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Zimbabwe: Legal recourse and availability of state protection to female victims of sexual and/or domestic abuse; women's organizations and lawyer/advocacy groups, the nature and effectiveness of their services (i.e., shelter, protection, assistance) (2004 - January 2006)

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In 2004 and 2005, various international human rights and media sources reported that gender-based violence, including domestic and sexual abuse, was an issue of ongoing and increasing concern (*The Herald* 11 Dec. 2005; ZLHR 23 Nov. 2005; *Country Reports 2004* 28 Feb. 2005, Sec. 5; Oxfam America 2005; *ibid.* 21 Jan. 2005; Freedom House 11 Aug. 2005; UN 20 Jan. 2004). While government statistics on gender violence could not be found among the sources consulted by the Research Directorate, the Musasa Project, a Harare-based women's group providing support and counselling, noted that "one in four women in Zimbabwe have been beaten up by their partners, while one in five have been threatened with physical violence" (Oxfam America 21 Jan. 2005). Moreover, the Musasa Project reported that in 2001, 3,259 women sought counselling for abuse, while in 2002 this figure increased to 4,338 (UN 20 Jan. 2004; *Country Reports 2004* 28 Feb. 2005, Sec. 5). In January 2004, a spokesperson of the Zimbabwe Women Lawyers Association said, "we see an average of 10 new clients a day - and of these an average of three are seeking peace orders in matters of domestic violence" (UN 20 Jan. 2004). A May 2005 report by the director of the Southern Africa HIV and AIDS Information Dissemination Service (SAFAIDS) noted that an estimated 25 per cent of women in Zimbabwe have experienced sexual violence and that 60 per cent of murder cases are tied to domestic violence (17 May 2005). The Zimbabwe organization Girl Child Network (GCN) stated in June 2005 that "[o]n average six girls report rape daily in Zimbabwe" (*The Herald* 15 June 2005). In November 2005, Zimbabwe Lawyers for Human Rights (ZLHR) voiced its "grave concern" over the upsurge of gender-based violence across the country (23 Nov. 2005); in December 2005, High Court judge Nicholas Ndou corroborated this information, stating that cases of violence against women and children were increasing daily (*The Herald* 11 Dec. 2005).

Legal recourse

Some sources have noted that certain legal protections are available to women with regard to gender-based violence such as sexual abuse (Gender Links 8 Dec. 2004; ZWLA 27 Jan. 2006; WAG 13 Jan. 2006), although proposed legislation addressing domestic violence has yet to be enacted (*ibid.*; *The Herald* 1 Dec. 2005; Oxfam America 21 Jan. 2005).

A representative of the Women's Action Group (WAG), a Harare-based non-governmental organization, stated in 13 January 2006 correspondence that the Sexual Offences Act of 2001 (Zimbabwe 17 Aug. 2001) affords protection from sexual abuse, noting that this law penalizes a wide range of sexual offences including marital rape, "consensual sex with children under the age of sixteen, indecent assault and willful transmission of HIV/AIDS" (WAG 13 Jan. 2006; see also ZWLA 27 Jan. 2006).

In practice, according to the WAG representative,

All major police stations have victim friendly offices, which are supposed to be manned by officers who have received training on how to handle cases of sexual abuse. Victims of abuse are supposed to make their reports in the privacy of the victim friendly offices and not in the charge office which is a public office. When the cases go for trial, they are to be tried in victim friendly courts.

The problem is that the victim friendly unit in the police force does not have enough trained officers to cover all police stations. Moreover, the equipment at the victim friendly courts has broken down and government is in the process of sourcing funds to repair the equipment (13 Jan. 2006).

Moreover, in a December 2005 article, *The Herald* reported, without further comment, that though the Sexual Offences Act has passed into law, "implementation seems to be the greatest impediment to effecting this piece of legislation" (1 Dec. 2005).

With regard to domestic violence, a representative of the Zimbabwe Women Lawyers Association (ZWLA) noted that legislation specifically addressing domestic violence does not exist in Zimbabwe (27 Jan. 2006). According to the WAG representative, domestic violence is "treated as any other assault under Zimbabwean common law" (13 Jan. 2006). This information was corroborated by Oxfam America, which likewise noted that domestic physical abuse cases are "treated like any other case of common assault; perpetrators are leveled with a minimal fine" (2005). The ZWLA representative further noted that society generally views domestic violence as a private matter that "should be settled privately and not publicly through the criminal law" (27 Jan. 2006).

However, the United Nations Special Rapporteur noted "when cases go to court, lengthy sentences for rape and wife-beating generally are imposed" (27 Feb. 2003). Yet, the UN report also stated that the legal system faced limitations in relation to domestic violence cases, noting that the accused could only be issued a "binding over" order (a notice to appear in court) if there was "actual physical abuse and not [just] on threats of violence" (UN 27 Feb. 2003). In addition, courts do not have the authority to evict an abuser from a couple's residence (*ibid.*). Moreover, *The Zimbabwe Standard* reported in December 2004 that "court or peace orders" to obligate a husband's financial responsibility in a household in which the wife is forbidden to work or to stop violent men from physically abusing their spouses were "often ignored" (12 Dec. 2004).

In order to address legal shortcomings regarding domestic abuse, the country's first Domestic Violence Bill, originally drafted in 2000 (*The Zimbabwe Standard* 12 Dec. 2004), has reportedly been awaiting Parliamentary approval for the past two (ZLHR 23 Nov. 2005), nearly three (*The Herald* 1 Dec. 2005), years. The WAG representative stated that the proposed bill was "drafted as a result of

lobbying by civil society but it has not yet been tabled in Parliament" (13 Jan. 2006). While the draft bill generally "seeks to criminalize domestic violence" (Oxfam America 21 Jan. 2005) with a "comprehensive definition" of gender-based abuse (*The Herald* 1 Dec. 2005), it also outlines and penalizes a number of specific offences, including "intimidation, harassment and stalking," as well as abuse resulting from traditional customs such as "virginity testing, female genital mutilation and forced marriages" (IPS 27 Apr. 2004). Moreover, the bill would reportedly increase "legal assistance for victims" (Oxfam America 21 Jan. 2005) and require authorities to provide protection orders, "obtain shelter for the complainant - or advise them on where this can be found," and offer counselling services (IPS 27 Apr. 2004).

In December 2005, *The Herald* reported that High Court judge, Justice Nicholas Ndou, in coordination with the ZWLA, would be launching a campaign to increase awareness of women's rights, to better protect women facing domestic abuse, and to educate women on their legal rights via a publication entitled "Women's Access to Justice" (11 Dec. 2005).

To call attention to the need for the re-establishment of the victim friendly courts which have closed due to equipment failure, the ZWLA presented a petition to the government outlining the creation of "low cost alternative victim friendly courts" that would once again allow "vulnerable witnesses to give evidence out of the sight of the perpetrator and deal with secondary victimization which may disempower the victim" (Newsnet 16 Dec. 2005).

Police response and effectiveness

The WAG representative provided the following information about police effectiveness:

In handling cases of gender-based violence, the police have improved from how they used to handle such cases in the 90s. Women used to be turned away when they went to make reports at the police stations. The police treated such cases as domestic matters which did not warrant their intervention.

Currently the police are attending to the cases but they are usually taken to the community relations officer for settlement and only a few go to the criminal courts.

Police say that most women who report cases of gender-based violence do not want the perpetrators to be prosecuted. They only make reports to instill fear in the perpetrators so that they will not repeat the violent acts (13 Jan. 2006).

According to the ZWLA representative, response to domestic violence complaints is hampered by a "lack of resources, lack of gender sensitivity and, in some cases, [a] lack of knowledge about how best to deal with a particular situation" (ZWLA 27 Jan. 2006; see also *Country Reports 2004* 28 Feb. 2005, Sec. 5; IPS 27 Apr. 2004). Moreover, the ZWLA representative noted that "[t]he fact that most police officers are male and have strong customary law beliefs exacerbates the situation" (27 Jan. 2006).

International human rights reports also noted that victims of gender-based violence, especially of rape, were reluctant to file a report for fear of being socially stigmatized (*Country Reports 2004* 28 Feb. 2005, Sec. 5; UN 27 Feb.

2003).

Shelters and services

According to the representative of WAG, government-run shelters for victims of gender-based violence do not exist, but added that there is one NGO-operated shelter in the capital, Harare (13 Jan. 2006; see also Gender Links 8 Dec. 2004). The ZWLA representative partially corroborated this information, noting that the NGO Musasa Project operated three shelters, one in each of the cities of Harare, Bulawayo, and Gweru (ZWLA 27 Jan. 2006). However, the ZWLA representative further stated that the government claims to run a shelter in Gweru, but was unaware of how it functioned (ibid.). In January 2004, the UN Integrated Regional Information Networks (IRIN) reported that the Musasa Project operates a temporary shelter for women both in Harare and in Bulawayo (20 Jan. 2004).

Information on the effectiveness of shelters for protecting women could not be found among the sources consulted by the Research Directorate.

In August 2005, IRIN reported on the development of a community-based counselling program aimed at, among other things, assisting victims of domestic and sexual abuse (UN 31 Aug. 2005). The Ministry of Health and Child Welfare developed the counselling initiative in conjunction with the UN Children's Fund (UNICEF) and the first phase of this project will cover some 50,000 homes (ibid.). Moreover, under the plan, counsellors "work in collaboration with the traditional leadership in their communities and have also cultivated an effective referral system with the police" (ibid.).

The Kubatana.net Website provides, among other things, a list of NGOs and civil society groups involved in assisting women who are victims of violence, such as the Zimbabwe Women Lawyers Association (ZWLA), the Zimbabwe Women's Resource Centre and Network (ZWRCN), and the Legal Resources Foundation (n.d.). However, information on the effectiveness of these NGOs could not be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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Efforts to obtain information from the Legal Resources Foundation (LRF) and the Zimbabwe Women's Resource Centre and Network (ZWRNCN) were unsuccessful.

The Musasa Project was unable to provide information within time constraints.

Internet sites, including: Amnesty International, BBC News, European Country of Origin Information Network (ECOI), Factiva, Kubatana.net, Human Rights Watch, International Commission of Jurists, PeaceWomen, Southern Africa Regional Poverty Network, United Kingdom Immigration and Nationality Directorate, United Nations CEDAW, World News Connection, World Organization Against Torture (World OMCT).

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