solwezi,³ with the prevalence and rise of GBV and the mining sector widely documented and reported.⁴ Violence against sex workers, sexual harassment of women in the mining industry and alcohol fuelled violence have increased. This has had a negative social impact and has caused personal trauma, family break-ups and insecurity. YWCA has a regional office in Solwezi and is running a OSC and shelter. They have a team of paralegals trained in GBV and a referral system that includes key service providers in the district.

In contrast, the work on GBV in Kasempa is newly established having started in 2015 with the ASF-YWCA project. The rationale for choosing this district for the study is that it is a remote, agricultural district wherein the majority of the people are farmers. Like in other parts of Zambia, the prevalence of GBV is high, with all forms of GBV reported including but not limited to defilement, rape, incest, spouse battery, child abuse and early marriages. In addition, because of the remoteness, the people in Kasempa have little access to services and resources. They are among the poorest in Zambia, with low literacy levels, and do not get the opportunity to engage with mechanisms that influence policy makers.



Women focus group discussion in Kasempa

There are limitations given the short-term nature of the study and therefore the findings should be considered as a first step which would require deeper and longer analysis of certain issues in Zambia. The findings cannot be generalised to a community or practice, and the data may not be enough to understand the complex reality in which GBV occurs. The sample of people interviewed is clearly limited in size and is based on the contributions of select members from the community, traditional and community leaders, survivors, CSOs, institutional actors, service providers. It illustrates some perceptions, practices and views among different actors in a given local context, which either favours or weakens the efforts implementing the Anti-GBV Act.

3. The three mines are Kansanshi, Lumwana and a new mine Kalumbila which is around 120 km away from Solwezi.

4. Zambia's Progress Report on the Implementation of the Beijing Declaration and Platform for Action (1995) and the Outcomes of the twenty-third special session of the General Assembly (2000). In the context of the Twentieth Anniversary of the Fourth World Conference on Women And the adoption of the Beijing Declaration and Platform for Action 2015.

1.3. CONTEXT

1.3.1 Gender-based violence in Zambia

The detrimental effects of GBV on physical, mental health and well-being of people is well recorded and reported worldwide.⁵ GBV also comes at high social and economic costs⁶ that pervade the very social fabric of society. Although Zambia has made some progress in promoting gender equality, GBV continues to be a widespread problem that affects and impacts the daily lives of Zambians. Major improvement is still needed, as illustrated by Zambia's scores and ranking in a number of relevant indices, and more specifically by the development of Anti-GBV efforts. Zambia is ranked 102 out of 108 countries in the 2014 Social Institutions and Gender Index (SIGI) with a score of 0.4488. In the South African Development Community (SADC) Gender Protocol Index, the score increased from 58 in 2011 to 62 in 2015 demonstrating that change is gradually being made.

Various population based studies have indicated that GBV continues to be a problem with the reported cases on the rise. According to figures from the Zambian Demographic and Health Survey (ZDHS) 2013-2014, 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. 43% of women aged between 15 to 49 years have experienced physical violence at least once since age 15, and at least 37% experienced physical violence within the 12 months prior to the survey. Overall, 47% of married women between the age of 15-49 report having experienced physical, sexual, and/or emotional violence from their current or most recent husband or partner. 10% of women reported experiencing violence during pregnancy and 9% of women who have experienced violence have never sought help and never told anyone about the violence.

Records of GBV at the VSU of the Zambia Police Force depict an increase of reported cases with 7,135 cases in 2008, 8,261 cases in 2009, 8,476 in 2010 to a notable increase to 11,908 cases in 2011, 12,924 in 2012, 10,217 in the first three quarters of 2013, 12,998 in 2014 countrywide suggesting that there is increasing awareness about the illegality of GBV and the services available to help. It is worth stating here that these figures only represent the cases that were reported.

GBV affects all individuals and groups on the basis of their gender. Men and women experience GBV and it is well established that this is rooted in the structural inequalities and gender imbalance between men and women, which is manifested by the use and abuse of power and control. It has been well-documented that women and girls are at risk and most affected by GBV. For this reason, GBV and violence against women (VAW) is used interchangeably.⁷ In Zambia, the wide scale violence that women experience both in public and private life is physical violence, economic violence, sexual violence and emotional and psychological violence. Poverty and socio-cultural barriers prevent the agency of women to seek help and break the cycle of violence. The tolerance towards GBV tends to be high and the general thinking is that only serious cases of GBV should be reported which results in "modest" level of violence passing off unreported. Like in other countries, Zambia has a culture of silence that condones violence, which results in cases of GBV going unreported.

1.3.2 Law and policy response to GBV in Zambia

People have a right to live free of violence and discrimination. Throughout the data collection process for this research, it was poignant to note that consistently women while discussing GBV pointed out that all they wanted is to live in peace. **By ratifying international and regional instruments,⁸ Zambia has made political commitments to guaranteeing fundamental freedoms and rights to people so that they have the freedom to make choices and live the life they choose to live.**

5. According to the World Health Organization (WHO - Global and regional estimates of violence against women: Prevalence and health effects of intimate partner violence and non partner sexual violence published in 2013), one in every three women has been beaten, coerced into sex or abused in some other way, most often by someone she knows. The 2014 Global status report on violence prevention 2014 which reflects data from 133 countries which was jointly published by WHO, United Nations Development Program (UNDP) and United Nations Office on Drugs and Crime reports that one in five women is sexually abused as a child.

6. The Economic costs of violence against women: An evaluation of the literature: Expert brief compiled in preparation for the UN Secretary General's in-depth study on all forms of violence against women. Tanis Day, Katherine McKenna and Audra Bowlus. The University of Western Ontario, Canada, 2005.

7. General Assembly Resolution 48/104 – Declaration on Elimination of Violence against Women 1993.

8. In 1985 Zambia ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Other important international instruments that Zambia is party to are the Child Rights Convention (CRC), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant of Civil and Political Rights the (ICCPR). At a regional level, Zambia is a state party to the African Charter on Human and Peoples' Rights and a signatory to the 1998 Addendum on Prevention and Eradication of Violence against Women and Children which forms a part of the South African Development Community (SADC) and in 2006 became a state party to the African Women's Rights Protocol.

Therefore, the government has an obligation to address GBV including domestic violence and is responsible for protecting men and women's rights to personal freedom, dignity, life and physical integrity both in the private and public sphere. Zambia has undertaken a domestication process where the international commitments and ratifications have been enacted into domestic laws and provides for a legal framework that seek to end GBV and promote gender equality and equity. It is significant that the parliament has recently enacted a law, which provides for the ratification and the domestication process of Zambia's international agreements and commitments.⁹

The Zambian Constitution is the supreme law of the land, which protects and emboldens fundamental rights and freedoms of all Zambian people. From 1990 to 2015, Zambia went through a number of constitutional reform process followed by a number of amendments. The most recent amendment to the constitution is the Constitution of Zambia Amendment Act No. 2 of 2016. Zambia has a dual legal system (customary and statutory) and all laws written and customary are subject to the provisions of the Constitution. The Criminal Procedure Code, Chapter 88 of the Law of Zambia, Chapter 87 of the Law of Zambia, the Penal Code (Amendment) No. 15 of 2005, the Anti- Human Trafficking Act No. 11 of 2008, the Marriage Act Chapter 50, Matrimonial Causes Act No. 2007, the Legitimacy Act Chapter 52 of the Laws of Zambia, the Affiliation and Maintenance Act, Chapter 64 of the Laws of Zambia, the Employment Act, Chapter 268 of the Laws of Zambia, the Anti-GBV Act No. 1, 2011 and the Gender Equity and Equality Act 2015, Chapter 53 - the Juvenile Justice Act are some of the legislations that are enacted to address structural inequalities and signify that violence is unacceptable. In a recent study, Jeni Klugman for the World Bank, suggests that legislation that criminalises violence against women codifies the rights of women to live free of violence. Laws can play a symbolic role, by indicating that such behaviour is socially unacceptable. The associated sanctions may serve a deterrence function. Either or both levers may work in practice to reduce incidences of violence.¹⁰

Apart from legislations, Zambia has also developed strategic national plans and policies to ensure gender-based violence is a priority concern. In 2000, Zambia adopted a National Gender Policy and key institutions and ministries have been either reorganised or newly established. In 2008, the Gender in Development Division developed a National Action Plan on gender-based violence for 2008-2013, and the Ministry of Gender and Child Development a Strategic Plan, for 2014-2016. The reorganisation of ministries has led to the Ministry of Gender tasked with coordinating and monitoring the National Gender Policy as well as the Anti-GBV Act. The Zambian Police Victim Support Unit (VSU) is mandated to handle all GBV cases and have VSU posts in police stations across the country. Legal aid is provided by the government and CSOs despite the absence of a comprehensive national legal aid policy to guide and regulate the provision of legal aid. In 2012, a committee of 15 members was established by the Minister of Justice at the request of the National Legal Aid Board for the development of a comprehensive national legal aid policy. A draft national legal aid policy was first completed in 2013. It is currently being reviewed and the adoption is planned by the end of 2017. It is hoped that with improved quality legal aid provision there would be enhanced access to justice, which is a crucial component for the implementation of gender sensitive laws such as the Anti-GBV Act. This will allow for the Act to have a positive impact on the lives of Zambian people.

1.3.3 The Anti-GBV Act

The Anti-GBV law is considered as a progressive law and for the first time in Zambia, provides for a comprehensive framework for protection of GBV offences, and guidance on adequate recourse. After more than a decade of advocacy from Zambian civil society and collective action, the parliament passed the Anti-GBV Act in 2011, an effective legislation that provides protection and adequate recourse for survivors. Zambia is one of the only countries in SADC region to have a specific anti-gender-based violence law. The Act is in line with international legal frameworks and draws experience from global best practices. The Act is lauded for providing a holistic approach to countering GBV, one that combines legal and non-legal support¹¹ to effectively address GBV.

9. The Ratification of International Agreements Act, 2016.

10. Jeni Klugman. Gender-Based Violence and the Law. World Development Report Background Paper, World Bank, Washington DC. 2017.

11. The Anti-GBV Act provides for the establishment of Gender Committee and Provincial and District Gender Task Force, a Gender Fund to conduct information and sensitisation programs and care of the survivors, access to economic initiatives and promotes a multi-sectoral model of combating GBV.

ANTI GENDER BASED VIOLENCE ACT

(No 1 of 2011)

Object: An Act to provide for the protection of victims of gender based violence; constitute the Anti -Gender Based Violence Committee, establish the Anti Gender Based Violence Fund, and provide for matters connected with or incidental to, the foregoing.

An act of gender based violence shall be inquired into, tried and otherwise dealt with in accordance with the Criminal Procedure Code, the Penal Code and any other written law.

Subject to the Constitution, where there is any inconsistency between the provisions of this Act and the provisions of any other written law, the provisions of this Act shall prevail to the extent of the inconsistency.

Meaning: “Abuse” means conduct that harms or is likely to cause harm to the safety, health or well-being of a person and includes any cultural or customary rites or practices such as sexual cleansing, child marriage, forced virginity testing, female genital mutilation, pledging a person for person for purpose of appeasing spirits, forced spouse inheritance or sexual intercourse between persons within the prohibited relations affinity or consanguinity.

“Aggravated” means any act of gender based violence which (a) causes the victim to suffer wounding or grievous bodily harm (b) the Court considers to be serious.

“Child” means a person who is under the age of Sixteen (16) years.

“Court” means the Subordinate Court (Magistrates Court).

“Emotional”, verbal and psychological abuse means a pattern or habit of degrading or humiliating behaviour towards a person including insults, ridicule or name calling threats to cause emotional pain or distress.

“Gender” Means a woman or man and the role individuals play in society as a result of a woman or man.

“Gender Based Violence” means any form of violence manifest in physical, mental, social or economic abuse against a person because of that person's gender.

“Harassment” means engaging in a pattern of behaviour or conduct that induces in a person the fear of imminent harm or feelings of annoyance and aggravation.

“Order” means a Protection Order or directive that the court may make under the Act.

“Protection Order” means any order or directive under Sections 13,14,15 and 17 that the Court may grant aimed at ensuring the safety of the victim of gender based violence.

“Stalking” means a pattern of behaviour where a person is followed, pursued or accosted by another.

“Victim” means a person against whom an act of gender based violence has been, is being or is likely to be committed.

“Next friend” means a person who intervenes to assist a victim who is a child or who has a mental disability to bring a legal action.

Section 4: A single act of gender based violence is enough for the offence of gender based violence.

Section 5: A police officer, labour inspector, social worker, counsellor, medical doctor, lawyer, nurse, religious leader, traditional leader, teacher, employer or any person or organisation with information concerning of an act of gender based violence has a duty to assist a victim gender based violence on the victims’ rights and how to obtain any basic support.

Section 6: A victim of gender based violence may file a complaint about the gender-based-violence (3) a complaint about gender-based violence may be filed by any other person or organisation with information about the gender-based violence where this is the best interest of the victim.

Section 7: The police shall respond timely to every gender-based-violence complaint and offer the person making the complaint such police protection as maybe needed.

Section 8: When the police receive a gender-based violence complaint, they shall (c) assist the victim to obtain medical treatment, where needed (d) assist the victim to a place of safety where there is concern for the victim’s safety.

Section 9: A police officer may without a warrant, arrest a person who is likely to or is committing an offence of gender based violence.

Section 10: A victim of gender based violence may apply to a court for Protection Order directing the perpetrator or his/her agents from carrying any act of gender based violence on a victim/s (2) If the victim does not have a lawyer, the clerk of the court shall help the victim in applying for a Protection Order.

Section 11: whenever the court is hearing an application for the protection order, the court shall not be open to members of the public.

Section 12: The Court shall issue an Interim Protection Order whenever that is in the best interest of the victim, while it awaits a

joint hearing of the victim and perpetrator before making the Interim Protection Order final or discharge it.

Section 13: The Court may issue a Protection Order to prohibit a perpetrator or his/her agents from committing an act of gender based violence against the victim.

Section 14: A Protection Order may prohibit the perpetrator and or his/her agents or both from (a) Physically abusing the victim (b) Forcibly confining the victim to some place (c) Denying the victim access to food, water, clothing, shelter, rest. (d) Forcing the victim to engage in any sexual contact (f) Denying the victim any economic or financial resources (g) Contacting the victim at work or any other place they frequent. (h) Contacting the victim by telephone or mobile phone. (j) Destroying or threatening to destroy property. (m) Harassing the victim (n) Entering the victim's residence (house) without her/his permission. (o) Abusing the victim emotionally, verbally. (p) Coming within one hundred metres of the victims.

Section 15: A Protection Order may bind the perpetrator to good behaviour, or seek counselling or not to come anywhere near to the victim.

Section 20: The Court may issue an order (Occupation Order) requiring the perpetrator to vacate the home the victim shares with the perpetrator.

Section 23: Any person who disobeys an order by the court commits an offence and can be imprisoned to up to 2 years.

Section 24: The Government of the republic of Zambia through the ministry of social welfare shall build shelter for victims of gender based violence across Zambia.

Section 32: The Government shall operate an Anti-Gender Based Violence Fund which shall be the national pool fund for resource mobilization against gender based violence in Zambia.

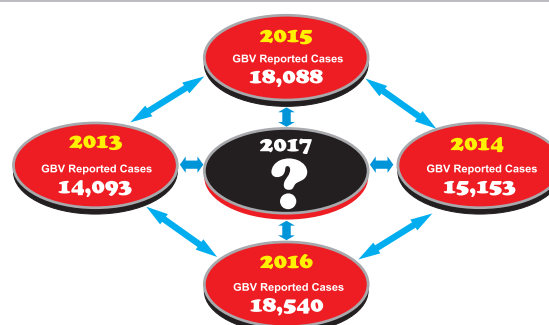
Section 35 (2): In a case of Gender based violence before the court, all court documents shall be served on the victim, or perpetrator by the clerk of court or any other person the courts directs.



**WOMEN IN LAW AND DEVELOPMENT
IN AFRICA (WILDAF) ZAMBIA
CHAPTER**

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STOP GENDER BASED VIOLENCE NOW!

Despite the law being a step in the right direction, implementing this law has been far less successful. In order to have comprehensive protection under this law, it requires people to know their rights and their recourse available under the Act. Adequate resources are yet to be allocated. Local legal and non-legal structures are yet to be established, equipped and adapted to meet the specific needs of persons who suffer or are at risk of GBV.

Other shortcomings include the following: parliament needs to adopt gender responsive budgeting; establishment of shelters have been slow; lack of clarity at the provincial and district levels on the roles of MGCD and MCDSW on the modalities of establishing of shelters; management and administration of the Anti-GBV Fund; and terms of reference on coordination and creation of Gender Task Force in districts. Indicators to measure the progress of the Act are yet to be developed. Duty bearers and service providers are aware of the passing of the law but do not have the know-how to apply it in their work with GBV survivors. The duty bearers (such as the VSU and Magistrates) and the public are not aware of the significant value of the protection and occupation orders under the Act to stop GBV. There is little knowledge of the step-by step application process to procure these orders.

The definitions in the Act conflict with provisions in other laws, notably the criminal procedure code. For instance, after the constitutional amendments, the upper age of the child is set as 18 years¹² of age and the Anti-GBV Act defines a child as under 16 years of age. The age of the child is being discussed in the consultations on the Child Code Bill. If enacted, the age of the child will be the one determined by the Child Code Bill and the Constitution, and this will prevail over other existing legislations and customary practice.¹³ Further, under the Anti-GBV Act, marital rape is an offence whereas the penal code does not recognise marital rape. The Act does not work in isolation and has to be enquired into and prosecuted in conjunction with the Penal Code Chapter 87 and Chapter 88 of the Laws of Zambia and the Criminal Procedure Code. Therefore, there is an urgent need to reconcile existing laws and provisions that are not aligned or conflict with the provisions of the Anti-GBV Act.

12. Article 266 of the Zambian Constitution defines a child is a person who has attained or is below the age of 18 years.

13. In the interviews with KIIs. In the FGDs with traditional leaders they were of the opinion that they need to be included in the discussions on setting the minimum age of marriage. There is a gap between the practice on the ground and the written law, as they felt 16 years should be the minimum age for marriage. If there is a mutual agreement and understanding, then could play a role in changing the mindset of the people especially in regard to early marriage.



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2. FINDINGS

2.1. ■ IMPLEMENTATION BARRIERS: INFORMAL NORMS AND STEREOTYPE OF GENDER ROLES

2.1.1 Customary system the first entry point

Like in many countries where a customary and the statutory legal system co-exist, the dual legal systems can conflict and influence the daily lives of Zambian people. It is evident that the justice seekers' preference is to use the customary system to resolve disputes. Customary beliefs, practices and norms are pivotal to the identity, values, relationships, obligations, rights and responsibilities of the communities in Zambia. In addition, the attributing factors such as accessibility, affordability, confidence and trust in the traditional chiefs, Indunas (traditional advisers) and village heads renders it a desired avenue to resolve disputes.

In Kasempa and Solwezi, the most favoured entry point to seek recourse and remedy for GBV offences continues to be the customary justice forum. This is because people understand and know that the results are quick, there is a greater likelihood of getting some compensation either in cash or livestock for the personal injury and mental anguish and finally, it is cheaper. The traditional arbiters of justice in the communities are the traditional leaders such as the village heads, the chiefs, and the Indunas. Depending on the type of GBV offence, they would typically call both parties (and their families) and adjudicate on the dispute. There may be punishments ordered for the perpetrator of violence in accordance with the customary practice.

While traditional authorities seem to be fairly aware of what constitutes a GBV related offence they are not aware of the enactment of the Anti-GBV Act. Child defilement, early marriage and rape are typically cases that are considered criminal offences and reported to the VSU. Nonetheless, they know that people in their communities are reluctant to bypass the traditional leaders to adjudicate on sensitive gender matters that affect family and community. There is also a concern from the traditional authorities that in referring cases to the VSU and the Magistrate Court, they would lose their income (chickens, goats and comestibles) as adjudicators, thereby weakening their influence over the community.

However, there seems to be interest in using the Anti-GBV Act to address GBV in the community. The Senior Chief in Kasempa¹⁴ noted that he was aware of cases of GBV reported to the 15 Heads and 15 Chief Advisers in his Chieftdom. However, he acknowledged that the traditional heads have no knowledge of the Anti-GBV Act, its provisions and the strategic role they can play in the implementation of the Act. He suggested that it would be important to involve his palace to mobilise the traditional heads in his jurisdiction to have a better understanding of the law and its interplay with the formal law enforcement and justice system.

In addition to the adjudication of cases at the community level by traditional leaders, there are also the local courts in Kasempa and Solwezi. These courts are established under the Local Courts Act, Chapter 29 of the Law of Zambia and are presided over by Local Court Justices.¹⁵ The local courts handle a number of cases such as divorce, family and child maintenance, determining paternity, defamation. In adjudicating personal cases that are within their jurisdiction, the plaintiffs and respondents may often state to the local court that there was some form of GBV. This is regularly ignored by the courts. For instance, in a number of divorce cases, if the plaintiff cites among other reasons, GBV as one of the reasons for claiming divorce, the case is classified and handled as a marital dispute and efforts would be made to reconcile the couple. There is no reference to the GBV suffered let alone invoking the Anti-GBV Act. For this reason and others described further below in this report, cases of GBV are very rarely referred to the VSU or Magistrate Court.

14. Structured interview with the Senior Chief of Kasempa and his Secretary – 6th June 2017.

15. The Local Court Justices are prominent members of the community and may be teachers, civil servants who have the knowledge of the customs and practice of a given area.

2.1.2 Social norms and attitudes that perpetuate gendered disparity and violence

It is widely understood that the reality of GBV is that it is the cause and consequence of gender power imbalance and structural inequality. This makes it difficult for women, men and children to report and pursue prosecution of GBV related offences and fully benefit from the protection provided there under. Almost all the participants in the FGD identified men as providers and protectors of the family and women having a supplementary role, which largely centres on taking care of the family. The bible was quoted often to validate this social construction of family. The onus of safeguarding the dignity and respect of the family is very much on the woman. This relegates women into a domain that perpetuates male dominance, continually justifying discrimination and inequality. This is typically demonstrated in the predominant practice of traditional marriage counselling where women are taught to obey and please their husbands unconditionally.

The men and women are also taught that sex is the prerogative of man, which deters women from acknowledging and reporting marital rape as an offence.¹⁶ Most of the women who participated in this study confirmed that, whether the woman consents, desires or agrees is inconsequential when it comes to sex. One woman in Kasempa FGD voiced, *"when my husband wants to have sex I have to agree. It doesn't matter if I have periods or if I have just delivered a baby or I am plainly not in the mood. If I refuse, I am beaten and he has sex with me anyway."* Another woman in the same FGD agreed adding, *"I was always told that after marriage, my body belongs to my husband"*. One survivor in Solwezi shared, *"I don't think people will ever agree that a husband can rape his wife. I have never heard of this. When you are married sex is something that has to be given to the man just as a wife should cook Nshima for him. It is his right. I don't like to have sex with him after he has beaten me but I have to because I am his wife"*. In the FGD for men in Kasempa, one man remarked, *"if a woman denies sex to man, it can frustrate him and he will take it out by starving the family. This is natural"*.

Reacting to widespread cases of spousal battery in communities in Kasempa, a KII justified the use of modest level of violence against women: *"Any human being is subject to discipline. The man as a head of the family has the right to stamp-out bad behaviour. Culturally and based on our religious teaching, it is accepted for a man to beat, slap and pinch when he sees this bad behaviour. This shows that he cares for his wife and family. This is also supported by the bible teaching, 'spare the rod and spoil the child'"*. Some male participants in FGDs were of the view that when the man disciplines, the woman should not retaliate as this may provoke more violence.¹⁷ They reasoned GBV is a natural and an understandable tendency in men, and sometimes necessary when women provoke.

Sharing their views on men and women being equal, one male FGD participant in Kasempa, remarked, *"the Bible says the man was created first and then the woman. We cannot be equals. You can see from the work men and women do. When I worked in the mines in Solwezi, certain mining machines are operated only by men; women are not allowed. If we were equals, we all would be allowed to do the same type of work. But this is not the case"*.



Community leaders meeting in Kasempa

16. The Zambian Criminal Procedure Code stipulates for "ordinary" rape as an offence but for the first time in Zambia the Anti-GBV Act recognises marital rape as a criminal offence.

17. KII with Social Welfare Officer from the MCDSW in Kasempa, FGD with men, Indunas and community leaders in Kasempa.

In order to implement the Act, it is imperative to engage the community, the religious and traditional leaders to challenge justifications of violence that perpetuate patriarchy, reinforce gender roles and endorse impunity for domestic violence in Zambia. The Zambian criminal justice system should provide support to break down the day-to-day gendered divisions that prevent persons who are at risk or suffer from violence from seeking recourse under Anti-Gender-Based Violence Act.

2.1.3 Decision-making rests with the man, family and the community

Women typically have little decision-making power over their lives and have little or no control over choices that impact their lives. Almost all women participants in the FGDs mentioned that the decision-making on the number of children solely rests with the man. If the woman tries to exercise her choice by using contraceptives to determine the number of children she would like to have, the husband will become paranoid about her fidelity or accuse her of witchcraft or expose her to different forms of violence.

Almost all interviewees confirmed that the men in the family and in the community are at the forefront of decision-making and in control of the resources. They largely saw the woman as the caretaker of the family, in charge of the day-to-day needs of the children and the kitchen. Despite this, most of the GBV cases are reported by a female member of the family or community. Once reported, it is the man who then decides on whether or not to pursue the case with the police and court. Very often, the men make the women withdraw the cases after it is reported. One of the survivors interviewed shared the story of her niece who suffered violence from her husband and had to ultimately withdraw the case succumbing to pressure from the family. She recounted, *"My niece's husband is a very violent man. One day when he saw her chatting with her neighbour, he took her to a nearby farm to punish her by killing her. He said this would set an example. He started strangling her but she somehow managed to push him away and escape. When she made it back to the village, she was rushed to the hospital and her aunty reported the case to the police. But the woman's uncle asked the police to withdraw the case as the family would be reflected badly in the community. The uncle is a powerful man and knows the husband's family well. The woman was not happy with the decision to withdraw the case but had to listen to the uncle"*.

Although the Penal Code Chapter 87 of the Laws of Zambia does not provide for effective protection against violence in domestic relationship, the Anti-GBV Act is more clear cut in providing for measures that encourage survivors of domestic violence to report. **The study however shows that as long as one gender exerts control and dominance in a relationship which is legitimised by the society, culture and religion, then it will be difficult for the survivor as well as the community to recognise, acknowledge and report physical, sexual or psychological and emotional abuse and seek recourse under the Act.**

2.1.4 Perceptions of gender-based violence

There were differing views on what constituted GBV. When pointed to the fact that the Anti-GBV Act is clear that a single act of violence or abuse constitutes an offence, participants in the FGD with men in Kasempa disagreed saying the "degree" of violence should be key in considering whether or not the offence is GBV. Some of the Indunas in the FGD in Kasempa echoed this view. **They considered ordinary slapping, hitting and pinching should not be classified as GBV.** There was also discussion on identifying what causes women and girls to be unsafe in their community. Some of the male participants in FGD and the male Indunas were quick to point out that the rise of GBV is attributed to young women dressing inappropriately. According to them women and young girls are vulnerable to violence because they wore short skirts and not the traditional chitenges. The traditional advisers and community leaders were proud that their focus is also on "educating" girls in their community to dress appropriately. They were also of the opinion that dressing inappropriately sends wrong signals to the men.

In 2013, speaking at the Catholic Women's leagues luncheon in Ravens Club in Kitwe, the Supreme Court Judge Royda Kaoma said that women's indecent dressing should be considered an offence under the Criminal Procedure Code and the country was experiencing an increasing level of GBV. The police should arrest on the grounds of indecent exposure. These myths and misunderstanding of women «deserving» to be raped and sexually assaulted either because of the way they dress or behave is prevalent. They have to be challenged as it would further deter people who suffer violence to report and seek help under the Act.

In discussions with women, there were mixed opinion on what constitutes GBV. Majority of women interviewed were of the strong opinion that use of any form of violence against women is wrong. However, they were not convinced if criminal sanctions should be used to punish the perpetrator. Only 2 or 3 women felt that slapping, pinching maybe justified if the woman was not a "good wife".

Another aspect that emerged from the FGD with men in Kasempa is that GBV is often used to show the male dominance over the female. If a girl is dressed in a particular way or behaves arrogantly with a man or rejects a man, violence is used against the woman to put her in place. Witchcraft (chicondo) is also used to control women. There are many instances where women have been falsely accused and abused for practicing witchcraft or for putting a spell. When this is investigated further, invariably there is an underlying reason for which the woman was targeted. For instance, in Kasempa, a woman was falsely accused by her estranged husband of putting a curse on a family member and causing death. It was a well-known fact that the husband wanted to marry another woman. The husband mobilised the community to ram the coffin of the dead relative into the woman and kill her. GBV manifestations because of witchcraft practices are a reality for women in Zambia.



Community meeting in Kasama

2.1.5 Generating meaningful dialogue around the Anti-GBV Act

Almost all respondents interviewed and participants of FGDs identified that there needs to be more efforts in reaching out to the community and opening entry points for sensitisation through dialogue on GBV issues and the Anti-GBV Act. The process of gathering data in the FGDs, notably with men and interviews with duty bearers, opened up stimulating conversations on gender perceptions, stereotypes, gender politics and justice. The exchange of different viewpoints in FGDs made it possible to have meaningful dialogues on GBV, the traditional practices and social norms that are particular to the local contexts and the operation of the Anti-GBV Act.

While discussing positive legislations that promote gender equality and legislations that curb gender violence in the private sphere, two male participants pointed out that law makers do not take into account the reality on the ground when legislating. One male participant in the Kasempa FGD observed, *"sometimes human rights and law is the problem. It causes trouble. Men in my community are brought up a particular way and to treat women in a particular way. And then you have laws which say the opposite"*. The other men in the FGD agreed that there is a conflict between legislations enacted in Zambia and traditional way of thinking and life.

Challenging traditional notions that are barriers to the implementation of the Anti-GBV Act have to be argued consistently using a rights based approach. Various perspectives and knowledge from the community have to be taken into account to reach the community and generate dialogue on the devastating consequences of GBV on individuals as well as communities. According to one of the community leaders, *"people are not aware that the violence they perpetuate is in fact an offence under the Zambian law. They need to be made to understand this"*.¹⁸

18. FGD with traditional and community leaders in Solwezi – 10th June 2017.



Men focus group discussion in Kasempa

2.1.6 Perception of the formal justice system as being retributive

There is a perception in the communities around Kasempa that **the police and judiciary provide only retributive justice whereas the customary system provides restorative justice which is preferred for their situation.** The VSU inspector and a member of the judiciary confirmed that people in general are uneasy about formal justice institutions. They are not familiar with the process and the type of justice that is available to them.

It was also observed that when there are community outreach and sensitisation efforts by the institutions, it is limited to the district and surrounding areas because of logistical limitations. The Magistrate in Kasempa observed that the traditional leaders should be included in the community outreach and sensitisation activities, which would help dispel misconceptions and clarify the public service goal of the law enforcement and justice institutions. The Senior Chief Kasempa was also of the view that by including traditional leaders, the sensitisation efforts of the Police and Judiciary would seep through to the remote corners of the districts.¹⁹

2.2. PREVENTION

2.2.1 Need to innovate community sensitisation efforts on the Anti-GBV Act

In order to combat GBV through the implementation of the Anti-GBV Act, there should be a systematic plan to conduct sensitisation that includes different actors and members from the community. Developing different strategies and harnessing existing tools, identifying locations and the medium is key to operationalising the Anti-GBV Act.

The paralegals have noted a direct link between the sensitisation activities and increase in the number of survivors who reach out for help. Information on the services available is typically discussed amongst the women during their community socialisation activities, around bore wells, when they fetch water, around market places and when the women are forced to intervene in a GBV issue. The mobile legal clinics run by paralegals in Solwezi in the Zambian compounds in Kyawama, and in Kasempa in Nkenyauna and Muselepete provide information on GBV as well as the legal and non-legal remedies that are available in different locations. For instance, in Solwezi, mobile legal information is regularly run in market places, in the compounds (slums) around the district, in the drop-in centre and in the waiting area of Kimasala Health Clinics. These mobile clinics have been successful in drawing people who have suffered GBV to seek help in the OSCs. However, these efforts are just a drop in the ocean, and there needs to be more such efforts.



Sensitisation session in Kasama

There are around 50 Neighbourhood Watch²⁰ groups around Kasempa district. These groups also conduct sensitisation activities and advise the community on various issues including GBV. Each group has one chairperson and ten members who are all volunteers. The Neighbourhood Watch in Kasempa receives some guidance from the VSU on community policing. Although these groups encourage reporting of GBV they are not specifically trained in the Anti-GBV Act and to conduct community sensitisation on GBV related issues.²¹ With guidance and oversight from the VSU, the Neighbourhood Watch Groups can play a strategic role in sensitising the communities on the Act as well as the measures and support that is available.²²

19. Interview with Senior Traditional Chief of Kasempa – 6th June 2017.

20. Neighbourhood Watch groups are government initiatives in community based policing.

21. Interview with Station Inspector and VSU focal person in Kasempa – 6th June 2017.

22. Interview with Inspector Moses Kaluba, VSU, Solwezi – 9th June 2017.

There are widespread reports of girls and young women in schools who are vulnerable to GBV. It is common knowledge that teachers demand sex from students in return for good grades, especially from those students who are close to completing Grade 12. Collaborating with the education sector on dissemination of information on the Act is important to prevent violence and legally empower women and girls to seek protection.

One of the most successful community outreach programs of the VSU in Kasempa is the radio program which is broadcasted twice a week in the local language. However, there are communities in remote areas around Kasempa district who do not have radios. In Solwezi, radio programs for youth in Luvale, Lunda and Kaonde languages could be developed and broadcasted.



Mobile legal clinic used for sensitisation and counselling

2.2.2 Violence against sex workers

While discussing the detrimental effect of the mining industry and GBV in Solwezi, the participants identified that vulnerable young girls and women are mobilised from compounds to do sex work. These women sometimes are kept in brothels or work near the truck stops. As sex work is illegal in Zambia, they do not come forward to report violence. They also fear police intimidation. The Anti-GBV Act does not expressly address violence against sex workers. Despite this, sex workers are one of the most vulnerable groups who are at risk and face GBV. While some men understand that these women do sex work to escape poverty and to earn a living, the majority of men condemn sex workers and justify the violence against them. Men should understand that violence against sex workers includes inconsistent use or lack of condom use and the increasing the risk of STI and HIV infection. Making them aware of the kinds of violence which comes within the purview of the Act would help in sending a strong signal that violence committed against another person regardless of the place or the type of work they are engaged in is an offence under the Anti-GBV Act.

2.3. BARRIERS TO FILING COMPLAINTS

Under-reporting and failure to seek help for GBV offences is a worldwide phenomenon. Some of the reasons for not seeking help is stigma and humiliation, lack of confidence in the justice system, and accepting that violence is part of life that has to be borne. The Anti-GBV Act provides for the victim to file a complaint personally or through a close friend if the victim is a child or a person with mental disability. It also provides for person or institution that has knowledge of the GBV to file a complaint.²³ The reality on the ground is that survivors are reluctant to file a complaint. Some of the underlying reasons for seeking help, the police response to GBV complaints and barriers that exist to reporting and filing complaints are examined.

2.3.1 The underlying reasons for the complainant/survivor to seek help for GBV offences

The YWCA in Kasempa receives around 15 cases per week. Most cases reported are family maintenance, negligence, reparation for early pregnancy, abandonment. The remedy that is sought is restitution. There is no intention to necessarily report GBV offences. The clients who come to YWCA are mostly women and the perpetrators of violence men.²⁴ The OSC run by YWCA in Solwezi gets around 45 cases per month and the Drop-in-Centres receive around 20-30 cases.²⁵ **The services the clients seek are counselling, facilitating, reconciliation and mediation.** When counselled further, there is invariably a degree of spousal abuse.

23. Section 6 of the Anti-GBV Act 2011.

24. Interview with YWCA Paralegals in Kasempa – 5th June 2017.

25. Interview with paralegals in Solwezi – 11th June 2017.



GBV survivor

The analysis shows a pattern as to when survivors sought help from YWCA and the VSU: when the violence became unbearable; when they experience economic abuse; when survivors wanted the perpetrator of the GBV notably the husband to be disciplined and given a warning; to resolve marital disputes; when abandoned and seeking maintenance.

Counselling and mediation has helped in a majority of domestic violence cases where survivors affirmed a positive change in the behaviour of the husband. Another reason is that YWCA gives a warning to the husbands abusing their wives that if the violence continues the cases will be referred to the police or court. In most cases, fear of getting arrested acts as a deterrent from continuing the violence.

2.3.2 Preference to counselling and mediation intervention

The survivors (particularly women) prefer counselling and mediation to pursuing cases in the formal justice system. When the VSU, YWCA and the local courts advise them to report and pursue legal action, they are reluctant. They do not show up or follow up, anxious that the violence would be pursued by the police or the subordinate court. This results in the cases getting dropped both in the local courts as well as the in the formal justice system.

In cases of domestic violence, women prefer counselling and mediation of what they consider a marital dispute even if there is violence. Their primary interests are to reform their husband, to make the violence stop and to live in peace and dignity as a family unit.

As one survivor woman shared, *"my husband left me to live with another woman on the pretext that I have some medical problems that prevent me from having more children. We now have 7 children. He is very cruel towards me – beats me with words and also physically. But I would never report him to the police after all he is the father of my children. I don't want my children to be stigmatised. I feel very depressed"*.²⁶

Some of the other reasons cited for not filing complaints of GBV are fear that the husband's family would put a spell on them. Often the family of the perpetrator of violence interferes, convinces or coerces the survivor to not file or withdraw the case, causing valid fears for the survivor's life and security and that of her children. Feelings of isolation and rejection from the community are also a significant factor in not filing a complaint. A woman in the Solwezi FGD for women recalled the case of her friend,²⁷ whose husband was remanded on charges of theft. The husband assumed it was the wife who reported him to the police. When he was released from prison, he started battering the wife and cutting her up with glass to teach her a lesson. The woman's sister who telephoned at that moment heard her sister was in distress. She immediately rushed to her sister's to find her in a pool of blood. The woman was taken to the hospital. Right from the time she was rescued, to being discharged from the hospital, she continuously pleaded for the case not to be reported. She later disclosed that as she did not have a supportive family, she was not confident to pursue the case. She also feared repercussions from her husband's family.

Women's economic dependence on the man was another reason cited for not filing a complaint. However, it is observed in the discussions that most women in Solwezi work in the market and earn their livelihood. In Kasempa, the women are farmers, working on the land and selling their produce. Despite this, the mindset is that they are economically dependent on the men and hence reluctant to file a complaint against the "breadwinner" of the family.

2.3.3 Breaking the cycle of violence

The women survivors of GBV are in a cycle of violence which is difficult for them to break and show patterns of behaviour that is typically exhibited by a person going through the domestic violence syndrome. This is reflected in the discussions in FGD with men in Kasempa that even when they

26. Interview with survivor in Kasempa – 5th June 2017.

27. FGD with women in Solwezi – 9th June 2017.

see a woman being battered by her husband, it is difficult for them to report, as the woman herself denies the injuries and makes excuses. The wife will invariably support the husband. The men were of the view that as an outsider, the community cannot intervene in private domestic matters. There is also a reluctance to help for the fear that woman may ultimately blame the people intervening for keeping the couple apart. The men felt the onus is on the woman, not the community, to reach out for help and report the case to the police.

2.3.4 Sexual violence cases

The cases of sexual based violence that are reported to YWCA come at a much later stage after the offence has been committed and all the negotiations in the traditional system such as the village council has failed. When YWCA reports these cases to the VSU, both the survivor and the families plead for solutions under alternative dispute resolution (ADR) mechanisms, rather than referring them to the formal justice system. Further, in most cases the perpetrator of sexual violence is a familiar person (neighbours, relatives, father, aunts and uncles), as is seen in cases related to child defilement and rape. The failure to file a complaint in these kinds of cases often results in recidivism because offenders are not held accountable or punished, and therefore are free to continue to commit these offences.



Counselling session in remote area

Sexual harassment of women in the mining sector is common knowledge. However, lodging a complaint often backfires where the woman suffers further violence, is stigmatised and discriminated. There have been cases where women have been made redundant for speaking out against the violence. There is little information if formal mechanisms exist in the mining sector to report sexual harassment. Cases of sexual harassment by teachers in schools were also discussed. In the FGD with young woman in Solwezi,²⁸ a participant shared an account where her Grade 12 classmate was repeatedly sexually harassed by a teacher in her school. When she reported it to the Head of school, she was advised to keep quiet as it may bring disrepute to the school and the teacher was given a warning.

2.3.5 Distinctiveness and degree of GBV

The distinctiveness and degree of abuse that can be constituted as an offence was discussed in almost all the FGDs and in key informant interviews with the VSU, judge in the local courts and paralegals. The Anti-GBV Act is clear that one act can amount to gender-based violence,²⁹ defining gender-based violence as well as providing a comprehensive description of different forms of abuse.³⁰

When cases are reported to YWCA or the VSU, they are mostly counselled and mediated as a domestic/marital dispute, even if there is evidence of «violence» such as hitting, slapping, pinching, shoving and pushing. Psychological and emotional violence are not considered as GBV. Formal legal action is taken only in cases where there is severe violence such as child defilement, rape of young, unmarried women or battery to the extent that the woman needs urgent medical care.

In domestic violence cases, depending on the gravity of violence, it is either classified as a case for ADR or referred to the police. The police (VSU)³¹ also provides counselling and mediation as they consider these cases as “marital disputes”. It is only in severe cases of GBV that they refer to the Magistrate Court.

When the local courts hear cases relating to marriage, divorce, maintenance and inheritance, there is often an element of GBV. The judges in the local courts will most likely refer the case after taking into account the severity of violence. When asked what the criteria is to determine the severity of violence, a member of the Solwezi local court remarked that members of the local courts may consider, “physical battery, broken face, broken bones, bloated eyes as severe GBV where as pulling, pushing, slapping, hitting is not serious”.

28. FGD with young women and adolescent girls in Solwezi – 10th June 2017.

29. Section 4 of the Anti-GBV Act 2011.

30. Section 3 of the Anti-GBV Act 2011.

31. Interview with Police Inspector in Kasempa and focal person in Kasempa VSU.

2.3.6 Police response and assistance

The Anti-GBV Act specifies the role and the required response of the police upon receiving a report of GBV. The police are required to take all measures to protect the complainant and the person who is reporting the violence as well. Assistance should include facilitating free medical help, placing survivors in shelters or place of safety. In addition, the police should interview the survivor, the suspect, witnesses and others and record the details.³²

The VSU on an average receives cases of severe forms of GBV from village heads, Indunas and the health facility and paralegals. In these cases, the VSU files a complaint and pursues legal action in the Magistrate Courts.

When there is a case of spousal battery, the VSU in Kasempa considers in the first instance the degree of violence and the safety of the complainant. If the VSU deems the violence to be “moderate”, they then counsel, mediate and give a warning to the perpetrator of violence. A follow-up of the case is made either by visiting them in the community or by asking them to report intermittently to the VSU. The Magistrate in Kasempa reviews the police registers where complaints are lodged and recorded. This is done every Thursday to check if GBV cases are appropriately referred to the courts. The Magistrate in Kasempa observed that a pro-arrest and pro-prosecution reflex needs to be developed in GBV cases.³³

As in most parts of Zambia, lack of resources and poor logistics such as no transport hamper the work of the VSU in Kasempa. There is one vehicle in the police station which has to be shared with the Central Investigations Department (CID). This delays prompt responses to prompts reports of GBV offences. Even if the court grants protection orders it would be difficult to implement them, especially in remote areas. The police post in Kasempa does not have a phone in the station and the police use their personal mobile phones to carry out their work. As the inspector observed, *“having a landline in the station is basic for the community to be able to report cases of GBV. This phone number can be publicised during the community sensitisation and community awareness activities on the Anti-GBV Act”*.³⁴

In Solwezi, there is an established referral pathway. The VSU follows guidelines and protocols when a GBV complaint is filed. They open a docket, carry out an investigation, escort the survivor to the health facility and get the medical report. On an average, the VSU in Solwezi receives 35 cases of physical violence and assault cases and 5-8 cases of sexual abuse related to GBV each month. The VSU has also observed that the number of cases of GBV increase towards the end of the month, because of the pressure of being short of money during this period. The VSU informed that for similar reasons as in Kasempa such as lack of resources and transport, it was only possible to investigate and pursue the cases which are within town limits and surroundings areas.

The VSU habitually charges domestic violence offences under Chapter XXIV Sections 247 and 248 of the Penal Code.³⁵ If they are not charged as offences under the Penal Code, they are considered as marital disputes rather than a GBV offence under the Anti-GBV Act.

2.4. ■ PURSUING LEGAL ACTION

2.4.1 Protection and occupation orders

Protection and occupation orders are one of the effective legal measures available to the complainant-survivor to stop a person from committing or continuing GBV. Part III of the Act describes the applicant eligible to apply for a protection order, the process for application, conditions, the duration, amendment and consequences of breach thereof.³⁶

32. Section 7,8 and 9 of the Anti-GBV Act 2011.

33. Interview with the Magistrate in Kasempa – 8th June 2017.

34. Interview with the Station Inspector in Kasempa and focal person for the VSU – 6th June 2017.

35. Chapter 87 of the Penal Code Act: Section 247 is Common assaults and Section 248 is assaults occasioning actual bodily harm.

36. Part III, Sections 10-23 of the Anti-GBV Act 2011 provide for protection orders and occupation orders.

According to the Anti-GBV Act, a protection order may be applied by either the person facing violence, or on their behalf. The person applying is the «Applicant» and the person against whom the order is obtained is called the «Respondent». The various options under the protection order is that the court may order that the Respondent (i) stays away from the Applicant and/or puts conditions and specifications on approaching the Applicant or near the places that is frequented by the Applicant (ii) to seek counselling and rehabilitation (iii) to surrender any weapon that he/she maybe in possession of (iv) to continue with the payments or provide for maintenance of the Applicant. The protection orders may be amended or cancelled if the court considers the circumstances are changed. An interim protection order may be obtained upon determination of the final order. The duration of a final protection order should not exceed more than 12 months but can be extended if there is persistent threat of the violence recurring. If a respondent breaches a protection order, the person breaching will be liable to imprisonment for a period not exceeding 2 years.



Solwezi local court

Occupation orders on the other hand ensures that the person who suffers violence and/or is at risk of violence can apply for the order and is able to continue to live in the matrimonial home or any other home. The court may direct the Respondent to continue to pay rent, mortgage and maintenance. The Court may also prevent the owner from evicting the Applicant who may be a tenant. The application for protection as well as occupation orders should be made to the Magistrate Court.

In the KIIs with duty bearers in Kasempa and Solwezi, **nearly all those interviewed expressed that they had no clarity on the application and implementation of protection orders and occupation orders. They do not have an understanding of the civil remedy aspect of the protection order, the violation of which would make it a criminal offence.**³⁷ They acknowledged that there needs to be specific trainings for them to apply it in their work to protect survivors from further violence.

Some duty bearers informed that they are not conversant with who could apply and the process. When they were given an explanation about the protection and occupation orders, they questioned if this was arbitrary and in passing such an order, it would be against «due process of law». They were also eager to know the possibilities to appeal, modify or dissolve protection and occupation orders. They all agreed that occupation orders could help women and widows claiming property rights. It was observed that while the duty bearers had heard of the Anti-GBV Act, they did not have the knowledge on the protection orders and occupation orders and their application.

2.4.2 Court processes

There is low public confidence to pursue cases of GBV in the courts. The long drawn and expensive court processes frustrate survivors. Access to courts for the survivors and witnesses who live in remote areas is problematic. In Kasempa Magistrate's Court, on average, it takes about six months to adjudicate GBV cases. It could take longer if there are delays in serving summons, securing witness testimonies and evidence.³⁸

Two fast track courts have been established by the Government of Zambia in partnership with the UN Joint Team on Gender-Based Violence comprising of UN agencies and lead by the United Nations Development Program (UNDP). The idea behind the fast track courts is to expedite GBV cases and prevent the backlog of cases. The timeline to establish fast tracks courts in other parts of the country is unclear.

37. Section 23 of the Anti-GBV Act 2011.

38. Meeting with the Gender Task Force in Kasempa – 8th June 2017. Focal person from the Judiciary, Ms. Malipenga.

The Anti-GBV Act is unequivocal that proceedings relating to protection orders should not be held in open court. The court proceedings related to GBV in Kasempa Magistrate Court, are not held “in camera”, unless the complainant or the witness explicitly requests this. Then arrangements would be made to have the proceedings in the Magistrate’s Chamber.³⁹

In Solwezi, the paralegals pointed out that on an average of 45 cases, only 10 proceed to court, while the others revert back to the traditional leaders to resolve. There is little information on how these cases are adjudicated when they go back into the community.

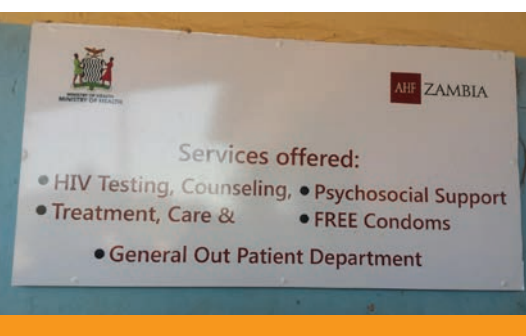
One survivor in Solwezi had relative success in pursuing her cases in the court. She recounted her story: *“I am a tailor. My husband is a miner and earns well. Throughout the 17 years of marriage he was very violent towards me. He then left me to start another family. He refused to pay money to support me and our children. He did not want to support me and so kept accusing me that someone was having control of my body just because I had a Caesarean birth. Wulozi⁴⁰ is common in my community. The OSC summoned my husband and asked him to pay 15,000 Kwacha but he just paid 1,500 Kwacha. The OSC then referred the case to the court. The court ordered him to pay 50,000 Kwacha, transfer all household items and a plot of land to my name. Instead of transferring the plot of land with the house, my husband transferred the plot land that is not well-developed. I don’t have the money to build and I am not happy about this. I am now asking OSC to help me further with the court. I get some money from tailoring and he pays 1,500 Kwacha per month”.*

The Magistrate and other duty bearers were not aware of and do not have a copy of the Rules of Court that were published to give effect to the Act.

2.4.3 Collection of evidence

Standards in methodical collection of evidence is key to successful investigation and trial of GBV related offences. It is one of the important duties of the law enforcement, the judiciary, health care providers and other service providers. **Some of the lapses that were identified to collecting evidence are delays in collecting physical evidence, safeguarding evidence, poor evidence preservation, inability to follow guidelines and protocols when handling evidence, poor lab infrastructure and lack of services offering specialised expertise in collection of evidence which is not just forensic or physical evidence.**

There have been instances where police had to find different ways to safeguard evidence. In a critical case, to prevent evidence tampering, a survivor was kept in a police inspector’s house in the absence of facilities and infrastructure. In Solwezi, the survivors are kept in YWCA shelters to prevent manipulation of evidence.⁴¹



Information sign, Health Centre Solwezi

There are DNA mobile labs in police headquarters for rape and other criminal offences⁴² which the VSU and YWCA paralegals in Solwezi are not aware of. The service is free and the police are required to collect and store the samples. The samples have to be brought to Lusaka laboratory for testing and this stalls the process of collection of evidence. The testing service is yet to be decentralised in the provinces.

The Courts continue to solely rely on physical evidence in proving sexual abuse, rape, battery and child defilement. This is one of the main reasons for the cases to fail in prosecution. Very often physical evidence of a sexual offence is lost when there is delay in reporting. The courts and law enforcement continue to rely on genital injuries as a prerequisite to prove rape.

39. Interview with the Magistrate in Kasempa – 8th June 2017.

40. Witchcraft.

41. FGD YWCA paralegals in Solwezi – 11 June 2017.

42. Meeting with WLSA lawyers in Lusaka – 15th June 2017.

2.4.4 Compensation and restitution of GBV offence

The Anti-GBV Act permits the settlement of GBV events out of court in a criminal trial as long as the event does not constitute an aggravated offence or fits under certain conditions.⁴³ The Act also states that while the respondent offers compensation, it is not an alternative to stop the case from being pursued in court.

Compensation for GBV offences may be strategic to increase reporting of GBV offences and pursuing cases in courts. While there is value in supporting autonomy of survivors by placing survivors in charge of their own redress, it should be done with caution, ensuring that the State does not absolve its responsibility to protect people from GBV. In the FGD with men in Solwezi⁴⁴ one participant proudly shared what he thought was a successful resolution of a SGBV offence mediated by community leaders in the best interest of the survivor: *"In my community there was a young girl who was around 10-years old. She was raped by an adult man. The community got together and asked the man to build a house for the girl. If he didn't do that he would be taken to the court. He built a house for the girl as he was afraid to be arrested. The offender worked in the mines".* People's perception is that at least in the traditional system, they would get compensation but in the formal legal systems they would just get a conviction, which would not be useful in the recovery and restitution of the survivor.

According to the Magistrate in Kasempa, people favour the traditional system because they get compensation and other civil relief for the GBV offence. In contrast, the formal justice system is perceived as being punitive.⁴⁵

2.4.5 Paralegals plug the dire shortage of lawyers

There is a critical shortage of lawyers in Zambia. As of 2015, 1,203 lawyers were registered.⁴⁶ Of these, 1,002 operate in Lusaka with only 2 lawyers registered in Solwezi and none in Kasempa.⁴⁷ The current number of practicing lawyers stands at 936⁴⁸ but the patterns of how many practitioners are in other parts of the country as opposed to Lusaka remain relatively the same. To plug the shortage of lawyers, the potential of paralegals is currently being developed to facilitate access to justice for vulnerable, poor and marginalised people. **To facilitate access to justice for GBV survivors and take on complex criminal GBV offences, the paralegals need to develop important skills, have a nuanced understanding of gender constructs and improved knowledge of relevant laws including the Anti-GBV Act.** This will help them to assist survivors and others affected by GBV to apply for protection orders, and support survivors through court proceedings.



Paralegals in Kasempa

In the targeted districts, there are no other legal aid providers. The only answer a GBV survivor can get is information and counselling sessions given by paralegals under the ASF-YWCA project and other projects present in the province. Legal aid providers such as the National Legal Aid Clinic for Women or the Legal Aid Board are absent, mainly due to a lack of funds.

43. Section 36 of the Anti-GBV Act 2011.

44. FGD with men in Solwezi – 10th June 2017.

45. Interview with Magistrate in Kasempa – 8th June 2017.

46. Law Association of Zambia Directory of Members 2015.

47. Law Association of Zambia Directory of Members 2015 shows that from Advocate no. 127 to 1203 all practice in Lusaka.

48. www.laz.org.zm/wp-content/uploads/2014/04/LAZ-2017-List-of-Paid-Up-Members.pdf.

In Kasempa, the paralegals have gone through two weeks of training organised by the Paralegal Alliance Network (PAN). This is not sufficient to equip them to take on complicated GBV cases such as domestic violence, economic and emotional abuse and child defilement. They engage in mediation and negotiation to resolve marital dispute cases where there is GBV. They do this without having received training in ADR. They often act as “marriage counsellors” rather than as paralegals dealing with gender-based violence cases that have to be reported and pursuing further legal action. The counselling they offer is geared to protecting the family unit rather than helping survivors access justice by using the Anti-GBV Act. As one paralegal in Kasempa remarked, *“law should not separate couples especially if they have children. I advise them to stop battering and reconcile. If the battery does not stop, I refer the case to the VSU. But the women don’t want to follow this up with the police or with the court which is the main problem”*.⁴⁹

The draft national legal aid policy lists the three tiers of paralegals and the standard training that is required for them to be accredited at a particular level. Despite these tiers, the Kasempa District Administrative Officer (DAO) said that it would be difficult to increase the scale of paralegals interventions in Kasempa, as it would be hard to find paralegals who have completed Grade 12, which is a minimum requirement for a paralegal. The DAO has proposed that this requirement needs to be reconsidered especially for remote districts similar to Kasempa, where being literate should be a sufficient requirement. In the absence of lawyers in Kasempa, paralegals are well-respected by the law enforcement and justice institutions. They are often called to support the clients to understand the procedures.⁵⁰

In comparison to Kasempa, the paralegals in the OSC in Solwezi are better equipped as they have received advanced training. They are adept at conducting mobile legal clinics as well as assigning one paralegal to accompany and assist the survivor in court proceedings. The National Legal Aid Board has an office in Solwezi, but their priority is to provide legal defence assistance. The OSC also works with lawyers from two local law firms that are present in the district.

2.5. COMPREHENSIVE, INTEGRATED SUPPORT SERVICES AND CARE FOR COMPLAINANTS/SURVIVORS

2.5.1 Absence and/or shortage of integrated response service centres

While there are a number of OSC established in other provinces in Zambia, this kind of service is notably absent in Kasempa. Whereas in Solwezi and surrounding areas, there is one OSC, which is located in the hospital premises and a drop-in centre in Kimasala. The drop-in centre refers clients to the OSC as it is not adequately equipped to provide comprehensive services to GBV survivors. The people are aware of this and choose not to pursue the cases as it is logistically difficult for them to go to the OSC in Solwezi. The FGD with women survivors in Solwezi commented that having OSC like centres in impoverished areas that are in the outskirts of Solwezi (such as Misenga, Mushtale and Kimale compounds) would help in more women seeking help as there would be greater awareness as well as access to service centres.⁵¹

There is discussion that donors and the Zambian government would like to move towards developing integrated centres that provide holistic services that are located in public institution buildings. **Common guidelines, protocols, safety and security plans would be developed to provide survivor-centred care and assistance.**⁵² This would in a way also address the lack of resources that impedes prompt response, prevention and protection. For instance, transport could be shared for GBV cases (medical, legal and otherwise) and resources could be pooled to coordinate activities and joint programs on GBV.

49. FGD with paralegals in Kasempa – 5th June 2017.

50. Interview with the paralegals in Kasempa – 5th June 2017.

51. FGD with women survivors in Solwezi – 9th June 2017.

52. Meeting with Senior Social Welfare Officer and Acting Director of Ministry of Community Development and Social Welfare in Lusaka – 15th June 2017.

In Zambia, various CSOs are developing their own referral systems which works well for their respective projects and in the local contexts they operate. Presently, in both study sites there are not written guidelines and protocols on coordination, case management and harmonisation of referral pathways and follow-up between the various service providers on providing care and assistance to survivors. The referral pathways between institutional actors need to be developed as does an official directory of service providers for each district for the duty bearers do.

Another setback that was identified is that as with the shortage of lawyers there is also a severe shortage of doctors. Clinical officers render similar services as physicians although they go through a different training stream. They also cost less than doctors and have become the mainstay of the Zambian health sector.

The general rule is that it is the doctor who has to sign the medical report even if the clinical officer examines the survivor. As there are only two doctors in Solwezi General Hospital to sign off, this poses a delay in getting the medical report. In Kimasala health clinic, which is a rural clinic, when a medical report is drawn up by the health clinic it is only accepted if a doctor approves and signs it and it is issued by a designated health facility. The Kimasala health clinic is not a designated health facility, which means they refer survivors to the Solwezi General Hospital. The Chawama police post which is the closest police station to the Kimasala health clinic, also request medical reports from Solwezi General Hospital which deters survivors from seeking help as they find it financially expensive and logistically demanding.⁵³ In Kasempa, the health facility is free but the paralegals noted that the mission hospitals located in remote areas charge and this deter survivors from seeking help.⁵⁴

The Social Welfare Department in Kasempa and Solwezi's main focus is on providing support to juvenile offenders. They consider juvenile justice as their main mandate and assistance to GBV cases is limited to counselling. If there are other service providers, such as YWCA, they are the ones that refer the women survivors to the OSC.⁵⁵

2.5.2 Shelters

Under the Anti-GBV Act, a shelter is described as a place to secure the safety of a victim and provide temporary basic material support for the care of the victim. It prescribes the minimum standards that need to be complied with and the inspection, to ensure compliance. The shelters stipulate conditions for providing protection and safety for children and adults who have suffered GBV, and timely assessments of their wellbeing and rehabilitation measures.⁵⁶

Shelters are quintessential to ensure effective legal redress of GBV while removing the survivors from risk of further violence from the perpetrator. Shelters provide refuge and could be a place to empower survivors through a systematic process of counselling, legal and economic empowerment which is integral to break the cycle of violence. Paralegals in Kasempa noted that **for women survivors of GBV to make full use of shelters there should be opportunities to transform their lives by becoming economically independent.⁵⁷ This in turn will also encourage them to pursue their cases in courts.**

Another positive measure of the Act is that it provides for accommodation and care of children of survivors who are housed in shelters. In the FGDs for women, the participants were clear that children's needs, safety and protection must be planned and guaranteed in order for women to use the full potential of shelters.

53. KII with nurse in-charge in Kimasala Health Clinic – 12th June 2017.

54. FGD with paralegals.

55. KII with Social Welfare Officer in Ministry of Community Development and Social Welfare in Solwezi – 12th June 2017.

56. Part IV, Sections 24 – 30 of the Anti-GBV Act 2011.

57. FGD with Paralegals in Kasempa – 5th June 2017.

When asked if shelters would support women suffering GBV to have some time for themselves to heal while getting help, the men, community leaders and Indunas were of the opinion that it would be more appropriate for women survivors to be placed with their extended families than in government run shelters. The family would be better suited to provide a safety net to care for the GBV survivor and the children. One of the Indunas recalled an incident where a woman went back to her family after suffering a series of violent attacks from her husband. When the husband came to take her back home, the elders in the community and the Indunas prevented him from reaching out to her. They reasoned that if the elders, Indunas and community leaders are well trained on providing protection, this could be a good solution for the future instead of government run shelters. Similarly, the men noted that protection orders under the Act are antithetical to the traditional "Zambian way" of resolving conflicts. In the discussions, the community leaders and Indunas were convinced that despite the protection orders, they would try to reconcile the couple where they agree to live together without violence. It was also interesting to note in the FGDs with men, that some participants perceived shelters are bringing disrepute to the perpetrator of the violence and would further stigmatise the woman-survivor.⁵⁸

Kasempa does not have a shelter nor does it have a juvenile transit home. In the absence of shelters and juvenile transit homes, the VSU and the Social Welfare Department have to find ways to provide safety and security for the victims. The paralegals recalled that there were times that survivors are asked to stay in the police cells for their own safety or taken to the homes of the police officers to safeguard evidence. A recorded case of a girl who was subjected to torture and cruelty by the stepmother was reported to the VSU by the neighbours. The child was immediately removed from the home and the wife was arrested. The father of the child was angry and wanted the immediate release of his wife and child. The girl was then taken to the police officer's house. The survivor subsequently developed an attachment to the police officer. She was then taken for counselling to the Social Welfare Office, where efforts were made to place the child with distant relatives. The case then ended with the perpetrator of the violence being released and fined. The girl is now placed back with her family.⁵⁹

Solwezi has one shelter which is run by YWCA. Due to shortage of funds it can house a maximum of 7-8 women at a time. It provides a temporary place of refuge for women and protects them from further violence or backlash from the community and sometimes it is used to safeguard evidence. The location of the shelter is kept confidential. There is a safety plan to place the survivor in the shelter. However, as YWCA does not have a car, they use public transport or taxis to place the survivor in the shelters. This poses a risk to confidentiality, potentially exposing the survivor to harm. Between January and May 2017, approximately five women have been placed in the shelter. YWCA supports the survivors on a need by need basis. In a recent case, they had to find long term solutions for a rape survivor who was placed in the shelter. Unfortunately, the case was dropped on the grounds of insufficient evidence.⁶⁰ YWCA got financial support from Kansanshi Mining Foundation to pay for the survivor's fees and she was moved from the shelter to a boarding school.⁶¹

As in Kasempa, Solwezi also does not have a juvenile transit home which is required by Chapter 53 of the Laws of Zambia – The Juvenile Justice Act. The Social Welfare Department of the Ministry has submitted several requests for a juvenile transit home and this is also reflected in their quarterly reporting.⁶²

Since the enactment of the Act, there is much discussion on establishing the much needed shelters that are compliant with minimum standards and provide for the rehabilitation of the survivor. According to the Ministry for Community Development and Social Welfare in Lusaka, they have the mandate to establish shelters not only under the Anti-GBV Act but also under the Anti-Human Trafficking Act 2008. Under the Anti-Trafficking Act, the Ministry has an added duty to facilitate repatriation of survivors of trafficking to their place of origin. Currently, there are two shelters that are established, in Lusaka and Mansa.⁶³ The Ministry has a two pronged approach to establishing shelters: acquiring land and/or refurbishing buildings. With this approach, the Ministry is currently

58. FGD with men in Kasempa – 7th June 2017.

59. KII with VSU in Kasempa and interview with Head of Social Welfare Department in Kasempa – 6th June 2017.

60. The court determined that only physical evidence was admissible and as the girl had showered after the rape, the physical evidence was lost.

61. FGD with YWCA paralegals in Solwezi – 11th June 2017.

62. KII with District Social Welfare Officer in Solwezi – 12th June 2017.

63. The Mansa shelter receives support from the government.

looking at establishing shelters in Kapiri Mposhi,⁶⁴ Choma,⁶⁵ Chibombo, Chipata, Sesheke, Sioma and Nakonde.⁶⁶ There is still a need for technical expertise to ensure compliance with minimum standards and translating good practices into guidelines. Women and Law in Southern Africa (WLSA) has conducted some ad hoc workshops for the Ministries but the scope and scale needs to be expanded.⁶⁷

When some of the duty bearers and members of the Social Welfare Department in Kasempa and Solwezi were asked on whose mandate it is to establish and run shelters, they were uncertain as to which ministry is to lead the process.⁶⁸ The DAO of Kasempa believes that for the shelters to achieve their full potential, the key ministries representing different sectors, and the Gender Task Force should include a component of supporting the shelters in their overall programming.⁶⁹

2.5.3 Counselling and mediation

The Act requires counselling services to be available for survivors from expert institutions. Initially, when the GBV survivors reach out for help, YWCA or the VSU provides counselling services directly to them or refers them to the Social Welfare Department. They are the three main service providers who provide psycho-social counselling in Solwezi and Kasempa. However, the kind of counselling that is given is interchangeable with mediation and negotiation on behalf of the survivor-complainants. When there is a report of violence, especially between a husband and a wife, the service providers send a letter to the perpetrator husband who is summoned for “counselling”. If the perpetrator is remorseful, then a warning is given. If he continues to be violent, then the case would be referred to the Magistrate Court or the VSU. The survivors said that counselling to a certain extent deters a repeat of the violence. In complaints of economic abuse, after counselling and mediation the perpetrator is asked to pay maintenance or financially support the complainant. **Almost all the survivors preferred YWCA counselling and mediation as it is in line with the restorative relief and justice they sought. In marital disputes where there is prevalence of modest violence, reconciliation is the standard modus operandi.**



Counselling session in remote area

It is also observed that cultural and religious beliefs, practices and norms often permeate into the counselling approaches and techniques of service providers. The Social Welfare Office in Kasempa includes in its mandate of services pre-marriage and post-marriage counselling where the prevalent gender roles and stereotypes are reinforced.

2.6. COORDINATION, ADMINISTRATION MANDATES UNDER THE ANTI-GBV ACT

2.6.1 Gender Task Force

Section 31 of the Anti-GBV Act provides for the establishment of an Anti-Gender-Based Violence Committee, which is at the national level. In the provinces and at the district level, Gender Task Force are required to work together to develop and promote a multi-sectorial approach to prevent and combat gender-based violence. The Gender Task Force is required to meet quarterly to report on the initiatives and work undertaken on GBV by different sectors.

64. The government has granted 2 million Kwacha.

65. World Vision is helping with the refurbishment.

66. KII with Senior Social Welfare Officer and Acting Director of MCDSW in Lusaka – 15th June 2017.

67. Meeting in Lusaka with Program Department of WLSA – 1st June 2017.

68. There is always this back and forth discussion among GBV actors on whether the Ministry of Community Development or Ministry of Gender is mandated to run the shelters.

69. Interview with DAO in Kasempa – 5th June 2017.



GBV Task Force in Kasempa

In practice, the Gender Task Force in Kasempa mostly convenes to discuss the quarterly reporting. During the ad hoc meeting that was convened for the purpose of this study, there was a general consensus among the focal persons of different sectors that **quarterly meetings are not sufficient to move forward on GBV work. There needs to be guidelines, additional terms of reference (TORs) developed to monitor and evaluate, synergising efforts by different institutions which are reflected in the work plans of every institution.** There should be agreements on formalising referral mechanisms to monitor the way GBV cases are handled in the district.⁷⁰ The members of the Gender Task Force acknowledged that they would like to have better knowledge of the provisions in the Act as well as copies of the simplified version of the Act that can be disseminated in their institutions.

The Gender Task Force in Solwezi has 15 institutions as members with the Chairperson from the Non-Governmental Organisations' Coordinating Council (NGOCC). The Secretariat is currently the Ministry of Sport, Youth and Child Development. According to the Secretariat, the Ministry of Sport, Youth and Child Development is continuing the mandate of coordination until such time that the Ministry of Gender is able to take over. The structures exist but the posts are not filled. Like in Kasempa, they meet quarterly unless there are joint activities such as to implement campaigns and events like "16 days of activism against GBV" or "Women's Day". Whenever there is shortage of funds to conduct Anti-GBV activities, they mobilise money from the corporate social responsibility department of Kansanshi Mines.⁷¹

The Gender Task Forces identified certain opportunities to work together to put in practice the multi-sectorial model of addressing GBV. One such way of working together would be on community outreach and sensitisation initiatives. This would enable the community to receive information on the Anti-GBV Act, all the services and help available and constituted under the Act, and would also foster working relationships between focal persons from different sectors and services to work together on the GBV theme.

Adding to this, the District Administrative Officer (DAO) in Kasempa⁷² suggested opportunities must be created to foster multi-sectorial linkages that integrates prevention with the legal framework for protection. Community outreach and sensitisation activities could spread awareness on this. Resourceful plans on pooling in resources or sharing budgets should be discussed. It is possible to integrate GBV into programs and activities, in the same way as it is being done for HIV/AIDS.

2.6.2 Need for horizontal and vertical communication channels

In the KII with the Solwezi VSU and Social Welfare Department, it was observed that they were not aware of the existence of the Gender Task Force or who the focal person from their ministry is to the Gender Task Force. When this was pointed out to the Gender Task Force Secretariat in Solwezi, they acknowledged that there are gaps in communications. There are clear-cut requirements or guidance for the focal persons in the Task Force to disseminate information within their institutions. As a result, people working on the frontline such as VSU inspectors are left out of the loop on broader discussions. The Social Welfare Officer in Solwezi informed that the only interaction she has with the workings of the Gender Task Force is when she is sent questionnaires to fill, which is around 2-3 times a year. Other than this, the Social Welfare Department in Solwezi considers their mandate is to solely implement the Juvenile Justice Act rather than the Anti-GBV Act.

70. Meeting with the Gender Task Force in Kasempa represented by all the sectors – 8th June 2017.

71. KII with the Secretariat of the Gender Task Force in Solwezi – 13th June 2017.

72. KII with Kelvin Ndandanda, DAO, Kasempa – 5th June 2017.

2.6.3 The MGCD and the MCDSW

The MGCD was established in 2012 but is not yet a fully operational. Although there are structures, they will be filled once the treasury authorises them. There is no set timeline and this is entirely dependent on the Parliament and treasury. In areas where the structures are not filled by the MGCD, then the MCDSW or any other ministry that is available will have to in the interim fill in this vacancy.⁷³ This is outlined in the TORs developed by the MGCD. The Gender Task Force members in Solwezi and Kasempa are not aware of the TORs generated by the MGCD.

The Anti-GBV Act provides for the establishment of the National Gender Committee. The purpose of this committee is to propose national action plan, recommend, advise, provide strategies, guidelines and monitor on GBV activities. This Gender Committee is supported by the MGCD. At the time of this study, the MGCD informed that the members' terms were nearly up and there are plans to replace the members in the Gender Committee. At the district level, the Secretariat in Solwezi expressed that it would be useful to have more information on the modalities district, provincial Gender Task Force working with the centralised Lusaka based Gender Committee.⁷⁴

2.6.4 Anti-Gender-Based Violence Fund

The Act provides for the establishment of a fund which shall be used to support the counselling and rehabilitation and survivors of GBV, as well as provide material support.⁷⁵ While the Fund will be vested with the Ministry of Finance, the MCDSW is mandated to administer and manage the Fund, given that they are also directed to establish shelters. In the interviews with the district level Gender Task Force, the members were not aware of the status of this Fund and wanted more information on it.

Clarifying on the Anti-GBV Fund, the MCDSW in Lusaka explained that a gender fund always existed but now with the Anti-GBV Act it has to be operationalised under the Act. Currently, the Fund manages between 100,000-150 000 Kwacha per year. This Fund is mainly used for targeted sensitisation activities on GBV and trafficking issues.⁷⁶ The ongoing lobbying efforts need to be stepped up by including an inter-ministerial advocacy and lobbying strategy to ensure the government allocates more funds to combat GBV.

2.7. CAPACITY DEVELOPMENT STRATEGIES

2.7.1 Opening up continuous decentralised learning opportunities for different constituencies

From the analysis, it is evident that there was a marked difference in the way the service providers who had attended GBV trainings addressed and responded to GBV survivors, to the ones who had not had the opportunity to be part of such trainings. **It is important to continuously assess the training needs and include the application of the Anti-GBV Act as a core component of capacity development activities.**

There is some frustration with transfers of public officials, especially of those who have received training and are beginning to apply their skills in a given local context. When judges, VSU officers and health practitioners develop a particular competency in GBV, they are at one point or another, transferred to another district, with no systematic training plan in place to ensure the incumbent will receive similar training as his/her predecessor.

The trainings for duty bearers are very much centralised in Lusaka. This prevents continuous learning opportunities that would benefit from trainings being locally contextualised, easily accessible and conducted in local languages. This would also be cost effective.

73. KII with Assistant Director, Gender Rights Protection, Ministry of Gender in Lusaka – 15th June 2017.

74. KII with the Secretariat of the Gender Task Force in Solwezi – 13th June 2017.

75. Section 32 of the Anti-GBV Act 2011.

76. Interview with Senior Social Welfare Officer and Acting Director of Ministry of Community Development and Social Welfare in Lusaka – 15th June 2017.

Most of the duty bearers expressed that although they know of the Anti-GBV Act, they do not know the exact provisions and need training on using it in their work. One positive development has been that the Rules of Court document is published by the Judiciary. This has to be disseminated and Magistrates, High Court and Supreme Court judges need to be trained. WiLDAF has successfully carried out trainings for 40 Magistrates in Zambia, which is only 10% of the number of Magistrates in the country.⁷⁷ There is a dire need to scale up these trainings.

The common cases that local courts handle are marital disputes, damage to virginity, early pregnancy and abandonment, determining paternity and maintenance cases. There is always an element of spousal violence or GBV in these cases. Given the high level of tolerance to domestic violence in adjudicating personal law matters, the members of the local courts need training in the Anti-GBV Act in order to guide justice seekers to the appropriate judicial forum. The local court clerks are the first points of contact with the justice seekers, and they would benefit from trainings in the Anti-GBV Act. In addition, the local court system has the district and provincial local court officers who review the local court judges' orders and decisions. They would also benefit from trainings in the Anti-GBV Act.

It is significant to note that the Senior Traditional Chief of Kasempa proposed to be involved in mobilising the chiefs and Indunas⁷⁸ in his Chieftdom for trainings in the Anti-GBV Act. The Senior Chief also indicated that it would be interesting to have roundtable discussions on the Act specifically for Senior Chiefs, so that they come up with a joint directive to the subordinate village heads and Indunas on handling GBV offences.

From the analysis of information gathered, there is a huge need to develop survivor-centred counselling approaches and techniques, which empower and support the autonomy of the survivor. Currently, the social welfare officers have a minimum degree in psychology and benefit from ad hoc trainings. This does not equip them to handle complex GBV cases such as child defilement and rape.⁷⁹ From the FGDs and KIIs, it is obvious that religious and traditional values and beliefs influence the counselling and mediation outcomes. Further, the Social Welfare Departments do not have protocols and standard operating procedures to guide their counselling and referrals on GBV. The MCDSW conducts a blanket orientation on GBV but otherwise it is the MGCD which has the mandate to train the social welfare officers.⁸⁰

2.7.2 Peer to peer workshops on Anti-GBV Act

Peer to peer (P2P) workshops have increasingly become a standard feature of capacity development pedagogical programs. With the right kind of interactive facilitation, participants have a quick and direct introduction to their roles and actions needed for GBV prevention and protection under the Anti-GBV Act. The P2P workshops also provide openings to confront harmful cultural practices and gender stereotyping.

The local courts would benefit from such workshops where they are provided opportunities to discuss diverse topics related to their work such as addressing violence in family related suits. The majority of cases that the local court's in Solwezi and Kasempa handle are to establish paternity of the child, to determine maintenance and alimony, and majority of the decisions and judgments are based on hearsay or traditional practice in the community, on oral testimonies at times body language. Establishing paternity using DNA testing is not the norm as it is expensive for the justice seekers. A member of the local court shared that bulk of the cases in the local courts are on establishing paternity and bringing members from different local courts to share their expertise would be useful.

77. Interview with WiLDAF Team in Lusaka – 1st June 2017.

78. There are 15 village heads and 15 Indunas in the Chieftdom.
nas in Chieftdom of Chief Ingwe

79. The Head of Department of the Social Welfare Organisation in Kasempa mentioned that in counselling child defilement cases, the child is made to understand that the abuse was a "demonic" action. The child should remember his/her role in the family and community not indulge in promiscuous behaviour because of the abuse. He/she should go back to their "roles" as children.

80. Inter.

When asked on what criteria he uses to determine paternity, he responded, *"we have to hear the stories and see the body language of the people to determine the truth. If it is a young girl who has had a first child with a man, then we know the chances of her lying about the man being the father is not very likely. Sometimes, women lie about who the father is, just to get money. We then need to see the background of these women. We don't have DNA testing facilities to determine paternity liability and even if there was it would be rather expensive for people"*.⁸¹

Some of the other topics that would benefit from P2P workshops, is when the law enforcement, health practitioners and members of the legal and judicial institutions are brought together to discuss topics such as handling SGBV evidence, admissibility of evidence in SGBV, evidentiary barriers to investigation and prosecution of SGBV offences. The P2P workshops with participants from different sectors would also be effective in opening up opportunities to work together while gaining a deeper understanding of the challenges in providing protection and care. A good illustration of bringing different actors together for a P2P workshop would be healthcare professionals, prosecutors and the VSU on medico-legal evidence collection in SGBV offences. Similarly, the Magistrate in Kasempa also suggested that it would be interesting to have roundtable discussions on restorative and retributive justice and the Anti-GBV Act between the members of the traditional system and the judiciary in the districts.

2.7.3 Integrated, multi-sectorial model to implement the Anti-GBV Act

It is globally acknowledged that a holistic, multi-sectorial approach is key to effective GBV interventions. While "multi-sectorial approach" is very much the buzzword in Zambia, there is little understanding on how to achieve multi-sectorial coordination and collaboration. In Kasempa and Solwezi, while there is informal engagement by different sectors working on GBV, such as referrals, this could be expanded in scope to include trainings on cross-cutting themes, and having formal agreements ensuring equitable access to resources and opportunities and services. The other areas of coordination and cooperation could be interdisciplinary expertise to data collection on GBV, establishing GBV case management structures. The Provincial and District Gender Task Force could play a key role in identifying strategic areas in which different sectors can converge and collaborate.



Stakeholders meeting in Kasama

2.7.4 Alternative Dispute Resolution of GBV offences

Mediation in SGBV should not be a prerequisite to the filing of a complaint or pursuing the case in court. Mediation starts with the assumption that both parties are on the same level, when the reality is that the scales of gender power imbalance tip to women who suffer multiple forms of discrimination and inequality. Mediation is one of the common forms of ADR which are used by the VSU (in Kasempa) and the paralegals in Kasempa and Solwezi. They consider spousal violence cases as marital disputes, providing ad hoc mediation services. Mediation is also a preferred option for women because they understand the proposed solutions or outcomes. However, **the paralegals and the VSU have not received trainings in ADR and on restrictions and limitations in mediating GBV cases.**

81. KII with Judge from Local Court in Solwezi district limits – 12th June 2017.



3. ADVOCACY RECOMMENDATIONS

The Anti-GBV Act without a doubt is a positive step towards sending a signal in Zambia that any form of violence based on gender is not acceptable and constitutes a criminal offence. The Act provides an unprecedented avenue for survivors to seek recourse under the law by making provisions for holistic services. Based on the findings above, and given that the objective of the study is having a greater understanding of the level of implementation of the Anti-GBV Act, and the gaps, barriers and opportunities that exist in the districts, advocacy issues are identified that will influence the implementation of the Anti-GBV Act. This final section of the study provides for recommendations on focus areas for advocacy. Considering the practices and perceptions identified in the field, as well as the barriers that prevent the achievement of the full intent of the Anti-GBV Act, it is necessary to have a broad, holistic approach to push forward for actions that not only challenge the structures and set notions about GBV, but also offer solutions, resources and technical expertise to implement various aspects of the Anti-GBV Act. The recommendations for advocacy, particular to the implementation of the Act, are broadly organised under four priorities as illustrated in the table below.

1. **An efficient and effective** comprehensive legal framework that helps secure protection and recourse from GBV

Advocacy issue	Persons of interest Target groups Agents of change	Suggested action steps Strategic action	Level
Undertake a wide-ranging assessment of all laws that conflict with the provisions of the Anti-GBV Act in order to establish a comprehensive legal framework that helps secure protection and recourse from GBV.	<ul style="list-style-type: none"> • Zambia Law Development Commission. • Ministry of Justice. • The Judiciary and the Attorney General's Office. • Consultations with INGOs and Zambian civil society and end users of justice. 	<ol style="list-style-type: none"> 1. Form a broad based coalition group to gather support in the advocacy efforts to establish a comprehensive legal framework. 2. Garner support through the coalition group to provide technical assistance to harmonise discrepancies in the legal provisions. 	Lusaka and organise consultations at the district level with end users of justice including persons who have suffered GBV.
Insure an effective implementation of the Anti-GBV Committee and the Anti-GBV Fund. These two institutions required by the Anti-GBV Act are essential in order to provide a coordinated answer to GBV.	<ul style="list-style-type: none"> • MGCD, MCDSW, and other relevant ministries. • International and Zambian NGOs. • Technical experts. • The UN agencies. • Donors sensitive to GBV. 	<ol style="list-style-type: none"> 1. Present findings to the relevant stakeholders. 2. Garner support through the coalition group to provide technical assistance for the implementation of these two institutions. 	Lusaka.
Allocate resources such as transport, fuel, phone lines, computers and printers in police posts to enhance police investigation and ensure confidentiality in the districts.	<ul style="list-style-type: none"> • VSU of the Zambian Police Service. • Ministry of Finance and National Planning. • Donors (institutional and private sector). • UN agencies and other relevant stakeholders. 	Present findings to the relevant stakeholders, especially the Ministry of Home Affairs - Zambia Police Service.	Lusaka and district level.

2. ■ Large-scale Public awareness and sensitisation of the full scope of the Act

Advocacy issue	Persons of interest Target groups Agents of change	Suggested action steps Strategic action	Level
Define protocols on mediation and ADR: insure that the police and service providers have a clear interpretation of the Anti-GBV Act, considering that mediation and other ADR is not a replacement for criminal investigation and prosecution of SGBV offences, and that cases have to be referred to the appropriate forum.	<ul style="list-style-type: none"> • MGCD, MCDSW. • National Anti-Gender Based Violence Committee. • District and provincial task force and other relevant ministries. • International and Zambian NGOs. • Technical experts. • UN agencies. 	<ol style="list-style-type: none"> 1. Compile position papers, briefing documents, best practices (Zambian and global), survivors' experiences. 2. Present it to the target groups and insure dissemination countrywide. 	Lusaka
Disseminate protocols, guidelines, plans and TORs that have already been developed by the MGCD and MCDSW in Lusaka to their district and provincial counterparts (related to shelters settlement, Gender Task Force roles and responsibilities, etc.).	<ul style="list-style-type: none"> • MGCD, MCDSW. • District Councils and DAO. • Gender Task Force both at the provincial and district level. 	<ol style="list-style-type: none"> 1. Present the finding of the study to the relevant ministries – notably MGCD and MCDSW in Lusaka. 2. Request the dissemination plan from the ministries or, in the absence of such a plan, advocate for the importance of sharing plans, TORs and guidelines developed with their counterparts in the district. 3. Inform and share the outcome of the meetings in Lusaka with the District Gender Task Force. 	Lusaka. District level.
Develop, publish and disseminate simplified versions of the Anti-GBV Act for all the relevant stakeholders, including the traditional authorities and the public. Provide clear cut dissemination plan.	<ul style="list-style-type: none"> • Ministry of Justice; MGCD, Ministry of Traditional Affairs and Chiefs. • Donors. • UN agencies. • INGOs and NGOs with experience in legal pluralism. 	<ol style="list-style-type: none"> 1. Identify organisations and institutions who have printed or would be interested in developing simplified versions in local languages. 2. Organise meetings with these organisations, donors and ministries, to develop a plan to print and disseminate a simplified version in local languages. 3. Monitor and evaluate the process and the commitments. 	Lusaka and district level.

3. ■ A more effective coordination of stakeholders to deliver comprehensive, integrated, survivor-centred services

Advocacy issue	Persons of interest Target groups Agents of change	Suggested action steps Strategic action	Level
Position the Gender Task Force as the coordinating actor at the district level: develop approaches and strategies that would guide the Gender Task Force in the districts to put in practice a proactive, multi-sectorial methodology to implement the Anti-GBV Act; establish clear-cut vertical and horizontal communication channels in the districts to enhance the workings of the district Gender Task Force.	<ul style="list-style-type: none"> • MGCD, MCDSW. • National Anti-Gender Based Violence Committee. • District and provincial task force and other relevant ministries. • International and Zambian NGOs. • Technical experts. • UN agencies. 	<p>1. Workshop with the MGCD on building the know-how on developing Standard Operating Procedures to collaborate and coordinate between various sectors in the Gender Task Force on Anti-GBV activities and communication channels.</p> <p>2. Dissemination and implementation of the developed methodology.</p>	Lusaka, provincial and district level.
Develop an integrated and survivor-oriented service delivery approach: the services offered should be provided by the government departments with the support of CSOs, private sector, traditional leaders and draw in specific technical expertise to develop and implement protocols and guidelines for the smooth collaboration and coordination of these services. There should be adequate monitoring and oversight to ensure quality services that meet the needs of the survivors.	<ul style="list-style-type: none"> • MCDSW, MGCD, Ministry of Health, Ministry of Finance and National Planning. • VSU of the Zambian Police Service. • INGOS and NGOs working on GBV. • Donors supporting anti GBV work in Zambia. 	<p>1. Propose an integrated approach of service delivery, monitoring and coordination at the district and provincial level with the involved stakeholders.</p> <p>2. Provide technical expertise to the MGCD to develop and coordinate such approaches.</p> <p>3. Scale up the methodology.</p>	Lusaka, provincial and district level.
Scale up public awareness and sensitisation of the full scope of the Anti-GBV Act and provisions related to protection, prevention and response designed to target specific groups and take into consideration all the provisions of the Act.	<ul style="list-style-type: none"> • Gender Task Force at the provincial and district level. • MGCD, MCDSW, Ministry of Health, Ministry of Youth Sports and Child Development, Ministry of Information and Broadcasting, Ministry of Traditional Affairs and Chiefs. • Women's networks. • CSOs. • UN agencies. • Donors. 	<p>1. Initiate discussions on the importance and relevance of developing a common strategy for community awareness and sensitisation.</p> <p>2. Facilitate an initiative to put together an action plan involving all the stakeholders to gather community awareness and sensitisation methodology on the Anti-GBV Act in the districts.</p>	Lusaka and district level.

4. ■ Strengthened actors at every level

Advocacy issue	Persons of interest Target groups Agents of change	Suggested action steps Strategic action	Level
Develop a coordinated and concerted training plan to decentralise trainings and make it more accessible to public officials in remote districts. All relevant stakeholders (public officials, duty bearers and service providers) should be trained on all the provisions of the Anti-GBV Act, including facilitating the survivors to obtain civil remedies such as protection and occupation orders.	<ul style="list-style-type: none"> • MGCD, Ministry of Home Affairs (Zambia Police Service and the VSU), Ministry of Justice, the Judiciary of Zambia. • Representatives in the provincial ministries. • District level Gender Task Force. • District council members. • DAOs. • NGOs. 	<ol style="list-style-type: none"> 1. Initiate consultative meetings with the relevant stakeholders at the district and provincial level on the value and feasibility of decentralised model for trainings. 2. Present an advocacy briefing paper to relevant decision-makers in Lusaka. 3. Monitor and coordinate with various actors to implement the trainings. 	Lusaka and district level.
Advocate for mainstreaming the provisions of the Anti-GBV Act in all institutional training programs in sectors such as Ministry of Health, MCDSW, Ministry of Education, the Police Force, etc.	<ul style="list-style-type: none"> • MGCD, Ministry of Health, MCDSW, Ministry of Education, Ministry for Mines and Mining Development, and other relevant ministries. 	A roundtable meeting with relevant stakeholders to present the study findings.	Training units or departments of the relevant institutions in Lusaka.
Develop a pro-investigation and pro-prosecution reflex ⁸² and stricter monitoring of standards of investigation of complaints is necessary to show the political will of the Zambian state to protect its people from violence and uphold basic human rights.	<ul style="list-style-type: none"> • Zambia Police Service. • National Prosecution Authority. • The Judiciary. • MGCD, MCDSW. 	<ol style="list-style-type: none"> 1. Roundtable discussions with the target groups to present the findings of the study. 2. Organise consultations on establishing systems for better oversight and review into GBV cases which are reported in the districts. 3. Periodically publish, share and assess the trends analysis of cases investigated and prosecuted, in meetings with the District Gender Task Force and other relevant stakeholders. 	District level
Develop protocols, guidelines and standards to establish and guide inspection of shelters.	<ul style="list-style-type: none"> • Technical experts supported by donors both in Lusaka as well as regionally. • INGOs and Zambian NGOs. • UN agencies. • MCDSW, MGCD and other relevant ministries. 	<ol style="list-style-type: none"> 1. Conduct workshops on minimum standards and best practices for the establishment of shelters and/or safe houses for GBV survivors. 2. Disseminate and implement the developed guidelines. 	Lusaka

82. See UN Framework for Model Legislation.

An Act to provide for the protection of victims of gender-based violence; constitute the Anti-Gender-Based Violence Committee; establish the Anti-Gender-Based Violence Fund; and provide for matters connected with, or incidental to, the foregoing.

[15th April, 2011]

ENACTED by the Parliament of Zambia.

Enactment

PART I PRELIMINARY

1. This Act may be cited as the Anti-Gender-Based Violence Act, 2010.

Short title

2. (1) An act of gender-based violence shall be inquired into, tried, and otherwise dealt with in accordance with the Criminal Procedure Code, the Penal Code and any other written law.

Application
of relevant
Acts
Cap. 88
Cap. 87

(2) Subject to the Constitution, where there is any inconsistency between the provisions of this Act and the provisions of any other written law the provisions of this Act shall prevail to the extent of

Cap. 1

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A GBV survivor in Mbala



ANNEXES

ANNEX 1: STUDY PARTICIPANTS

Focus group discussions

Description of the focus group	Location	Number of Participants	
		Male	Female
YWCA Paralegals	Kasempa	2	3
Traditional advisers, community leaders and heads	Kasempa	4	1
Women	Kasempa		5
Young women and adolescent girls	Kasempa		4
Men	Kasempa	5	

Description of the focus group	Location	Number of Participants	
		Male	Female
Women survivors of GBV	Solwezi		5
Meeting with women	Solwezi		6
Traditional, religious and community leaders	Solwezi	5	
Young women and adolescent girls	Solwezi		3
Men	Solwezi	5	
Women	Solwezi		6
YWCA paralegals and Provincial Coordinator	Solwezi	2	3

Interviews and semi structured interviews with Zambian CSOs

Institution/CSO/organisation	Position(s) of the person(s) interviewed	Location
WILDAF	Country Director and Access to justice Coordinator	Lusaka
NGOCC	Program Manager, Head of Communications and Grants Manager, Advocacy Officer	Lusaka
National Legal Aid Clinic for Women	Executive Director	Lusaka
WLSA	Programs Department and 3 Legal Officers	Lusaka
OXFAM	Deputy Country Director	Lusaka
5 women GBV survivors		Kasempa
District Administrative Office	District Administrative Officer	Kasempa
Traditional Chief	Senior Chief of Kasempa and Secretary to the Senior Chief	Kasempa
Victim Support Unit	Station Inspector	Kasempa
Ministry for Community Development and Social Welfare (MCDSW)	Head of Social Welfare Department	Kasempa
Magistrate Court	Magistrate	Kasempa
Gender Task Force	Focal persons from the Women's lobby , Representative from the Judiciary, Kasempa District Council, VSU, CARITAS Kasempa, Ministry of Education, MCDSW, The Drug Enforcement Commission	Kasempa
VSU	Police Inspector	Solwezi
Kimasala Health Clinic	Nurse-in-charge and nurse	Solwezi
Ministry for Community Development and Social Welfare (MCDSW)	Senior Social Welfare Officer	Solwezi
Local Court	Judge of the Local Court	Solwezi
Gender Task Force	Secretariat of the Task Force (Ministry of Sports, Youth and Child Development) and Child Development Officer from the Ministry of Sports, Youth and Child Development	Solwezi
Ministry for Gender and Child Development	Assistant Director, Gender Rights Protection	Lusaka
Ministry for Community Development and Social Welfare (MCDSW)	Senior Social Welfare Officer and Acting Director	Lusaka

ANNEX 2: STUDY TOOLS

At the beginning of every KII and FGD, the background of the research-study was introduced, the consent and confidentiality procedure was clearly explained, ethical and safety considerations relating to collection of information particular to GBV was described and finally voluntary participation in the study was clarified.

Semi-structured interview guideline for service providers, duty bearers, CSOs, institutional actors. Depending on the KII, the guideline and the questions were accordingly adapted. The order of questions inter-changed and varied according to the participants.

- What types of cases of gender-based violence do you handle?
- How often do you handle GBV cases? How many per week or month?
- From what individuals or organisations do you typically receive reports of GBV?
- What legal and other facilities or personnel exist for survivors of GBV (e.g., court (formal and local courts) traditional system, or civil authorities)
- What services do you provide to survivors of GBV? (list the services)
- According to your data or experience what are the major challenges in establishing these services in the locations that you operate?
- How have the cases been handled by the (i) Local Courts and (ii) Magistrate Courts in the locations that you operate?
- What challenges exist to facilitate legal proceedings and investigations? What are the major challenges experienced? What is the time period that it takes to finalise a case, and why?
- Does anyone from your organisation accompany, advocate for and support the GBV survivor during any meetings with the police or court officials? If yes, can you explain the process and the referral pathways?
- What kind of support is there for GBV survivor if she/he decides to proceed with legal proceedings? List the different kinds of support.
- Do you ever refer survivors to other services such as counselling or healthcare? If yes, where are these services located? How do they provide the referral? How do you ensure that the service is provided?
- How do you work with other service providers (NGOs, government departments, health facilities, legal, law enforcement and psychosocial (social welfare)) on the issue of gender-based violence?
- Which laws are commonly used in addressing gender-based violence and how are they enforced, and by whom?
- The Anti-GBV Act, 2011 stipulates that certain services should be in place to provide support to the survivor. According to your data and experience what services and protection measures are lacking in the locations you operate? Support the discussion by listing the services and measures listed under the Act.
- What are the gaps in efforts that are put in by institutional actors in Lusaka to implement the Anti-GBV Act?
- What are some of the challenges that you face in responding to sexual violence or other form of gender-based violence?
- From your experience what are the immediate steps the Zambian government should take to ensure the Anti-GBV Act is properly enforced and implemented especially in the districts?

Guideline for FGDs. Depending on the composition of the FGD, the guideline and the questions were accordingly adapted. The order of questions inter-changed and varied according to the participants. For every FGD, the location, participant summary, name(s) of facilitators and interpreters was noted down.

- Who controls the resources in the community? In the family?
- Who is responsible for making decisions for this community? Who is responsible for making decisions in the family?
- Who do men go to for help when they have problems? Who do women go to for help when they have problems?
- How do men and women get information about what is happening in the community?
- How is a traditional marriage organised?
- What kinds of conflicts occur in marriages and families and what are the reasons? How are they resolved?
- There are men who treat their wives well and men who don't. What are some things that husbands do if they are treating their wives well? What are some things that might be examples of husbands treating their wives badly?

Evaluate whether the group is ready to talk about GBV issues in the community

- Do you believe that a wife should never question her husband? Does a husband have the right to physically punish his wife for any reason?
- Why would a husband hit his wife? Why would a wife hit her husband?
- Without mentioning names or indicating anyone specific, what types of physical and emotional abuse of women by their husbands are you aware of? Why do you think these happen? What do you think are the causes of the abuse?
- When a husband insists on sex from his wife, does she have the right to refuse sex? If she does refuse and he forces her to have sex, is that rape?
- Are you aware of problems with different forms of violence in this community? Ask for examples.
- In your opinion what are the circumstances that cause violence and who are most vulnerable to violence. Ask for examples.
- Do you know what GBV is?
- What about specific forms of violence against women, girls, boys and men? What practices are considered inappropriate, abusive, or violent in the community? Can you give examples? Examine definitions of marital rape, domestic violence.
- When and where does sexual violence occur?
- Without mentioning names or indicating anyone specific, who are the perpetrators? What happens to the perpetrators (different consequences if the perpetrator is known/unknown)?
- Is there ever a situation where a woman might be partially responsible or to blame (or at fault) for her GBV, rape or sexual assault? Is it possible that some women ask "invite" violence through their behaviours or attitudes?
- Do persons look for help when they experience GBV? Do they tell anyone (family members, other women, health worker, community leader, police/security people/authorities, someone else)?
- In your community, where would women get help if they had been raped? What would the community have done? What services were available for this kind of thing?
- How do women and men cope with violence against their family members or friends?

- What are community responses when violence occurs? What is done to prevent violence? What is done to help survivors? How could these efforts be improved?
- Do networks exist to help survivors? What social and legal services exist in your community to help address problems associated with violence (e.g., health, police, legal counselling, social counselling)? Who provides these services? How could these efforts be improved?
- Why do you think most women who are in violent marriages do not seek any assistance?
- Who do you think will be the right person(s) to help women who are in abusive relationships? Can you share examples of women who have been helped and what kind of help did they receive?
- Is there a specific law in Zambia to address GBV?
- Have you heard of the Anti-GBV Act?
- If yes, ask them what they know of the Act and what is its purpose?
- If now, explain to them about the Act and some of the measures that the Act provides? Describe shelters, protection and occupation orders and community education in GBV and ask for their views on these measures.
- What in your opinion will be the main challenges and barriers to implementation of such legislation in their community?
- Before we finish, I would like to hear what you think should be done to end GBV in your community?
- What did you think about the subjects we have discussed?

ANNEX 3: TERMS OF REFERENCE

FIELD STUDY: ACCESS TO JUSTICE FOR VICTIMS OF GENDER-BASED VIOLENCE

1. Justification

ASF and the Young Women's Christian Association of Zambia (YWCA) are implementing a project, "Women's Rights and Access to Justice in Zambia" in the North Western and in the Northern Province of Zambia. Phase II of the project is the one being undertaken this year to October, 2017. The project focuses on empowerment of citizens to enable them to contribute to preventing gender-based violence and target groups include women and girls and members of vulnerable groups. Activities in the provinces include awareness-raising of the population, empowerment of women, legal and social counselling.

Advocacy activities are planned at the end of the project, based on field data and on recommendations through studies.

This study aims to link the issues observed in the field and the deficiencies in the policies, specially the implementation of the Anti-Gender-Based Violence Act. This Act was adopted in 2011, provides a legal framework and concrete protections GBV victims should receive from state services such as Police, Public hospitals, social welfare services, and courts.

The study will help to assess if the services provided for in the Act have been put in place and which challenges victims are still facing in the field by trying accessing justice, five years after the Act's adoption.

The recommendations will be shared with the relevant stakeholders at the provincial and national level on an advocacy purpose for a better implementation of the Anti-GBV Act.

2. Main objectives of the study

Based on data collection in Kasempa and Solwezi districts, the main objective of the study is to identify the priority measures which should be adopted to ensuring effective implementation of the GBV-Act and effective access to services for (potential) victims of GBV.

The study will provide recommendations to advocate at the provincial and national level to promote application of the Anti-GBV Act regarding challenges of GBV victims accessing justice or other services.

The study will help identifying the following components:

- Assess the implementation of protection measures and services provided by the Anti-GBV Act
- Assess the effective access to services provided by the Anti-GBV Act;
- Perception and needs of GBV victims and communities on access to the above mentioned services.

The objective is to develop concrete recommendations and to identify the most urgent actions to be taken by the government regarding the provisions of the Act.

The recommendations will be shared with the relevant stakeholders at the provincial and national level on an advocacy purpose for a better implementation of the Anti-GVB Act.

3. Consultant tasks

- Produce a draft outline for the study report to guide the process (methodological note);
- Produce research questions for the study; and survey questions for field interviews (paying attention to gender aspect);
- Conduct a comprehensive desk research and review of literature on the Zambia-specific reports, literature pertaining to the gender-based violence, Access to Justice and Human Rights related matters generally and in Zambia.
- Conduct interviews with key/relevant resource persons (Project field coordinators, GBV victims, Victim Support Units, social welfare, local courts, other CSOs) to obtain information pertaining to actual;
- Submit a implementation note after a few days describing the study methodology, questionnaires and adaptation if needed;
- Conduct field investigations/fact-finding in key locations up-country to collect needed data;
- Analyze pertinent legal, human rights, gender-related issues raised through the research, fact-finding and textual analysis of relevant laws and policies and reflect in report findings and conclusions;
- Produce a draft of the study with recommendations for comments and validation;
- Produce a PowerPoint presentation of the intermediate results and present it to the main stakeholders for recommendations;
- Integrate the recommendations into the final version of the study and submit the final report.



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