Australian Government

Refugee Review Tribunal

Country Advice

Zimbabwe

Zimbabwe – ZWE37447 – *kuripa ngozi* (virgin pledging) – Customary marriage – Women – State protection – Police – Bantus – Domestic violence – Sexual assault – HIV/AIDS – Legal provisions

16 September 2010

1. **Please provide information about "kuripa ngozi" (or virgin pledging) – the customary practice of offering a young girl or grown women as compensatory payment in inter-family disputes as well as in the appeasement of avenging deceased spirits. Is it widespread?**

***Kuripa ngozi*: Definition, translation and usage**

A strict definition of *kuripa ngozi* was not available, but the practice has been variously defined in scholarly and advocacy literature. In 2008, the Zimbabwean scholar Tarai Mutangi translated the term as "appeasing the dead".[1] In 2009, the Zimbabwean journalist Nyarai Kachere noted that "Kuripa ngozi, or virgin pledging, is a punishable offence".[2]

The practice centres around the giving of a virgin of the perpetrator family to the aggrieved family in order to atone for a wrongdoing. Reported instances of *kuripa ngozi* exclusively discuss murder by the perpetrator family which prompts demands for compensation in the form of a virgin by the aggrieved family.

Definitions of the phrase (*kuripa ngozi*) and composite terms ('*kuripa'* and *'ngozi'*) are included below to provide further cultural context. In his article, *Religion law and human rights in Zimbabwe,* Tariai Mutangi[3] describes:

> [the practice of] *kuripa ngozi* (appeasing the dead).... [as normally occurring] where a member of the marrying-off family killed a member of the marrying family. [4]

[1] Mutangi, T. 2008, 'Religion, law and human rights in Zimbabwe', *African Human Rights Law Journal*, No. 8, Attachment 1

[2] Kachere, N. 2009, 'Virgins forced into Marriage to 'Appease' Evil Spirits', *Inter Press News Service,* accessed through *AllAfrica.com,* 29 September http://allafrica.com/stories/200909290597.html - Accessed 16/09/10, Attachment 2

[3] Mutangi, T. 2008, 'Religion, law and human rights in Zimbabwe', *African Human Rights Law Journal*, No. 8, Attachment 1

[4] Note that Mutangi does not list *kuripa ngozi* as a type of marriage; rather, it is a practice which appeases the spirits of the aggrieved family in order to right a wrong within or between communities.

In their submission to the UN Human Rights Committee in 1998, Equality Now defined *kuripa ngozi* as "the use of marriage to remedy criminal offences… [as] an appeasement to the spirits of a murdered person."[5]

Other uses of the separate terms '*kuripa*' and '*ngozi*' provide further context:

- The custom of ***ngozi*** has been translated by Equality Now to mean that:

  a young girl may be offered in compensation as a wife to a man in a family against which an offence has been committed by her father or brother.[6]

- The researcher Jeremy Jones discusses the term ***kuripa mhosva*:** where a man "pays… post-facto" for his actions after an illegal elopement.[7]
- Finally, the Southern Africa scholar, Professor George Fortune provides insight into the contexts in which the terms *kuripa* and *ngozi* are used in his discussion of examples of Shona poetry:

  [the author], Hamutyinei in ***'Ngozi*** *yerombe'i°* [sic] describes the murder of a beggar and the return of his spirit in vengeance. The moral in [this piece] **is *Mushonga wengozi kuripa* (the remedy against a vengeful spirit is compensation**).[8]

Prevalence of the practice of *kuripa ngozi*

Custom and tradition significantly contribute to the abuse of girls and women in Zimbabwe. Tariai Mutangi notes that in 1998,

> [in] its concluding observations on the Zimbabwe report, the United Committee on the Rights of the Child: Zimbabwe CRC/C/15/Add.55 expressed its disappointment regarding the prevalence of [*kuripa ngozi*] in some sectors of the Zimbabwean society. [9]

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[5] Equality Now, *Submission to the UN Human Rights Committee*, 62nd Session, March 1998, *Zimbabwe*, http://www.equalitynow.org/english/campaigns/un/unhrc_reports/unhrc_zimbabwe_en.pdf - Accessed 27 September 2010, Attachment 3

[6] Equality Now, *Submission to the UN Human Rights Committee*, 62nd Session, March 1998, *Zimbabwe*, http://www.equalitynow.org/english/campaigns/un/unhrc_reports/unhrc_zimbabwe_en.pdf - Accessed 27 September 2010, Attachment 3

[7] Jones, J. 2009, 'It's not normal but it's common: Elopement marriage and the mediated recognition of youth identity in Harare, Zimbabwe', *Council for the Development of Social Science Research in Africa*, 25 – 26 August, http://www.codesria.org/IMG/pdf/Jeremy_Jones_Zimbabwe.pdf - Accessed 27 September 2010, Attachment 6

> "Elopement… [forces] a post-facto reassessment of actions that constituted a 'crime' [*mhosva*] at the time they were committed. Especially if there is a pregnancy involved, it is clear: the man broke the law [*kupara mhosva*]. He must pay [*kuripa mhosva*] for his actions in order to realign himself with tradition…"

[8] Extract from Fortune, G. 1974, 'Ngango and Ndyaringo: Two Complimentary Poetic Genres', *Zambesia: A journal of Social Studies in Southern and Central Africa*, December, Vol. 3, No. 2, University of Rhodesia, Salisbury, pp 27 – 49, http://archive.lib.msu.edu/DMC/African%20Journals/pdfs/Journal%20of%20the%20University%20of%20Zimbabwe/vol3n2/juz003002001.pdf, (index) - Accessed 29 September 2010, Attachment 4, as posted on *Faraitose's blog*, http://faraitose.wordpress.com/library-references/nhango-and-ndyaringo/ - Accessed 29 September 2010, Attachment 6

[9] Mutangi, T. 2008, 'Religion, law and human rights in Zimbabwe', *African Human Rights Law Journal*, No. 8, Attachment 1

The prevalence of *kuripa ngozi* and other practices which involve forced or coerced marriage of girls and young women in Zimbabwe continues. In her 2009 article for the *Inter Press News Agency*, Phyllis Kachere quotes a gender officer at the Harare based United Nations Population and Development Agency (UNFPA), Caroline Nyamayemombe: "these harmful cultural practices are rampant in some districts in the country."[10] In a blog post earlier this year Zimbabwean writer Modest Dete noted that:

> Kuripa ngozi …is quite commonplace in Zimbabwe… many women are suffering in silence at the hand of a spirit husband, borne of having been given off as compensatory payment to a deceased spirit.[11]

Kuripa ngozi is one of many well established traditions which use the exchange of women for tangible and intangible community 'goods'.[12] In her work with the United Nations Asia and the Far East Institute, Foelane Muronda briefly discusses other traditional practices which involve the provision of young women and girls to men:[13]

> *Kuzarira: Bethrothment:* This is when a young girl is forced into marrying usually an elderly man, by her parents and family.
>
> ***Inheritance of right of Marriage:*** Normally, it is considered compulsory that in case of death of a wife the husband automatically gets the right to marry the sister of the deceased. In fact, it is the choice of the widow and her parents to agree to this. There should be [sic] clear message for all to avoid this misunderstanding as most people were abusing this customary concept.
>
> *Chiramu:In-Law:* This is a practice in which a brother in law can indecently assault his young and unmarried sister in law under the guise of culture. This is meant to teach young girls how a man proposes and how to avoid him. The girl would also learn how to look after a husband, as she would be doing it for the brother-in-law. Many girl children have been abused as a result but most of these offences have gone unreported.
>
> *Kuputsa or Kutengsa:* This is a practice in which a young girl is sold so as to benefit her family: this could also be referred to as trafficking.
>
> *Customary Marriage:* Customary law allows marriage to girls of 12 years. The consent of the girl child is required before the marriage is conceptualised. However, these girl children are still too young to marry and are also too young to give an informed consent. Traditional beliefs have resulted in the increase of child abuse in which [sic] most cases is not reported since this happens in family circles.

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[10] Kachere, P. 2009, 'Religion and Poverty Force Girls into Early Marriages' *Inter Press Service News Agency (IPN)*, 9 April, http://ipsnews.net/africa/nota.asp?idnews=46447 - Accessed 16/09/10, Attachment 7

[11] Dete, M. 2008, 'The atrocities of the traditional customary practice of "kuripa ngozi"', *Zimbabog.com*, 12 November, http://www.zimbablog.com/2008/11/12/the-atrocities-of-the-traditional-customary-practice-of-kuripa-ngozi/ - Accessed 15/09/10, Attachment 8

[12] As Wyatt MacGaffey explains, "[m]arriage and slavery in fact belong to a set of transfers of rights over person that includes pawn and joint ownership."
For a further discussion of the history of the place of women within tribes of the Central Bantu see MacGaffey, W. 1983, 'Lineage Structure, Marriage and the Family amongst the Central Bantu', *The Journal of African History*, Vol. 24, No. 2. 'The History of the Family in Africa', Cambridge University Press, pg. 180, Attachment 9. A brief discussion of the relationships between Bantu tribes in Sub-Saharan Africa, please refer to Q7 (D)

[13] Muronda, F. C. 2006, 'Country Report – Zimbabwe', *Annual Report for 2005 and Resource Material Series No. 69*, United Nations Asia and the Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), July, Tokyo, Japan, http://www.unafei.or.jp/english/pdf/PDF_rms_all/no69.pdf - Accessed 24 September 2010, Attachment 10

Nyarai Kachere highlights the difficulties in rescuing women from such arrangements in an example from Manicaland, Zimbabwe:[14]

> Three years after being seized from their families and forced to marry and have sex with adult men in a Shona ritual to appease an avenging spirit, five teenagers are facing a dismal reality.
>
> The girls from Honde Valley in Manicaland had to drop out of school, become under-age wives and mothers and live an impoverished life as vegetable vendors to contribute to their new families' household income.
>
> In 1999, Felicitas Nyakama, Nesta Maromo, Juliet Muranganwa, Precious Maboreke and Perseverance Ndarangwa, who were then between the ages of seven and 15, were handed over by their parents to the family of Gibson Kupemba as payment for the man's murder. The girls' relatives killed Kupemba to prepare muti, traditional medicine, which is sometimes made from body parts.
>
> According to traditional belief, a murderer's relatives need to appease a dead person's spirit with virgin girls, sometimes as young as six years old. The virgin has to live with the murdered person's family, no matter her age. When she reaches puberty, she is made the wife of one of the male members of her new family.
>
> Kupemba's grandson Gibson (junior) said his father appeared to him in his sleep, demanding a virgin girl as compensation from each family involved in his murder. He insists the girls were not forced to offer themselves, but it was their personal choice to rescue their families from an evil spirit.
>
> "They came here to confess on their own volition. Each girl must be accompanied by 22 heads of cattle," said 28-year-old Kupemba junior, who married Precious Maboreke in 1999, when she was 15 years old. They have three children.
>
> While five girls have already been pledged to the Kupembas, Kupemba junior says his family still demands twelve more virgins to avenge his grandfather's death.

It is very difficult for women at the centre of these marriage practices to refuse a match. Wyatt MacGaffey discusses the influence of tribal elders in marriage selections within the Central Bantu peoples,[15] (which include the Ndebele people of Zimbabwe[16]) noting that:

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[14] Kachere, N. 2009, 'Virgins forced into Marriage to 'Appease' Evil Spirits', *Inter Press News Service*, accessed through *AllAfrica.com*, 29 September http://allafrica.com/stories/200909290597.html - Accessed 16/09/10, Attachment 2

[15] which include Zimbabwe, the Congo basin, Zambia and Angola

[16] 'Bantu Languages', 2010, *Wikipedia*, 24 September, http://en.wikipedia.org/wiki/Bantu_languages - Accessed 24 September 2010, Attachment 11 (Caveat to the use of Wikipedia:
Wikipedia is a Web-based free-content encyclopaedia which is written collaboratively by volunteers via a wiki application which allows for the creation of Wikipedia articles, and for the editing of the majority of Wikipedia's existing articles, by anyone with access to a web browser. The collaboratively written products which the wiki system engenders can often provide the Wikipedia user with a source of accurate and timely information. Nonetheless, Wikipedia's open nature has seen instances of abuse, error and vandalism, which have led to the publication of misinformation. For this reason, care should be exercised when deciding what reliance to place on the content of this publication in connection with review decision making. Research Services recommends that users of Wikipedia familiarise themselves with the regulatory practices which Wikipedia employs as a preventative measure against vandalism, bias and inaccuracy; 'Ndebele People, their history' undated, *Bulawayo1872.com* http://www.bulawayo1872.com/history/ndebele.htm - Accessed 24 September 2010, Attachment 12 particularly, "[the] Ndebele tribe... are Bantu-speaking people of south western Zimbabwe"; and 'Nguni (people)' 2010, *Britannica Online Encyclopedia*,

> It might come about that if the girl refused the man thrust upon her by her elders [*nkazi*]: she would then have to find a man to buy her, and would lose all rights in her own lineage. This was the principle sanction enforcing obedience to the *nkazi*.[17]

This dymanic is evidenced in Phyllis Kachere's 2009 interview with 'Matipedza', a 14 year old girl with a 67 year old husband in a customary marriage which is not legally registered:

> 'I can't go against [the will of] my elders and leave my husband in order to attend school. Besides, where would I go if I leave? My parents will not welcome me', said Matipedza.[18]

2. Is "*kuripa ngozi*" referred to in Zimbabwe's *Domestic Violence Act*? Please provide the relevant clauses or section.

The *Domestic Violence Act 2006* (Zimbabwe)[19] is written in English, and provides a non-exclusive definition of domestic violence under s3(l). The Act includes as offences:

- pledging women or girls for purposes of pleasing spirits [s3(1)(l)(iii)]; and

- forcing women or girls into marriage [s3(1)(l)(iv)].

An extract of the relevant clause is provided below.

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http://www.britannica.com/EBchecked/topic/413591/Nguni?anchor=ref700601# - Accessed 24 September 2010, Attachment 13 "the Nguni [are a] cluster of related Bantu-speaking ethnic groups living in South Africa, Swaziland and Zimbabwe."

[17] MacGaffey, W. 1983, 'Lineage Structure, Marriage and the Family amongst the Central Bantu', *The Journal of African History*, Vol. 24, No. 2: 'The History of the Family in Africa', Cambridge University Press, pg. 180

[18] Kachere, P. 2009, 'Religion and Poverty Force Girls into Early Marriages' *Inter Press Service News Agency (IPN)*, 9 April, http://ipsnews.net/africa/nota.asp?idnews=46447 - Accessed 16/09/10, Attachment 9

[19] *Domestic Violence Act 2006* (Zimbabwe) s3, http://www.kubatana.net/docs/legisl/dom_viol_act_ch5_16_act%2014_2006_070226.pdf - Accessed 21 September 2010, Attachment 14

3 Meaning of domestic violence and its scope

(1) For the purposes of this Act, domestic violence means any unlawful act, omission or behaviour which
results in death or the direct infliction of physical, sexual or mental injury to any complainant by a respondent and includes the following—

(*a*) physical abuse;
(*b*) sexual abuse;
(*c*) emotional, verbal and psychological abuse;
(*d*) economic abuse;
(*e*) intimidation;
(*f*) harassment;
(*g*) stalking;
(*h*) malicious damage to property;
(*i*) forcible entry into the complainant's residence where the parties do not share the same residence;
(*j*) depriving the complainant of or hindering the complainant from access to or a reasonable share of the use of the facilities associated with the complainant's place of residence;
(*k*) the unreasonable disposal of household effects or other property in which the complainant has an
interest;
(*l*) **abuse derived from the following [sic] cultural or customary rites or practices that discriminate against or degrade women**—

(i) forced virginity testing; or
(ii) female genital mutilation; or
(iii) **pledging of women or girls for purposes of appeasing spirits**; or
(iv) **forced marriage**; or
(v) child marriage; or
(vi) forced wife inheritance…

Section 4 of the *Domestic Violence Act* provides criminal penalties for domestic violence comprising physical violence or sexual assault.[20]

3. Is there information that the police do not uphold the laws relating to domestic violence?

Yes. While there is legislation in place which is designed to protect women from domestic violence, many sources discuss the significant difficulties women face in accessing police assistance, including a great deal of material on the cultural and practical barriers women face when attempting to report domestic violence. Although legislative protection of women has improved over the last decade, police typically fail in their duties to protect women from violence due to a combination of cultural factors, resource constraints and the prevalent belief that domestic violence is a private matter.

In spite of the criminalisation of physical and sexual assault within marital relationships under recent legislative reforms[21], domestic violence remains common. Although a man

[20] *Domestic Violence Act 2006* (Zimbabwe) s4(2)(a), (b) http://www.kubatana.net/docs/legisl/dom_viol_act_ch5_16_act%2014_2006_070226.pdf - Accessed 21 September 2010, Attachment 14. Offences under the Act are "liable to a fine not exceeding level fourteen or imprisonment for a period not exceeding ten years or to both such fine and such imprisonment." [s4(1)]

was convicted of killing his wife shortly after the introduction of the *Domestic Violence Act 2006*, police reports of violence against women remain infrequent, and convictions are rare[22] and often only occur in extreme cases.[23]

Many sources dealing with domestic violence in Zimbabwe were produced prior to the March 2008 national elections. The post-election violence and continued political instability have drawn attention away from domestic violence in the last three years.[24] For this reason, the following sources predominately date from before the 2008 election.

In 2003, 'wife beating' was still considered a reasonable method of disciplining a woman by a majority of surveyed Zimbabwean women;[25] and it is a widely held belief amongst men and women that wives are expected to be sexually available to their husbands.[26] The Zimbabwean researcher Foelane Muronda explains that:

> traditionally, in our culture wife beating has been considered an appropriate way of correcting a woman's behaviour. It is comparable to chastisement of a child… The wife belongs to the husband.[27]

NGOs and police are poorly resourced and must combat entrenched cultural beliefs regarding virginity, HIV/AIDS, and cultural and religious beliefs. The low likelihood of women reporting spousal abuse is illustrated by John's Hopkins University Assistant Professor Michelle Hidin's research for the World Health Organisation in 2003:

> Much of the wife beating in Zimbabwe is likely to stem from gender roles and social expectations. Violence against women in Zimbabwe is common and women are vulnerable because ''of their low status and lack of power in the family, and because violence within marriage is widely tolerated''. Because violence is seen as

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[21] The *Sexual Offences Act* prohibited rape within marriage from 2001 [s8]. The *Domestic Violence Act* was passed in 2006. *Sexual Offences Act (Zimbabwe), Act 8/2001*, 17 August 2001, available at: http://www.unhcr.org/refworld/docid/4c45c6312.html - Accessed 29 September 2010, s2(1), Attachment 21

[22] US Department of State *Human Rights Report: Zimbabwe*, Attachment 19 - Accessed 27 September 2010

[23] For instance, "[i]n 2007, the Harare-based Girl Child Network, rescued an 11-year-old girl who had been married off to a 44-year-old man in Buhera. The man was successfully prosecuted and sentenced to six months in jail. However, shortly thereafter, the sentence was suspended and the girl had to live in a safe house because the unrepentant husband continued to claim her as his wife. " Kachere, P. 2009, 'Religion and Poverty Force Girls into Early Marriages' *Inter Press Service News Agency (IPN)*, 9 April, http://ipsnews.net/africa/nota.asp?idnews=46447 - Accessed 16/09/10, Attachment 7

[24] See, for instance, Country of Origin Information Service 2010 *Zimbabwe: Report of Fact Finding Mission to Zimbabwe, Harare 9 – 17 August 2010*, UK Home Office, 21 September, Attachment 29

[25] "Over half of all women in Zimbabwe (53%) believed that wife beating was justified in at least one of the five situations. Respondents were most likely to find wife beating justified if a wife argued with her spouse (36%), neglected her children (33%), or went out without telling her spouse (30%)…" Hidin, M. 2003, 'Understanding women's attitudes towards wife beating in Zimbabwe', *Bulletin of the World Health Organisation*, 81(7), pg 501, http://www.scielosp.org/scielo.php?pid=S0042-96862003000700008&script=sci_arttext&tlng=en - Accessed 29 September 2010, Attachment 16

[26] Machirori, F. 2010, 'The myriad challenges of Zimbabwe's response to rape', July, http://healthdev.net/site/post.php?s=7047# - Accessed 20 September 2010, Attachment 17

[27] Muronda, F. C. 2006, 'Country Report – Zimbabwe', *Annual Report for 2005 and Resource Material Series No. 69*, United Nations Asia and the Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), July, Tokyo, Japan, pg 145, http://www.unafei.or.jp/english/pdf/PDF_rms_all/no69.pdf - Accessed 24 September 2010, Attachment 10

> an acceptable way to settle disputes and exercise control within marriage, women are thought to perceive that violence is acceptable and within the social norms. [28]

Inter – and intra – community disputes, including domestic violence, are commonly considered private matters, in which police do not become involved. Edson Tsvakai, program manager for Union for the Development of Apostolic Churches in Zimbabwe-Africa (UDA-CIZA), an NGO trying to raise awareness of the dangers of early marriage in Zimbabwe similarly has commented that,

> in most cases, [campaigning against early marriage] faces serious resistance, '**the police has [sic] been the biggest let down in early forced child marriages as they have continued to turn a blind eye to these crimes**."[29]

In 2002, the Women's Action Group (WAG), a Zimbabwean NGO, described the limited police intervention in domestic violence cases to the Refugee Board of Canada:

> [Due to] budgetary shortages, it is now very rare for police to visit the scene of a domestic crime, and we have had a number of clients who have, upon reporting abuse, been asked to go get the perpetrator and bring him to the police station. [30]

The plight of the pledged girls from Manicaland discussed in Question 1 demonstrates the influence of customary beliefs on local police in the resolution of inter-community disputes. As Nyarai Kachere reported:

> The saga of the five girls began in 1995, the year Kupemba was murdered by four local grocery shop owners with the help of 13 other villagers. Kupemba's mutilated, decomposing body was found discarded in a dry riverbed.
>
> Some time later, locals say, Kupemba's spirit started causing sudden ailments and deaths in the families involved, resulting in some of them confessing to killing [and mutilating] him... **Despite the confessions, no arrests were made, and Kupemba's relatives allege the shop owners bought the police's silence.**
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> **To appease the dead man's spirit, the families handed over the first five virgins to the Kupemba family from 1999 onwards, but the process was stalled in 2006 when children's rights organisation Girl Child Network (GCN) compelled the police and the Department of Social Welfare to investigate the matter and return the girls to their families.**

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[28] See for example, Hidin, M. 2003, 'Understanding women's attitudes towards wife beating in Zimbabwe', *Bulletin of the World Health Organisation*, 81(7), pg 501, http://www.scielosp.org/scielo.php?pid=S0042-96862003000700008&script=sci_arttext&tlng=en - Accessed 29 September 2010Attachment 16

[29] The director of an unnamed NGO working with a Rape Crisis Clinic in Harare observes "[u]nfortunately, most married women do not perceive it as rape"... They will just talk about the consequences of the incident, for example contracting HIV. It's only when you explore further how they got the virus that they then say that their husbands forced themselves onto them. That's when you realise that they have been raped" she says. As quoted in Kachere, P. 2009, 'Religion and Poverty Force Girls into Early Marriages' *Inter Press Service News Agency (IPN)*, 9 April, http://ipsnews.net/africa/nota.asp?idnews=46447 - Accessed 16/09/10, Attachment 7

[30] 'Zimbabwe: Legal recourse and availability of state protection to female victims of sexual and/or domestic abuse; women's organizations and lawyer/advocacy groups and the exact nature of the services (shelters, protection, financial assistance etc.) that they provided and on how successful these groups are', 2002, *Immigration and Refugee Board of Canada*, 25 January, ZWE38357.E , available at: http://www.unhcr.org/refworld/docid/3df4becf4.html - accessed 28 September 2010, Attachment 18

> But shortly thereafter, investigations were put on ice. **Headman Samanga of Honde Valley told IPS he pulled out of the Kupemba case, as all involved families had accused him of preventing them from resolving private, domestic affairs. "In this area, people strongly believe kuripa ngozi can only be settled by offering a virgin girl.** I was the lone voice against the practice, and it was soon drowned. The families believed I was hindering their efforts to settle their transgressions," he explained.
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> **Eventually, the police, which had rescued four of the girls from the Kupemba family and put them under the custody of GCN, ordered GCN to send the girls back to their families, who returned them to the Kupembas.**
>
> Only the mother of one of the girls, Anna Ndarangwa, says she tried to rescue her daughter from the ritual. "I had a heated argument with the Kupembas," she said, but did not manage to take her daughter home.

In correspondence with the Women's Action Group (WAG), a local Zimbabwean NGO advocating for women's rights, Research Directorate of the Refugee Board of Canada reported:

> Where there has been an incident of domestic abuse, women are legally entitled to report the perpetrator to the police, who are technically expected to arrest the husband/boyfriend involved and follow through with normal assault procedures (generally a fine on first offence and increasingly stiffer penalties with repeat offences). **Similarly, sexual assault, including marital rape, is technically a crime in Zimbabwe. In practice, however, domestic incidents are often handled differently than other assaults or cases of abuse.** First, police officers generally share the attitude that domestic violence is a family problem to be dealt with at home, or that the woman may have brought it upon herself through certain behaviours. It is also very common (even prescribed practice) for police officers to actively work to reconcile the couple rather than working to protect the victim at whatever cost to the relationship.
>
> **Especially in cases of sexual abuse, which in the context of marriage is seen as a foreign concept by most Zimbabweans, couples are often referred to the police public relations officer whose specific duty is to reconcile them whenever possible.**[31]

WAG also provided information which speaks directly to the issue of Ndebele women, who run away to relatives to avoid forced marriage, and fear being beaten for running away:

> **Should a woman run to her own family, she may be returned [to] the husband by her brothers, uncles, etc. (or worse, beaten again for misbehaving, then returned).** Similarly, aunts on either side will very often tell the woman that such beatings are normal and that a man who does not beat his wife does not love her. While there are limits to this – a severe beating causing hospitalisation, for instance, might draw a more negative response from relatives – these limits are not well defined. As far as we know**, this situation prevails**

[31] 'Zimbabwe: Legal recourse and availability of state protection to female victims of sexual and/or domestic abuse; women's organizations and lawyer/advocacy groups and the exact nature of the services (shelters, protection, financial assistance etc.) that they provided and on how successful these groups are', 2002, *Immigration and Refugee Board of Canada*, 25 January, ZWE38357.E , available at: http://www.unhcr.org/refworld/docid/3df4becf4.html - accessed 28 September 2010, Attachment 18

> **across ethnic lines, and is certainly the norm amongst the Shona and Ndebele**, who make up 80% or more of Zimbabwe's population.

The US Department of State's (USDoS) 2009 *Human Rights Report: Zimbabwe*[32] focuses on human rights abuses associated with the political unrest in Zimbabwe, as have many other recent NGO reports.[33] However, the USDoS report does mention:

> [d]omestic violence against women, especially wife-beating, continued to be a serious problem. In 2006 the Musasa Project, a local NGO that worked for the protection and promotion of women's rights, reported that approximately one-third of women in the country were in an abusive marital relationship. Most cases of domestic violence went unreported due to traditional sensitivities and the women's fear of abandonment without support. Authorities generally considered domestic violence to be a private matter and usually only arrested an offender for assault if there was physical evidence of abuse. There were newspaper reports of wife killings, and there were a few reports of prosecutions and convictions for such crimes; however, details were unavailable…
>
> Local women's rights groups reported that awareness of the Domestic Violence Act increased; however, **the press reported that the [*Domestic Violence Act 2006*] proved difficult to implement.** For example, one impediment was the police form to report domestic violence--at 30 pages long, it was difficult to complete and photocopy.
>
> Despite laws aimed at enhancing women's rights and countering certain discriminatory traditional practices, women remained disadvantaged in society. … **Despite legal prohibitions, women remained vulnerable to entrenched customary practices, including pledging young women to marry partners not of their choosing and forcing widows to marry the brothers of their late spouses.**

4. At what age is a woman considered an adult in Zimbabwe?

Men and women are considered adult at 18 years old. However, the age of consensual sexual contact is 16 for girls.

The *Children's Act 2002* (Zimbabwe) defines a:

> **minor** as "a person under the age of eighteen years"; and
>
> **young person** as "a person who has attained the age of sixteen years but has not attained the age of eighteen years."[34]

Adult Zimbabwean women continue to be systematically discriminated against across a range of areas, including in matters of inheritance, divorce, custody and property rights. See for instance, 'Women's Rights Activists Lobby to 'Engender'

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[32] US Department of State 2009, *Human Rights Report: Zimbabwe*, Attachment 19
[33] See for instance Human Rights Watch (2010) and Amnesty International Annual (2009) reports.
[34] *Children's Act (consolidated as of 1 December 2002)* (Zimbabwe) s2, 27 October 1972, available at: http://www.unhcr.org/refworld/docid/4c46c7d62.html - Accessed 29 September 2010, Attachment 20

Constitution', by Nyarai Kachere[35]; and the US Department of State 2009, "the constitution allows for discrimination, primarily against women, on the grounds of "customary law."[36]

5. At what age can a woman marry in Zimbabwe?

There are three kinds of marriage recognised in Zimbabwe:

- civil marriage[37];
- registered customary law marriage[38];
- and unregistered customary law union.

The legal age for a civil marriage is 16 for girls and 18 for boys. Young people and minors may also register civil marriages with the consent of their legal guardians. The *Marriage Act 1964* (Zimbabwe)[39] deals with the marriage of minors at Section 21. The Act provides:

> **21 Marriage of minors without consent is voidable but not void**
>
> (1) Where a marriage of a minor which required the consent of his legal guardian or legal guardians of the consent of a judge under section twenty is contracted without such consent, the marriage shall not by reason of that fact be void, but may be set aside and declared void by the High Court in its discretion [if the legal guardian/s make such an application]…
>
> **22 Prohibition of marriage of persons under certain ages**
>
> (1) No boy under the age of eighteen years and no girl under the age of sixteen years shall be capable of contracting a valid marriage except with the written permission of the Minister, which he may grant in any particular case in which he considers such marriage desirable…

Customary marriage is recognised under the *Customary Marriages Act* and does not provide for a minimum marriage age for either boys or girls. The *Sexual Offences Act 2001* (Zimbabwe) criminalises sexual activity with a young person (under 16)[40]; and a minor (under 12) is deemed "incapable of consenting to sexual intercourse or a sexual act."[41]

Customary marriage also permits polygamy and, as Mutangi explains, polygamy is only directly discouraged by activists who think that it is a vehicle for the spread of HIV/AIDS."[42]

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[35] http://www.minoritycentre.org/news/women%E2%80%99s-rights-activists-lobby-engender-constitution - Accessed 28 September 2010

[36] US Department of State *Human Rights Report: Zimbabwe*, Attachment 19

[37] Administered through the *Marriage Act (consolidated as of 2004)* (Zimbabwe), Chapter 5:11, 1964, available at: http://www.unhcr.org/refworld/docid/4c46d2872.html - Accessed 29 September 2010, Attachment 22

[38] This marriage is regulated by the *Customary Marriages Act*, ch 5:07

[39] *Marriage Act (consolidated as of 2004)* (Zimbabwe), Chapter 5:11, 1964, available at: http://www.unhcr.org/refworld/docid/4c46d2872.html - Accessed 29 September 2010, Attachment 22

[40] *Sexual Offences Act (Zimbabwe)), Act 8/2001*, s2(1), 17 August 2001, available at: http://www.unhcr.org/refworld/docid/4c45c6312.html - Accessed 29 September 2010, Attachment 21

[41] *Sexual Offences Act (Zimbabwe), Act 8/2001*, 17 August 2001, available at: http://www.unhcr.org/refworld/docid/4c45c6312.html - Accessed 29 September 2010, s2(1), Attachment 21

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6. **Deleted.**

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