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P**FUNGWE**— For years, *Tsitsi Moyo suffered physical, verbal and emotional abuse at the hands of her husband. She cannot take it anymore and is willing to walk out of the marriage, save for one problem which kept her in the abusive relationship.

“The marriage has completely broken down and I am willing to get a divorce at this point,” she said at a recent community meeting. She has two children with her husband, and she is concerned about their welfare in the event that the husband refuses to take care of them after the divorce.

“I cannot exclusively take care of them. I do not know what to do,”

she told human rights lawyers at the meeting in Pfungwe. The meeting was part of Mobile Legal Clinics (MLCs) conducted by Zimbabwe Lawyers for Human Rights (ZLHR) and its partners in Pfungwe, Mudzi and Mbire. In Pfungwe, the MLC proved life saving for Moyo as she got answers on how to proceed with her problem.

“We advised her that in the interim she should apply for a protection order and file a maintenance claim with the assistance of Zimbabwe Women Lawyers Association’s help desk at Mutawatawa Magistrates Court,” said Agnes Muzondo of ZLHR who attended the MLC.

Moyo left the meeting happy, as did many others who had previously been in the dark on how to claim their rights or approach relevant government offices for recourse and help.

Due to their remoteness, lack of access to information and low literacy rates, many people in Zimbabwe’s rural areas are often ignorant of their rights, or the responsibilities of government institutions.

As part of its MLC programmes, ZLHR has sought to shed light on the referral pathways that people can take. At the recent MLCs, it

emerged that many people were suffering in silence simply due to lack of knowledge of their rights and the operations of public offices.

ZLHR partnered Mutoko based civic society organisation, Better Life Foundation for the MLC, the Zimbabwe Human Rights Commission and the Department of Social Welfare. Members of the Zimbabwe Republic Police (ZRP) were represented at the MLCs. The partnership proved fruitful, with participants able to directly and immediately get answers or help from the various agencies present.

The cases ranged from impoverished women unsure of where to go to make men contribute to the upkeep of their children to mothers wondering how they could be helped to get birth certificates for their children, abandoned child headed families and adultery compensation issues.

In one case, a 47 year-old woman from Pfungwe has endured harassment from her in-laws for a long time. They refused to help her when her husband fell ill. They did not even assist her after his death, forcing the local headman to chip in with help.

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Agnes Muzondo of ZLHR addressing some villagers in Pfungwe at a mobile legal clinic

Parents opting to marry off young girls in Gwanda to Makorokoza as poverty levels worsen

G**WANDA**—Illegal gold-panners in Gwanda and other areas across the country are wreaking havoc, impregnating teenagers, forcing them to drop out of school and bringing other criminal activities into previously quiet areas, *The Legal Monitor* has learnt.

A series of Mobile Legal Clinics (MLCs) held in the Matabeleland South town by Zimbabwe Lawyers for Human Rights (ZLHR)

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Villagers blame school curriculum, technology for child marriages, sexual relations



Mobile legal clinics offer an opportunity for people to interact with ZLHR and ZHRC

GWANDA-Villagers of Polite, Manonkwe, Stanmore and Mahlokohloko villages in Gwanda North have blamed school curricular that is not holistic and advances in technology for rising cases of sexual relations with and between minors.

The villagers argued that information being taught in schools was not proving to be of any help as children now feel they invented sex and thus prone to engaging in it despite it being illegal.

They were speaking at a Mobile Legal Clinic (MLCs) held by Zimbabwe Lawyers for Human Rights (ZLHR) at Shake Business Centre.

“They raised the issue of how the school curriculum is not holistic in terms of the information that their children are accessing,” said Prisca Dube of

ZLHR.

“They felt that sexual reproductive related subjects in the school combined with access to technological gadgets like laptops and cell phones encourage children to experiment with sex when they are not fully equipped with necessary information such as what ZLHR and Zimbabwe Human Rights Commission (ZHRC) was sharing with the community.

“The half-baked information that children now have, what they see on social media and television makes them believe they invented sex and they also no longer have respect of parents and guardians and fear nothing at all as they view life as a joke.”

Villagers requested that information by ZLHR and ZHRC be reduced into factsheets that children

can have access to so that they get an appreciation of the legal framework around marriages, child marriages and age of consent for sexual relations.

Added ZLHR: “Maybe if they can access balanced materials and know the consequences of indulging early, some of them might be saved from teenage pregnancies and early marriages.”

Much like the rest of areas around them, the villages have seen an influx of illegal gold panners whose flashy lifestyle plus “impoverishing” COVID-19 restrictions have increased vulnerability of girls and young women.

Some of the families, ZLHR learnt, are now seeing their girls as the only way out of poverty.

“The community has recently seen an explosion of illegal gold panners which combined with the COVID-19 pandemic has shown glaring gaps in terms of how protected girl children are while simultaneously increasing the vulnerability of girls and young women in the area,” ZLHR said.

“The poverty levels experienced by most families as a result of the pandemic, lockdowns, closure of the borders and the schools also closing has made some families treating their girl children as projects to end family poverty.

“There has been an increase in teenage pregnancies as well as early marriages as a result of these pregnancies.”

One woman who spoke on condition of anonymity said her daughter was impregnated at 14 years of age and is almost 16 years now, pregnant with a second child from the same man. She said the man in question paid ‘lobola’, is very responsible and is taking care of the “young wife”.

She explained how reporting the case to ZRP does not have an answer for the immediate concerns she is experiencing in her fight against abject poverty.

Parents opting to marry off young girls in Gwanda to Makorokoza as poverty levels worsen



Prisca Dube of ZLHR engaging villagers in Shake.

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indicates the scourge is worse than what is being reported as some families have chosen to benefit from it by marrying off young girls to the flashy Makorokoza to fend off poverty.

Villagers told ZLHR and Zimbabwe Human Rights Commission (ZHRC) that government laxity in dealing with illegal gold mining activities had put their daughters at risk of being abused by these Makorokoza. In Shake, a gold mining explosion has meant an influx of Makorokoza, who are said to be on an impregnating rampage.

“Shake community has recently seen an explosion of illegal gold panners which combined with the COVID-19 pandemic has shown glaring gaps in terms of how unprotected girl children are while simultaneously increasing the vulnerability of girls and young women in the area,” noted ZLHR.

“The poverty levels experienced by most families as a result of the pandemic, lockdowns, closure of the borders and the schools also closing has made some families treat their girl children as projects to end family poverty.”

Some villagers told ZLHR that children had had too much free time over the numerous COVID-19 restrictive lockdowns, that all but closed schools for much of last year, long enough for some to be enticed into sexual relations by predators.

“The children had had too much time to experiment with sex while parents are busy trying to make ends meet,” ZLHR was told.

“Pandemic or no pandemic there should be social safety nets for children in the rural areas where things like water, firewood, shops and other services are far; in walking these distances children can be enticed into sexual relations.”

It was noted that ZRP is constrained in terms of mobility to react to most of the cases being reported in the community meaning most perpetrators get away with it.

Their violent nature has not made matters easier.

Added ZLHR after an MLC held with villagers from Silikwe, Zhukwe East, Zhukwe West, Dadata and Dambashokwe in Gwanda North: “Lack of regulation in the mining sector has created nightmares for communities where precious minerals are found and brought criminal elements among the communities which adversely affects the well-being of children and the youth.

“There is need to continually work with communities and make sure that commissions such as ZHRC are accessible to the people and thus people have recourse and their issues are given due attention be it politically and most importantly legally.”

Suffering in silence

Continued from Page 1

Yet, they continued to harass her. Like many others at the MLC, she did not know how to seek recourse. Lawyers advised her to get a protection order from Mutawatawa Magistrates Court, a process she was unaware of before the MLC.

In another case, community members brought to the attention of lawyers a child-headed family in the area. The children are eight in total, all below the age of 18. The mother resides in Harare and whenever she has a new child she sends them to the rural home. She does not pay fees, buy food or maintain the children. Community members had run out of ideas on how to assist the family, given their own dire circumstances.

Since officials from the Department of Social Welfare were present at the MLC, the issue was brought to their attention. The social welfare officials committed to dealing with the matter, while the ZRP officers advised that the matter should be reported so that the parents of the children are held accountable for neglecting their duty to take care of their minor children.

For ZLHR, the cases show the dangerously low levels of knowledge and education on basic human rights issues, service delivery and governance matters.

Mobile Legal Clinics unpack role of key institutions

MUDZI, PFUNGWE, MBIRE—Child marriages, birth certificates and demands for more robust policing. These are some of the issues that came up at Mobile Legal Clinics held in Pfungwe, Mudzi and Mbire recently.

Many people appeared unaware of the role of institutions such as the Department of Social Welfare, the Zimbabwe Human Rights Commission or how to hold the police accountable. Some of the stakeholders present took time to unpack their mandate, and the issues could be solved. Below, *The Legal Monitor* gives a summary of proceedings:

Department of Social Welfare on child marriages

The Department of Social Welfare highlighted that child marriages fall under the Department’s child protection programme and pregnancy, poverty and lack of education is never an excuse to marry off a girl.

The Department of Social Welfare also stated that as part of their mandate they seek to prevent the physical abuse of children. If they gather that a child is being abused they can and will take that child to a place of safety, foster homes or relatives.

The best interests of the child will always take precedence and the responsibility and obligation to take care of a child lies with the parent.

The Department of Social Welfare also helps with Counselling for delinquent children and gives out Assisted Medical Treatment Orders which helps individuals to get medical attention at government hospitals for free.

Department of Social Welfare on birth certificates

The issue of birth certificates was also brought to the fore with parents encouraged to get birth certificates for their children as children must enjoy constitutionally bestowed rights by being recognised as citizens of Zimbabwe.

Representatives from the Department of Social Welfare (Kotwa) stated that their department is well aware of the challenges individuals face to get birth certificates and they assist individuals in the event they have lost the necessary documentation to do so.

The Department of Social Welfare highlighted that they work towards protecting and promoting children’s rights in communities and if participants

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Mashonaland provinces top in child marriages

HARARE—Mashonaland province tops as one of the region that has a penchant of encouraging child marriages with the religious Mapostori sect fingered in what is abuse of the girl-child.

The findings of these shocking statistics emerged during a series of mobile legal clinics organised by Zimbabwe Lawyers for Human Rights (ZLHR) in Mashonaland provinces which include areas Mbire, Uzumba, Maramba, Pfungwe, Mudzi, Mahuwe and Mbire in which participants categorically stated that religious Mapostori elders and leaders were in the forefront of abetting child marriages.

There are concerns that police officers are complicity in the issue as they appear reluctant to arrest errant church leaders and other influential community leaders.

The objectives of the mobile legal clinics held in the province were:

- To campaign against child marriages which are prominent in the Mashonaland East province.
- To enhance awareness and knowledge of the Bill of Rights.
- To increase appreciation of the rights found in the Constitution so that the community of Pfungwe, Uzumba Maramba Pfungwe has citizens who are constitutionally active thus positively feeding into the development of their community.
- To create a platform where there is a constructive dialogue between legal practitioners and the community about the legal issues that are of contention.
- To ensure that almost all levels of the community from the leadership to the ordinary women, men and children are conscious about what affects their community and to reach common ground on the way forward.

In all the mobile legal clinics held, participants were educated on children's rights viz-a-vis child marriages, enforcement of child rights, the role of Zimbabwe Human Rights Commission (ZHRC) and the state responsibility in curbing child marriages and the roles of police and Department of Social Welfare.

Agnes Muzondo – a lawyer with ZLHR, spoke at all the mobile legal clinics in Mashonaland provinces and led the conversation on the phenomenon that is child marriage.

Agnes highlighted the fact that the age of 18 is the benchmark age for the definition of a child according to section 81(1) of the Constitution of Zimbabwe. She stated that gender inequality, poverty, tradition, non-alignment of legislation and lack of education are generally acknowledged as root causes of child marriage.

For instance it was noted from the January to June 2017 statistics that Mbire recorded 240 school dropouts due to child marriages. In some cases, child marriage is seen as an effective way to reduce household poverty and relieve the financial burden that girls place on their families. Muzondo also emphasised on the supremacy of the Constitution as per section 2 of the Constitution.

Muzondo emphasised certain rights that directly affect children such as:

- Section 19** of the Constitution specifically provides for children's rights. The Section calls upon the state to "adopt policies and measures to ensure that in matters relating to children, the best interests of the children concerned are paramount."

Amongst these measures is the need for the protection of children from all forms of abuse and exploitation. It must be noted that the objectives set the tone of constitutional protection and form a firm foundation for the realisation of rights enunciated in the Bill of Rights. The Constitution protects children from sexual exploitation and any other form

of abuse. This protection extends to harmful practices such as child marriage.

- Section 78** of the Constitution (Marriage Rights) sets a minimum age for marriage at 18 and prohibits forced marriage. It states: *"no person may be compelled to enter into marriage against their will"*.
- Section 26(1)** of the Constitution requires the State to take appropriate measures to ensure that no marriage is entered into without the free and full consent of the intended spouses.
- Section 26(b)** of the Constitution requires the State to take measures to ensure that children are not pledged in marriage.
- Section 56** governs gender equality and non-discrimination, including that all persons are equal before the law and have the right to equal protection and benefit of the law, and that women and men have the right to equal treatment.

Muzondo highlighted the supremacy of the Constitution and noted that any religious or traditional practice that does not align with the Constitution is unlawful. Parents were encouraged to morally train their children in the right way, also parents have an obligation and responsibility to take care of their children.

The conflict between customary law and general law was not lost to the participants. The issue of dress code was contentious as the participants highlighted the fact that children no longer dress decently while it was reiterated that dressing is no justification to physically, verbally or emotionally abuse children let alone marry them off.

Muzondo reiterated the Constitutional Court judgement in *Loveness Mudzuru and Another versus Minister of Justice, Legal & Parliamentary Affairs N.O and Others* (Constitutional Court of Zimbabwe, 2015/2016), stating that child marriage is constitutionally not permissible and there are no exceptions. No person is above the law and the law applies to everyone equally. She referred to Section 2 (2) of the Constitution which provides that;

"the obligations imposed by this Constitution are binding on every person, natural or juristic, including the State and all Executive, Legislative and Judicial institutions and agencies of government at every level, and must be fulfilled by them."

Having highlighted the role of the police in protecting children and preventing child marriages, the participants criticised how the police in their area turn a blind eye to such violations.

The participants were encouraged not to tire from reporting to the police and making follow-ups if their efforts seem futile. They were encouraged to solicit the assistance of CSOs to see that justice is served.

Muzondo elaborated on the role of ZHRC as the public protector and how participants may lodge a complaint with them if they are unhappy with how the Police are conducting their work.

Sandra Moyo – a representative from the Zimbabwe Human Rights Commission took the opportunity to reiterate the legal framework concerning child marriages in Zimbabwe with a particular emphasis on the two types of marriages permissible in Zimbabwe.

She highlighted two important pieces of law, first is the Marriage Act which only prohibited the marriage of girls below the age of 16 meaning that between 16-18 years, a girl child could be married. Section 22(1) of the Act states that:

"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:..."

The Customary Marriage Act which regulates customary marriages in Zimbabwe, on the other hand, simply did not have an age limit for customary marriages. Such silence meant that marriage of children could be allowed under customary law, including for those below the age of 16 years.

The only limit would seemingly only come through criminal law that considers any sexual act with a child below the age of 12 years to be rape. Moyo reiterated the fact that the marriage of children below the age of 18 is prohibited.

The debate was sparked on *kuripa ngozi* (Avenging Spirit) as a conflict resolution model in communities when a participant enquired as to whether they should let their relatives die instead of sacrificing one child for the greater good. With conviction, Moyo reiterated the fact that the law is the law, seemingly just or unjust, moral or immoral and children's rights have to be respected, parents must be self-aware of their children's rights.

The issue of birth certificates was also brought to the fore with parents encouraged to get birth certificates for their children as children must enjoy constitutionally bestowed rights by being recognised as citizens of Zimbabwe. The reasons highlighted for the lack of birth certificates include:

- Mother never had a birth certificate;
- Children being used as leverage in squabbles between parents;

It was reiterated that there are no valid reasons for a child not to have a birth certificate. Participants were made aware of the documentation required to secure a birth certificate and were referred to the

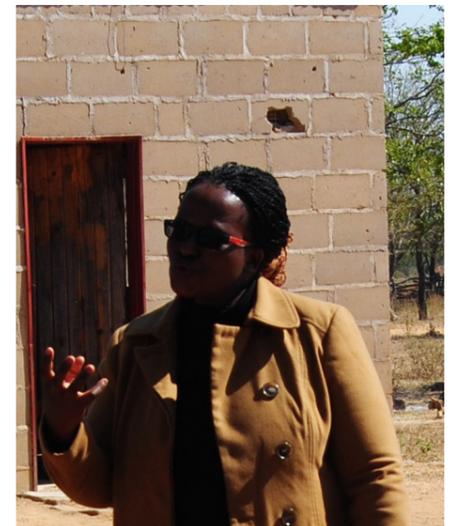
Department of Social Welfare in the event they come across any complications.

One of the participants inquired as to whether a birth certificate was necessary for securing maintenance. An explanation was given as to the exigencies determining the granting of maintenance, a birth certificate not being one of those, although it was encouraged that no child should be without a birth certificate for whatever reason. The best interests of the child are paramount.

ZHRC also went at length to further expound on other programmes they do such as the Department of Monitoring and Evaluation, Complaints and Handling Mechanism and Education.

Poverty and lack of education were just but some of the reasons cited as the reason behind the high prevalence of child marriages. The participants echoed the same sentiments highlighting that communities such as Mbire lack role models leading to poor academic results and child marriages.

Gwanda villagers demand severe sentencing of sex offenders



Prisca Dube of ZLHR stresses a point at a mobile legal clinic in Dubani village

GWANDA—Villagers in Gwanda's Dubani area including resettlement areas in Thornwood East have demanded that courts pass severe sentences for sex offenders, who violate children or persons below 18 years of age.

The villagers, who were speaking during one of Zimbabwe Lawyers for Human Rights' (ZLHR) Mobile Legal Clinics (MLCs), argued if mandatory sentences were passed for those convicted for stock theft, then the same should be done for sex offenders.

The discussion generated a lot of interest as villagers sought a solution to the challenge that has been worsened by a lengthened COVID-19 restrictive period that has limited children's school attendance.

"Sexual violence took the main stage as some community members felt that if stock theft and theft of copper wire have mandatory sentences surely there must be a mandatory sentence too for those who violate children and or have sexual relations with persons who are below the age of 18 years," said Prisca Dube of ZLHR.

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Villagers request more Mobile Legal Clinics



In partnership with ZLHR, ZHRC is assisting in educating people about its functions

GWANDA-Villagers in Gwanda, Matabeleland South have requested for more Mobile Legal Clinics (MLCs) for them to be knowledgeable on laws that not only protect them but their daughters who are now surviving at the mercy of illegal gold panners.

Speaking at a series of MLCs held in the province by Zimbabwe Lawyers for Human Rights with some in conjunction with Zimbabwe Human Rights Commission (ZHRC), villagers welcomed the initiative as a solution to the knowledge gap between them and urbanites.

“With these obtaining circumstances, the target group was specifically mobilised in order to raise awareness against child marriages and the roles and responsibilities of the community at large to be agents of change and curb this scourge so that children can enjoy their childhood, stay longer at school and not be having children when they too are still children,” said ZLHR.

“MLCs are therefore one of the best models for organising trainings

and imparting information to communities because they place an emphasis on the participation of those most affected in articulating problems and organising for change to address their own felt needs.

“Nationally there has been an exponential increase in the number of teenage pregnancies and unfortunately child marriages as families under the current economic environment combined with restrictions that the COVID-19 pandemic has brought about has seen most families unable to take care of their children.”

ZLHR and ZHRC explained in detail the age of consent in sexual relations where 1 – 11 years 364 days is rape, +12 – 15years 364 days having sexual intercourse with a young person, and then, +16years previously grey area that has now been addressed fully by the 2016 Constitutional judgment on the area of marriage but remains grey still when talking of sexual relations.

ZLHR and ZHRC went further on to give legal advise to victims in cases that include inheritance, documentation, access to education and access to justice.



Participants pay attention at a mobile legal clinic held in Gwanda

Mobile Legal Clinics unpack role of key institutions

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have any issues they should not hesitate to engage them.

Role of Zimbabwe Republic Police

After lawyers highlighted the role of the police in protecting children and preventing child marriages, participants alleged that the police were turning a blind eye to such violations. The participants were

encouraged not to tire from reporting to the police and making follow-ups. They were encouraged to solicit the assistance of Civic Society Organisations to see that justice is served if their efforts to report to the police seem futile.

Agnes Muzondo of ZLHR elaborated on the role of the Zimbabwe Human Rights Commission as the public protector and how people may lodge complaints with them if they are unhappy with the conduct of the police.

Gwanda villagers demand severe sentencing of sex offenders



Villagers attending a mobile legal clinic in Sithezi in Gwanda

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“Combined with the school curriculum that is not holistic in terms of the information that their children are accessing this had resulted in a gap from which the teenage pregnancies have resulted and being economically constrained some families have had no choice but to make those who have impregnated their children be ‘responsible’ for the pregnancies.

“The children had had too much time to experiment with sex and parents are busy trying to make ends meet and as such pandemic or no pandemic there should be social safety nets for children in the rural areas where things like water, firewood, shops and other services are far and in walking these distances children can be enticed into sexual relations.”

Dubani village is part of Thornwood East, a resettlement area that used to be land belonging to Forbes and Tom Mine before the 2000 land resettlement programme.

On some of the mining claims, they has been an influx of illegal gold panners and an increase in criminal activity in the community.

Zimbabwe Republic Police’s (ZRP) Sergeant Mashonga, in attendance, said some of those surviving on gold panning were to blame for the rise in teenage pregnancies being recorded in the area.

“Those that get to be known to the community and manage to make a living from gold panning start relations in the area and it has resulted in young teenage girls falling into sexual relations and in some instances marriages,” said Mashonga.

“Where a child is molested, raped or enticed into sexual relations by relatives it takes a longer time than if the act was by a stranger for the child to disclose and by that time it can be very late in terms of evidence gathering and most importantly taking the necessary medical treatments to prevent pregnancy and transmission of diseases.”