

Cross-cultural Perspectives: The Intersection of Power and Intimate Partner Violence
in Zimbabwe

by

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ABSTRACT

In spite of numerous legal interventions and a fairly strong legal capacity compared to other neighboring countries, Zimbabwean law enforcement and judiciary have failed to overcome Intimate Partner Violence (IPV). This research examines the role of customary law in the continued prevalence of IPV among Zimbabwean women, particularly, the subtle ways in which customary law legitimates the ideals of patriarchal domination in the communal and legal handling of IPV cases. The study utilized qualitative methodology in the form of structured interviews as well as pre-interview questionnaires. Eighteen women who identified as IPV survivors or victims were recruited using snowball sampling method whereby each person interviewed was asked to suggest additional people who were either present victims or survivors of IPV. Five lawyers from Chinhoyi, ten lawyers from Harare, ten police officers from Chinhoyi and ten police officers from Harare were identified using judgement or purposive sampling where subjects are chosen due to availability. The research established that IPV is a way in which abusers exercise their assumed patriarchal rights over women. Likewise, police officers are also influenced by attitudes and mentalities acquired from customary law in the way they handle IPV cases which resultantly leads to secondary victimization of IPV victims. The research concluded that much work still needs to be done by the judiciary, law enforcement and the community to combat the prevalence of IPV in Zimbabwe.

DEDICATION

I dedicate this thesis to every person who has ever raised a prayer for me, offered a word of encouragement, celebrated with me or cried with me during this academic journey!

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TABLE OF CONTENTS

CHAPTER	PAGE
ABSTRACT.....	i
DEDICATION.....	ii
ACKNOWLEDGEMENTS.....	iii
TABLE OF CONTENTS.....	iv
INTRODUCTION.....	1
LITERATURE REVIEW.....	3
The Role of Customary Law in the Attitudes of the Community towards IPV.....	4
Influence of Customary Law in Law Enforcement and Legislative Processes.....	8
IPV as a Human Rights Issue.....	11
DATA AND METHODS.....	14
RESULTS.....	16
Forms of IPV Experienced.....	16
Reporting Patterns among Victims.....	16
Victims' Experiences with the Police.....	17
The Role of Customary Law in the Attitudes of the Community towards IPV.....	17
Relationship between IPV Victims and the Police.....	19
Relationship between IPV Victims and Legal Practitioners.....	22
Relationship between IPV Victims and their Families.....	23

DISCUSSION	25
Limitations	27
Recommendations.....	28
WORKS CITED	31
APPENDICES	35
APPENDIX A.....	36
Demographic Questionnaire for IPV Victims.....	36
APPENDIX B	40
Interview Guide for IPV Victims.....	40
APPENDIX C	44
Interview Guide for Police Officers.....	44
APPENDIX D.....	48
Interview Guide for Legal Practitioners	48

INTRODUCTION

Through the adoption of Roman-Dutch law, Zimbabwe has experienced rapid progress when it comes to the handling of IPV. Firstly a criminal justice perspective was adopted which later gave birth to the analysis of IPV through a global health perspective. This latter perception views IPV as a virulent matter that has resulted in untold suffering for women. Furthermore, the human rights perspective views IPV as a phenomenon that infringes on women's universal rights to freedom, security, equal opportunity and personal development. Bodies such as the United Nations have assumed a leading role in the recognition and fights against IPV and present Zimbabwe with the obligation to protect women in intimate partner relationships from IPV.

In Zimbabwe, the Domestic Violence Act [Chapter 5:16] (Act 14/2006) criminalizes all forms of IPV that include but are not limited to; physical, sexual, emotional, verbal, economic and psychological abuse as well as intimidation (Chapter 5:16). The enactment of the Domestic Violence Act was an apt response to the prevailing IPV in several communities. It was introduced to protect both men and women from all forms of intimate partner-related abuses. The aim of the law was to provide relief and ensure the protection of IPV victims as well as establish long-term measures for the prevention of IPV.

Prior to the enactment of this law, there was no statute which protected victims of IPV. Most suffered in a dark corner as the traditionally pivoted society did not take into cognizance such crucial matters. According to a survey conducted by Musasa Project, prior to the institutionalization of the Domestic Violence Act, at most 1 in 3 married women were victims of IPV (Mukanagana et al 111).

In light of all the literature and theories of IPV in Zimbabwe, this study seeks to give responses to the following research questions:

1. Does customary law legitimate IPV? In what ways?
2. In what way does customary law influence the way in which IPV cases are handled?
3. What training do police officers have?
4. What are the attitudes about IPV held by the community?
5. In what way do traditional views held by police officers influence the way they handle IPV cases?
6. What attitudes do family members have about IPV?
7. How do victims respond to their abuse?
8. How are they victimized again by police when they report?
9. How do lawyers assist IPV victims to know which form of law to use? How do they use the Domestic Violence Act to help victims?
10. How do mentalities and attitudes about gender roles by family and community members influence the ways they interact with victims?

LITERATURE REVIEW

IPV is defined as behavior within an intimate relationship that causes physical, sexual or psychological harm, including acts of physical aggression, sexual coercion, and psychological abuse as well as controlling behaviors (World Health Organization 8). Intimate partners include but are not limited to spouses, former spouses, boyfriends/girlfriends and dating partners (Breiding, Matthew, et al 11). Cognizant to the above forms of intimate partners, men and women in same-sex relationships are also included in the definition of intimate partner relationships that can result in IPV (Breiding, Matthew et al 11). For the purposes of this research, I will only focus on IPV among married partners in heterosexual relationships in Zimbabwe.

Knowledge about IPV in Zimbabwe is still limited as all studies mainly focus on the causes of IPV but none go into detail to analyze the specific form of IPV that is prevalent in most marital relationships. An understanding of the distinctions that exist among different forms of IPV prevents researchers from overgeneralizing IPV as a unitary phenomenon and is helpful when creating holistic intervention approaches (Johnson 3). This is why applying Johnson's classification of various forms of IPV to the Zimbabwean context would certainly enrich IPV scholarship in Zimbabwe. This is because IPV has always been analyzed as a unitary concept in the African context as no scholar has ever classified IPV according to the control levels associated with each form. Hence, applying Johnson's framework to the Zimbabwean context certainly yields unique results and new ways of viewing IPV. Johnson (2008) argues that IPV can be witnessed in several forms that mainly include, however not exclusively: intimate terrorism, violent resistance, mutual violent control and situational couple violence (6). Such forms of IPV

are also evident in Zimbabwe where each violent act occurs due to different causes. When one partner in a relationship uses power or coercive control against the other spouse, it is often called intimate terrorism (Johnson 7). Intimate terrorism is the most prevalent form of IPV among married women in Zimbabwe. Threats, intimidation and isolation are often used by the male partner to control every other aspect of the female partner's life in areas such as financial independence, emotional stability, and sexual liberation, among others. If such forms of abuse escalate over long periods, intimate terrorism often results in drastic chronic effects on the victim. Consequences of prolonged exposure to intimate terrorism include chronic pain, gastrointestinal and gynecological problems, depression, and post-traumatic stress disorder, just to mention a few. Intimate terrorism also affects the mental health state of the victim as it creates more problems such as anxiety, substance abuse and regrettably low self-esteem (Johnson 41).

The role of customary law in the attitudes of the community towards IPV

There are multiple ways to analyze IPV using various frameworks. Cannon (2015) explains that a Foucauldian model of power provides us with a framework of understanding the ways in which identities are produced within and by various discourses (670). This paper will argue that in Zimbabwe, customary law is one such discourse used to create an identity of subservience and docility for women by legitimating IPV. Customary law is defined as, "the traditional law of indigenous peoples, generally oral, sometimes narrative or based on established performative practice, including song and dance, rather than in written codes or principles" ("Customary Law"). Ndulo (2011) argues that, "Customary law has a great impact on the lives of the majority of Africans in

the area of personal law in regard to matters such as marriage, inheritance, and traditional authority (89). For this reason, all marital relationships, family matters and any issues pertaining to gender performance are always governed by customary law in Zimbabwe. The major debate among scholars concerns the compatibility of customary law and human rights as they all advocate for completely different things. While Roman Dutch law promotes human rights and equality, customary law views women as inferior beings to men. To mitigate this conflict, the government of Zimbabwe has placed written Ndulo argues that,

From the inception of colonial rule, customary law was applicable on two conditions: 1) that it was not repugnant to justice, equity, or good morality and 2) that it was neither in its terms nor by necessary implication in conflict with any written law (95).

Yet, up to the present day, many traditions and customs observed by customary law in marriage and inheritance continue to conflict with the Constitution of Zimbabwe and the Domestic Violence Act, particularly in all issues that involve gender roles.

One fundamental practice of customary law that legitimates IPV is the payment of bride price (roora/lobola) which creates attitudes of ownership among men when it comes to their female spouses. Roora is defined as, “the transfer of property, usually livestock, by the husband (or his guardian) to the wife’s family as part of the process constituting a marriage (Nkomo 41). Although the practice is a way for the husband to appreciate his soon to be wife’s family, it commodifies women and allows men to have a form of ownership over their female spouses. Husbands feel that they are allowed to abuse their wives in any way simply because they paid the bride price for them. Hence, payment of bride price results in male spouses having a form of ownership over their wives. Foucault argues that “power is tolerable only on condition that it masks a substantial part of itself.

Its success is proportional to an ability to hide its own mechanisms” (Foucault 86). By hiding under the guise of customs and traditions, patriarchal power oppresses women through the legitimation of IPV.

Chireshe (2015) details that among his study participants, six indicated that their abusers believed they owned their wives simply by paying roora for them. One woman even explained,

Our relationship changed the moment he paid roora to my father. Paying roora gave him a sense of possession. His words soon after roora payment were, ‘Know that you are now married and that I am the head’. Ever since our relationship has been one of a leader and a follower. Sometimes I regret why I got married to this man because to say the truth I have no voice in the marriage. (Chireshe 385).

The payment of roora relegates women to positions of subservience whilst legitimating IPV as the husband takes the role of a leader in the relationship. Roora introduces power dynamics that diminish women’s ability to make decisions in a marriage. As a result, men take advantage of this hegemony to commit violence against their wives because of their assumed authority acquired from paying the bride price. Even Merry (2011) explains that those who justify themselves typically tend to explain gender violence by drawing on the ideas of gender and its responsibilities and entitlements (3). In Zimbabwe, abusers use the power dynamics created by the payment of roora to justify why they feel entitled to abuse their wives.

Konyana (2016) goes further to expand on the power dynamics created by the payment of roora. Men equate payment of roora to having a right to sexually, physically and emotionally abuse their wives. He states that

Many men and women do not believe that there is marital rape in a customary marriage as men think that payment of roora entitles them to have sex with their wives whenever they wish (345).

Women suddenly lose autonomy over their own bodies once they have been married because husbands believe they now have full authority over a woman's body. They believe they can use that authority to control women's reproductive systems and sometimes even force their wives to have unprotected sex. This is unfair to women as they end up as subjects instead of partners in a marriage. Hence, the payment of bride price has significantly contributed to the legitimation of IPV in Zimbabwe.

Another way in which customary law further legitimates IPV is by normalizing gender roles and the abuse of women. Because customary law is built on patriarchal ideals, it socializes women to believe they are inferior to men. Fidan, Ahmet, and Bui (2016) believe that one of the major causes of IPV in Zimbabwe is the hierarchical organization of social relations pertaining to privilege and power. They argue that,

the socialization into the acceptance of gender inequality through gender norms, which are often colored with moral nuances, allows gender inequality to go unquestioned and unchallenged, thus providing ideological and moral support for patriarchal families (Fidan et al 1077).

This positionality of women since time immemorial has often left women vulnerable to abuse, but more importantly, in Zimbabwe, it has created room for the creation of customs that are designed to specifically uphold patriarchy, thereby leading to IPV.

Because of gender roles created by customary law, women are socialized to feel responsible for the success of a marriage even when they are being abused. Cultural socialization burdens women with the responsibility to make a marriage stable, which in turn results in the failure of many women to report acts of IPV. From a tender age, women are taught that they have a responsibility to protect and fight for their marriages no matter the cost. As they reach puberty, "girls are taken through marriage rites on how

to keep their marriages and observe marital rituals, with the most central teaching being how to please their husbands sexually” (Konyana 347). Thus, Zimbabwean women are burdened with the social obligation to stay in a marriage, even when it is abusive. In light of such pressures from society, many women struggle to seek any help. If a woman has spent an entire lifetime being cultured to conform to such methods of husband retention, it becomes extremely hard to convince her to resort to legal methods to stop the perpetuation of IPV in the household. This is why most women never leave violent marriages in the name of staying strong for their families and making the marriage work. Thus, cultural norms that girls are taught from childhood largely influence the way they react to cases of IPV.

Influence of customary law in law enforcement and legislative processes

The gendered relationship between law enforcement officials and victims of IPV also perpetuates violence against women in intimate partner relationships. Merry uses the story of Dora to reveal the failure of law enforcement in providing meaningful support to victims because of gender biases that exist within gendered relationships in the United States. She gives an example of an IPV victim, Dora, who experienced secondary victimization from the police. When police officers were arresting Dora’s husband, they started “talking story” with him, and even had a discussion about where they could go fishing (Merry 6). Instead of offering Dora the protection she needed, the male police officers were making conversation with Dora’s abuser and even bonding with him. Such gendered relationships between male police officers and female IPV victims are also evident in Zimbabwe. The impact of these gendered relationships on IPV is worsened by patriarchal attitudes and norms acquired from customary law held by police officers in

Zimbabwe. A report on the relationship between law enforcement and women in Zimbabwe by IDARA (2011) explains the existence of a general reluctance by police officers to enforce the Domestic Violence Act to protect IPV victims. Police officers often view IPV as “a private matter, best left behind closed doors” (3). Male police officers tend to subvert their known legal obligations stipulated in Section 5 of the Domestic Violence Act because of the influence of customary law in their own mentalities. The attitudes of police officers are a reflection of an attempt to hold on to the gains of patriarchy and male privilege. Ultimately, this leads women to distrust law enforcement officials because they have seen many police officers siding with their male abusers.

Alcade (2011) expands on the same theme and explains that

Institutions can reinforce these feelings by questioning women’s behavior at home and their efforts to seek help, as well as by directly blaming women for men’s violence” (Alcade 101).

Similarly, Zimbabwean police officers have been known to trivialize IPV often encouraging IPV victims to go back home and fix their issues with their husbands. Mutema (2018) explained that most IPV victims expressed dissatisfaction with the way police officers handled IPV cases. One woman said,

In cases of domestic violence one should be assisted promptly. But the police officers are dismissive and regard the cases as valueless (Mutema 25).

Because of their own traditional biases about gender roles, law enforcement officials such as police officers fail to meet the needs of IPV victims. Thus, it is challenging for the police officers to separate their own biases acquired from customary law from the voice of statutory law.

Most women are trapped in abusive relationships because they do not trust the justice system, which is largely patriarchal in nature. To them, reporting to the police is always a waste of time because nothing fruitful ever comes out of that. Such a relationship between IPV victims and the justice system exists in both Zimbabwe and Israel where both countries' legal systems are influenced by statutory law as well as customary law. During her time in Israel, Adelman explains that she

Rarely heard the hotline volunteers talk about the police, and even the few times they did, it was to criticize their response and/or their collision with relatives who were batterers" (7).

Such actions from the police typically stem from their conservative attitudes towards IPV as a normal part of intimate partner relationships where male spouses discipline their wives for misbehaving. The Chief of Police interviewed by Adelman in Haifa, Israel stated,

Police officers are aware that they're being asked to be tougher, but some of them still haven't read the rules. Sometimes they blame the wife for the assault, or say things like "Why don't you go home and be a little nicer to him" (Adelman 61).

Instead of protecting women from more violence, some police officers encourage IPV victims to go back to violent relationships. Worse, they continue to blame the victims for the violence they are facing. Similarly, in Zimbabwe, some police officers are known to provide reckless recommendations to IPV victims with one officer advising an IPV victim to go back to her abuser and consult a prophet who will make the situation better (Mutema 25). Ultimately, this causes women to avoid police stations in fear of facing secondary victimization that comes through blaming, shaming and reckless referrals.

IPV as a human rights issue

The way we frame IPV can largely influence how it is dealt with in society, for example, framing IPV as a human rights issue versus a gendered issue. Bowman points out that the framing of IPV largely impacts the remedial strategies implemented by society (848). The theoretical grounding of IPV plays a substantial role in shaping the perceptions and mindsets developed by lawmakers, citizens, the courts and everyone else in society, which in turn will have a large impact on the policies developed, reactions of society to IPV and solutions offered to curb IPV. When we move away from treating IPV as a cultural phenomenon and frame it as an international human rights issue, states are then forced to take extensive actions because, under international human rights law, states have a duty to exercise due diligence to prevent, prosecute and punish violence against women.

IPV is not only an interpersonal violence problem, but it is also a human rights issue. McQuigg (2015) provides a history of the inception of IPV into international human rights law. The issuance of General Recommendation 19 by the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) and the UN General Assembly's Declaration on the Elimination of Violence against Women require states to exercise due diligence to prevent acts of violence against women, whether these acts are perpetrated by the state or by private persons. McQuigg argues that

...not only does the state have a duty to implement effective criminal law measures to protect the right to life, it may also have a positive obligation to prevent the right of an individual from being breached by another individual (45).

Under general international law and specific human rights covenants, states may be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.

Normally, people expect international law to only address cases of public violence, however, the instrument issued by CEDAW removes the division between public and private spheres where violence is perpetrated against women. Forcing states to act in ways that help to prevent acts of gender violence is a positive step towards the reduction of IPV in many countries. This is because IPV continues to prevail in many states because of patriarchal and traditional schools of thought that have been normalized by many communities, it is only when states are mandated to act against these forms of normalized violence that progressive measures can be enforced. Many institutions in Zimbabwe are inherently corrupted by patriarchal attitudes through the practice of customary law and attempting to get rid of these attitudes would not only be difficult but will also take a long time. For this reason, the Zimbabwean government can only be invested in protecting women against such violence only when they know they are mandated to do so by international law. When the government has to choose between preserving a culture and upholding human rights, human rights always have to prevail. Thus, the moment cultural values impede on human rights, it is a sign that something needs to be done to either get rid of those cultural values or align them with human rights.

When properly enforced, international law not only promotes accountability but also reduces judicial passivity that normally occurs when states know they are not being monitored. Viewing IPV as a human rights issue is a step towards progress because, in an effort to conform to the demands of international law, states will develop better

legislative frameworks, improve the efficiency of the criminal justice system among many others.

DATA AND METHODS

Participants in this study included the following: 18 women who either work or reside at Chinhoyi University of Technology, ten police officers from Chinhoyi Central police station and 15 police officers from Southerton, Glenview and Budiriro police stations, five local lawyers from Chinhoyi CBD and ten lawyers from Harare CBD.

Eighteen women were identified using the snowball sampling method whereby each person interviewed was asked to suggest additional people who were either present victims of IPV or survivors. This sampling method was particularly useful because IPV is regarded as an “in- house” that should not be known by people outside the marital home as no woman wants to come out openly and admit that she is a victim of IPV in fear of disgracing the dignity of her marriage. For this reason, identifying this special group was not easy and the researcher had to rely on referrals. As purported by Atkinson and Flint (2001)

Often members of such populations may be involved in activities that are considered deviant, such as drug taking, or they may be vulnerable, such as the stigmatized in society, making them reluctant to take part in more formalized studies using traditional research methods. Trust may be developed as acquaintances or peers rather than other more formal methods of identification make referrals... (Atkinson, Flint).

Informed consent forms were given to the women victim subjects prior a week before the research took place. These consent forms contained information about procedures, benefits and outlined the risks of participating, an explanation outlining how to acquire the results of the research, availability of counselling services, voluntary participation, and contact information of the researchers. The purpose of the study was also on the consent form. However, ultimately verbal consent was the indication that a subject had agreed to participate in the interview in order to protect the privacy of these

women. Additional materials included a qualitative questionnaire that was divided into two sections. The first section had five questions that asked for the subject's age, level of education, occupation, partner's occupation and the couple's total income per month (Appendix A) The second section had more in-depth open-ended questions about the subject's experiences with IPV. (Appendix B).

Legal practitioners and police officers were identified using judgement or purposive sampling where subjects were chosen based on availability. Police officers and legal practitioners were given qualitative questionnaires that contained twelve and eight questions in order to ascertain their experiences with IPV, how they have dealt with them and their opinion regarding the main cause of IPV. (Appendix C & D). They also participated in a structured interview in person or over the phone based on their availability.

Some of the police officers chose to instead participate in a focus group interview. Harrell and Bradley argue that a focus group could especially be beneficial; when individuals being researched have grown weary of surveys and appreciate the opportunity to air their views verbally instead of responding through surveys. (Harrell, Bradley 147). All subjects were from Mashonaland West and Harare province in Zimbabwe. All interviews were recorded at the consent of the participants and the recordings were destroyed once the transcription process was over to protect the privacy of the participants.

RESULTS

Forms of IPV experienced

The most prevalent form of IPV experienced by women was physical violence which was noted to be at 61% (n=11: 11/18) of the interviews. It was interesting to note that 72% of the women (n=13) reported that they had suffered multiple forms of IPV which included a combination of two or more of economic, emotional, physical, verbal, and sexual abuse.

Reporting patterns among victims

More than half of the women respondents, 67% (n=12) indicated that they had not reported the violence to the police. Out of these cases, 22% (n=4) cited cultural norms and social control factors as having influenced their decision not to report to the police. About 16% (n=3) indicated that they could not report their spouses to the police because they were dependent on the perpetrators and feared to lose the family's breadwinner. Additionally, 6% (n=1) indicated that she had reported her husband to the police but later withdrew the case against him because of financial dependence. However, 11% (n=2) of the respondents indicated that they did not report their abusive husbands to the police because they "loved" them and believed that they would change. Of the two respondents, one did not state any reason that influenced her decision not to report. Only 33% (n=6) of the respondents indicated that they had reported the matter to the police.

Victims' experiences with the police

About 33% percent (n=6) of the respondents reported their cases to the police. However, half of these (n=3) reported that they had unpleasant experiences with the police. Only 33% (n=2) reported pleasant experiences with the police. The last respondent was indifferent to her experience with the police.

The role of customary law in the attitudes of the community towards IPV

Customary law legitimates IPV through various practices such as the payment of bride price where men derive their assumed right to abuse their spouses. By simply paying the bride price, male spouses feel that they have acquired the right to control their wives socially, economically, physically and sexually. When asked about the role of customary law in the prevalence of IPV in Zimbabwe, one legal practitioner answered that “in customary law, women are viewed as things ...but the system of paying lobola by men makes women the weaker or lesser human beings.” His statement revealed that although women are already deemed inferior by other traditional laws in Zimbabwe, the concept of paying bride price strengthens that inferiority. One woman said,

When a husband marries you, he thinks he has bought you. He will do whatever he wants to you simply because he paid the bride price. Some will even brag to you that you are stuck with them because of the bride price they paid.

Hence, not only does paying bride price give men a sense of ownership over their wives, but it also traps women in abusive relationships where they are unable to seek help simply because they were paid for.

Another way in which customary law legitimates IPV is by allowing male spouses to beat their wives as a way of correcting or disciplining them. This is strongly tied to the authority that husbands acquire from paying a bride price. Such authority allows male

spouses to assume headship in a way that makes them entitled to discipline the rest of the household in whatever way they deem necessary. One of the women participants echoed these thoughts

My society believes that women should always be submissive to their husbands and if they are not, they should be punished. That punishment comes from the husband in the form of beatings, which are considered normal because a woman either raised her voice to her husband, didn't obey his instructions or because she failed to fulfill her duties.

These feelings of entitlement by husbands are one thing, having a society that condones such practices worsens the situation even more. Acceptance of these practices by society normalizes IPV which further goes on to silence victims.

Customary law further legitimates IPV by normalizing abuse and allowing women to see it as a natural practice. Only 22% (n=4) of the women in the study reported that their communities condemned IPV and viewed it as a regressive practice. 28% (n=5) reported that society condones IPV and accepts it as a way for husbands to “discipline” their wives. Another 17% (n=3) reported that society is patriarchal and therefore does not really care about what happens to women; women are expected to be submissive to men and if they are perceived to be insubordinate in any way then there is nothing wrong with literally whipping them back into line. The remaining 17% (n=3) reported that dialogue about IPV is non-existent in society and the topic is never discussed. This silences women as they do not see the need to report about the abuse they face because society has shown that it fully condones such practices. One research participant who decided to inform her relatives about the physical abuse she was facing at the hands of her husband expressed her disappointment with her family's reaction. Instead of being allies, her family told her “to be strong and endure the pain” because they believed that IPV is

normal once in a while in any marital relationship. Other common responses received by IPV victims from their families included:

- a. just pray about it until the marriage becomes peaceful
- b. a woman should always be submissive to her husband and if she doesn't she should be punished
- c. listening to your husband will make him respectful towards you and he will not beat you
- d. that's what marriage relationships are like so you have to learn to stay strong and it will come to pass
- e. IPV should be kept a secret because that is how married life is like....your husband wouldn't beat you if you behaved
- f. attend a family meeting where you can receive counselling without involving the police.

The proliferation of these misconceptions about IPV always results in institutionalized violence that is difficult to eliminate. Women are trapped in a cycle of unending violence that they grow to accept. Worse, they even blame themselves for the violence. One woman participant said, "If I am being abused, it is because I did something wrong." Once an IPV victim blames herself for an issue she should be seeking help for, it becomes very difficult to enforce any legal recourse because the victim has already accepted the status quo.

Relationship between IPV victims and the police

Although IPV victims revealed the existence of an unfriendly interaction between them and police officers, the officers who work with the Victim Friendly Unit are known to go through formal training intended to equip them with knowledge of the Domestic Violence Act and resources for IPV victims. All police officers interviewed 100% (n=20) explained that their main responsibility was to receive IPV victims and depending on the gravity of the abuse, they will then offer the following: counselling and monitoring, recommending the victims to safe houses and shelters as well as filing a report that will

be used for subsequent judicial proceedings. Police officers also carry out investigations that will later be used by legal practitioners in court in the event that the victim decided to pursue legal recourse.

A similar response received from police officers concerning the training they received on IPV was

I received several trainings [sic] on IPV that include the Victim Friendly Unit course, workshops from Adult clinic and workshops from Msasa. IPV cases are also considered as serious cases as they typically recur, therefore, we consider dealing with them as another training on its own.

These statements revealed that police officers who worked in the Victim Friendly Unit were indeed qualified to deal with IPV issues in line with the regulations laid out in the Domestic Violence Act.

Police officers also revealed they were knowledgeable about the legal handling of IPV cases. When asked about the legal processing of IPV cases, one officer answered that

You can come to the police station and report for anybody whom you believe is being abused.[sic] If it is emotional abuse, you report to civil court for a protection order, the accused is warned by the police that he should not emotionally abuse his wife. If it is physical abuse, we do not offer counselling services, we explain to the complainant about the process and we tell her that she is the victim then we open a docket.

In light of the knowledge that police officers have about handling IPV, it remains a mystery why IPV victims do not feel safe reporting about the abuse they face to police stations. Further analysis into this revealed that although police officers are knowledgeable about the legal proceedings concerning IPV, they are still affected by customary law in their handling of IPV cases. It is important to note that police officers are citizens of a patriarchal society first before they are officers of the law. For this reason, they are raised in a society that teaches them about gender roles and patriarchy at

a tender age. Such mentalities and views acquired since childhood are not easy to eliminate in spite of the level of training one may have received. This is strongly evidenced by IPV victim testimonies as well as specific remarks from the police officers themselves.

One heartbreaking testimony came from a woman who experienced secondary victimization from the police officers even after being victimized by her relatives when she reported about the abuse she was facing.

At first at the station, all the police officers were ignoring me. I was crying in pain from the beatings I had received from my husband but they thought I was crying for attention. They kept on calling other officers to come and see me, the dramatic woman who was crying. They all found me funny and said that I was beaten because I am too dramatic and because I probably talk too much.

Blaming IPV victims for being abused and making light of the abuse they experience are all ways in which patriarchal attitudes and male privilege continue to diminish violence against women as well as disenfranchising them. Seeking help from the police was already an act of strength for this woman, however, because of her encounter with the police, silence became the only recourse available to her. Because families discourage IPV victims from seeking help and instead encourage them to stay strong in the marriage, the ones who go to the police and suffer such treatment end up losing all hope. Another woman even thought of committing suicide after experiencing secondary victimization at the hands of the police. She said

You even think of killing yourself because if you report to the police they will tell you to go home and be nice to your husband, if you report the incident to your relatives, they will tell you to stay strong for the sake of your marriage.

It is interesting to find well-trained police officers knowledgeable about the Domestic Violence Act and the trauma of abuse yet they advise victims to go back home and treat

their abusers well in order to stop the abuse from taking place. This can only be blamed on customary law which normalizes these attitudes in Zimbabwe.

The stories received from the victims largely contradict the responses received from police officers who stated that IPV cases remained high in Zimbabwe because victims were failing to report about IPV or they were withdrawing police cases in order to protect their husbands. The testimonies received from IPV victims clarify why they shun the justice system. It was also enlightening to discover some of the conservative attitudes held by police officers towards IPV being expressed by the officers themselves. At some point in the interview, 80% of the police officers from Chinhoyi mentioned that IPV can be reduced in Zimbabwe if only women would learn to “respect their husbands.” In Harare, 40% of the police officers blamed women for the abuse they experienced because they “talk too much” or because “they do not know how to treat their husbands well.” Such comments from police officers revealed that inspite of their knowledge and training, police officers remain biased in the way they handle IPV cases because of the influence of customary law and traditional beliefs that have molded them since childhood.

Relationship between IPV victims and legal practitioners

One group that has worked relentlessly to bridge the gap between customary law and statutory law is the legal practitioners as they always know when to use either of the two legal systems. One lawyer explained that the prevailing legal system in Zimbabwe is statutory law which heavily borrows from Roman-Dutch law. He explained that this legal system

Overrides customary law when it comes to contradictions between the two legal systems. When IPV victims come in, we always make it clear to them that statutory law carries more weight than customary law and we also let them know about the rights they have in accordance with the Domestic Violence Act.

It is refreshing for IPV victims to hear this especially after experiencing secondary victimization from their families and some police officers. Simply knowing that they have other options often signals hope for IPV victims as they no longer feel trapped in a cycle of violence. However, IPV victims still need to choose between pursuing legal remedy yet receiving backlash from family members or remaining silent about the abuse and still managing to coexist with relatives. Such decisions are very difficult for IPV victims. Another lawyer stated that

Customary law places a huge amount of emphasis on peaceful resolution methods that do not always conform to international and national human rights statutes. It is mainly focused on the preservation of peace and respect in the marriage rather than the protection of human rights. Our job is to help IPV victims realize that they can get help through statutory law and that they have a right to live peacefully without any threat of violence.

When faced with such decisions, many women choose peace and coexistence with their families with only 33% choosing formal resolution methods through the police stations and the courts.

Relationship between IPV victims and their families

Those who pursued the latter often went on to experience even further victimization from their relatives who believe in the importance of marriage and customs. After being mocked by the police, one woman tried to seek help and solace from her family who forced her to return to her abuser and drop the police charges against him in order to protect her marriage. This forced her to accept IPV as a normal part of marriage

and it also trapped her in permanent silence where she never shared about the abuse with anyone else to protect her husband. She said,

I love my marriage and I love my husband but it's hard for me to endure violence every day. Sometimes I am injured badly and have to lie to people that I fell just so I can protect my husband.

Because of the patriarchal nature of customary law, IPV victims do not receive the help and support they need and they end up having to develop harmful coping strategies such as silence. Worse, they have to protect the men who abuse them simply because relatives fail to act as allies. This is a shame because IPV victims need support and help instead of further victimization.

Another woman pointed out that her family failed to support her during the time she needed them the most. She said

My family didn't believe me and pointed out that if I left my marital home or divorced, I would not be allowed to come back home with my children. They said I should stay strong for the sake of keeping my marriage.

Upon receiving such advice, she decided to stay in the marriage because she had no other outlet. Although shelters exist in Zimbabwe, they are not popular among IPV victims who live outside the capital city. Because of the desire for stability and shelter, victims would rather choose to stay in an abusive relationship instead of leaving their abusers. Thus, it is clear that customary law has played a significant role in legitimating violence in Zimbabwe which leads to IPV as well as the secondary victimization of IPV victims by their relatives, police officers as well as the community.

DISCUSSION

The results of this study lend support to the idea that customary law plays a pivotal role in the prevalence of IPV in the form of intimate terrorism in Zimbabwe. By systematically creating hierarchical inequalities based on gender, the patriarchal nature of customary law constrains the agency of women which in turn makes them susceptible to IPV. Women's identities are constantly defined through men which makes it difficult for Zimbabwean women to speak out against IPV as their communities have been socialized by customary law to view IPV as a normal part of intimate partner relationships. This was evidenced by 88% (n=14) of the women in this study who acknowledged that their communities were either in support of IPV as a way of disciplining misbehaving wives or they were indifferent to IPV related issues (Makahamadze 711). Such a mindset is not only limited to the community but it also affects law enforcement officials particularly police officers who fail to follow the guidelines illustrated in the Domestic Violence Act in order to hold on to the gains of patriarchy and male privilege.

Customary law institutionalizes patriarchy in a way that traps women in a state of inferiority from the time of birth. Nkomo (2012) states that

...after payment of lobola, a woman will still be regarded as a minor under the authority of her husband; she shifts from being under the authority of her father or guardian to that of her husband" (46).

Placing women in a position where they are always under the guardianship and control of someone whether father or husband makes them more vulnerable to abuse and allows men to use customary law to legitimate IPV. Whenever a woman tries to rise above prescribed gender roles, men feel justified to use violence to bring women to their "rightful places." Even when a woman decides

to leave a violent relationship, men also use the threat of violence to put her back in her place.

Whether consciously or subconsciously, most Zimbabwean communities believe that IPV can only be prevented when women remain in their rightful places. In a marriage, the rightful place is a position of servanthood and followership. Such a power hierarchy can be compared with the power dynamics involved in colonization; “the action or process of settling among and establishing control over the indigenous people of an area” (“Colonization”). Both phenomena are meant to disenfranchise a specific subset of the population through otherization. According to Beauvoir (1953), otherization is a process where a privileged group seeks to impose its dominion over a group they consider as weak and inferior (27). In colonization, the colonist uses hierarchical relationships to dehumanize the “native” whereas, in IPV, the male partner exercises his masculine hegemonic power to abuse the female partner. Both concepts seek to exercise control and domination over the othered group. Hence, intimate terrorism that is legitimated by customary law in Zimbabwe contains the same power dynamics involved in colonization.

This study has led me to accept that analyzing IPV in a Zimbabwean context using Johnson’s *Typology of Domestic Violence* is extremely important in understanding the nature of IPV in Zimbabwe. This is because most abusive actions by male spouses are perpetrated as a way of maintaining hierarchy in the household, thereby indicating a form of intimate terrorism. In Zimbabwe, abusers use customary law and its traditions to legitimize their violent behavior and most of them are never penalized for such actions. Johnson’s typology is helpful for all Zimbabwean scholars studying the dynamics of IPV as it helps to distinguish the nature of each form of IPV and the control context in which

it is embedded. In this case, I was able to solely focus on intimate terrorism and the nature of coercive control that accompanies it which helped me to understand how customary law legitimates this form of IPV.

Understanding the dynamics of intimate terrorism is significantly important to IPV scholarship in Zimbabwe because it allows us to think of intervention strategies that focus on changing mindsets and mentalities. Considering the fact that Zimbabwe has one of the best IPV legal frameworks (Domestic Violence Act), it is clear that the prevalence of IPV is not caused by the absence of laws that condemn IPV. The findings from this research have shown that mentalities and attitudes acquired from customary law are the ones that: a) condition male spouses to perpetrate IPV; b) accustom society to condone this form of violence; c) leads to the secondary victimization of IPV victims by relatives and law enforcement officials (Marekera 30).

Limitations

A limitation of this study is that, while IPV victims responded to all interview questions truthfully and openly, it was difficult to receive such a response from police officers who were clearly trying to paint a good image of the Zimbabwean justice system. For this reason, almost all the responses offered by officers from Harare sounded well-rehearsed. I hypothesize that Harare police officers went over the questions before they provided their official answers, as the researcher was required to provide a set of questions to the Police Headquarters before undertaking any research in Harare. As such, the responses received from these officers reflected their competence and knowledge of the Domestic Violence Act. However, the police officers only sounded sincere when

they responded to unscripted questions that asked them for their own opinion. This is when police officers would provide statements that reveal their gender biased opinions such as “If only women would respect their husbands, they wouldn’t be abused.” Contrary to this, Chinhoyi police officers who did not receive the questions prior to the research reflected more authenticity as some would even disclose that they did not know the difference between Roman-Dutch law and customary law. This was a true indication that Chinhoyi police officers had not received prior coaching before the interviews and the researcher could tell from their facial expressions that they were hearing the interview questions for the first time. Future research should focus on interviewing former police officers who will be able to answer all questions openly without any fear of admonishment from the justice system.

In spite of these limitations, this research is still important in providing a new way of viewing and understanding IPV in Zimbabwe using Johnson’s *Typology of Domestic Violence*. Furthermore, the research findings revealed the ways in which customary law influenced by patriarchy leads to the secondary victimization of IPV victims. An understanding of these complexities helps us to view IPV as a human rights issue and create intervention strategies influenced by justice theories.

Recommendations

A deeper analysis of the relationship between customary and statutory law reveals that ever since the introduction of statutory law in postcolonial Zimbabwe, it was inevitable for the two legal systems to clash as they both advocate for contrary

viewpoints. Statutory law advocates for gender equality whilst customary law supports patriarchy and inequality. Ndulo argues that,

Many African constitutions contain provisions guaranteeing equality, human dignity, and prohibiting discrimination based on gender. However, the same constitutions recognize the application of customary law and they do this without resolving the conflict between customary law norms and human rights provisions (89).

For this reason, one of the recommendations I offer based on my findings would be the creation of a synthesized and comprehensive IPV legal framework that integrates traditional customs with the concepts of human rights and dignity for all persons (Ndulo 115). Such a synthesized framework would then be acceptable for both traditionalists and modern reformists who advocate for human rights. However, it is important to ensure that this framework contains input from all stakeholders involved.

Some argue that since customary law seems to have such a huge effect on Zimbabweans, we should, therefore, use it to subvert IPV. The government of Zimbabwe and other grassroots organizations such as Msasa have successfully been working with traditional leaders who are the custodians of customary law to train them and equip them with knowledge of the Domestic Violence Act. At this point, most of the chiefs in Zimbabwe are very knowledgeable about the importance of human rights and they have even been recommending most of the cases in their jurisdictions to the police as they recognize that statutory law takes precedence over customary law. Because all the focus from governmental and non-governmental organizations has been on changing the attitudes of traditional leaders, who are recognized as the main supporters of customary law, no one has focused on other stakeholders such as police officers. Contrary to public opinion and as reflected by my research findings, police officers are the ones who are heavily influenced by customary law in their attitudes and mentalities to an extent that

they are unable to offer victims the support and resources they require. For this reason, what is needed in Zimbabwe is not only the creation of a synthesized IPV legal framework but cultural change.

Lastly, the Zimbabwe government needs to implement effective monitoring evaluating programs that track the progress of IPV prevention efforts. This involves creating programs that ensure police officers abide by the Domestic Violence Act and actually provide victims with the resources and support they require. It may also include ensuring that abusers are properly punished according to the criminal justice system and putting an end to bribery and corruption. Although many countries including the United States are moving away from the criminal justice approach towards IPV, I strongly believe that Zimbabwe should embrace this approach because all our IPV prevention efforts have largely been focused on reconciliation and social cohesion through customary law. However, that has not helped to reduce IPV and has instead led to the subjugation and oppression of women. For this reason, placing more emphasis on stricter enforcement measures of IPV legislation might be the solution for Zimbabwe. Overall, a combination of all 3 recommendations will surely lead to a reduction in IPV cases in Zimbabwe.

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APPENDICES

DATA COLLECTED MAY-AUGUST 2017 AND DECEMBER 2018

APPENDIX A

Demographic Questionnaire for IPV Victims

CODE NUMBER:

Write your answer with a tick (√)

1. Indicate your age in the box.

21-25 years	
26-30 years	
31-35 years	
36-40 years	
41-45 years	
46-50 years	
51 years and above	

2. What is your level of education?

No formal education	
Primary education	
Secondary education	
College education	
University education	

3. What is your occupation?

Unemployed	
Housemaid	
Unskilled worker	
Skilled worker	
University education	
Professional worker	
Student	
Other (specify).....	

3What is your spouse's occupation?

Self-employed	
Unskilled worker	
Skilled worker	
Professional worker	
Unemployed	
Vendor	

Other (specify).....	
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4What is your total income per month?

Below \$500	
\$500 - \$1000	
\$1000 - \$2000	
Other (specify)	

APPENDIX B

DATA COLLECTED MAY-AUGUST 2017

APPENDIX B

Interview Guide for IPV Victims

1. What first comes to your mind when you think of IPV?

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2. How do you define IPV?

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3. Have you ever been a victim or have you witnessed IPV?

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4. Did you tell your family members/friends about the incident, if yes what was their response, if no, why?

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5. Was the matter ever reported to the police? If not, what influenced your decision?

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6. Can you describe your experience with the police?

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7. Were you happy with the treatment you received from the police?

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8. Do you think they could have done something differently?

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9. Why do you think Zimbabwe has failed to overcome IPV?

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10. What, if any, do you think is the role of customary law in the continued prevalence of IPV in Zimbabwe?

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APPENDIX C

DATA COLLECTED MAY- DECEMBER 2018

APPENDIX C

Interview Guide for Police Officers

1. May you comment on the prevalence of IPV among married women in your area? What do you think is the cause of this?

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2. What are your experiences with IPV cases?

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3. Which training have you received on IPV?

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4. Why do married women become victims of IPV?

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5. What is the procedure for reporting cases of IPV?

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6. What services are offered by the police to victims of IPV?

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7. Can you please explain the stance that statutory law takes on IPV?

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8. How do customs and traditions impact the views of society towards IPV?

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9. Does that affect the numbers of people who report about cases of IPV?

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10. Does that affect how police officers handle IPV cases?

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11. Have you ever been in a situation where couples expected you to give them counselling instead of implementing the provisions of the Domestic Violence Act?

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12. Why do you think some women remain silent about IPV? For those who report, why do you think they may decide to withdraw their cases?

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13. How do you deal with contradictions between statutory law and customary law?

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14. What is your opinion on the Domestic Violence Act? Is there anything that needs to be changed?

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15. What if any, do you think is the role of customary law in the continued prevalence of IPV in Zimbabwe?

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APPENDIX D

DATA COLLECTED MAY- AUGUST 2018

APPENDIX D

Interview Guide for Legal Practitioners

1. May you comment on the prevalence of cases of IPV among married women in your area?

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2. Can you please explain the stance that customary law takes on IPV?

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3. How do you deal with contradictions between customary law and Roman-Dutch law in cases of IPV?

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4. Are there any mandatory training on IPV for legal practitioners?

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5. What are your experiences with IPV cases?

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6. In your opinion, what is the major cause of IPV in Zimbabwe?

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7. What, if any, do you think is the role of customary law in the continued prevalence of IPV in Zimbabwe?

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8. Do you think the current legal system is well equipped to deal with IPV? What can be changed?

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