ZIMBABWE

A new constitution was adopted approved in 2013 recognizing the rights of men and women to equal opportunities in political, economic, cultural and social spheres. It also guarantees the right to equal pay and voids all laws, customs, traditions and cultural practices that infringe on the rights of women. Finally it calls for the state to ensure gender balance and fair representation of marginalized groups and promote women’s participation in all spheres of society. 1

1. Discriminatory family code

There are three types of marriage: civil, registered customary and unregistered customary. The legal minimum age for civil marriage under the Marriage Act in Zimbabwe is 18 years for men and 16 years for women. There is no minimum age of marriage for registered customary marriages under the Customary Marriages Act. 2 The Domestic Violence Act of 2007 prohibits forced marriages, the practice of wife inheritance, and early marriage. 3

With respect to parental authority, the Guardianship of Minors Act provides that the father is the guardian of children born in wedlock and exercises this right in consultation with the mother. 4 In the event of divorce after a civil marriage, custody is determined in the best interests of the child under the Customary Law and Local Courts Act. 5 There is no up-to-date information on how these regulations are implemented in practice. However, the new Constitution (adopted 8 May 2013) makes it easier for women to obtain travel documents for their children. 6 Further, the new Constitution outlines other provisions for more equal divorce rights for men and women, including the protection of women from dispossession during divorce. 7

There is no formal legal discrimination against women and girls with respect to inheritance rights. In 1997, the Administration of Estates Act was amended to make the surviving spouse and the children of a deceased person as his or her major beneficiaries, as opposed to their heir who was mainly the eldest son. Secondly, the Act provides that the matrimonial home, whatever the system of tenure under which it was held and wherever it may be situated, remains with the surviving spouse. This includes household goods and effects. In theory, the Act applies to all marriages, civil and customary. 8 In practice, discrimination against women with regard to inheritance is prevalent. The Chronic Poverty Research Centre reports that only 37.31% of widows inherited majority of assets

1 FAO (n.d.)
2 Thabethe, S (2009), p.24
4 Thabethe, S. (2009) p.25
5 Thabethe, S. (2009) p.25
6 Muwanigwa, V. (2013)
7 Muwanigwa, V. (2013)
8 CEDAW (2010) pp. 9-10
after their spouses in 2005/2006. According to the Food and Agriculture Organisation (FAO), widows often do not take legal action regarding inheritance rights, partly because of lack of support within the justice system, and partly due to discrimination within their families.

More

Women’s position in the family can also be gleaned from their participation in household decision-making. Data from the most recent Demographic Health Survey (2011-2012) provides a snapshot of gender equality in household decision-making in Zimbabwe. For major household purchases, 68.1% of married women reported that decisions were made jointly with their husbands, 12% reported that decisions were made solely by their husbands, and 19.9% reported that decisions were made solely by themselves. This is an improvement from the percentages reported in 1999, when 42% reported that decisions were made jointly, 36% reported that decisions were made solely by their husbands, and 16% reported decisions were made solely by themselves.

2. Restricted physical integrity

The Domestic Violence Act of 2007 prohibits domestic violence. The definition of domestic violence under the Act is very wide and includes abuse derived from any cultural or customary rites or practices that discriminate against or degrade women, such as forced virginity testing, female genital mutilation; malicious damage to property; forcible entry into the complainant’s residence where the parties do not share the same residence; 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; the unreasonable disposal of household effects or other property in which the complainant has an interest; abuse derived from the following cultural or customary rites or practices that discriminate against or degrade women pledging of women and girls for purposes of appeasing spirits, abduction, child marriages, forced marriages, wife inheritance and other such practices.

Following the adoption of the Domestic Violence Act, the government has introduced public awareness campaigns and an implementation strategy, including an Anti-Domestic Violence Council to monitor the implementation. Despite these efforts, the latest Demographic and Health Survey notes that, “there is widespread recognition in Zimbabwe that much remains to be done to protect victims”. Furthermore, discriminatory attitudes and practices of authorities place further barriers in women’s access to justice. For instance, according to the US Department of State, authorities generally consider domestic violence to be a private matter. With respect to prosecutions of marital rape, the government reports that the prosecution of marital rape requires the consent of the Attorney General, which may discourage women from reporting. Further, entrenched institutional and societal attitudes that deny marital rape as a form of violence against women also

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9 Chronic Poverty Research Centre (2011) p.20
10 FAO (n.d.)
11 Demographic Health Survey (2012) Table 15.5
12 Demographic Health Survey (1999)
14 Article 3, Domestic Violence Act. Also see CEDAW (2010) p.14
15 Demographic and Health Survey (2012) p. 251
16 US Department of State (2013) p. 44
17 CEDAW (2010) pp.13-14
prevent women from seeking justice.\textsuperscript{18} And finally, in its final report on Zimbabwe in 2012, the CEDAW committee expressed concern that proper funds and resources had not been allocated by the State to effectively support the implementation of the Act and address the problem more broadly.\textsuperscript{19}

The Criminal Law Act (Codification and Reform) 2006 prohibits sexual violence, including marital rape. The Act also prohibits wilful transmission of sexually transmitted infections, including HIV.

The 2010 DHS found that 42\% of women had experienced physical and/or sexual violence in their lifetimes.\textsuperscript{20} For women aged 15-49, 21.6\% reported that their first experience of sexual intercourse was forced against their will.\textsuperscript{21} According to the latest human rights report by the US Department of State, there have also been reports of politically motivated rape and instances where police did not respond to rape accusations if the woman was a member of the ZANU-PF (opposition) party.\textsuperscript{22}

With respect to domestic violence, the 2011-2012 Demographic Health Survey found that 30\% of all women had experienced physical violence since they were 15. Of those who experienced physical violence since the age of 15 and who were currently or previously married, the most common perpetrator of that violence was the current (66.4\%) or former (23.7\%) husband or partner.\textsuperscript{23} This indicates that the vast majority of physical violence experienced by women in Zimbabwe is from their husbands and partners. With respect to sexual violence, 92\% of women who had experience sexual violence did so at the hands of a husband/partner or boyfriend.\textsuperscript{24} Further, of women who had ever been married, 13.3\% reported being physically forced to have sexual intercourse by a husband and 8.6\% reported being forced to perform sexual acts against their will.\textsuperscript{25} Women’s lack of control over sexual interaction with their husbands is attributed to their greater vulnerability to HIV/AIDS.\textsuperscript{26}

\textbf{Sexual harassment} is outlawed by the Labour Act.\textsuperscript{27}

\textit{More}

Limitations on women’s reproductive rights also infringe upon women’s physical integrity in Zimbabwe. \textbf{Abortion} in Zimbabwe is permitted to save a woman’s life or health, in the event of rape or incest or due to foetal impairment. It is not permitted on request or on social or economic grounds.\textsuperscript{28}

\section*{3. Son bias}

The male/female sex ratio for the working age population (15-64) in 2013 is 0.92 while the ratio at birth is 1.03.\textsuperscript{29}

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\textsuperscript{18} CEDAW (2010) pp.13-14  \\
\textsuperscript{19} (CEDAW) (2012), p. 5  \\
\textsuperscript{20} OECD (2014), Gender, Institutions and Development Database, http://stats.oecd.org  \\
\textsuperscript{21} Demographic Health Survey (2012) Table 16.3  \\
\textsuperscript{22} US Department of State (2013) p. 44  \\
\textsuperscript{23} Demographic Health Survey (2012) Table 16.2  \\
\textsuperscript{24} Demographic Health Survey (2012) p. 258  \\
\textsuperscript{25} Demographic Health Survey (2012) Table 16.10  \\
\textsuperscript{26} CEDAW (2010) p.47  \\
\textsuperscript{27} Thabethe, S. (2009) p.46  \\
\textsuperscript{28} UN DESA) (2013)  \\
\textsuperscript{29} Central Intelligence Agency (2013)
\end{flushleft}
There is evidence to suggest that Zimbabwe is a country of low concern in relation to missing women due to AIDS mortality.

4. Restricted resources and assets

Despite a constitutional equal right to access land, the Southern African Gender Protocol Alliance reports that women’s access to land in Zimbabwe is undermined by discriminatory practices under customary law. The government reports that in communal areas, where the majority of women reside in Zimbabwe, women have secondary use rights through their husbands. In small-scale commercial areas very few women own land in their own right. The farms tend to be taken over by sons when the male head of the household dies. This is despite the fact that government had set aside a 20% quota for women under the Fast Track Land Reform Programme. The new Constitution, passed in 2013, provides (under Section 4.28) that all customs, traditions, and cultural practices that infringe on the rights of women are void to the extent of infringement. As of this review, it is unclear how this aspect of the Constitution is being implemented and to what extent, if at all, it will effect women’s land rights in practice.

Zimbabwean law recognises women’s rights to have access to property other than land. All women, whether single or married, are entitled to own property, which they retain if they do marry or subsequently divorce. In practice however, this right is limited by women’s economic inequality which means they often do not have enough collateral for loans. According to civil law divorce proceedings, a woman’s contribution to the household is taken into account when dividing the couple’s joint property. This legislation does not apply in unregistered customary marriage, which does not allow women to own property jointly with their husbands. Again, it is unclear how the new Constitutional provisions, voiding customary traditions that discriminate against women, will be affect women’s access to property other than land.

Among women, women in rural areas are the largest land and property owners. The latest Demographic Health Survey survey found that half of rural women own a house or land alone or jointly, compared to one in six women in urban areas. According to that data, men in Zimbabwe have a similar rate of home and land ownership as women, with two in three men in Zimbabwe not owning a house or land, and men in rural areas the most likely land holders.

Legislation allows women in Zimbabwe to have access to bank loans. The Immovable Property Prevention and Discrimination Act prohibits financial institutions from perpetuating discrimination on the grounds of sex, among others grounds, by refusing to grant loans or other financial assistance for the acquisition, hire, construction, maintenance or repair of any immovable property, to people of a particular sex. Although financial institutions are prohibited from discriminating against women in granting loans, the government’s most recent report to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) indicated that many women are

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31 CEDAW (2010) p.50
32 FAO (n.d.)
34 Thabethe, S. (2009) p.23
36 Demographic Health Survey (2012) p. 237
37 Demographic Health Survey (2012) p. 237
38 CEDAW (2010) p.52
disadvantaged because they lack collateral security due to their weaker economic position.\textsuperscript{39} It is reported that women have benefited from government programmes providing small loans, however women’s access to larger loans remain limited.\textsuperscript{40} According to the latest data from the World Bank, 4.2\% of women received loans from financial institutions in 2011, compared to 5.6\% of men.\textsuperscript{41} In 2012, women were 43\% of borrowers at the one microfinance institution reporting to the Microfinance Information Exchange.\textsuperscript{42}

5. Restricted civil liberties

The law guarantees women’s freedom of movement; however the fear of violence set out in the Physical Integrity section, particularly in the context of political violence, poses a threat to women’s freedom of movement. Further, in its 2012 concluding report, the CEDAW Committee expressed specific concern about discrimination against and violence toward lesbian, bisexual, and transgender women perpetrated by State and non-State actors that severely curtailed the freedom of movement of individuals in these communities.\textsuperscript{43}

With respect to decision making in the family over freedom of movement, the 2011-2012 Demographic and Health Survey found that 10.7\% of married women reported that their husbands had the final say over decisions to visit friends and relatives, compared to 19.9\% of women who reported that they had the final say themselves over such decisions, and 68.8\% who reported they made the decision jointly.\textsuperscript{44}

Reports by Amnesty International in 2007 and, most recently in 2013, describe the targeting of women engaged in peaceful protests and the harsh treatment of women in detention by police.\textsuperscript{45} The US Department of State has also reported sexual violence against women associated with political violence. For instance, one local NGO reported that at least 50 women were raped during the 2008 election-related violence.\textsuperscript{46}

With respect to women’s participation in political life, section 2.7 in the new Constitution mandates that the State ensure gender balance and a fair representation of marginalized groups in all governmental bodies,\textsuperscript{47} including the Zimbabwe Electoral Commission, the Human Rights Commission. The creation of a new Gender Commission, which will be tasked with implementing the gender balance requirement, is also mandated under the new Constitution.\textsuperscript{48} With the respect to quotas, the new Constitution adopted in May 2013 provides a system of reserved seats for women for the National Assembly (See Part 4, Article 124). It also provides that out of the total 80 senators, 60 senators (6 from each of the 10 provinces) are elected through a proportional representation system “in which male and female candidates are listed alternatively, every list being headed by a female candidate” (Part 3, Article 120 (1) (2). In addition, in provincial councils, ‘male and female candidates are listed alternatively, every list being headed by a female candidate’ (Part 3, Article 268

\textsuperscript{39} CEDAW (2010) p.52
\textsuperscript{40} Thabethe, S. (2009) p.38
\textsuperscript{41} World Bank (2013)
\textsuperscript{42} Microfinance Information Exchange (2013)
\textsuperscript{43} CEDAW (2012) pp. 5-6
\textsuperscript{44} Demographic Health Survey (2012) Table 15.5
\textsuperscript{45} Amnesty International 2007, 2013
\textsuperscript{46} US Department of State (2010)
\textsuperscript{47} FAO (n.d.)
\textsuperscript{48} Muwanigwa, V. (2013)
(1 & 3)). There are also efforts to try and implement voluntary party quotas, although it is not systematically applied.\textsuperscript{49}

**More**

Women’s rights in employment are protected under the Labour Act (Chapter 28).\textsuperscript{50} The Act prohibits discrimination, on the basis of gender, at all stages of employment, such as recruitment, selection, working conditions, training and promotion. Further, under the new Constitution (Section 4.15), it is stipulated that women and men should receive equal remuneration for equal work.\textsuperscript{51} A 2005 amendment to the Labour Act also provides for 98 days paid maternity leave at full pay, covered by the employer.\textsuperscript{52}

\textsuperscript{49} The Quota Project,
\textsuperscript{50} CEDAW (2010) p. 37
\textsuperscript{51} FAO (n.d.)
\textsuperscript{52} ILO(2012)
Sources:


