
**CYBER BULLYING:
THE CHALLENGES WOMEN AND GIRLS FACE IN SEEKING REDRESS IN
CASES OF ON-LINE HARASSMENT IN ZIMBABWE**

BY

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Abstract

Cyber bullying or on-line harassment is the repeated use of an on-line expression or expressions which amounts to a pattern of conduct targeted at a particular person, often a woman (who cannot easily defend herself) with the intention of causing them substantial emotional distress and fear of bodily harm. It comprises the posting and broadcasting of images or pictures of a sexual nature, sexually explicit material and the sharing or forwarding of such messages (which is sometimes called sexting) or encouraging on-line threats and harassment, as well as with a view to gaining sexual favoritism from the victim or coercing the victim to perform sexual acts which is known as sextortion (Langos, 2012). There are various international human rights instruments that provide for the criminalization of on-line harassment. The Constitution of Zimbabwe provides for the rights to equality, dignity, privacy and security for all individuals. Cyber bullying however is not criminalized in Zimbabwe. The available laws, such as the Post and Telecommunications Act, do not adequately address the growing problem of on-line harassment. Women and girls are subjected to on-line harassment and they suffer from it more than is realised. This research paper seeks to expose the existence of on-line harassment and the challenges victims face in seeking redress against it from the criminal justice system. The women's law approach was key to this research as it reveals how on-line harassment affects the lived realities of women and girls, i.e., their lives in both the private and public spheres of their lives and along which society is still divided. The research revealed that women suffer on-line harassment more often and more seriously than men; they also fail to adequately access justice due mainly to the lack of appropriate legislation which criminalizes the offence. Fear of loss of societal acceptance and loss of confidence in the criminal justice system are some of the barriers preventing women's access to the criminal justice system. The research primarily recommends that the Cyber Security and Data Protection Bill, 2109 be enacted into law and made an Act of Parliament in order to bridge the gap between women's need for redress for the harm suffered as the result of on-line harassment and the current inadequacy of such redress under the law.

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Declaration

I, Progress Mangena, declare that this research paper is my own work. It has not been submitted for a degree, diploma, certificate etc to any other University.

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Progress Mangena

10/04/20

Dedication

I dedicate my dissertation to my four beautiful daughters, Bev, Addie, Tine and Tamu and also to my loving husband and all my family.

I also dedicate it to my future grandchildren.

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I would like to thank my supervisor Dr K Katsande for her philosophical guidance and support she gave me throughout the research, especially for her encouragement to go on when I felt that the research was not going anywhere.

I also want to thank my family, my girls and especially my husband who was always encouraging me to soldier on.

I thank my Father and Mother who would always check up on and support me.

To my dear friends.

List of abbreviations and acronyms

ACHPR	African Charter on Human and Peoples' Rights
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
ICCPR	International Convention on Civil and Political Rights
ICT	Information communication technology
Maputo Protocol	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
MLAT	Mutual legal assistance treaty
NGO	Non-governmental organization
POTRAZ	Post and Telecommunication Regulatory Authority in Zimbabwe
PTC	Post and Telecommunications
VFU	Victim Friendly Unit
WLSA	Women and Law in Southern Africa
ZRP	Zimbabwe Republic Police

List of international human rights instruments

African Charter on Human and Peoples' Rights (ACHPR)

Protocol to the African Charter on Human and Peoples' Rights on the Rights of
Women in Africa (Maputo Protocol)

Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

International Convention on Civil and Political Rights (ICCPR)

List of local legislation

Censorship and Entertainment Control Act [Chapter 10:04].

Constitution of Zimbabwe Amendment (No. 20) Act, 2013 (the Constitution)

Criminal Law (Codification & Reform) Act [Chapter 9:23] (the Criminal Law Code)

Post and Telecommunications Act [Chapter 12:05] (PTC Act)

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CHAPTER ONE

1.0 INTRODUCTION AND BACKGROUND OF THE STUDY

1.1 Introduction

This dissertation investigates cyber bullying and details the challenges women and girls face in seeking redress against on-line harassment in Zimbabwe. The study was carried out in Mashonaland East, Harare as a case study. My personal experience and my profession as a Police Officer informed this research. In my work I had several encounters with women who needed help on how to handle issues of cyber bullying, specifically, on-line harassment and how to seek redress from the criminal justice system. Women are exposed to on-line stalking, trolling, revenge pornography, sextortion and many other related cyber crimes. The research also seeks to examine whether Zimbabwe's legislation is keeping pace with international developments and protecting its citizens from ever evolving and emerging cyber crimes.

The objective of this study is to ascertain the prevalence of cyber bullying and the adequacy of Zimbabwe's regulatory framework in cases of on-line harassment as well as the effects or the impact of on-line harassment on women as compared to men. This chapter will give details of the background of the study, the research problem and its objective, the research assumptions and the research questions.

1.2 Background of the study

“The advancements in social networking sites, webcams, portable media devices and on-line gaming exposes women and girls to both benefits and risks”

(Vitak, 2017).

Cyber bullying is regarded as a serious demonstration of on-line harassment of women and girls and can be related to other forms of sexual abuse (Grigg, 2010). Cyber bullying comprises the posting and broadcasting of images or pictures of a sexual nature, sexually explicit material, the sharing or forwarding of such messages (which is sometimes called sexting) or encouraging on-line threats and harassment, as well as with a view to gaining sexual favoritism from the victim or coercing the victim into performing sexual acts which is known as sextortion (Menesini, 2009).

Langos defines indirect cyber bullying as a single act of cyber bullying and direct cyber bullying as repetitive acts of cyber bullying which is/are intended to harm a victim. Repetition, imbalance of power and intention are important aspects of both direct and indirect cyber bullying (Langos, 2012). There are basically four characteristics of cyber bullying:

- The victim finds it difficult to escape from cyber bullying and continues to suffer from its effects even in the comfort of their own homes through text messages, phone calls or emails. Cyber bullying knows no boundaries.
- Compared to traditional face to face bullying, cyber bullying has a huge, potentially limitless target audience in that it reaches participants in cyber space through social media platforms such as Facebook, Twitter, Whatsapp and chat rooms.
- As cowards, cyber bullies exploit the invisibility and anonymity afforded by cyber space in order to maximise their intended harm against their victims (Slonje, 2008).

According to Smith phone calls, pictures and videos are perceived to have greater negative impact on victims compared to other forms of harassment. On-line harassment takes the form of (1) text messages, (2) phone calls, (3) photographs and (4) videos.

Cyber bullying has been criminalized in different contexts in America, Britain, most European and Asian countries as well as in most African countries including South Africa.

Face to face bullying has always existed in Zimbabwe but not cyber bullying. Technology however knows no boundaries and provides the space (cyber space) and tools (weapons) to bully a victim anywhere and at any time, even right in the comfort of her home by means of the manipulation of private personal information including leaked videos and nude images. These are common examples of this cyber space crime in Zimbabwe. This harassment may take both subtle and blatant sexist or misogynistic forms and can and do develop quickly into material used in sexual or physical threats (Campbell, 2005).

Due to rapid technological advancement the existing legal frameworks, policies, and practices of individual countries have been challenged by cyber crimes. The internet as a means of communication, business, transactions and social interactions has accentuated the need for revisiting existing laws (Pater, 2016). This rapid growth knows no geographical

boundaries and has largely brushed aside restrictions that historically slowed or inhibited the transmission and collection of information in digital format. Financial and personal information, usually stored in hard files, is now easily accessible, collected, analyzed and can be abused. Access to the internet has equally developed from being a preserve of the few to becoming a wider service accessed by 49,9% of the country's population. With this enlarged access and improved electronic communication, laws in Zimbabwe and elsewhere understandably failed to keep up to address cyber crime. The cross border effects associated with this growth required a harmonized approach of law development and implementation to enhance individual and regional frameworks and approaches.

In California, there are about 850,000 cases of on-line harassment of which 40% are cases of women experiencing dating violence which is delivered electronically (Citron, 2009). Women who experience on-line harassment describe it as very upsetting and consider the legal system as notoriously slow in catching up with the ever-evolving technology (Pittaro, 2007). Legal scholars are of the view that if done correctly, the law can be used as a tool to stop on-line harassment, although they agree that on-line harassment is problematic to prosecute as it involves many stakeholders and also the issue of police training is considered important for them to be able to fully help victims (Pittaro, 2007). The prosecution of on-line harassment is problematic in many countries because of fact that technology is constantly evolving and keeping pace with it in many jurisdictions is difficult.

1.3 The research problem

There are international human rights instruments which criminalize on-line harassment. While the Constitution of Zimbabwe provides for the rights to human dignity and personal security, it does not specifically criminalise on-line harassment and there is no specific piece of legislation dedicated to combating this problem. This means that women who are the most common and seriously affected victims of this crime find it difficult in redressing it through the criminal justice system.

1.4 The objective of the study

My main objective was premised on the research assumptions and that is to ascertain whether and to what extent women and girls are subjected to on-line harassment and the challenges they face in seeking redress from the criminal justice system and also to ascertain the adequacy of the legal framework on cyber bullying.

1.5 Research assumptions

The following research assumptions were consequently formulated as guidelines in carrying out my study.

- Women and girls are being subjected to cyber bullying and the criminal justice system faces challenges in collecting and preserving admissible evidence in court for on-line harassment cases.
- On-line harassment affects women and girls differently from men.
- There is no regulatory framework that adequately protects women and girls from cyber bullying apart from the Cyber Security and Data Protection Bill which is yet to be made an Act of Parliament.
- The non-availability of expert witnesses to testify in cases of on-line harassment is a barrier to women and girls accessing justice.
- There is a need to adequately train police officers to acquire the required expertise in the collection and preservation of evidence for on-line harassment cases.

1.6 Research questions

The following research questions were formulated based on the assumptions.

- How are women and girls being subjected to cyber bullying and how does the criminal justice system face challenges in collecting and preserving admissible evidence in court for on-line harassment cases?
- How does on-line harassment affect women and girls differently from men?
- Is there an adequate framework to protect women and girls from cyber bullying apart from the Cyber Security and Data Protection Bill?
- Why is the non-availability of expert witnesses to testify in cases of on-line harassment a barrier to women and girls accessing justice?
- Is there a need to adequately train police officers to acquire the required expertise in the collection and preservation of evidence for cyber bullying cases?

1.7 Definitions of terms

Cyber bullying

Cyber bullying involves the use of ICTs to carry out an act (indirect cyber bullying) or series of acts (direct cyber bullying) with the intention of harming a person who cannot easily defend herself. Cyber bullying comprises three main elements which are repetition, power imbalance and aggression (intention) (Langos, 2012).

The phenomenon of cyber bullying has also been described as any action/s performed through electronic or digital media by a certain individual/s or group/s through the repeated use of hostile or aggressive messages with the intention of causing harm or discomfort to others (Hutson, 2016).

On-line harassment

On-line harassment is the repeated use of on-line expressions amounting to a course of conduct targeted at a particular person that causes them substantial emotional distress and fear of bodily harm (Slagter, 2009).

On-line harassers and stalkers engage in three main activities. Firstly, they exploit networked digital tools to terrorize victims. They directly and unequivocally threaten physical violence, thereby causing fear and intimidation that interferes with their victims' day to day lives. They masquerade as victims in on-line ads and social networks, signifying their interest in sex and at times post their contact information. Secondly, on-line harassers do what they can to hijack people's careers and reputations (Olson, 2011). They post reputation-harming lies about victims. They engage in practices to ensure that reputation-harming posts appear significantly in searches of their victims' names. They send the defamatory lies to employers so that their victims find it difficult keep or find employment. They can even go as far as filing false reports of abuse against their victims in the hope that platforms will shut down their sites, for example, on Facebook. Thirdly, they invade victims' privacy, often by posting victims' nude pictures and sex videos in violation of their trust and confidence. On-line harassers use technology to force victims to go off line (Olson, 2011).

Social media

Social media refers to a wide variety of internet applications that allow users to create content and interact with each other. It is a form of electronic communication through which users

can create on-line communities to share both private and public information, ideas and other content, for example Facebook, YouTube, Instagram, Twitter , Skype, Snap chat, WhatsApp, LinkedIn, Pinterest and many others.

Sexting

Sexting is the activity of sending sexually explicit materials like images and messages through a smart phone. Such material that can be shared between people who are in a relationship or those who are not (Smith, 2014).

Sextortion

Sextortion is the practice of extorting money or sexual favors from a person by means of threatening to reveal evidence of their sexual activity.

Revenge pornography

Revenge pornography is also known as non-consensual pornography. It involves the distribution of sexually graphic images and videos of individuals without their consent which include images originally obtained without consent, for example, through hidden cameras, hacking computers or phones or recording sexual activities and images consensually obtained within the context of an intimate relationship (Rachoene, 2015).

Hacking

Hacking is the attempt to exploit a computer system or the unauthorized access to or control of computer network security systems for an illicit purpose or to take control for the purpose of obtaining personal images or videos of a sexually explicit nature for the purpose of humiliating another person (Snail.S., 2009).

CHAPTER TWO

2.0 THEORETICAL AND METHODOLOGICAL FRAMEWORK

2.1 Introduction

This chapter gives an overview of the literature on the phenomenon of cyber bullying with a special focus on on-line harassment. Several theories and perspectives were used in this research in line with scholars who ascertain a close link between theories, methods and methodologies (Bentzon, 1990). This chapter also presents the methodological framework of this study. I focused mainly on the women's law approach which allowed me to find, hear and understand the voices (or the lived realities) of women affected by on-line harassment and their concerns regarding the crime. I used as part of my methodology the human rights approach to help identify and bridge the gap between the incidence of on-line harassment which is currently unrecognized as a crime under Zimbabwe law and women who are its most common and seriously affected victims and who are entitled to protection against it.

2.2 Feminists theories

Feminist theories examine distinctively the social constructs about women, their position in society and the impact of development processes on women. Feminist theories try to unravel the popularity of gendered thinking that uncritically assumes a required bond between women and their occupying social roles, the ways women negotiate the world and the astuteness inherent in such negotiations (Fricker, 2000). The women's movement that sought to bring about equality between men and women originated way back in the 18th Century. Ahikire (2008) defines feminism as:

“a myriad of various theoretical perspectives emanating from the complexities and specifics of the different material conditions and identities of women, and informed by the many diverse and creative ways in which we contest power in our both private and public lives” (Knowles, 2012).

Korany (1993) also defines feminism as “a theoretical paradigm in social theory that seeks to advocate and enhance women's emancipation in a predominantly patriarchal world” that sees women being harassed on-line by men in their day to day activities; in other words, women suffer humiliation and are belittled in cyber space as a consequence of men exercising their socially accepted or tolerated masculine power. In this respect various theories have been

developed that explain the oppression of women by men and seek and explore ways that can be utilized to attain equality between men and women (Dahl, 1987).

2.2.1 Existentialist Theory and cyber bullying

Existentialist feminist argue that women have internalized the belief that they are not essential or that they are ‘the other sex’ (i.e., not men) as a result of men who are dominant in society viewing women as mere objects who can be used to achieve their own goals. Therefore men oppress women because of ‘their otherness’; hence men perceive the need to use nude pictures and sex videos of women to humiliate and hurt them after the dissolution of a failed relationship (Beauvoir, 1974).

Sartre views existentialism as a sanguine, action-oriented philosophy that hubs ethical responsibilities and people’s interconnections with others. Sartre bases “existentialism” on the idea that “existence comes before essence.” Unlike a manufactured object, for instance, a paper knife, which is designed before its creation, his argument is that humans come into the world before their explicit values, purposes or characters. While the paper knife’s essence comes before its existence, a human’s existence comes before their essence. The end result of this fact is prejudice (i.e., harm to others) since there is no pre-existing human character or goal for human life or divine mandate to act in any particular way. In other words, “a man is nothing other than what he makes of himself” and therefore, a person is able to imagine what they will and should turn out to be in the future (Sartre, 1960).

In ‘The Second Sex’, Simons produced an eloquent attack on the reality that right the way through history women have been relegated to an area of inconsequence and the passive receiving of roles ascribed to them by society. The prominence on freedom, responsibility, and indistinctness permeate all of her works and give voice to nucleus themes of existentialist philosophy (Simons, 2001).

Existentialist feminists argue that women have dogmatized themselves as being not essential in comparison to men. Men as ‘the self’ and women as ‘the other’, women are treated as objects which can be used to achieve men’s goals. Men therefore harass women on-line without even considering the fact that in a sex video there are two people: he, who is now the abuser and she, who is now the victim. Men feel that it is a socially acceptable masculine gesture to have their sex video posted on social media just to humiliate a woman. While

women feel and experience terrible public insults as the result of a leaked sex video, men feel empowered and heroic. I feel that there is a need for women to be educated that this is not acceptable because it is wrong, immoral, and criminal and in breach of their rights to privacy, dignity and personal security. Their realization and understanding of this reality will help to transform them from being tacit victims to confident seekers of justice.

2.2.2 African Feminism

African feminism view does not view women as a homogeneous group but as groups of women which are different depending where they come from and their religious, cultural and social beliefs. African feminism is deep-rooted in motherhood and sexuality and all that concerns African women in their day to day lives. Wifing and motherhood are viewed as being the most important roles for women and their identity. Marriage is central to the lives of African women and it carries a lot of respect (Ahikire, 2014). Since marriage and respect through marriage are so deeply ingrained in women, they suffer the most from on-line harassment. Therefore, when nude pictures and sex videos are leaked of them these women suffer severe forms of prejudice and discrimination from their family, friends and community since it is considered a taboo for a girl/woman's nakedness to be freely viewed by anyone especially strangers on social media. Societal reactions to such exposure reduce women victims' chances of engaging in any future successful relationships including marriage.

2.2.3 The Radical Feminist Theory

Radical feminist activists, prominently Catherine MacKinnon (1989), argue that the creation of erotic entertainment exploits the physical, mental and, prospectively, financial intimidation of women who perform and display their bodies sometimes half naked. Men sometimes take advantage of this by filming or shooting pictures of them using hidden cameras and then later use such footage against them to submit to their demands for fear that the men will post their nude pictures on media platforms in cyber space.

It is argued that a lot of what is being displayed in explicit entertainment areas is harmful by its exceptional nature (MacKinnon, 1989). Women are used as entertainers at clubs, sports bars and other similar places, because they are women and their bodies are used on-line to advertise entertainment in obscene places. Women who perform erotic entertainment are brutalized during the process. Radical feminist activists point out that most female entertainers are forced into erotic entertainment either by men or by a distressing arrangement

of circumstances. They also claim that pornography adds to sexism (Johannsdottir, 2009). In explicit presentations the characters are reduced to negligible objects for male sexual pleasure. They argue that the story lines that are used are typically harmonized to men's pleasure as the major objective of such productions is sexual action in which women appear in subordinate roles. Obscene movies tend to show women as being amazingly detached from the ordinarily deleterious action made exclusively for the enjoyment of their sex partner.

Radical women's feminists claim that the use of obscenity is a reason for ferocious male assaults against women. Robin Morgan (1974) expresses this phenomenon as 'obscenity is the assumption and assault is the practice.' This is linked to their theory that female sex does not have the sexual avariciousness of manly sex. The craving, longing and pleasure of assaulting women sex partners is simply the augmentation of the dream and corruption of the male sex in regard to female sexuality. Radical feminist activists acknowledge that pornography eroticizes on-line harassment, humiliation, and coercion of women and fortifies sexual and social states of mind that are complicit in assault and vulgar behavior. In her book, *Only Words*, MacKinnon (1989) claims that pornography denies women the privilege to verbally refuse intercourse. She challenges the assault myths that incorporate the confidence that woman truthfully want and need to be assaulted and that they imply 'yes' when they are saying 'no.' It is questionable that assault myths transmit sexual harassment by implication and make unclear convictions and states of mind about rape and move components of accusations onto the victims. MacKinnon also claims that erotic entertainment desensitizes on-line viewers and incites them to savagery against women which in turn prompts an even greater desire to watch more ferociousness (MacKinnon, 1989).

2.2.4 The Dominance Theory

This theory claims that women's subordination is defined by men's physical, social and sexual control over women (Mazingo, 2014). Men attempt to control women through posting nude pictures and sex video of them. This is a form of social manipulation and sexual coercion. This theory argues that women do not participate in pornography for the sake of their enjoyment but rather that men use it as a sexual form of dominance over and exploitation of them. Pornography is simply another example of expression of the naked power of men who are in control of the economy and political power exerting themselves

over weak vulnerable women. This was exhibited during my field research when one woman said:

“Ini handina ku reporter nekuti ndaitya kuti murume wangu akazozviziva ndinorambwa uye ndiani anozondichengeta zvirinani ndisiyane nazvo hangu”

(Meaning, “For me I did not report because I did not want my husband to know about it because he will divorce me and who will take care of me. Women do not have freedom to decide their destiny they lack autonomy and emancipation.”)

The dominance theory disregards equality between men and women and attributes women’s inferior societal position to men’s concerted effort to subordinate and control women. Dominance feminism agrees that men wield power over women through physical, social and sexual domination. Socially men control women by applying patriarchal control over them or by objectifying them through sex. At a higher societal level, men control women by perpetuating a legal system that buttresses gender inequality and increases discrimination, keeping women financially and legally powerless (Mazingo, 2014).

2.3 Jurisdictions that have criminalized on-line harassment

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (article 34) obliges the signatories to criminalize on-line harassment/ stalking. Article 34 states:

“Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, is criminalized.”

The American state of California was the first to create specific criminal provisions for on-line harassment through California Penal Code (section 646) and the other states followed suit. In the United Kingdom of Great Britain there are laws governing the crime of on-line harassment and it is divided into two parts. The first part covers cases where someone sends unwanted images or text messages and this includes cyber stalking and revenge pornography. These are mostly directed to women by a partner, ex-partner, colleague or classmate. The second element is more related to general on-line abuse directed at someone in a public on-line space. This mainly targets those with a public profile. The United Kingdom has also put

in place several other laws and policies such as the introduction of a national stalking helpline and national revenge pornography helpline in a bid to curb the crime of on-line harassment.

In South Africa, the Criminal law (Sexual Offences and related matters) Amendment Act, 2007 and the Films and Publications Act, 1996 and the Films and Publications Amendment Act, 2009 criminalize the sending and sharing of nude or semi-nude pictures or videos or sexually suggestive messages via mobile phone texting or instant messaging which is called sexting between children. The sharing of nude pictures or sex videos is not an offence unless it is done without the consent of the other party. The country currently does not have specific legislation dealing with on-line harassment (Badenhorst, 2011). Victims of on-line harassment rely on available remedies offered by the criminal law or the civil law. In this case the perpetrators can be charged with *crimen injuria*, assault, criminal defamation or extortion, depending on the circumstances.

In Nigeria, the Cybercrimes (Prohibition, Prevention, etc) Act, 2015 criminalizes on-line harassment in the name of cyber stalking. Using a computer to threaten, bully, or harass another person or communication that causes another person to fear constitutes on-line harassment. It is regarded a common phenomenon in Nigeria as many people engage in it especially on social media. The most common way it is committed is posting nude or indecent pictures on-line in order to humiliate its victims. The Nigeria Penal Code criminalizes obscene publications hence the crime of on-line harassment is well covered in the country (Adejoke O, 2020).

2.4 The international and regional legal framework

Zimbabwe has ratified the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) which requires member states to observe article 15(1) which provides for equality of men and women before the law. It would be perfect if this provision were observed at the domestic level in Zimbabwe which the research proves is not the case. The research reveals that few women or victims of on-line harassment make use of the criminal justice system to obtain justice for several different reasons including the fact that there is no specific legislation which covers it. Likewise, articles 1 and 2 of the African Charter on Human and Peoples' Rights (ACHPR) also provide that every individual shall be equal before the law and have right to the equal protection of the law.

The Council of Europe's Convention on Cyber Crime of 2001 speaks of the harmonization of all national laws with the intention to improve cyber crime investigations techniques and in return improve international cooperation within states.

Article 26 of the International Covenant on Civil and Political Rights (ICCPR) states that all persons are equal before the law and are entitled without any discriminatory to the protection of the law. Also articles 14-16 speak on how the individual must be treated by the judicial process.

Article 3(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) speaks on women's rights to dignity and the protection of their human and legal rights. The article acknowledges the need and importance to care for and protect women and their legal and human rights without any form of discrimination.

Article 4(1) of the Maputo Protocol provides that every woman is entitled to respect for her life, the dignity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited. It obliges state parties to enact and enforce laws that prohibit all forms of violence against women including the punishment of the perpetrators of violence against women. On-line harassment constitutes a form of violence against women.

Article 8(a) of the Maputo Protocol speaks of access to justice and equal protection before the law, that women and men are equal before the law and that they shall have the right to equal protection and benefit of the law. States parties shall take all appropriate measures to ensure effective access by women to judicial and legal services, including legal aid.

Article 26 of the International Covenant on Civil and Political Rights (ICCPR) provides that all persons are equal before the law and are entitled without discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth. This includes providing women total protection against on-line harassment

even though the government of Zimbabwe has not yet put in place laws that explicitly criminalize the crime of on-line harassment.

2.4.1 The national legislative framework

Section 51 of Constitution of Zimbabwe Amendment (No. 20) Act, 2013 (the Constitution) provides for the right to human dignity ensuring that all persons have the inherent to dignity in their private and public life and the right to have that dignity respected and protected. Section 52 speaks of the right to personal security. It explains that all persons have the right to bodily and psychological integrity including freedom from all forms of violence from public or private parties. On-line harassment violates both these rights of its women victims.

Section 56 of the Constitution provides for equality and non-discrimination, that all persons are equal before the law and have the right to the equal protection and benefit of the law. It provides that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres. It also provides that all persons have the right not to be treated in an unfairly discriminatory manner on such grounds as their nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, disability or economic or social status, or whether they were born in or out of wedlock. While on a legal level the Constitution of Zimbabwe is in agreement with CEDAW as far as protecting women from discrimination is concerned, it is at the social, cultural, economic and political levels that women in Zimbabwe continue to suffer oppression. For example, although it is women who are the main victims of on-line harassment, it is perversely they who are socially and culturally blamed for it.

The Post and Telecommunications Act [Chapter 12:05] (PTC Act) provides for the criminalization of the sending of offensive or false telephone messages. It criminalizes all persons who send by telephone any message that is grossly offensive or of an indecent, obscene or threatening nature or sends by telephone any message that he knows to be false for the purpose of causing annoyance, inconvenience or needless anxiety to any other person or makes any telephone call or series of telephone calls without reasonable cause for the purpose of causing annoyance, inconvenience or needless anxiety. The PTC Act only provides for the criminalization of messages sent by telephone. Technology has moved on a great deal and now there are new ways of sending messages apart from the telephone. People

can send and receive messages using various forms of social media, for example, Face book, Instagram, Skype, Twitter, Snap chat to mention but a few, but these are not covered by the Act.

Section 13 of the Censorship and Entertainment Control Act [Chapter 10:04] prohibits the importation, production and dissemination of undesirable publications, pictures, statues and records. It criminalizes any person who imports, prints, publish, manufactures, makes or produces, distributes, pictures, statues or records or publicly plays any record which is undesirable or which has, under section 14 or 15, been declared by the Board of Censors to be undesirable.

Section 26 of the Censorship and Entertainment Control Act provides for the prohibition of possession of prohibited articles in that:

“no persons shall without lawful excuse, have in his possession any publication, picture, statue or record that is indecent or obscene or prohibited or recorded video or film material on which is recorded a film that is indecent or obscene, or prohibited.”

It should be noted that according to the Censorship and Entertainment Control Act, before prosecution can take place the offensive material must be submitted to the Board of Censors for determination and the issuance of a certificate declaring that the material is offensive. It is only after this has occurred will the matter be submitted to the Attorney General (or, in his absence, his Deputy) seeking authority for prosecution.

Section 96 (criminal defamation) of the Criminal Law (Codification & Reform) Act [Chapter 9:23] (the Criminal Law Code) criminalizes:

“all persons who by words or conduct seriously impairs the dignity of another person or seriously invades the privacy of another person [and] shall be guilty of criminal insult.”

The police use any of these provisions when dealing with cases of on-line harassment but this approach makes it very difficult to succeed with prosecutions as such provisions may not accommodate the elements that constitute on-line harassment. For example, in the case of a prosecution involving a woman who is receiving obscene or threatening messages on Face

book or other social media platforms, the culprit may be charged under section 96 (above) but charged in the alternative under any one or more of the provisions of the other abovementioned statutes which do not cover the elements of on-line harassment. The reason for this is that there is no specific legislation in Zimbabwe dealing with cyber crime.

2.5 The methodological approach

2.5.1 Women's law approach

The women's law approach enabled me to start my research by gathering women and girls' lived realities of their encounters with on-line harassment. I heard their voices and gathered their stories about the humiliation they faced as the result of leaked nude pictures and sex videos and the response of the justice delivery system. I discovered how their lives were profoundly changed upon suffering on-line harassment. Some women lost their jobs, husbands, families, societal acceptance and even their lives through suicide (Amy, 1997). Using the women's law approach also gave me an in-depth understanding of the pain of women victims being helpless once nude pictures or sex videos of them have been posted as nothing can be done to erase the digital footage. Using this approach I came to realize that women are far more deeply affected by on-line harassment than men. For instance, during my field work I interviewed one lady who is a lecturer at a university. A sex video of her was leaked by her ex-boyfriend and she explained how she was humiliated by friends and relatives over the issue. She explained:

“Ndirikunzwa kunge ndisina kupfeka handi chaziva kuti ndoita sei , dzimwe nguva muclass vana vakanditarisa ndinotanga kufunga kuti variku imagina zvavakaona pavhidhiyo, handisisina confidence kumberi kwavo.”

(Meaning, “I feel like I am naked and am confused, sometimes during lectures I feel like my students are actually imagining the sex video in their minds and are not listening to me, I have lost confidence.”)

In other words, the women's law perspective allowed me to secure a good grasp of women's real experiences with on-line harassment (Dahl, 1987). The women's law approach also helped me see and understand the interplay between women's lived realities and what the law provides. I was able to unearth the women's lived realities through collecting data from various women on their lived experiences. For example, all the women who had won the Miss Zimbabwe pageant and who had their nude pictures or sex videos leaked were

dismissed from their work. They therefore lost societal acceptance, their dignity was deeply violated and they suffered depression.

2.5.2 The human rights approach

There are several international instruments that cover on-line harassment or cyber bullying. These instruments oblige state parties to implement and enforce laws and policies to curb on-line harassment. For example, article 8(a) of the Maputo Protocol speaks of access to justice and equal protection before the law, that women and men are equal before the law and shall have the right to equal protection and benefit of the law. States parties shall take all appropriate measures to ensure effective access by women to judicial and legal services, including legal aid.

Using this approach I managed to assess to what extent Zimbabwe has implemented and legislated on the crime of on-line harassment. I discovered that currently there is no specific and clear legislation that deals with on on-line harassment in Zimbabwe despite the international human rights instruments which direct Zimbabwe, as a member state, to enact such legislation.

2.5.3 Sex and gender analysis

While sex refers to the biological differences between men and women, gender refers to the socially constructed differences between them. Gender determines the roles or duties, power and resources for women and men in society. What women and men ought to do, their behavior, their interactions all encapsulated in social, cultural and legal interpretations of gender differences constitute a gender system (Stolen, 1991).

I interviewed one victim who had her nude pictures and sex video shared on-line without her consent. She could do nothing about it as it is almost impossible to erase the digital footage once posted. Then transmission of such material knows no boundaries or geographical restrictions and can go viral. According to a study carried out in the United States, over 50% of all adults have at least once engaged in sexting and 70% admit to having received nude pictures or sex videos on-line or over the phone. There is still this weird, constant, detrimental impression that if a girl/woman's nude pictures or sex video get leaked or shared spitefully on-line, it is the victim's fault for taking them in the first place.

Using this analysis I discovered that women are most affected by on-line harassment despite the fact that in most cases the harassment is in form of revenge pornography which involves both men and women as its subjects. Women face harsher criticism than men although when it comes to personal feelings, some men also feel the harassment especially when it concerns the publication of false stories and in cases when the stories tarnish their image as well as their social status.

In most situations I found that men harass women on-line simply to humiliate them and flex the power they wield over them. On one occasion during my field research I met a woman who was threatened and forced by her husband during divorce proceedings to walk away with nothing or else he would post the women's nude pictures on the internet.

In another case a woman had sex with a man and the video was leaked accidentally. People circulated various mostly insulting comments about the woman and even called her strange names like "*Aka ora, aka shata, I hure*" (meaning, "She is rotten and very ugly and she is a prostitute"), while the man received congratulatory comments like "*Big up man, you represents all ghetto youth, you deserve a gold medal, hey man, you are the champion.*" So while the man received only praise, the woman received only insults. In other words, women are still regarded as 'the other', while men are 'the real people' and the status of women is still below that of men. This proves that women's sexuality is controlled and denigrated and associated with negative things, while sexuality for men is based on performance and achievement.

2.5.4 Actors and structures

My quest was to establish the existence of on-line harassment in Harare as well as the effects of on-line harassment on individuals. I therefore needed to meet and interview the actors and other officials to be able to understand the lived realities of what they go through in their day to day lives and what they have to say about on-line harassment. The victims comprised women from different classes, backgrounds, beliefs, religions as well as different levels of education. The views of men from different backgrounds were also obtained. They included ordinary men, professionals as well as celebrities. Representatives from the government, i.e., from the office of the Minister of Information Communication and Technology, the Police and POTRAZ and from NGOs were interviewed to ascertain the legal remedies available for the victims. I then asked the women and men for their responses to these remedies as well as

the accessibility of the justice legal system to the victims of on-line harassment. By engaging this methodological approach I came to realize the extent of the effectiveness of the services provided for victims of on-line harassment and their impact on their lives.

2.6 Emerging issues

During my field research I discovered that some women face challenges in trying to remove embarrassing unwanted nude pictures or videos of themselves that are posted on-line by their ex-partners. This appears to be their paramount concern as they fear the spread of such material which always goes viral in cyberspace. Sadly, once material is posted, however, it is almost impossible to remove. The issue of internet service providers comes into play as they ought to have the authority and power to remove such material, but, unfortunately, they do not and cannot.

2.6.1 Suicide and on-line harassment

It has emerged that cyber bullying or on-line harassment makes young women or girls more than twice as likely to harm themselves or attempt suicide. Researchers at the University of Oxford, Swansea have found that cyber bullying raised the risk of suicide or self-harm behavior 2.3 times. The research also found out that victims of on-line harassment were less likely to report their cases to the police as compared to traditional face to face bullying (Anon., 2018).

As harmful as bullying has been, what many adults seem not to be aware of is the fact that it has recently shifted to a more dangerously different level. There are no more boundaries on social media; they have been blurred and broken down in both positive and negative ways. Young women and girls can now connect with each other and share their personal experiences with friends and even strangers they have met on internet without any hesitation. They can get involved in relationships at deeper levels than they can understand or cope with; they can come under the malicious influence of predators who groom and steer them toward suicide, a phenomenon which is sweeping South Africa and I found (during a focus group discussion) that it is also occurring in Zimbabwe. Cases of suicide have occurred in many tertiary institutions and parents are worried about the influence of on-line harassment.

During the focus group discussion I conducted one woman said:

“Ndine mwana musikana ari form 2 anotumirwa mamessage pa phone pake nevanuhu vachimutuka nekumutyisidzira vanogona kutomuisa pa facebook anemukomana kunge zvinonzi mukonama wake vasikana ava vanomutyisidzira zvekuti haachatofariri kuenda kuchikoro achitya kunyadziswa kwavanomuita pa facebook nepa instangram pavanoisa ma picture ake nemukomana zvinonyadzisira asi ndaakutyira hupenyu hwake kuti anogona kuzviuraya.”

(Meaning, “I am fearing for my daughter who is being threatened and bullied by other school mates. She is in form two and these girls who harass her send pictures of her on Face book posing with a certain man as if she is the man’s girlfriend in a shameful manner. My daughter is no longer comfortable going to school and I am afraid that she might end up committing suicide.”)

According to one communications and media consultant, on-line harassment is a trivial issue that can be easily dealt with unless the threat is physical. He then seemed to realise that on-line harassment was serious after I told him how it has been proved to lead to depression and suicide. There are other forms of on-line harassment which another group of women cited. They referred to harassment from internet service providers who send messages to them about health tips but are constantly focused on being overweight and they felt tormented by this.

2.7 Data collection methods

Several data collection methods were employed to gather information from all stakeholders in order to obtain answers to the research questions and fulfill the objectives of the research.

2.7.1 Personal interviews

Personal interviews were conducted with both men and women in Harare and the purpose was to understand their personal experiences and their lived realities in cases of on-line harassment. I faced many challenges as I interviewed these individuals/victims simply because I was seeking to get them to unravel and expose one of the most deeply personal, sensitive and confidential issue of their lives, as most, if not, all of the victims had experienced sex videos or nude pictures of themselves being leaked on to the internet. This method of interview enabled me to understand very deeply the impact of on-line harassment on individuals as they shared their harrowing individual experiences with me. Their stories were so vivid that I could feel their pain as they narrated their ordeals to me and this made the

process of interviewing them a very emotional experience for me as well as them. I also came to realise that by using this method of going on the ground, searching out victims and getting to know their realities of on-line harassment, my eyes were really opened to the fact that this crime is actually far more common and widespread than I had originally thought.

Heads of departments and supervisors were also interviewed with the aim of ascertaining how on-line harassment cases are managed and what challenges they pose to their administrations. Officials from the Government and parastatals were also interviewed. I used open-ended questions which enabled me to receive more elaborate answers to my questions than just yes or no.

2.7.2 *Focus group discussions*

I managed to conduct one focus group discussion with 40 women called *Vashandiri*¹ from the Evangelical Lutheran Church in Zimbabwe. This interview was important in my triangulation of data. The discussions were about the prevalence of cyber bullying focusing on on-line harassment and its effects on women’s lives. The aim was to ascertain the prevalence of on-line harassment. This method, however, was not very fruitful as I discovered that women were not really comfortable sharing their experiences about this as a group but rather as individuals during one on one interviews. As a result I did not conduct any focus group discussion with men.

2.7.3 *Table of respondents*

Table 1 shows some details of the respondents involved in this research.

Table 1: Table of respondents

Respondents	Women	Men
Individual interviews	10	05
Focus group discussion	40	00
Police officers	01	04
GOVT Ministries and other stake holders e.g NGOs	04	04
Total	55	13

¹ Vashandiri is a group of women of different backgrounds and professions of the Evangelical Lutheran Church in Zimbabwe.

2.7.4 Observations

The observation method enabled me use my own senses and witness for myself what was going on in my environment within the research field. I observed that most victims of on-line harassment are not comfortable discussing or sharing their experiences for many reasons including the fear of being stigmatized and of losing the support of their families, friends and community. When I approached them to interview them they would ask how I had come to know about their story, how I had located them as they live in constant fear of knowing that their story and compromising pictures had gone viral which had even led some of them to deny that the images were of them, rather than admitting that they were and seeking justice. In one place I observed women with posters with slogans like:

“#Revenge porn war against women’s naked bodies, revenge porn is everyone’s issue, stop the war and leaking the video won’t solve anything.”

This was a group of women from a non-governmental organization (NGO) who took it upon themselves to fight for the rights of victims by means of a campaign to criminalize the distribution of private images and videos without the consent of those who appear in them.

I also observed that officials pay little attention on issues of on-line harassment as some of them view victims in a negative light, considering them commercial sex workers ‘who deserve what they get.’ This is not an appropriate attitude to adopt since victims of on-line harassment are also human beings who, like any other victims of crime, enjoy equal rights to privacy, dignity and justice. I also observed that most police officers either simply do not understand the existing legislative provisions which are relevant to cyber bullying or due to the processes involved, they do not wish to walk with victims along the long path to justice using the provisions of the Censorship and Entertainment Control Act [Chapter 10:04].

2.7.5 Assessment of methodologies and ethical considerations

The moral objective of the research process lies in the researcher’s duty to put together a set of goals with the intention of increasing social advantage and reducing harm. I believe that I achieved this goal in relation to women victims of on-line harassment. Getting the required authority from the correct authorities in regard to the study before starting to gather the research information was necessary and obtained. From an ethical standpoint, relevant

respondents were promised a copy of the research paper after completion and certain other respondents were assured anonymity.

2.8 Conclusion

The methodological approach that was engaged in the study is explored in this chapter. This was made possible by observing what they bring about and why they were selected. This chapter also looked at the different research methods that were used and their effectiveness.

CHAPTER THREE

3.0 FINDINGS OF THE STUDY

3.1 Introduction

This chapter presents the findings of the study which include the women's experiences with on-line harassment and how they are affected differently from male victims of the same crime. It also outlines the challenges women victims face when seeking redress for the crime from the criminal justice system. The findings are presented as answers to the research questions. Finally conclusions are drawn from whether the assumptions, upon which the questions were based, were either confirmed or challenged by the findings of the study.

3.2 Women's experiences of on-line harassment in Zimbabwe

Women are subjected to on-line harassment and in most cases they end up self isolating and losing their self-esteem. The internet does indeed benefit women in many different ways. They can use it to buy and sell commodities and as a powerful learning tool. But how can they benefit from it when they are harassed and the environment becomes unsafe for them? One respondent during a personal interview explained how she felt after her sex video was posted on-line soon after winning the title of Miss Zimbabwe. She said:

“I felt humiliated and I lost everything including the title and my family as well as the society's trust and respect for me, it was really devastating.”

This is a clear example of how men control women through the blatant control of their sexuality can and do brutally hurt and degrade them by posting sex videos of them on the internet. Since men do not suffer such devastating reactions from our society which condones and even applauds their criminality, they feel free to commit the crime openly (as they are also featured in the sex videos and pictures), contemptuous of any possibility that they themselves may be prosecuted and held criminally liable for their cruel and inhuman conduct. Their all-consuming ambition is to exhibit their brutal control over women, even if in the process of doing so they expose themselves to criminal prosecution.

In most cases women are exposed to on-line harassment after a relationship has turned sour. I came across this scenario often in the many interviews I held during my field research. It was always after a woman or girl in a relationship had made the decision to move on that

their ex-partner, whose bruised ego could not accept rejection, retaliated by posting the nude pictures or sex videos in order to victimize and hurt them. I found the women's law approach extremely useful as a tool to help me understand women's lived realities which are that men abuse women on-line and use the internet as a weapon to get back at them if their relationship fails. One woman explained:

“He told me that during our divorce proceedings, I should not claim anything regarding our assets despite the fact that we have been married for twenty years. He threatened that otherwise he would post my nude pictures on the internet. I was so scared and agreed that I would not claim anything. I was ashamed that both my loved ones and the community would view my nude pictures on the internet I could not bear to imagine that happening to me.”

The women's experiences with on-line harassment are that it is mainly orchestrated by men, who feel that women's existence is less important than theirs and therefore men do not think twice about ruining their lives through on-line harassment. This is a clear case of men objectifying women, using them and then throwing them away just like a piece of toilet paper.

3.2.1 Case study

The case of Respondent 1. She is a single lady aged 30 and works as a lecturer at a university in Zimbabwe. She fell in love with her boyfriend when she was 21 years old and they dated for a very long time. During that time her boyfriend persisted in asking her to send him nude pictures of herself and once even recorded them having sexual intercourse. Respondent 1 sought her boyfriend's assurance that he would keep the pictures only for himself and he agreed. As their relationship started turning sour, they separated and Respondent 1 moved on to a new boyfriend. This did not go down well with her ex-boyfriend who started threatening her to leave her new boyfriend and reunite with him failing which he would post her nude pictures and their sex video on the internet. Respondent 1 tried to reason with him and reminded him of his promise that the materials were only for his consumption. He refused, broke his promise and posted the nude pictures as well as the sex video on www.musvoweze.com and they went viral in seconds and became accessible to everyone across the board including her relatives and enemies. Respondent 1 said:

“I felt so humiliated that I was even ashamed to meet or talk to my parents. I was really hurt more so when I am at work, I see students looking at me as if

they are visualizing my naked body and I am devastated. I feel like I cannot work any more as it has really affected my profession as a lecturer.”

She has since filed a police report against her ex-boyfriend and sought legal help from the NGO, Women and Law in Southern Africa (WLSA). Her case is still pending in court.

3.3 Women are affected differently from men by on-line harassment

Women are affected differently from men each time a sex video is released or posted on-line. Since society congratulates men who commit the crime of on-line harassment but blames, insults and humiliates its women victims, men continue using the internet to commit the crime in order to oppress and control women. It is another way in which men in Zimbabwe’s heavily patriarchal society exercise their power over the women they subordinate. During my field research I came across the case of a woman whose sex video was posted on the internet. While she was insulted by many people who posted cruel comments about her, such as, “*She is a prostitute and ugly and that her vagina was rotten*”, the man who posted it and was also in the video was showered with praise in comments such as:

“You are the man and deserve a gold medal, you represent the ghetto youth and you are our hero.”

The perverse double standard at play in the socialization of girls and women and boys and men in Zimbabwe plays a major role in the public’s reaction to on-line harassment. While people believe that it is socially unacceptable (even for them) to watch a woman having sex in sex videos which they themselves make go viral on the internet and viciously abuse her (not themselves) in their comments for doing so, they feel quite the opposite about the men in these videos with whom they agree, flatter and encourage through their comments. This is a glaring case of gender discrimination.

Some women even lost their jobs after their sex videos were posted on the internet. For example, there was the case of the two Miss Zimbabwe girls who were stripped of the crowns just because their sex videos were leaked. Their bosses felt that their sullied reputation would bring their organization into disrepute and expelled them. However these women’s partners who were also featured in these sex videos were never fired or criticized by their employers or the public. This clearly shows that women victims suffer more from on-line harassment than men.

In another case, a popular female television presenter also lost her job after the leaking of her sex video but surprisingly the man who was also involved was not affected by it; to the contrary, he was praised and congratulated by the community.

Since women victims of on-line harassment suffer from the loss of societal acceptance they may also have difficulties saving their marriage or, if they are divorced, of remarrying as their current or future in-laws object. They may also struggle to find new employment (Bentzon, 1990). Companies fear for their reputation if they employ a socially rejected woman whom society believes to be of loose morals. Men, on the other hand, remain largely unaffected by nude pictures or sex videos of themselves on the internet. Their marriages usually survive (as was the case of one male musician) or they easily remarry. Also, current and future employers do not hold against them public exposure of nude pictures of sex videos in which they feature. These were some of the issues which were revealed during the women's focus group discussion I held as well as some individual interviews.

Some women respondents were even of the view that it was better not to report on-line harassment to the police or to admit that they feature in a leaked sex video because their fear of rejection by their family and loss of their support and the fear of being shunned and stigmatized by society far outweighed their desire to seek access justice. This is a further example of women continuing to be oppressed by men through socialization (Penza, 2018). It is also demonstrated in the case of the woman who gave up her rights on divorce to her husband for fear that he would publish her nude pictures (above).

All the above proves that whereas men are hardly affected by on-line harassment, women are severely harmed by it. In fact, men even consider it a valid exercise of their masculinity and derive pleasure from humiliating women on-line (Antunovic, 2019). In other words, they commit the crime with this motivation.

3.4 Lack of specific legislation

I learnt from one woman during my field research that after receiving several harassing text messages she reported the matter to the police who refused to consider charging the harasser because they did not know with what offence to charge him. As a result the woman could not access justice. There are no current laws in Zimbabwe which specifically address on-line harassment and that alone makes the law inaccessible to women who suffer from it. I also

learnt from personal interviews that as a result of this problem, police officers who do not know how to treat such cases end up resorting simply to counseling victims of on-line harassment.

The lack proper or specific legislation to govern the crime of on-line harassment forces victims to use options other than obtaining proper legal assistance from the criminal justice system. This was revealed by a respondent who told me of the case of a young female student who was filmed without her knowledge or consent by her boyfriend while they were having sex. The video was shared on-line and went viral. Her family made arrangements for her to flee the country to escape the shame and humiliation of the publicity. No prosecution, however, was brought against her boyfriend. These are just some of the lived realities of women and girls who suffer on-line harassment.

While there are currently no laws in Zimbabwe which specifically deal with cyber bullying and on-line harassment in particular, there is the Cyber Security and Data Protection Bill which is still waiting to be made an Act of Parliament.

3.5 Access to criminal justice by victims of on-line harassment

3.5.1 Barriers to pursuing legal redress

Data obtained from the field reveals that most women do not know about the country's legal frameworks and have also lost confidence in our legal processes. For example, right from the very outset of reporting the crime and even at the hands of the police themselves, the victim suffers the stigma of the offence as well as further harassment. One respondent who tried to make a report to the police said that she was asked several irrelevant and insulting questions by the police officers on duty including whether she was interested in getting married and they even suggested that the bully she was reporting was actually in love with her, implying that she was wrong to reject him.

The lack of specific legislation to deal with on-line harassment is a barrier against most women accessing adequate justice in cases of on-line harassment as the crime is not fully covered by existing legislation. This became evident during the interviews when the Police explained the difficulties they have formulating a charge/s against an offender when a complainant suffers on-line harassment especially for cases involving stalking and the posting of nude pictures or sex videos.

The existing laws do not properly define the crime of on-line harassment which sometimes leads to the misinterpretation and/or misapplication of existing laws by the police. Many cases of on-line harassment are changed by the police to fit in with existing laws so that they can be prosecuted before the courts. This actually aggravates the situation for the women victims as they are still denied the remedy in law to which they are entitled.

The lack of confidence in the Police is a major barrier against women accessing justice. Some women suffer even further harassment and victimization at their hands when they try to lodge a complaint and make a report at police stations. One woman described in detail how the police officers laughed at her as she explained her case and made fun of her story without even recording details of her case. Finally, she gave up and they sent her away believing that what had happened to her was not a crime at all.

The fear of loss of societal acceptance is another barrier against women victims of on-line harassment accessing justice. During my interviews with women victims they confided that they could not bear to imagine people finding out that it was really them in the pictures and videos circulating in cyber space. I met women who said that they preferred to do nothing about their nude pictures and/or videos continuing to circulate in cyber space rather than own up to them and reporting the case to police and to begin to be chased by the media for the story. So while they admitted that they wanted justice they immediately countered this by equally admitting that they could not bear the shame of being recognized by their families, friends and community if they went public by seeking justice. Some women even feared for their marriage and relationships. Married women and those in a serious relationship in particular said they preferred to remain anonymous than to make a formal report of on-line harassment. Women fear stigma and humiliation at the hands of their loved ones and the community at large through their religious and cultural beliefs so they prefer not to report cases of on-line harassment as they do not want to be identified as victims. This was narrated by the officer at a non-governmental organization which works at promoting the full attainment of sexual and reproductive health rights for women in Zimbabwe.

3.5.2 The required expertise

Information Communication Technology (ICT) certification warrants that the relevant organization possesses personnel with recognized ICT skills, thus providing end users with

peace of mind knowing that such staff are qualified professionals qualified to collect and preserve ICT evidence (Institute, 2020).

Section 6 of the Zimbabwe Criminal Defense Manual - Rules of Evidence states:

“In order for a person to give expert evidence his special expertise must first be established. His professional qualifications and experience must be established if the prosecutor intends to dispute the qualifications and expertise of an expert witness for the defense; the defense should ensure that its expert comes to court armed with documentary proof of his qualifications and expertise” (Institute, 2020).

The Zimbabwe Republic Police, Criminal Investigations Department, Cyber Crime Division currently does not have any qualified personnel who can collect and preserve evidence which is admissible in a court of law in cases of on-line harassment. During my field research I learned that it takes a great deal of training in the use of specific digital tools to earn an ICT certification to qualify as an expert witness in a court of law. An alternative is to apply to a magistrate to obtain authority to collect and preserve digital evidence.

In order to investigate cases of on-line harassment successfully and appear in court as expert witness police officers need to be trained and achieve certification in the use of digital tools and programs (including those relating to facial recognition) which will provide them with the skills to collect and preserve evidence which will be considered acceptable or admissible in a court of law.

3.5.3 Negative attitudes and unfriendly environment

An unfriendly reporting environment which lacks gender sensitivity coupled with incompetency of service providers and corruption among the stakeholders are further structural barriers that on-line harassment victims are facing when seeking redress from the criminal justice system.

Women's economic inequality and their dependence on men also stand out as prominent obstacles as they draw on women's poor access to resources which are needed for legal proceedings in an environment which is unfriendly to them as victims of on-line harassment.

The patriarchal beliefs that persist about men's superiority and the seemingly natural segregation of gender roles that see women as care givers and men as breadwinners undermines women of their right to access to justice when they approach police stations manned by male police officers who ask them demeaning questions such as, "*Don't you want a husband?*" and say, "*That's not harassment, the man is in love with you,*" as was the case with one of my respondents.

During my field research women complained that when they seek redress from the criminal justice system for on-line harassment they face unfriendly police officers at the charge office, who sometimes even fail to document the commission of the crime and even make a joke out of the whole experience. This happened to my first respondent who was turned away by police officers at the charge office when she went there to lodge her complaint of harassment. She said she felt so helpless that she ended up taking matters into her own hands by hiring private investigators to find out who was harassing her.

In another case the woman faced negative comments and insults from her family and friends for a leaked sex video. She was cast out of their midst and accused of bringing shame on the family name. She received no support from her loved ones and lost her job.

Lack of victim support services for on-line harassment victims also arose as an emerging issue during the field research and it is a problem which rape victims also encounter. On-line harassment has long term effects on victims and if not properly handled may even lead to suicide.

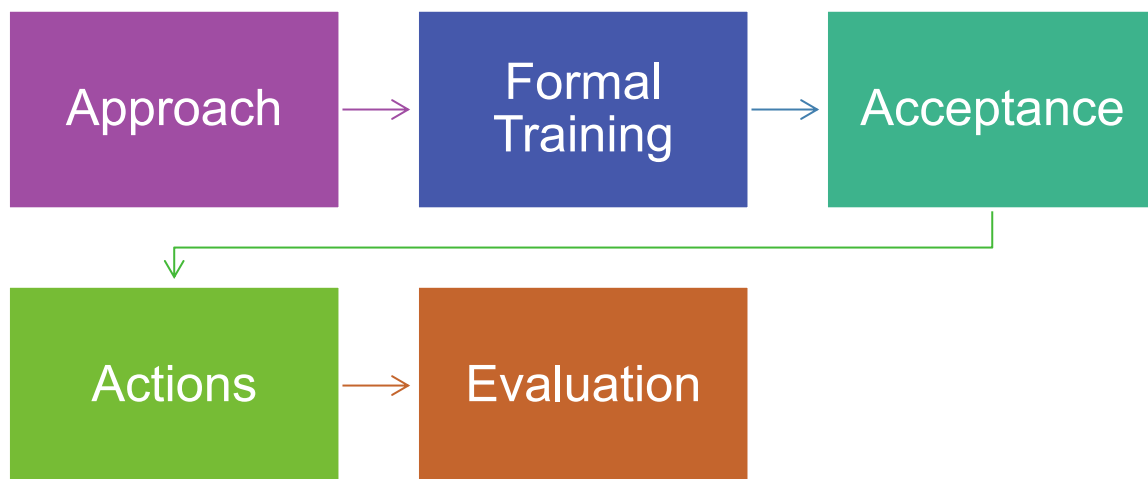
3.6 Formal training for police officers

The organization, structure and content of training constitutes formal training. The mutual involvement of the expert and the novice in the learning process is considered the best way of training as compared to the transmission of information from the expert to the learner. The training and education of police officers should be well grounded on experimental learning with an orientation towards problem solving placing particular emphasis on critical thinking about the values and goals of society (Merenin, 2004). The training and education of police officers should be a continuous process throughout their service. Police officers should learn to exercise their rational judgment when faced with practical situations which are part of their typical daily duties.

Police officers at work are faced with all kinds of situations that require them to use common sense, good judgment, maturity, intelligence, wisdom, communication skills and, importantly, good control of their emotions. Police training should not only address procedural rules and substantive laws but more importantly how and when to use or not use them as well as how to apply minimum force in the process of observing and enforcing the law (Merenin, 2004).

An organization's perspective on formal training in all its forms is not the beginning or end of the learning process. To train and nurture good police officers, the organization (i.e., the Zimbabwe Republic Police - ZRP) should follow a holistic approach which starts with the goals of the ZRP. This is followed by their acceptance by the officers. This is then put into practice or actions which are based on incorporating the entire ethos of the ZRP in the officers' initial and on-going training and ultimately in the performance of their duties as police officers and then finally the evaluation of their performance (Figure 2).

Figure 1: Diagram of the holistic approach to the initial and on-going training of police officers



There is an urgent need for the formal training of police officers in the handling cases of on-line harassment due to their extreme sensitivity. I feel that these cases should be treated with particular care and in a similar way to other sexual offenses. At the moment complainants are not treated with the sensitivity, care and respect that they deserve in view of the severe, long-term and often life-changing sexual, emotional and psychological harm they suffer as a result

of this uniquely on-going offence (in view of the fact that the offending material cannot be deleted from the internet). All too often untrained police officers do victims more harm than good by dismissing this serious sexual offence as being trivial and not worth pursuing.

3.7 The police: Interrogating the criminal justice system in Zimbabwe

The Cyber Crime Division of the ZRP is currently responsible for extracting and preserving digital data. There are 54 police sites that are linked up and capable of collecting and sending digital evidence around Zimbabwe.

The Cyber Crime Division acknowledges that they have indeed received several cases of on-line harassment but they do not record or treat them as the crimes of either on-line harassment or cyber bullying as there is no legislation which requires them to do so. Instead they deal with them under the available legislation of the PTC Act, the Criminal Law Code or the Censorship and Entertainment Control Act. These pieces of legislation, however, do not adequately address the specific crimes of cyber bullying like on-line harassment.

The Division currently has no expert personnel who are certified to collect, preserve and give admissible evidence in court. The officers running the cyber crime laboratory have only been trained to be able to extract evidence from computer devices using digital tools but they do not possess proper certification.

The Division has, however, engaged a Japanese company to install a facial recognition system which will help detect and curb many different types of cyber crimes including on-line harassment. This will see police officers being trained in the required expertise and being awarded the necessary certification to qualify them as an expert to give admissible evidence in a court of law.

Digital evidence for up-coming court cases is meant to be stored in its original form but the Division suffers from a lack of storage space in which to keep such evidence. For example, the Division has insufficient disc storage space, a lack of back up materials like servers, disc tapes and it does not have generators or solar power in the event of electricity supply shortages. At some sites there is not even enough power or connectivity to send digital evidence to central headquarters for processing. These are some of the challenges facing the smooth running of the Cyber Crime Division.

The Victim Friendly Unit (VFU) division shares information with other organizations that render help to victims of on-line harassment like Save The Children, Katswe Trust and many others. They also confirmed that they receive many cases of cyber bullying but because of the lack of specific cyber bullying legislation they have to deal with the cases mainly under the PTC Act, the Censorship and Entertainment Control Act and the Criminal Law Code. The Censorship and Entertainment Control Act covers cases of the importation, production and dissemination of undesirable publications, pictures and videos. For materials it to be deemed undesirable the Act requires the Censorship Board to view it and decide whether it is 'undesirable.' Furthermore, before any prosecution for any offence relating to such material can commence, authority must first be sought from the Attorney General or his deputy.

Due to all the bureaucracy associated with the prosecution of on-line harassment cases, some victims feel more comfortable simply dropping charges rather than persisting with what is an embarrassing process. Also once they realise the fact that the nude pictures or videos cannot be deleted from cyber space after they have been posted, the victims usually choose anonymity, claim no knowledge of and pretend not to be the subject of the undesirable material. This was revealed by the staff officer VFU.

Revenge pornography involves the distribution of sexually graphic images of individuals without their consent. It includes images originally obtained without consent, for example, through hidden cameras, the hacking of phones or computers, recording sexual videos and also images consensually obtained within the context of an intimate relationship. This phenomenon is on the increase in Zimbabwe. They have since opened an on-line reporting system which they believe will go a long way to helping women and girls to be able to quickly report cases of on-line harassment at any time and from any place. This initiative faces the challenge of non-availability of reliable internet services across the country. There are no statistics of on-line harassment as the offence is never recorded as such.

3.8 Non-governmental organizations (NGOs)

In an interview with a director of one of the non-governmental organizations, I found out that co-operation between the police, the criminal justice system as well as NGOs or women's organizations can really make a difference in the handling or assisting of on-line harassment victims. The NGOs and other women's organizations are mostly in contact with women in their community and have already established trusted relationships with women who have

experience in the area of general harassment of women. Their influence within the community is so strong that their involvement should always be included. I witnessed this during my field research when I visited some of the women's organizations.

The non-governmental organizations received several different cases of on-line harassment and they offer victims legal and moral support. In fact, most victims feel more comfortable visiting such NGOs for help than the local police station. NGOs offer counselling and support services to victims of on-line harassment. Some of these NGOs are part of the feminist movement which works towards the full attainment of sexual and reproductive health rights for women (Amaldo, 2001).

3.9 Conclusion

This chapter presented the facts from the field data from which the findings were drawn and presented in accordance with the research questions. The main assumption was to find out if women and girls are experiencing on-line harassment in their lives and the challenges associated with the redressing of these issues in the criminal justice system. From the findings it was clear that women do indeed suffer on-line harassment and they find it difficult to redress cases of on-line harassment through the criminal justice system due to several different reasons, some social and cultural, that effect the process from as early as the reporting stage.

CHAPTER FOUR

4.0 DISCUSSIONS OF FINDINGS

4.1 Introduction

This chapter looks more deeply into and critically analyses and discusses the findings of the study with a view to drawing pertinent conclusions about it.

4.2 Analysis of cyber bullying in the context of international legal provisions

International human rights laws against on-line harassment call on states to prevent violations, protect victims of human rights abuses, prosecute violations, punish perpetrators and provide redress and reparations for victims. This also includes the obligation to remove impunity and prevent human rights abuses by non-state actors. These include transnational and national corporations operating within the jurisdiction of the state.

ICT provides fertile terrain to amplify the reach of transmission. This aggravates the harm to the exercise and enjoyment of human rights and freedoms, particularly the right to privacy or respect for private life caused by the posting of unwanted sex videos and nude pictures compared to more traditional media forms of face to face harassment.

Patriarchy and prevailing interpretations of social moral norms, culture and religious beliefs situate women as the primary bearers of honor and tradition. Women who establish on-line relationships end up deemed to have transgressed culturally appropriate behaviors, as with women who engage in sexting, exchanging nude pictures or videos or who consent to intimate partners taking nude pictures, albeit for private purposes. This aspect violates article 2 of the Universal Declaration of Human Rights 1948 which provides for the right to non-discrimination. Despite these provisions women suffer on-line harassment especially when the relationship comes to an end and men use the nude pictures and sex videos of the victims to humiliate and degrade women.

Article 14 of the International Convention on Civil Political Rights (ICCPR) speaks of equality for all persons before the courts and the right to a fair hearing or trial. When sex videos and nude pictures are posted on the internet it is within women's rights as provided by the ICCPR to obtain a fair hearing or trial. From my study in the field, however, I discovered that women victims of on-line harassment are denied their rights as explained by one woman

who went to a police station to report on-line harassment and was turned away. Police officers have problems identifying the crime as it is not adequately described and accommodated within the country's existing laws. In addition, the enhanced anonymity offered by digital and virtual spaces through encryption and privacy protocols creates particular challenges in identifying perpetrators of on-line harassment of women and magnifies impunity. Sometimes it is difficult to differentiate between the legitimate exercise of freedom of expression and on-line harassment (Campbell, 2005).

Under the Convention on the Elimination of All forms of Discrimination (CEDAW) state parties are obliged to take all appropriate measures to eliminate discrimination against women in all aspects of their lives and that includes harassment on-line. Due to socialization, women victims are blamed for on-line harassment committed against them and states tend to trivialize them by minimizing their perceived gravity when they do deal with them.

Discrimination against employing women is unacceptable according to CEDAW. Therefore state parties are obliged to take appropriate measures to eliminate discrimination against women in the field of employment so as to ensure the same rights to equality between men and women. During the field research quite a number of women lost their jobs after their nude pictures or sex videos were posted on the internet just because their employer companies felt the women's conduct would bring their reputation into disrepute. Their male counterparts in those same sex videos, however, did not lose their jobs nor suffer any other form of discrimination at their work place.

4.2.1 Regional human rights law on cyber bullying

The African Union's Convention on Cyber Security and Personal Data Protection (2014) includes, among other things, a call to African Union states to create and/or amend national laws to adequately combat cybercrime, harmonize national laws, create mutual legal assistance treaties (MLATs) where they do not exist, facilitate information sharing between states, facilitate regional, inter-governmental, and international cooperation and utilize existing means available to cooperate with other states and even the private sector.

Article 8(a) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) speaks of access to justice and equal protection before the law, that women and men are equal before the law and shall have the

right to equal protection and benefit of the law. States parties shall take all appropriate measures to ensure effective access by women to judicial and legal services, including legal aid. Women suffer from a lack of recourse after being exposed to on-line harassment mainly because there are no provisions for such support to victims of on-line harassment in Zimbabwe.

4.2.2 National laws and policies on cyber bullying

The Constitution of Zimbabwe provides for equality between men and women. However the dominance of men in the society does not give women a chance to achieve equality; rather women continue to suffer from the social constructs embedded in societal acceptance. Although the Constitution provides for the rights to dignity, privacy and security, currently Zimbabwe does not have specific legislation dealing with on-line harassment. The closest legislation it does have to dealing with the offence include: the Post and Telecommunication Act (section 88) and the Criminal Law Code which covers defamation and criminal insult. There are also sections 13 and 26 of the Censorship and Entertainment Control Act. Despite all these provisions, women still find it difficult to redress on-line harassment due to its complexity and ever evolving form. Fortunately, the Cyber Security Data Protection Bill seeks to cover most of these emerging issues of cyber bullying.

4.3 “My nakedness, my dignity”: Morality, religion and culture

Nakedness is viewed as one’s most private domain and women are considered traditionally the custodians of such social constructions. Women whose nude pictures or sex videos are posted on the internet and are viewed by the public at large are considered the transgressors of religion, culture, norms and morals by the society. These gender stereotypes are mainly perpetuated by the belief that women need to be protected rather than viewing men and women the same without taking into account their biological and gender differences. When a sex video is posted, there are two distinct individuals, a man and a woman, yet society chooses to view only the woman in a negative light and not the man. This demonstrates that there is clearly a need for formal equality between the sexes and a change of mind set in the socialization process before women can enjoy equality.

During the field research one respondent shared her experience on on-line harassment when her nude pictures and sex video were posted on the internet by her ex boyfriend. This is what she said:

“Pazvakabuda painternet ndakanetseka kuti amai na baba vangu vachati kudii hama dzangu ko shamwari dzangu zvakare ndiani achazondida ndicharoorwa here vanhu vachatii ko kuchurch, ndakaomerwa ndikanyara ndikanzwa kunge ndisina kupfeka.”

(Meaning, “When the nude pictures and video was posted I was worried about what my mother and father will say, and my relatives and friends. I was even worried about the fact that will I get married? And what people will say at church, I felt so ashamed as if I was naked.”)

Women are oppressed through their sexuality. They lack self determination and autonomy and cannot decide their destiny as exhibited by this above respondent who feared she would not find a husband and what people would say about her. Women need emancipation and empowerment to realize that their value is not attached to nor dependent on men or other people or what they think of them.

Religion, culture and social norms continue to tie women to oppression which is a manifestation of the institutionalization of male dominance over women in society and results in women’s deprivation of their rights. As viewed by the existentialist feminist, women as ‘the other sex’ are not considered and therefore are used as objects of men’s pleasure and desire for sex. Therefore men don’t think twice before posting pictures of women’s nakedness on the internet purely for the purpose of degrading, humiliating and denigrating them. Women then suffer from societal rejection and isolate themselves and some may even commit suicide as narrated during a focus group discussion with religious women.

As women and men lead different paths in life and are affected by law differently (Dahl, 1987), women need to be able to realize the dominance of men’s power in their lives and opt for emancipation from social barriers. Biases and negative socio-cultural perceptions that imply that women provoke on-line harassment through their misbehavior or transgression of socio-cultural norms ultimately translates to lack of family and societal support. Women will be judged because of that one woman observed during a focus group discussion. She said that a woman will be stigmatized if she fails to marry. On-line harassment, trolling and stalking may drive women to suffer from an inferiority complex to the point of refusing to participate in social arenas like, politics, socio-economic and general social media platforms and thus creating a gender imbalance in these fora. Women are now also afraid to enter into intimate

relationships for fear of being manipulated through the posting of nude pictures and sex videos in cyber space.

Both religious (e.g., Christian and Muslim) and social constructs forbid women's bodies to be seen naked. Culturally and religiously one's nakedness should never be exposed to the public. Yet social media knows no physical or geographical boundaries and can reach both the respected and unexpected audience of the victims. This is easily and viciously exploited by men who feel offended as the result of a failed relationship and who in retaliation publicly shame their former intimate partners through on-line harassment by publishing nude pictures and sex videos which were made for their private consumption and now expose their nakedness to the whole world.

4.4 Restorative justice and on-line harassment cases

Restorative justice is non-punitive and stresses crime prevention. It focuses on the accused having to admit guilt so that the victim and offender can settle their differences and restore their relationship. Some women victims of on-line harassment opted for restorative justice in order to regain their confidence in society. Their reassurance comes from knowing that the issue will be solved amicably especially in the case of the posting of unwanted pictures and videos or general text. In other words, once the parties have reconciled the offensive post can easily be deleted (Morrison, 2015). Applying restorative justice at the conviction stage of a legal trial will also motivate perpetrators to opt for reintegration through the presence and influence of families and society. Its main focus is on reparation and integration which may reduce the perceived gender stereotypes prescribed by society. During the field research some victims were more concerned about the removal of the offensive pictures rather than arresting the offender most likely because the perpetrators of on-line harassment in most cases are not strangers to the victims but ex-lovers or former husbands (Navarro, 2015).

Restorative justice focuses on mending or healing the relationship between the victim and the offender. It relooks at what it means to do justice. It does not perceive punishment as the only and best way to deliver justice but rather focuses on the restoration of relationships. It considers that unless a reparative act is done justice has not transpired. This process can help victims who are greatly concerned about their reputation, societal acceptance and restoration of human dignity (Duncan, 2016). Restorative justice will help to achieve equal opportunity for both men and women.

4.5 A critical analysis of the Cyber Security and Data Protection Bill, 2019

The primary purpose of the Cyber Security and Data Protection Bill, 2019 is to consolidate all cyber related offenses and provide for the investigation and collection of evidence of cyber crime and unauthorized data collection and breaches as well as to provide for the admissibility of digital evidence for such offences.

Rapid technological advancements have challenged existing legal frameworks, policies, and practices globally. The internet as a medium of communication, business, transactions and social conversations has accentuated the need for revisiting existing laws. This growth defies barriers, geographies and restrictions that historically slowed or inhibited the transmission and collection of information in electronic format. Personal, financial information usually stored in hard files, is easily accessible, collected, analyzed and in some instances weaponised. Access to the internet has equally evolved from being a preserve of the few to becoming a broader service accessed by as much as 49,9% of the country's population.

The Cyber Security and Data Protection Bill will now criminalize, among other crimes, cyber bullying and on-line harassment under clause 164B:

“Any person who unlawfully and intentionally by means of a computer or information system generates and sends any data messages to another person or posts on any material whatsoever on any electronic medium accessible by any person, with the intent to coerce, intimidate, harass, threaten, bully or cause substantial emotional distress, or to degrade, humiliate or demean the person of another or to encourage a person to harm himself or herself, shall be guilty of an offence and liable to a fine not exceeding level ten or imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.”

The Bill includes all possible ways in which one can be humiliated or hurt and criminalizes them accordingly and since the penalty for the offence is heavy, it provides a deterrent sentence for potential offenders. This will see the sending of unwanted messages on social media becoming a serious offence in Zimbabwe.

Clause 164C (Transmission of false data message intending to cause harm) of the Cyber Security and Data Protection Bill will criminalize:

“any person who unlawfully and intentionally by means of a computer or information system makes available, broadcasts or distributes data to any other person concerning an identified or identifiable person knowing it to be false with intent to cause physiological or economic harm shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.”

Section 164E (Transmission of intimate images without consent) of the Cyber Security and Data Protection Bill will criminalise:

- “(1) any person who unlawfully and intentionally by means of a computer or information system makes available, broadcasts or distributes a data message containing any intimate image of an identifiable person without the consent of the person concerned causing the humiliation or embarrassment of such person shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.”
- “(2) for the purpose of subsection (1) intimate image means a visual depiction of a person made by any means in which the person is nude, the genitalia or naked female breasts are exposed or sexual acts are displayed.”

However the Cyber Security and Data Protection Bill does not include remedies or support services for the victims of cyber bullying, for example, the taking down of unwanted pictures or videos posted on the internet. I strongly feel that this should have been included in the Bill to increase the confidence of victims to report cases of cyber bullying knowing very well that the digital footage will be erased as this issue has emerged as a worrisome concern to many women.

4.6 Conclusion

This chapter presented the research findings especially on the main assumption which was to find out if women are actually subjected to on-line harassment and the challenges victims face in seeking redress from the criminal justice system. The research did indeed reveal that women suffer on-line harassment but there is currently no specific legislation to criminalize it fully and completely and this poses the greatest challenge to victims in their quest to seek justice for on-line harassment.

CHAPTER FIVE

5.0 CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

In order to come up with appropriate recommendations greater consideration was given to the research questions which were:

- How are women and girls being subjected to cyber bullying and how does the criminal justice system face challenges in collecting and preserving admissible evidence in court on on-line harassment cases?
- How does on-line harassment affect women and girls differently from men?
- Is there any adequate framework to protect women and girls from cyber bullying apart from the Cyber Security and Data Protection Bill?
- Why is the non-availability of expert witnesses to testify in cases of on-line harassment a barrier to women and girls accessing justice?
- Is there a need to adequately train police officers to acquire the required expertise in the collection and preservation of evidence for cyber bullying cases?

5.2. Conclusions

From the above research questions the following conclusions were drawn.

Women and girls are subjected to on-line harassment in many different ways through text messages, pictures, videos, chat rooms, phone calls and many other ways. The criminal justice system finds it difficult to redress this phenomenon as it occurs in so many different forms which are not covered by available laws. Although some cases of cyber harassment may be prosecuted under the criminal law, the issue of admissible evidence to prove the crime becomes a challenge. Experts who have the necessary qualifications need to be called to testify in court to prove the crime and Zimbabwe's police officers do not possess such qualifications.

On-line harassment affects women and girls differently to men. While cyber harassment hurts and humiliates women and may even cost them their marriages, it has far less effect on men. Women may find it difficult to remarry while men suffer no such consequences. Out of fear

for the loss of their reputations, employers get rid of their female employees after, say, a leaked sex video but seldom no if any action is ever taken against the victim if they are male employees.

After surviving on-line harassment, women victims are often blamed by society for being the cause of it and are considered transgressors of religious and cultural norms. As a result they may lose family and societal acceptance. This is not the case with men, however, who may even be congratulated for being the target of on-line harassment from women.

There is no adequate regulatory framework to protect women and girls from on-line harassment. The existing legislation does not specifically cover on-line harassment. For example, the Post and Telecommunications Act does not adequately cover the crime of on-line harassment since it only covers text messages sent by telephone. This excludes all messages, pictures and videos sent through other social media platforms like Twitter, Facebook, emails and many others. The Criminal Law Code only speaks of defamation and the crime of criminal insult which do not cover other forms of crimes such as stalking and do not cover the posting of nude pictures and sex videos. The Cyber Security and Data Protection Bill seems to address many issues of on-line harassment in its different forms but it has not yet been promulgated into law by becoming an Act of Parliament.

The non-availability of expert witnesses to testify in cases of on-line harassment is a barrier to women and girls accessing justice. Criminal courts require experts who possess certain relevant qualifications to give evidence in order to make admissible evidence of on-line harassment. Since police officers who collect such evidence do not have such qualifications this prejudices women's right to justice.

There is a need to adequately train police officers to acquire the required expertise on the collection and preservation of evidence of on-line harassment cases. Police officers who are posted to the cyber crime laboratory and who are charged to collect, preserve and give evidence in court currently do not receive any special training in handling digital tools. Therefore there is a need to train them specifically to become certified in the use of the various digital tools they use when collecting evidence. This will go a long way in helping to prosecute on-line harassment cases in court and providing women with smooth access to

justice. If police officers are certified in computer digital tools they will possess the required expertise to give admissible evidence in court.

5.3 Recommendations

To be able to adequately address the issue of cyber bullying and on-line harassment there are a number of measures that can be adopted by different stakeholders.

The Government of Zimbabwe

1. There is a need to promulgate the Cyber Security and Data Protection Bill, 2019 into law which will curb the major problem of addressing cases of on-line harassment that are not legislated against in the current laws of the country. Those accused of on-line harassment will be able to be properly charged with the offence which is not the current state of affairs, as a result of which offenders are escaping justice.
2. There is also a need to include in the Cyber Security and Data Protection Bill a section that directs all internet service providers in the country to remove unwanted pictures, videos as well as any other unwanted material posted on the internet. This action will not however completely or adequately solve all such issues. The Government through its regulatory authorities like the Ministry and the POTRAZ will need to apply for further authority to the relevant authorities to be able to obtain a license to be allowed to remove such unwanted material on the internet since Zimbabwe does not have authority over search engines such as Google, Bing etc.
3. Cases of on-line harassment should be treated differently right from the onset of their being reported to police stations. A focal person should be appointed who is responsible to receive cases of this nature and manage traumatised victims of this grave offence. They should have a sound well-grounded training in gender issues and understand or have an appreciation of woman's lived realities.
4. There is a need to train police officers to collect and preserve evidence of cyber crimes so that they become equipped with the necessary qualifications to appear in court as expert witnesses and give admissible evidence in on-line harassment cases.

5. There is also need to ensure that our court procedures are gender sensitized and properly implemented to avoid the re-victimization of victims of on-line harassment. Our Zimbabwean laws do not consider women's experiences or needs during court procedures so there is therefore a need to redraft or re-craft laws and regulations that specifically accommodate women's unique needs (MacKinnon, 1989).
6. There is also a need to decentralize the cyber crime laboratories in Zimbabwe. Currently all matters pertaining to cyber bullying have to be reported to the Police General Headquarters in Harare for collection and preservation of evidence. So, if an offence is committed in Mberengwa then the officers there have to wait for technicians from Harare to come and extract evidence. Cases of on-line harassment are fast moving by their nature and need to be attended to speedily by police officers in properly electronically equipped police stations around the country.

Civil society

1. The passing of a new law (such as the intended Cyber Security and Data Protection Act) to address a new crime (such as on-line harassment) is often inadequate because if people do not recognize or appreciate the law then the law will be meaningless to them and their lives. Therefore there is a need, as there is in this case, to raise public awareness once the new Cyber Security and Data Protection Bill has become an Act of Parliament. The public need to be well informed of the nature of on-line harassment, its implications and how the new Act addresses it. There is therefore a need to raise legal awareness about on-line harassment issues from the reporting to the finalization of such cases and the whole procedure should be take into account the rights, needs and interests of both women and men.
2. Religious, societal and cultural barriers need to be removed through education. Firstly, women need to be educated and taught about their human rights in relation to the serious crime of on-line harassment so that they will feel empowered and encouraged to report and follow through such cases their final conclusion. Secondly, men need to be educated about the serious harmful effects on-line harassment causes women and about how they can change, mend their ways and learn to respect women even after the dissolution of an intimate relationship.

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