

International
Institute of
Social Studies



**Understanding unsafe abortions among young
women in Zimbabwe: A Socio-legal study on
Reproductive Rights**

A Research Paper presented by:

Vita G Hwenjere

(Zimbabwe)

in partial fulfilment of the requirements for obtaining the degree of
MASTER OF ARTS IN DEVELOPMENT STUDIES

Major:

**Human Rights, Gender and Conflict Studies: Social Justice
Perspectives**

SJP

Members of the Examining Committee:

Dr. Jeff Handmaker

Prof. Karin Arts

The Hague, The Netherlands
December 2016

Disclaimer:

This document represents part of the author's study programme while at the Institute of Social Studies. The views stated therein are those of the author and not necessarily those of the Institute.

Inquiries:

Postal address:

Institute of Social Studies
P.O. Box 29776
2502 LT The Hague
The Netherlands

Location:

Kortenaerkade 12
2518 AX The Hague
The Netherlands

Telephone: +31 70 426 0460

Fax: +31 70 426 0799

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List of Acronyms

CEDAW	Convention on Elimination of all forms of Discrimination Against Women
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPD	International Conference on Population and Development
ICCPR	International Covenant on Civil, Political Rights
NGO	Non-Governmental Organization
PAC	Post Abortion Care
SAYWHAT	Students and Youth Working on Reproductive Health Action Team
SDG	Sustainable Development Goals
SRHR	Sexual and Reproductive Health Rights
UNIFEM	United Nations Development Fund for Women
UNICEF	United Nations International Children's Emergency Fund
VSI	Venture Strategies Innovations
WHO	World Health Organisation
ZDHS	Zimbabwe Demographic Health Survey
ZMoHCC	Zimbabwe Ministry of Health and Child Care
ZLHR	Zimbabwe Lawyers for Human Rights
ZWLA	Zimbabwe Women Lawyers Africa

Acknowledgements

This journey has been made possible by many people whom I can never thank enough. Foremost, I am grateful for the academic support and advice I received from my supervisor, Dr Jeff Handmaker who continued to guide me and give me motivation throughout the research process. I say thank you for your invaluable contributions.

I would like to thank my family for their continued support, encouragement and believing in me. My friends who helped me during my field work for their encouragement and support from the beginning to the end.

I would also like to thank the following people for their contribution to my academic growth and this thesis: Jean Mukoyi, Knowledge Mwonzora, Jimmy Wilford, Maureen Othieno and all my friends at International Institute of Social Studies.

Abstract

This paper focuses on perceptions, experiences, knowledge and attitudes of young women in Zimbabwe regarding their right to access sexual reproductive health rights (SRHRs). In specific terms, the study narrows down to look at such rights within the context of rising incidences of unsafe abortion practises among young women in Harare, Zimbabwe. The study derives from an explorative qualitative research methodology which combined the use of face-to-face interviews, review of grey literature and material from women organisations and from public health organisations, newspaper articles as well as reports from multi-lateral institutions. The study adopted a sample population of young women and men aged between 18 to 35 years so as to make gendered observations. The paper also involved wide ranging content and interpretive analysis of case laws, statutes, human rights norms and principles from the international, regional and domestic level. In terms of theoretical approach, the study employed the legal consciousness and legal translation analytical approach. The paper found that young women in Zimbabwe faced numerous challenges (legal and non-legal) in seeking sexual reproductive rights (right to safe abortion). As a result, many then ended up engaging in acts and practises of unsafe abortion. This trend persisted aside from the existence of repressive abortion laws in Zimbabwe and the associated unsafe abortion stigma.

Relevance to Development Studies

Over the past decades, evidence has indicated a close relationship between unsafe abortions with socio-economic development. Such a relationship is evidenced particularly, in countries in the South. Existing research has shown the impact of unsafe abortions in the following sectors: health, education and in the broad socio-economic activities in several developing countries. As documented in the literature – unsafe abortions affect human capital as they lead to abortion related mortality and morbidity (Grimes 2006). Further, unsafe abortions disrupt the girl child's progress in education as well as rendering young women unproductive during and in the post-unsafe abortion phase. Of concern, also, is the effect posed by unsafe abortions on the healthcare system in most developing countries. Considerable amount of existing research from independent studies and from multi-lateral institutions such as the World Health Organisation (WHO) has shown how the practice of unsafe abortions pose several developmental challenges to society (Vlassoff et. al 2008; WHO Factsheet 2016). Research has also documented how unsafe abortions deplete the financial resources of women at household and personal level through out-of-pocket expenditure in meeting post-abortion care (PAC), leading to a reduction in human capital investment in most African countries (Sundaram et. al 2013). Such a relationship between reproductive health rights (safe and unsafe abortions) and human development highlights the relevance of the topic to development studies. In fact, high maternal mortality is among one of the challenges listed under the Sustainable Development Goals (SDGs). Efforts towards reduction of such, entails progress towards the realisation of women and human rights as well as human development in more broad terms.

Keywords

Abortion, Reproductive Health Right, Socio-Legal, Legal Translation.

Chapter 1 Background of the study

1.1. Introduction

Over the past decades, sub-Saharan Africa as is the situation elsewhere in developing countries has been confronted with rising incidences of unsafe abortions. In result, the prevalence of unsafe abortions has raised several concern around public health, human and women rights (Kumar et. al 2009; Grime et. al 2006). In light of this background, this study therefore seeks to explore and understand such rising trend of unsafe abortions in Zimbabwe within the sexual reproductive and health rights framework. Throughout this study, I adopt the definition of unsafe abortion as provided by World Health Organization, which defines unsafe abortion as a “procedure for terminating an unintended pregnancy either by persons lacking the necessary skills or in an environment lacking the minimal medical standard of both” (WHO 2011:2).

An updated and more recent quantitative study which show global statistics on abortion conducted by Sedgh et. al (2016) showed that in countries with restrictive abortion laws, incidents of unsafe abortions were high. This finding also resonates with the Zimbabwean case study. It is reported that on average 20 000 women die annually due to complications related to unsafe abortions in Zimbabwe (Phyllis Mbanje *The Standard* 22 February 2015). Scholars have also singled Zimbabwe as among Sub- Saharan African countries characterised with increasing cases of unsafe abortions (Ngwena 2013). In explaining this growing rise in cases of unsafe abortions several issues have been raised by scholars as well as by public health institutions. These include the drivers of unsafe abortion, state of abortion laws, sexual reproductive health rights, policy, public health and legislative responses (Ngwena 2010; 2014; Chi’ombe 2014; WHO 2012; 2016). It is within this global and national context that I seek to explore the perceptions, attitudes, experiences and challenges faced by young women in accessing their sexual and reproductive health rights, in specific right to safe abortion in Zimbabwe.

1.2. Statement of the Problem

In spite of the fact that safe abortions are guaranteed under global and regional human rights instruments and frameworks (see for example, CEDAW, Maputo protocol) it still remains difficult to translate such rights within the Zimbabwean context (Chin’ombe 2014; Ngwena 2014). Anecdotal evidence indicates that young women in Zimbabwe both in the rural and urban areas continue to face a number of barriers and challenges (legal and non-legal) in seeking to access and realise (safe abortion) which is a well-recognised reproductive health right (Shah and Ahman 2010). As a result, there has been a rise in unsafe abortions among the young women in Zimbabwe (Johnson et. al

2002). Partly, this is because of two reasons. Firstly, there seem to be lack of recognition for reproductive health rights. Secondly, there seem to be lack of a human rights perspective on abortion in Zimbabwe. Although, the issue of unsafe abortion is widespread in Zimbabwe, there seem to be lack of attention or low priority given to this issue by the Zimbabwean government.

Drawing on the experiences, perceptions and attitudes of young women and men in Zimbabwe, this study explores the problem on why young women in Zimbabwe are failing to realise their reproductive health rights concerning access to safe abortion. This is considering that such a right is well recognised in various global and regional human rights instruments as previously highlighted. In exploring this trend and puzzle, my analysis drew from the prevailing large cases of unsafe abortions among young women in Zimbabwe.

1.3. Significance and Justification of the Study

I have a personal and professional interest in the area of young women's Sexual and Reproductive Health Rights (SRHR). This passion can be traced back to the period I got involved in the work of The Students and Youths Working on Reproductive Health Action Team (SAYWHAT) in Harare, Zimbabwe in 2014. I served in this organisation as a gender programs and (SRHRs) assistant. My daily routine involved researching on sexual and reproductive health rights of young women in rural and urban Zimbabwe. My personal first hand experiences on how the young women were deprived of access to reproductive health rights prompted my interest to carry out this study.

In 2014, I obtained a Certificate in Project Management in the Context of Sexual and reproductive Health rights from the Vrije Universiteit (VU) Amsterdam. This professional course intrigued me to further sharpen my knowledge on key debates on abortions and sexual and reproductive health. It is this personal and professional experiences that has influenced my interest in this area of study.

The justification for selecting this topic is also academic. Through my own interest and reading on the subject of SRHRs in Zimbabwe, I discovered that to date, little is known even within the prevailing literature about young Zimbabwean women's challenges and experiences in seeking to realise safe abortions (Ngwenya 2014; Pierce and Settergren 2000). In spite of the fact that the issue of unsafe abortion has become a major public health and human rights issue (Grimes et. al 2006; Shah and Ahman 2010). However, the issue of unsafe abortions seems not to have prompted much academic interests within Zimbabwean scholars. Without necessarily being over ambitious, this current study seeks to fill these identified gaps in the existing Zimbabwean academic literature on unsafe abortions. In terms of contribution to policy and practice, the study could be relevant to human rights scholars, activists, lawyers, general

populace, policy makers and medical practitioners. In the following section, I outline the thesis' objectives.

1.4. Objectives

To understand the challenges faced by young women in realizing abortion as a reproductive health right in Zimbabwe.

1.4.1. Sub-objectives

- I. To assess young women and men's attitudes and perceptions in reference to the right to access reproductive health rights (safe abortion) in Zimbabwe.
- II. To examine and explain the implications of the law in influencing and constraining the realisation of the right to safe abortion among the young women in Zimbabwe.
- III. To provide evidence based data on the varied legal and non-legal barriers, limitations and challenges faced by young women in Zimbabwe in claiming their agency in realising medicalised safe abortion.
- IV. To establish the different existing efforts towards addressing and mitigating the trend of unsafe abortions among young women in Zimbabwe in order to inform policy reform.

1.5. Research questions

The core research question in this research paper asks:

- What are the perceptions, experiences and attitudes of young women and men concerning their challenges in accessing reproductive health rights in specific reference to safe abortion in Zimbabwe?

1.5.1. Sub-questions

The specific sub-questions which drive the study are;

- How and in what ways, do the Zimbabwean legal framework protects, promotes, fulfil or constrain access to reproductive health rights, in specific (safe abortion) among young women in Zimbabwe?
- What are the non-legal challenges and barriers faced by young women and men in Zimbabwe as they seek to translate reproductive health rights (safe abortion) into a lived reality?
- What efforts exists in Zimbabwe in mitigating and addressing the trend and phenomenon of unsafe abortions among young women?

1.6. Research Methodology and Sources of Data

This research study is anchored in an explorative qualitative research methodology. Qualitative research entails an interpretation of the world, which is represented by interviews, field notes, and conversations (Creswell 2012:36). As further observed by Creswell (ibid) such type of research is used to understand social relations, events, groups or interaction among a particular group of people being studied in their natural setting. Employing such a method helped me in getting a holistic view on the topic under study through acquiring multiple meanings and interpretations of the young women and men regarding unsafe abortions.

The other reason for selecting a qualitative approach was mainly because it enabled me to “to understand and describe an event from the point of view of the participant” (Mertens 1998:169). I deliberately selected both women and men as my respondents in order to make gendered observations and interpretations on the subject of unsafe abortions. Data for this thesis was collected through fieldwork that started on the 2nd of July and ended on the 5th of August 2016 in Harare, Zimbabwe.

1.6.1. Data Sources

In conducting the study, I used various qualitative data collection methods, which ranged from key informant interviews with medical experts, NGO officials and young women and men aged between 18-35 years. The study also draws largely from a review of existing national legal framework (legal system) in Zimbabwe. These include, the Termination of Pregnancy Act [*Chapter 15:10*], Criminal Law (Codification and Reform) Act, Chapter 9:23 and the Zimbabwean constitution. Further the study relies on case law analysis of abortion-related cases in Zimbabwe. The grey literature on abortion which exists in public health centres (available online) and other institutions such as, the Ministry of Health and Child Welfare, public health NGOs also provided rich sources of data. These organisations includes those working on sexual and reproductive health rights (SRHRs), for instance, Students and Youth Working on reproductive Health Action Team (SAYWHAT), Zimbabwe Women Lawyers Association (ZWLA), Zimbabwe Lawyers for Human Rights (ZLHR), Zimbabwe Doctors for Human Rights (ZDHR), ZimRights Association, Community Working Group on Health (CWGH), World Health Organisation (WHO), UN agencies such as United Nations Development Fund for Women (UNIFEM), United Nations International Children’s Emergency Fund (UNICEF) among others.

In collecting data for the thesis, I also carried out an extensive review of the existing secondary data, including journal articles, case laws, NGO reports, regional and international human rights law instruments, statutes, conventions, covenants and UN treaty monitoring bodies. These include for instance the African Commission on Human and Peoples’ Rights General Comments Article

14 of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa among others. Newspaper articles also provided thick descriptions and data on the phenomenon on unsafe abortions in Zimbabwe. One downside of the newspapers however, was that they presented varying and unverified figures/statistics of unsafe abortions in Zimbabwe. However, in a context where official figures were hard to come by, I still relied on such statistics (though I was mindful of the inconsistency). The study also relies on data collected through interviews, as the following section will highlight.

1.6.2. Interviews

In collecting data for the study, I conducted seven face-to-face interviews with young women and men between (ages of 18-35) on their knowledge, experiences, attitudes and perceptions. I used a semi-structured interview guide. As Marshall and Rossman notes an interview is "a conversation with a purpose, it is a useful way of getting large amounts of data quickly" (Marshall and Rossman 1999:109). I also probed on whether the participants knew of anyone who had undergone an unsafe abortion in their particular communities. I prioritised the face - to-face interview method because it helped to probe and follow up on interesting themes. In the following section, I explain the sampling procedure adopted for this particular study.

1.6.3. Non – Random Purposive Sampling

The study employed a purposive non-random sampling technique. Sampling is defined as the selection of some constituent part or parts of a totality of the population upon which a judgment is made (Haque 1996). According to O'Leary, purposive sampling is when one purposively selects the respondents based on their expertise, particular criteria, and variance (O'Leary 2013:110). In this study, I specifically targeted respondents who had either carried unsafe abortions or knew of friends or neighbours who had aborted.

Haque (1996:5) further asserts that non –random sampling technique selects respondents by using the researcher's own judgement of the significance of the research population to the research. In the context of this study, I purposely targeted a sample of young women, men and health officials, lawyer, NGO official(s), as they possessed vast knowledge about safe and unsafe abortions in Zimbabwe. In what follows, I describe the concept of validity and reliability and how they are used in this study.

1.6.4. Reliability and Validity

Bhattacharjee (2012:56) defines reliability as "the degree to which the measure of a construct is consistent or dependable". It refers to the consistency of an instrument in measuring the element that to which it is intended to

measure. Whilst, validity refers to the extent to which the research instrument or tools measure what it seeks to measure (Grove and Burns 2005). To attain reliability and validity, in doing this study, I consistently applied the same data collection instruments (for instance I asked the same interview guide) among the different respondents. Furthermore, I used a combination of different data collection methods (for instance combining) interviews with review of grey literature. Such an approach enabled the triangulation of data. Having explained the concepts of validity and reliability, I move on to explain how I analysed data for the study in the next section.

1.6.5. Data Analysis

Data analysis entails how qualitative data is classified, analysed, grouped and how such data is used to understand the situations around the people being studied (Blanche et. al 2006:321). In analysing data for this study, I used a thematic analysis to group salient and recurrent themes that emerged from the fieldwork. The data analysis method involved the following processes: classifying data, transcribing interviews, coding, arranging and sorting out data in specific thematic units.

1.6.6. Ethical Considerations

In conducting the study, I took into account the sensitivity of the topic. As such, I tried to uphold to the ethics and practises of good social science research. Ethics are set of moral principles and obligations, in the context of a research study such moral principles provides a set of rules that guides the correctly expected behavioural conduct in a research study (De Vos 2002). Prior to conducting interviews, I first sought prior informed and voluntary consent from the respondents. The official letter provided by the University, which outlined that I was a university student undertaking a research study also helped me in negotiating for permission to conduct the research study.

In carrying out fieldwork, I also considered the issue of confidentiality of the views of the respondents. Guaranteeing confidentiality and privacy is important in social science research as argued by (Babbie and Mouton 2001). They argue, any social research should never harm the research population being studied, especially through disclosing information that would shame or negatively compromise social lives and relations (ibid: 522). In order to guarantee privacy, I conducted the interviews in spaces where the young women could feel free to open up.

During my fieldwork, I also took concern of the psychological factors around the topic. Hence, in my inquiry, I tried to maintain the 'No harm' principle, which upholds that social science research should not inflict harm to the studied population. To uphold such a principle, I refrain from disclosing some of the participants' real names to ensure anonymity.

1.6.7. Challenges and Limitations

The study suffered from several limitations that mainly emanated from the sensitivity of the research topic. As a result, I failed to get adequate data on the phenomenon of unsafe abortions especially from the young women in urban Zimbabwe. The other limitation relates to access and availability of data. I failed to access much data (statistics, trends and dynamics) from medical institutions (clinics and hospitals). This can be attributed to the fact that much of the information even on safe-medicalised abortion in Zimbabwe is treated as confidential. This information is guaranteed under the medical ethics of patient-doctor confidentiality. In order to access such data, I required an ethical clearance from the medical research council. However, getting this clearance proved an exercise in vain.

Another challenge that I faced is that most respondents were reluctant to open up on issues of abortion due to the strong Christian conservative values of most Zimbabweans. Faced with the aforementioned challenges, I then devised other ways of collecting data, for example relying on grey literature on reproductive rights in specific reference to unsafe abortions from public health oriented NGOs, UN agencies and women organisations. Although, I had planned to use Focus Group Discussions (FGDs) as a data collection tool, I faced several time and logistical challenges. As a result, I then abandoned such a method. Although, I was confronted with several challenges and drawbacks in conducting the study (as I have outlined above) this did not discourage me to explore in-depth the topic under review. The following section presents a brief overview on the structure of the thesis.

1.7. Thesis Outline

This research paper contains five chapters in total. The chapters are arranged as follows:

In the following chapter (**Chapter two**), I outline the theoretical/conceptual framework, which underpin the study. In particular, the thesis deploys two theoretical lens, which are; Legal consciousness and legal translation all embedded in social legal studies. This chapter draws upon the socio-legal studies to highlight how issues of safe and unsafe abortions are negotiated, legalised or outlawed in the Zimbabwean context.

Chapter three situates the study by discussing the international and global human rights instruments and how they relate to issues of reproductive health. The chapter further presents the Zimbabwean national legal frameworks and how it regulates abortion. This contextual based chapter helps in establish the basis for the empirical chapter which follows.

Chapter four presents the empirical data collected from the field. The chapter discusses the perceptions, experiences, attitudes and knowledge on the

phenomenon of unsafe abortions among young women and men in Zimbabwe. The chapter also investigates the challenges and obstacles faced by this demographic group in accessing and realising (translating) the right to safe abortion into actual reality in the Zimbabwean context.

Chapter five summarises the entire study. It draws together the arguments made in the entire thesis.

1.8. Summary

After having introduced this introductory chapter, which sets the tone and context of the entire study, I then move on to present the theoretical framework supporting the study in the next chapter.

Chapter 2 Understanding Abortion through the Legal Consciousness and Legal Translation Lens

2.1. Introduction

As outlined at the end of the preceding section, the purpose of this chapter is to present the theoretical framework underpinning the study. I further discuss the relevance of the adopted theoretical lens in understanding the perceptions, experiences and attitudes of young women and men concerning their right to access and enjoy reproductive health rights – specifically the right to safe abortion in Zimbabwe. The chapter is sub-divided into six sections, organised as follows: The first section introduces and critically discusses the historical origins of the concept of legal consciousness. Thereafter, I introduce and discusses in-depth the analytic concept of legal translation. This is followed by a section, which provides a historical overview of the concept of legal transition. The subsequent section, explore the concept of legal translation and how the concept is understood with-[in] the contemporary literature. In a section following this, I provide an overview on the relevance and analytical significance of the adopted concepts to the study. The last part of the chapter summarises the entire chapter.

2.2. Origins of the Concept of Legal Consciousness

The origins of legal consciousness as an analytical concept is credited to different scholarly foundations within the existing literature. In this section, I explore the origins of such a concept, thereby hoping to provide an understanding on how legal consciousness evolved as a theoretical concept. One popular socio-legal study, which traces the historiography of legal consciousness, is that of (Engel 1998). Other scholars argue that comprehensive research on legal consciousness arose principally out of the realisation that society and law scholars were overly neglecting an analysis on the real questions on the effect of law on people's every day practises (Cowan 2004:930).

It was in light of such an empirical gap that scholars and researchers then developed a keen interest in research on how law influenced society or conversely how society influenced the legal system. Arguably, such and other related developments then gave birth to the expanding scholarly body of legal consciousness. In the same context, scholars who includes Cowan (ibid:930) argues that the field of study on legal consciousness emerged out of the theoretical insights from influential studies by Foucault (1980) and Certeau (as *cited* in Cowan 2004) the former whose work centred on power, whereas, that of the latter focused on everyday life.

Although, there are various discursive debates on the origins of the concept of legal consciousness – there seem to be agreement that it emerged from the United States of America before extending to other European countries (Harding *ibid*; Silbey *ibid*). As Silbey (2005) further points out, the evolution of the concept of legal consciousness (as a theoretical concept) underwent several shifts and transformations, as from the 1980s – 1990s period. These are outlined as follows: Firstly, scholars on legal consciousness primarily focused on analysing legal hegemony, that is: how several institutions of state power in the Weberian sense underpinned the law (see Silbey *ibid*). Such a formulation is useful in my study on Zimbabwe as it illuminates on how institutions of the state translate reproductive rights into actual practice.

Secondly, legal consciousness studies transformed to look into issues to do with the lacuna (gap) on the law in the books and law in reality (as experienced in actual practise) (Sarat 1985). Consistent with this analytical lens, I also examined such inconsistency in terms of how the domestic legal framework in Zimbabwe provides for the reproductive rights. In accordance with the existing literature, (see Sarat discussed above) I then analyse the gap in the global and regional human rights framework and the reality in terms of exercise of reproductive rights in Zimbabwe.

Thirdly, legal consciousness studies went on to examine how and why the legal order and architecture re-produces inequality as opposed to entrenching equality among citizens in a given society. The expanding body of scholarly literature on legal consciousness further went on to focus on how people think and relate(s) to the law in terms of their (perceptions and knowledge) on and about the law (see Silbey 2005). In my study on Zimbabwe, I also focus on exploring young people's knowledge and the perceptions of the abortion and human rights laws. However, scholars have argued that the dominant socio-legal studies on legal consciousness are characterised with several shortcomings and limitations. As Silbey (2005) writes in relation to the concept of legal consciousness:

Recent studies have both broadened and narrowed the concept's reach, while sacrificing much of the concept's critical edge and theoretical utility. Rather than explaining how the different experiences of law become synthesized into a set of circulating schemas and habits, the literature tracks what particular individuals think and do (Silbey 2005:323).

However, this critical observation by Silbey does not serve to underplay the relevance and value of the legal consciousness concept as an analytical lens. What the observation does is only to highlight the state of research in the field of legal consciousness as well as in pinpointing the existing gaps and limitations. This formulation provides a good entry point into the debate on the intersection of the law and society concerning perceptions and knowledge on abortion among young women and men in Zimbabwe.

Departing from the brief historical overview of the concept of legal consciousness as provided above, I move on to address in-depth the concept of legal consciousness in the next section.

2.3. Legal Consciousness

Legal consciousness research is a branch of socio-legal studies that specifically focuses on how society and law intersects (Harding 2006; Nielsen 2000; Silbey 2005; Cowan 2004). One often-cited study in the research of legal consciousness is that of (Ewick and Silbey 1998). Significant to highlight, however, is that the concept of legal consciousness enjoys a deep history. Over the past years, there has been an increasing interest in examining the level of awareness (consciousness) of the law, legal rules and legal institutions by the ordinary citizens (Nielsen *ibid*). Such growing interest has then led to the growing interest by scholars to examine how citizens perceive, think, talk about, understand and attach meaning to law within the discursive context of power and domination (Sarat 1990). For this particular research, I also analyse the legal consciousness of young women (how they perceive, talk, think about and attach meaning to law on abortion) within the discursive power structures of the Zimbabwean state.

One noticeable trend in the existing scholarly literature on legal consciousness is the differential interpretations of what the concept entails especially among different sectors in the society. For instance, a study by Nielsen (2000) looks at legal consciousness of the ordinary citizens in Northern California on public harassments. This study differs with much of the existing studies in terms of methodological approach and focus. Nielsen (*ibid*) adopts an intersectionality approach to look at how the ordinary people demarcated across gender, class and race articulated and perceived the law on public harassments. Although, most socio-legal studies loosely refer to the legal consciousness of the ordinary citizens, they do not go beyond to explain and qualify on who is the 'ordinary' (Nielsen *ibid*; Cowan 2004; Merry 1985).

Reading the global literature on the subject, one finds the varied conception on the meaning of the theoretical concept of legal consciousness. As Harding (2006) asserts, the very notion of 'consciousness' is nebulous and contested. As a result, challenges are bound to emerge concerning conceptualising what the term actually entails in practise. A number of writers corroborates this point in various claims (see for example, Hertogh 2004; Nielsen 2000; Silbey 2005). As a theoretical concept, others view (legal consciousness) in terms of how law sustains hegemonic and institutional power, deriving from the Foucauldian conception of power (Silbey *ibid*:323). In the case of Zimbabwe, a perspective that looks at the law through the lens of power analysis helps in exploring how the Zimbabwean state has domesticated or incorporated global and regional clauses on reproductive rights in the domestic laws.

One of the most influential study on legal consciousness come from Silbey (2005) who conceives legal consciousness in terms of the intersection between law and power. Taking from this conceptualisation, questions will arise on how do the two (law and power) affect access to justice especially to the powerless and the vulnerable in society. However, one significant theme in all the socio-legal studies discussed this far, is the disjuncture and gaps on law in the books (as enshrined in constitutions, penal codes and statutes) and the law in action (that is law in reality) as established by the earliest socio-legal scholars, namely (Pound 1910). In my paper, I also engage with these debates. For instance, I examine how sexual reproductive health rights, in particular right to safe abortion is guaranteed under international and regional human rights instruments. Yet, in practise, the enjoyment of such a right is limited due to several administrative and legal obstacles.

Other socio-legal scholars also conceptualise legal consciousness in terms of how citizens perceive, articulate, comprehend and make sense of the law (their sense of consciousness) “in their everyday lives” to quote (Sarat and Kearns 1995:55). One study by Harding (2006) that focuses on exploring gay men’s perceptions and societal attitudes towards same sex marriage established that legal consciousness was useful in analysing attitudes and knowledge. Deriving on such foundational studies, one would be able to understand the perceptions and attitudes of young Zimbabwean urban (wo)-men with regards to the practise of (un)-safe abortions.

In spite of the fact that significant portions of studies have deployed the concept of legal consciousness in their analyses. However, scholars (see for example, Cowan 2004; Harding 2006) have levelled much criticism on the state of literature around the concept of legal consciousness. As Cowan (ibid: 929) contends “the primary concern of legal consciousness scholarship is the study of society, rather than the study of law per se, hence the critique of a ‘law-first’ approach”. Critics, further argue that previous existing scholarship on legal consciousness mainly focused on examining “what the law does than what the law is” (Silbey 2005:324).

Despite the above criticism, much of the socio-legal scholars have also articulated legal consciousness in terms of notions of how the law delineates parameters of legality or illegality. Ewick and Silbey (2002) offer a significant analysis and discussion of such parameters and nuance. They observe that the way how ordinary people conceive, comprehend and their level of awareness of what the law entails, invariably shapes and creates the notions of what is legal (legality) or what is not legal (illegality) (Ewick and Silbey ibid). Such a formulation then helps in exploring how the notions of legality or illegalities of abortions are framed with-[in] the Zimbabwean jurisprudence.

It is significant to note that not only is the concept of legal consciousness relevant in exploring the perceptions of the young women and men in Zimbabwe concerning reproductive health rights. The concept is also useful in

examining the level of consciousness of other actors NGOs and civic actors, human rights activists concerning the right to exercise legalised abortion in Zimbabwe. Such an analysis is particularly important given the Zimbabwean legal context that has restrictive laws on abortion.

Also, drawing on the analytical concept of legal consciousness, I will examine how the young women continue to practise unsafe abortions (defying restrictive legislation). In this regard, I intend to look at how young women are experiencing the law and how they interpret it as they engage, resist, assume and embrace the law and its meanings.

2.4. Origins of the Concept of Legal Translation

In this section, I trace the origins of the concept of legal translation as well as situating its evolution in the past decades. The concept of legal translation largely draws from socio-legal scholars who includes Sally Engle Merry. In her comprehensive scholarly study examining how global human rights norms can be adapted with-(in) the local contexts, Merry (2006) talks of legal translators. According to her conception, these social actors articulates and translates global human rights law instruments into the local contexts (in what she terms vernacularizing). Such conceptual analysis of local translators enables me to examine the role of non-state actors in pushing for the realisation of the reproductive health rights contained in global and regional human rights instruments within the local context of Zimbabwe. At the same time or even before the publication of Merry's scholarly work, other existing published studies also tackled the issue of legal translation. One such is Cook and Dickens' (2003) study. In their study investigating the dynamics of human rights in abortion law reform, they outlined the various roles of human rights translators in seeking to realise the right to access women's sexual reproductive health rights. This study uses a similar approach in the context of the study on reproductive rights in Zimbabwe.

2.5. Legal Translation

As alluded by Ngwenya "many abortion laws are vaguely worded or have never been officially interpreted or implemented" (Ngwenya 2014:12). This assertion helps to illustrate the poor or lack of adequate translation of human rights law instruments that deals with abortion either regionally, sub-regionally, globally and nationally. In this study, I use the concept of legal translation to examine how the human rights law framework (norms and principles) – in particular, those that deals with women reproductive health rights were adapted within the national domestic legal frameworks.

It is important to note that when invoking global human rights law, norms, statutes and treaty bodies several questions arise. One such is how do we adapt regional or global human rights instruments to suit our own local specific contexts? How can we translate rights guaranteed under UN treaty monitoring bodies, most of which Zimbabwe is a signatory to fight for the realisation of the right to safe and legal abortion? These questions direct us to the concept of legal translation specifically, what Merry (2006:4) terms as adapting transnational human rights discourses into the local (the vernacular) 'localisation of human rights'. Others scholars have also argued that legal translation can be done through the socialisation of global human rights norms into the local context (Risse and Sikkink 1999). I use such a perspective in analysing the legal challenges faced by young women and men in Zimbabwe in realising their reproductive rights (safe abortion).

This observation by Risse and Sikkink then directs us in exploring the role of social actors in pushing for legal reforms, specifically abortion laws, *inter alia*, efforts towards the decriminalisation of abortion in Zimbabwe. Such a process is the one termed by Merry (2006) as adapting transnational human rights ideas and fitting them into the local context. It is from this conceptual angle and formulation that I deployed the concept of legal translation to explore the level of knowledge, awareness (consciousness) of the young men and women in Harare, Zimbabwe in accessing the right to access safe abortion.

2.6. Legal Consciousness and Legal Translation Analytical Framework

This section elaborates on the relevance and usefulness of the analytic concept of legal consciousness and legal translation in understanding abortion (safe and unsafe) in Zimbabwe. Although, legal consciousness as an analytic concept is significant insofar, as it is utilised in this study in analysing the level of consciousness of the Zimbabwean citizens concerning the laws around abortion, it does not consider how these laws are translated into action. Because of such inadequacy and given the focus of the study, I then support the concept of legal consciousness with the analytic concept of legal translation.

By drawing upon the legal translation lens, I examine how domestic actors (for example citizens) can exercise their agency through invoking international, regional and domestic human rights law instruments in claiming and realising the right to safe legal abortion within the Zimbabwean context (vernacularizing) (see Merry 2006). The combined use of the two analytic concepts enables me to explore and to understand the knowledge, attitudes, practices and perceptions of young Zimbabwean women concerning unsafe abortions. I then use these two key theoretical concepts to come up with an analytical framework that I will use in analysing the study findings. Having

outlined the relevance of the adopted theoretical concepts to the study, I provide a summary of the chapter in the section that follows.

2.7. Summary

In the preceding sections, I explored the theoretical concepts of legal consciousness and legal translation. In my discussion, I looked at how such concepts relates to the study (in particular, how I use them in analysing research findings). I also explored the weaknesses or inadequacies of such theoretical formulations drawing from various existing critiques in the literature. Here, as I have argued elsewhere above, these two-theoretical lens helps in providing analyses on the perceptions, knowledge and consciousness of the young men and women in Zimbabwe concerning young women's reproductive rights in relation to safe abortion. In what follows, I present a contextual chapter guiding the study.

Chapter 3 Shifting from the Global to the Local: Analysing Zimbabwe's Legislation on Abortion

3.1. Introduction

As was argued in the previous theoretical chapter, human rights actors, organisations as well as individuals can play a significant role in translating international and regional human rights instruments in specific reproductive health rights with-[in] a specific country context. It is from this premise that this contextual based chapter presents a brief overview of the international and regional human rights instruments that supports women's access to SRHRs in relation to safe abortion. After presenting this overview, the chapter extends further to consider the applicability of these human rights legal frameworks within the Zimbabwean context. As a way of outlining the context of the study, the chapter moves on to offer a nuanced review of Zimbabwe's domestic legislation pertaining to abortion, in specific, the Pregnancy Termination Act of 1977 and the national constitution promulgated in 2013 as well as the Criminal Law (Codification and Reform) Act [*Chapter 9:23*]. Further, the chapter discusses how such national legal frameworks address, outlaw or permit[s] the practice of abortion in Zimbabwe.

3.2. International Human Rights Law–Sexual Reproductive Health Rights (Right to Abortion)

As mentioned above, this section provides a brief overview of international human rights instruments specifically as they speak to issues of women SRHRs. In so doing, the section discusses the Convention on the Elimination of all forms of Discriminations Against Women (CEDAW) before going on to discuss the International Convention on Economic, Social and Cultural Rights (ICESCR). Thereafter, I move on to explore the regional human rights instruments and their applicability to the Zimbabwean context.

3.2.1. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

CEDAW contains wide-ranging clauses, which provides for extensive women's rights – in particular reproductive health rights. Important to outline however, is that in CEDAW, there is no specific clause that speaks to the women's right to abortion. However, sexual reproductive rights are guaranteed under Article 12 and 16. In article 12 (2) state parties are obligated to ensure women's access to all suitable measures regarding pregnancy services (Van Banning et. al 2004). Interpreted in the context of women's right to abortion such measures may include the right to seek safe legal abortion from health

centres. Further, under Article 16. [1](e) state parties are obligated to ensure women realise their right to decide at will on the spacing of children (ibid).

In light of such evidence, one can highlight that it is somewhat difficult to invoke the provisions contained in CEDAW in claiming and exercising the right to safe abortion in Zimbabwe. Partly, this is because ‘Zimbabwe has not fully domesticated CEDAW nor has she ratified the Optional Protocol to CEDAW’ (see Zimbabwe Women Lawyers Shadow Report to the CEDAW Committee, 2012). Zimbabwean scholars make a point that in spite of the fact that Zimbabwe is party and signatory to numerous international treaties, protocols and conventions some have a non-binding legal effect because they remain unincorporated into the domestic law (Saki and Chiware 1997).

3.2.2. International Covenant on Economic, Social and Cultural Rights (ICESCR)

Although not wholly focusing on reproductive health rights, the ICESCR provides for the right to health. To be precise, Article 12 (1) of the ICESCR instructs state parties to “recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (van Banning et. al, 2004). However, in realising women’s right to health as provided in Article 12(1) as discussed above – issues of women’s right to safe abortion also come into account. In light of such evidence, the ICESCR is normally referred to when referring to reproductive health rights (Ngwenwa 2014).

The Committee on Economic, Social and Cultural Rights (CESCR) general comments have continuously linked the high maternal mortality with illegal unsafe abortions (Zampas and Gher 2008). It is important to note that my review of global human rights instruments on reproductive health rights is not exhaustive. I acknowledge there are range of other global human rights instruments, which speak to issues of reproductive health rights. Here, I only focused on a few, due to their specific applicability to the Zimbabwean case. Having presented the global human rights instruments, the next section moves on to explore the regional human rights instruments focusing on African regional human rights instruments on reproductive health rights.

3.3. Overview of African Regional Human Rights Instruments on Abortion

As explained in the introductory chapter, there are several regional human rights instruments, which guarantees sexual reproductive rights (precisely the issue of abortion). In spite of the existence of such regional human rights frameworks at the African continental level, only few African states have domesticated these human rights instruments. As the Zimbabwe Women Lawyers Association (2012) notes Zimbabwe is one such country. In what follows, I discuss specific regional human rights instruments and their

applicability to women's sexual reproductive health rights and more broadly to health rights.

3.3.1. African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol, 2003)

The Maputo protocol adopted by African states on the 11th of July 2003 extensively guarantees the reproductive health rights of women in African states. Zimbabwe is bound by this protocol since it ratified the protocol in 2008. Under article 14 (1), state parties are obliged to respect and promote the women's reproductive health rights (Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol 2003). The protocol further accords women the rights over the control of their fertility in section 14.1(a). The right of women to make own decisions on whether to have children, spacing as well as the number of children is also provided for under 14.1(b) (ibid).

In addition, the protocol obliges state parties to authorise medical abortion in protecting the reproductive rights of women basing on several grounds and circumstances. The protocol state for instance, incidents of sexual assault or where the pregnancy endangers the life either of the mother or of foetus (see article 14.2(c) [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol 2003¹). As we shall see in the subsequent sections, Zimbabwe has not changed its domestic legislation as they follow some of the provisions contained in the Maputo Protocol. One such illustrative example is the Termination of Pregnancy Act [1977], which outlines the circumstantial grounds where medical abortion is legally permissible (see for instance Termination of Pregnancy Act [1977].

3.4. Shifting the global - regional to the local

This section looks at national legal frameworks of Zimbabwe that speak to the theme of reproductive health rights in specific the issue of abortion. Zimbabwe formally recognises sexual and reproductive health rights through its accession to numerous international and regional conventions and statutes such

¹ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol, 2003) Adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo, 11 July 2003 available at http://www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf accessed 28 October 2016.

as the CEDAW 1979², International Convention on Economic, Social and Cultural Rights (ICESCR)³, African Charter on Human and People's Rights (ACHPR). Zimbabwe also ratified the International Conference on Population Development (ICPD) program action. Significant to note is that though Zimbabwe has assented to several international and regional human rights instruments. It has not yet domesticated some of these. The CEDAW protocol is one such example (see Zimbabwe Women's Lawyers Association 2012).

3.4.1. Deconstructing existing national legal framework on abortion in Zimbabwe

Zimbabwe is a country with an array of domestic legislation (legislative instruments) which highlights on the issues of women's sexual reproductive health rights (SRHRs). However, as shall be discussed in the following review, such legislation tends to restrict the practise of safe legal abortion among women who opt to abort. To clarify on this point, I will do a review of several acts, penal codes, legislative instruments and the national constitution.

3.4.2. Termination of Pregnancy Act [1977]

Soon after attaining independence in 1980, Zimbabwe adopted the Termination of Pregnancy Act of 1977, which derive from the British colonial statutes (Ngwena 2010:836). The grounds upon which termination of pregnancy is permitted are spelt out in section 4. These include,

- 4(a) Where continuation of the pregnancy so endangers concerned or so constitutes a serious threat of permanent physical health that the termination of the pregnancy is life or physical health, as the case may be; or.
- (b) Where there is a serious risk that the child to be born physical or mental defect of such nature that he will permanently handicapped; or.
- (c) Where there is a reasonable possibility that the foetus result of unlawful intercourse (see Pregnancy and Termination Act of 1977 [*Chapter 15:10*]).

It is in light of such restrictive spaces that it is difficult to seek safe legal abortion in Zimbabwe for any women whose situation does not fall in the above outlined categories. Human rights scholars have criticised the Act for its restrictions to women who decide and those who are compelled by circumstances to terminate pregnancy. In his comprehensive study on reproductive health rights and abortion law reforms in Africa, Ngwena (2014) observes that it is difficult to carry out safe legal abortion in Zimbabwe. As Ngwena (ibid) further observe, one has to prove beyond any reasonable doubt that there is a '*serious risk*' (see section b, above) that the child to be carried to full term will have mental or physical defect (ibid: 836).

² Zimbabwe acceded to CEDAW on the 13th of May 1991

³ Zimbabwe acceded to CESCR on the 13th of May 1991

In addition, the Act also puts in place several ‘burdensome certification procedures’ to quote Ngwenya (ibid) which compels the woman to be certified as eligible for safe legal abortion by three medical personnel. Further, the woman seeking abortion should also apply to the magistrate seeking a certificate to abort (see Termination of Pregnancy Act 1977). It is argued, such restrictive legislation violates the rights of Zimbabwean women to exercise their reproductive health choices and freedoms in terminating pregnancy (Chin’ombe 2014:23; Ngwenya 2010; 2014). Having said the above, in the section that follows, I explore how the reproductive health rights are guaranteed under the Zimbabwean constitution.

3.4.3. Constitution of Zimbabwe and the Right to Abortion

The new Zimbabwean constitution adopted in 2013 guarantees the right to life under *Fundamental Human Rights and Freedoms* section 48 (3) (Constitution of Zimbabwe 2013). As argued by Chin’ombe (ibid) this clause place a legal duty on the state to protect and guarantee the right to life to the unborn child (foetus) against termination. Section 48(3), read as follows:

An Act of Parliament must protect the lives of unborn children, and that the Act must provide that pregnancy may be terminated only in accordance with that law (Constitution of Zimbabwe ibid).

We can see from the above that although the Zimbabwean supreme law regulates termination of pregnancy. The constitution does not make a clear legal position on the right to abortion in Zimbabwe. As one can see from the discussion above, the supreme law leaves this right open to wide and open interpretation subject to an Act of Parliament. However, this brings contradictions in terms of expression and exercise of the right to abortion. As Ngwenya (2010) argues, respecting foetal rights (right to life of the foetus) whilst at the same time considering a mother’s right to abort creates a maternal and foetal conflict. This seem to be the case as we can see from the Zimbabwean constitution. Commenting on the conflict of rights between the pregnant mother and the foetus, Chin’ombe notes that,

It is submitted therefore that although the law recognises the legal rights of a foetus, this should not be a ground for infringing the rights attached to the pregnant woman (Chin’ombe 2014:24).

Another point to note is that although the Zimbabwean constitution do not explicitly guarantee the right to abortion, it provides for the Right to health, which in any case broadly guarantee sexual reproductive health rights under section 76. The supreme law states that:

Every citizen and permanent resident of Zimbabwe has the right to have access to basic health-care services including reproductive health-care services (Constitution of Zimbabwe 2013).

The above clause (as contained in the constitution) illustrates how the state is obligated to provide the right to reproductive health care to its citizens. This

right is in line with several global and regional human rights instruments as mentioned earlier in the chapter. In the next section, I move on to discuss the criminalisation of abortion in Zimbabwe under the Criminal Law (Codification and Reform) Act [Chapter 9:23].

3.4.4. Criminalisation of Abortion in Zimbabwe: An analysis of the Criminal Law (Codification and Reform) Act [Chapter 9:23]

In Zimbabwe, the right to abortion is restricted under the Criminal Law (Codification and Reform) Act [Chapter 9:23] in section 60 that regulates Unlawful Termination of Pregnancy. Under this specific section, it is stated that:

- (1) Any person who:
 - (a) Intentionally terminates a pregnancy; or
 - (b) Terminates a pregnancy by conduct which he or she realises involves a real risk or possibility of terminating the pregnancy; shall be guilty of unlawful termination of pregnancy and liable to a fine not exceeding level ten or imprisonment for a period not exceeding five years or both (Criminal Law (Codification and Reform) Act [Chapter 9:23]).

As a result, of the criminalisation and illegalisation of abortion under this Act, many young women in Zimbabwe end up resorting to unsafe abortions (as we shall see in the following chapter).

3.5. Summary

The chapter began by discussing the international and regional human rights instruments that guarantees women's rights to access sexual reproductive health rights and services. The chapter went on to explore how women's sexual reproductive rights (in particular right to abortion) are regulated within the domestic national legal frameworks. The chapter also concluded that it is somewhat difficult to translate global and regional human rights instruments to fit in the Zimbabwean local context. This is so, because Zimbabwe has not domesticated or vernacularized (Merry 2006) some of these human rights instruments. The next chapter presents the study's empirical findings.

Chapter 4 Engaging with the social working of the law: potential and limitations for translation

4.1. Introduction

This chapter presents an analysis of the main findings collected from the fieldwork conducted in Harare, Zimbabwe in July 2016. In analysing and discussing the empirical findings contained in the present chapter, I make use of the concept of legal consciousness and legal translation.

The chapter covers an array of themes including an overview of the phenomenon and trend of unsafe abortions among young women in Zimbabwe. The chapter also examines the varied experiences, perceptions, attitudes among the young women concerning multiple obstacles and challenges they encountered in seeking to realise their reproductive health rights – in particular (safe abortion). In my discussion, I further explore the multiple views of young women and men in relation to the role and effectiveness of domestic legislation, global, and regional human rights frameworks in promoting or inhibiting safe abortions in Zimbabwe. My discussion moves on to investigate the non-legal challenges and barriers faced by young women and men in Zimbabwe as they seek to translate reproductive health rights into a lived reality (translation and enjoyment of rights). In the final part of the chapter, I provide a summary to the entire chapter.

First I provide *Figure 4.1* showing the composition of the response group across (sex, age, origin, civil status, occupation, educational background and geographical location)

Figure 4.1 characteristics of respondents

Pseudonym	Age	Marital status	Occupation	Educational qualifications	location	sex
Simba	34	Married	Health worker	Undergraduate Degree	Chitungwiza	Male
Thando	24	unmarried	Medical student	Final year medical student	Mt Pleasant	Male
Tinashe	28	Married	Public health practitioner/journalist	Undergraduate Degree	Budiriro	Male
Paida	24	unmarried	Hairdresser	O-level	Kuwadzana	Female
Rudo	25	unmarried	IT Student	Final year Diploma	Budiriro	Female
Farai	22	unmarried	Medical student	4 th year medical student	Mabvuku	Female
Tofara	32	married	Programmer	Masters qualification	Avondale	Male

4.2. Young women and men's perceptions, attitudes, experiences in realising the right to safe abortion

This section seeks to answer the study's core research question. In particular, it provides an account on the perceptions, attitudes, experiences and challenges facing young women in Zimbabwe as they sought to exercise the right to safe abortion. To help illustrate on this theme, I draw on interviews from young women and men conducted in Harare in July 2016 (as already highlighted). To support these views, I further draw on data collected from grey literature from women organisations, newspapers as well as from human rights organisations working in Zimbabwe.

Through my fieldwork, opinions differed on the contributory factors to unsafe abortions among the young females in Zimbabwe. However, several respondents cited lack of adequate information and knowledge on sexual reproductive health rights (SRHRs) including issues to do with contraception among the unmarried young women. This point is in accordance with those found in existing studies. For example, findings contained in a recent 2016 Report on the *Universal Periodic Review of Zimbabwe: 26th Session* by a Zimbabwean organisation (Katswe Sistahood and Sexual Rights Initiative, 2016). To illustrate this point on lack of adequate information and knowledge on SRHRs, I quote at

length one respondent who after developing an unintended pregnancy, resorted to unsafe abortion. She recounted her ordeal as follows:

I worked in a saloon I would hear stories of women who aborted, it is then I started doing my research on how I could access one. I gathered up money (\$20USD) then travelled to a place where one woman performed the procedure. She gave me a root that I was supposed to use in order to induce the abortion I went home and after 3 days I had contractions whilst I was walking down the road I started feeling pain and I fell down on the street people started gathering around me to make sure I was ok. People noticed I was bleeding and suspected I had an abortion, they instilled fear in me and said I should confess or I was going to die because of the abortion. I confessed and someone immediately called the police and the ambulance came I went to hospital where the nurses were constantly labelling me as the girl who had an abortion. They had already started treating me like a prisoner and continuously labelled me as a murderer. Soon after I was discharged from hospital I went to court and during the trial I told the judge that I had been raped but my step father was never arrested. I was sentenced to 8 months in jail and the woman who had given me the roots was given 12 months (Interview with Paida 12/07/2016).

Some parts of the quote from Paida also show the fears of young women who abort. This fear range from fear of persecution, prosecution, societal stigma, labelling (as I shall elaborate in the subsection below). The latter arise after one has conducted an unsafe abortion. This point is reflective in the above quote when Paida mentions that:

Someone immediately called the police and the ambulance came. I went to hospital where the nurses were constantly labelling me as the girl who had an abortion. They had already started treating me like a prisoner and continuously labelled me as a murderer (interview with Paida ibid).

Some respondents in the study also reported the similar experiences to that of Paida in their own specific cases of unsafe abortions. One such reason being that young women will be afraid of arrest from the police as we can see from Paida's account. The following excerpt from one respondent also illustrates this point clearly:

After committing unsafe abortions at home. It is very difficult to seek post-abortion medical care. How will you explain to the nurses? They will ask you to produce some documentation showing that you had registered your pregnancy with the local clinic. In the event that you fail to provide such, they will call the police. So, it is the response and reaction we get from the health officials and workers that force many young women to avoid going for post - unsafe-abortion medical care (Interview with Rudo 12/07/2016).

The fear of the full wrath of the law as Yoliswa Dube notes (*Chronicle* 4 January 2014) and as outlined in above experiences highlights why young women in Zimbabwe continue to practise unsafe abortions. This can also be attributed to the limitations of the Zimbabwean laws in providing for safe legal abortions.

4.2.1. Silenced discourses, Stigma and decision of abortion

This section examines young women's experiences, attitudes and decisions to access safe medical abortion services and facilities in Zimbabwe. In this study, I define abortion stigma as "a negative attribute ascribed to women who seek to terminate a pregnancy that marks them, internally or externally, as inferior to ideals of womanhood" (Kumar et. al 2009:628). The findings of the study revealed that several young women still suffer from different forms of stigma and discrimination associated with unsafe abortions.

The young women interviewed in this study highlighted with concern that society often stigmatises abortion in public space. Yet, in private spaces, society always knows about the persistence of unsafe abortions. The excerpt below illustrates this silenced and stigmatised discourse of unsafe abortion in the public forums. As one respondent notes:

When people talk about abortion in the presence of a group of people or amongst friends. People are quick to disregard and call it murder. However, at an individual level if one falls pregnant (with an unwanted pregnancy) they would not think twice about aborting. I know a neighbour of mine who fell pregnant and she aborted. However, prior to the adoption, she always used to say she would never do it (Interview with Rudo 12/07/2016).

In accordance with the above finding, Yoliswa Dube in a Newspaper opinion wrote that:

Turning to abortion as a personal choice, some young women have determined to keep it a private matter that no one else should know about. They fear castigation and being lectured on what a terrible and gruesome abortion is [...] (Yoliswa Dube, Chronicle, 4 January 2014.

In a related point to the above, a key informant concurred with the above views as we can note in the following words:

In Zimbabwe, there is generally "fake conservatism" in public people shun away from talking about abortion, but I have heard several stories of abortions in my work as an activist around SRHR of young people (Interview with K2 04/08/2016).

The stigma and social exclusion that comes with abortion as alluded by the several respondents cited this far, is consistent with findings in the abortion literature (see for example, Cook 2014; Kumar et. al 2009). A study on Zambia (one of the African countries) with liberal abortion laws established how young women who aborted were considered as bad influence to their peers and to society (Webb 2000).

Now turning to this study, the young women and men whom I interviewed noted that stigma made several women to feel uncomfortable in openly discussing issues relating to abortion. As noted elsewhere, in the literature, abortion stigma contributes in reducing and even weakening the women's agency in challenging restrictive laws on abortion (Cook ibid :349).

In their accounts on the barriers faced in society after having engaged in unsafe abortions, respondents in this study mentioned the role of their

respective communities' in labelling those who abort as murderers and as being promiscuous. As, Simba a 34-year-old male public health worker highlighted to the researcher, whenever people found out that a girl aborted the following dimensions of stigma emanate mainly because:

Sexuality amongst young people is generally seen as a taboo therefore usually people who abort are stigmatised at two levels, one being they indulged in sexual activities before marriage because usually it's young unmarried girls who abort, secondly, they would be stigmatised especially by young men that they are murderers and they are promiscuous (Interview with Simba 11/07/2016).

In a related point to the above, one respondent disclosed that:

*When the society discovers that you have aborted, they label you with all sorts of derogatory terms. For instance, some will say [**akarasa mwana**] (loosely translated it mean that you dumped a baby). Whereas, some will say [**akauraya mwana asina mhosva**⁴] (loosely translated it means that you murdered an **innocent soul**) (Interview with Thando 13/07/2016).*

The point above is consistent with findings observed in the global literature on abortion stigma where abortion is framed as an act of killing 'innocent lives' (see, Petchesky 1990; 1997). Consistent with findings of this current study, other studies conducted elsewhere established that abortion stigma is a challenge that hinder women to access safe abortions (Kumar et. al 2009). As confirmed in my interviews with young women and men in Zimbabwe, the practice of unsafe abortion brought with it public humiliation and shame. As one respondent reports:

Young women who abort are stigmatised. The society will view you as a woman of loose morals who sleep around and then go about terminating pregnancies. You are seen as an outcast of the society. Some will see you as a murderer. Some will call you all sorts of disparaging and derogatory names e.g. witch. It is because of such stigmatising labels that young women never discuss about abortion even in cases of unintended pregnancies (Interview with Tofara 04/08/2016).

In what follows, I explore the challenges faced by young women in translating their reproductive rights into actual lived realities within the context of the restrictive Zimbabwean legislation on abortion.

4.3. Translating reproductive rights within the current Zimbabwean legislative framework

In this section, I strive to answer sub-question 2. The study established that the individual and shared perceptions and high level of consciousness on the existing laws on abortion deterred most young women from seeking safe abortions in

⁴ These are Shona words (Shona is the major language spoken in Zimbabwe). Here, I quote verbatim.

clinics and in hospitals. The *Newsday* of 30 January 2016 reported that unsafe abortions occur in the backyard.

The study's findings also revealed that some young women even acquired abortion pills from their colleagues in the medical sector. Important to underlie is that these young women do acquire such "abortion-inducing drugs from pharmacists" through illegal means (Tabitha Mutenga *Financial Gazette* February 24 2014). Shirley who performed three abortions using the pill obtained from a medical practitioner is a good example. In recounting her ordeal on how she used the pill, Shirley notes that:

It is very easy. I drink the pill and in less than an hour, I start feeling pain and I know that I am sorted (cited by Sophia Mapuranga *Newsday* January 30, 2016).

This excerpt above from the *Newsday* newspaper serve to show how young women in urban areas in Zimbabwe often resort to unsafe abortions even in spite of the existence of the restrictive abortion laws in Zimbabwe. One can also argue that this practise of unsafe abortions using pills acquired from the pharmacy through the backdoor has not been only common in the young women in Zimbabwe but elsewhere in both developing and developed countries. Although, young women are often cited as the major actors involved in this trend. It is important to note that the older women also engaged in such practises. As one male respondent confided in the researcher:

Even older women also have their means of getting the tablets and pills, which they use, in terminating pregnancies. I know a number of older women who have done that for a couple of times (Interview with Simba 11/07/2016).

The above quote indeed speaks to the issue of how young and older women have navigated through the restrictive Zimbabwean abortion laws and how they continue practising illegal abortions using pills acquired through illegal ways. This indeed illustrates the extent to which women can exercise their agency in translating their reproductive health right to safe abortion (as contained under global and human rights instruments) even within a country context where abortion is criminalised and illegalised.

Seeming to concur with the above experiences of young women who seek medicalised abortion through illegal means, one respondent (Tofara a 32-year-old male) who work in the field of SRHRs related programming pointed out that:

In my field of work, I have seen many girls who have fallen pregnant and have had an abortion from either doctor who offer such services or if they are fortunate enough they have crossed the border and gone to South Africa where it is legal (Interview with Tofara 04/08/2016).

Talking of South Africa (as mentioned by the respondent above) scholars have commended the country together with Nepal for expanding women's access to health (safe abortion) through legal reforms. As noted by Shah et. al, (2014),

In South Africa, the *Choice of Termination of Pregnancy (CTOP) Act No. 92* was passed in 1996 and went into effect in 1997. The CTOP Act permitted abortion

on request during the first 12 weeks of pregnancy and from 13th up to and including 20th week for a number of broad conditions (ibid:18).

However, returning to the current study conducted in Zimbabwe, overall, the participants demonstrated that unsafe abortions persist despite the existence of the stringent laws that criminalise abortion. This finding may explain how young women and men continue to exercise their agency in claiming reproductive rights under difficult legal and non-legal contexts.

One concern that recurred throughout the respondents was that Zimbabwean abortion laws were supposed to be reformed and liberalised as a way to ensure women's realisation of their reproductive right to safe abortion. Some respondents were of the view that abortion laws in Zimbabwe were supposed to recognize safe abortion as a fundamental right. Talking about this issue, another interviewee stated that:

I think the women movement missed a perfect opportunity to push for abortion law reforms during the constitution review process. But they should still push through parliament. At least the laws on abortion should be a bit relaxed (Interview with Farai 17/07/2016)

Contrary to the above, other respondents were against the recognition of safe abortion as a reproductive right in the Zimbabwean statutes. Proponents of the latter view sustained their claims through reference to the prevailing strong religious beliefs amongst Zimbabweans (Interview with Tinashe 26/07/2016).

In the interview with Simba, he strongly emphasised that societal views and the laws on abortion were at variance with the reality on the ground. He illustrates this point in the following words:

I do not think the law supports the reproductive health rights because when we talk about pregnancy they are political implications and they are social implications. The restrictive laws are not doing good to anyone and they do not recognise these implications when a pregnancy is terminated (Interview with Simba 11/07/2016).

The above quote resonates with the debates raised in the socio-legal literature by scholars who contends that "more often law is mediated through social fields that filter its effects and merge official and unofficial systems of rules and meanings" (Engel 1998:141).

Now turning to the question on the legal barriers and challenges faced by young women in seeking to realise their reproductive rights (in relation to safe abortion) in Zimbabwe. Many respondents cited the illegalisation and criminalisation of abortion in Zimbabwe as the major drawback in realising reproductive rights. As one respondent stressed:

Even if you consider safe abortion in the case of unplanned pregnancy. The law does not permit. The law only allows safe medical abortion in cases of rape. It is because of our laws that one cannot go and seek abortion in clinics and hospitals. Our laws in Zimbabwe are very much restrictive. At times one is tempted to lie that I was raped - so as to be eligible for abortion. However, this option is difficult to sustain, as the police will ask you many questions when you make a false rape charges. The police will also request for evidence. (Interview with Farai 17/07/2016).

The above finding is consistent with those found in other studies elsewhere. For instance, in a study on human rights and African abortion laws, Ngwenya (2014) established a close link between the criminalisation of abortion and high rates of unsafe abortions. The above quote also reveals some of the respondents' level of legal consciousness on the restrictive nature of Zimbabwean laws concerning abortion. As argued above, it is the restrictive law, which leave the young women with limited option than to resort to unsafe abortions. However, in conducting these unsafe abortions some lose their lives (*New Zimbabwe* 19 April 2012). One informant Sharon *cited* in the *Newsday* Newspaper also reported such downsides. She recounts her ordeal in the following words:

It was an issue of a procedure gone wrong [...] I bled until I was unconscious and all I recall is waking up in hospital (Sophia Mapuranga, *Newsday*, 20 January 2016).

Still on the same subject on the limitations of the law, several respondents cited the constricting nature of the Zimbabwean laws in empowering young women in exercising their reproductive health rights. In all cases, it was found that many women (young and older) were compelled to do unsafe abortions as a response to the law which only allowed for termination of pregnancy under section 4 (a, b, and c) (see, Termination of Pregnancy Act [Chapter 15:10] of 1977). The Zimbabwean Women Lawyers Association in their (2012) report also highlighted the constrictive nature. They noted that:

The restrictive criteria for legal abortions and the continued criminalisation of abortion pushes women into unsafe abortions and early deaths (Zimbabwean Women Lawyers Association 2012:7).

The case of *Mapingure vs High Court of Zimbabwe* also illustrates the challenges faced by women in accessing legal abortion services in Zimbabwe⁵. The facts are as follows: Mildred was raped during a robbery case on 4 April 2016 (Kangaude and Chigudu 2016; *The Herald* 16 December 2015). After the incident, Mildred faced several barriers in seeking to terminate the unintended pregnancy. These ranged from administrative delays from both the police, medical practitioner (doctor) and superintendent of the health centre and from the magistrate (*The Zimbabwean* 17 September 2015). By the time, she got the legal approval and consent to terminate the pregnancy "it was medically dangerous to terminate the pregnancy" (ZWLA 2012:24).

As a result, Mildred was forced to carry the pregnancy to full term. What is striking from this case law is that the domestic courts failed to provide for the women sexual reproductive right (right to terminate pregnancy) as provided for in the Pregnancy Termination Act of 1977 [Chapter 15:10] and the Maputo protocol under section 14.1(c)⁶. The above case further highlights the challenges

⁵ Refer to the case law: *M. Mapingure vs. Minister of Home affairs & others* HC455/07 Case by Zimbabwe Women Lawyers Association

⁶ Refer to citation of the protocol in chapter 3.

faced by Zimbabwean women (young and old) in seeking to access safe abortion under the national legal systems and national laws. This is even in circumstances where abortion is permitted at law. The above-discussed case law reveals the shortcomings of relying on waiving the rulebook (constitution) in claiming and realising the right to safe abortion in Zimbabwe.

Although state parties are obligated under numerous global and regional human rights instruments to take steps towards the protection, promotion and fulfilment of reproductive rights and other women and human rights (as I have argued in chapter 3). This is not always the case in actual reality. This point is fully confirmed in the case of Mildred discussed above.

This argument is consistent with data in the socio-legal literature on the multiple legal and administrative barriers and obstacles faced by women in claiming the right to adoption in several African countries, including Zimbabwe (Ngwenya 2014). From the same case of Mildred, we can note that the translation of the law from the abstract into actual reality is contingent on several factors and dynamics within the state institutions. This point also resonates with the Zimbabwean Women Lawyers Association who illustrates that “where the law provides for legal abortion the process and legal procedures are lengthy, and often results in traumatic experiences for women” (ZWLA 2012:24). This then hinders the right to access safe abortion not only among the young, but also in older women.

However, I further observed through interviews that some respondents lacked knowledge on how the state was obligated to provide for reproductive health rights and the right to life. Some interviewees lacked appreciation of the fact that these rights were guaranteed in the Zimbabwean constitution and jurisprudence. As well as in, several other global and regional human rights framework and UN treaty monitoring bodies. It was primarily because of the lack of adequate legal consciousness of such rights frameworks and legislation that many failed to claim, exercise and translate reproductive rights into actuality.

The above point can be explained in the interviews I held with young women. The majority cited their hesitance to go to the clinic to access post - unsafe abortion healthcare simply because they did not know whether they had rights to access post-unsafe abortion medical health care and services. In result, the respondents failed to exercise their right to access reproductive health and more broadly the right to health due to lack of appreciation of the existing reproductive health laws. In their 2016 report, the Katswe Sistahood and Sexual Rights Initiative notes that young women in Zimbabwe fail to access reproductive rights, in spite of the fact that such rights are enshrined and provided for in the Zimbabwean constitution under section 76 (see Katswe Sistahood and Sexual Rights Initiative 2016; see Constitution of Zimbabwe 2013).

4.4. Non-legal challenges and barriers faced by young Zimbabwean women in seeking to realise safe abortion

The research findings established that there were other non-legal barriers, which heavily influenced access to safe legal abortion in Zimbabwe, as I will discuss below. This finding is consistent with findings established in the existing literature (see for example Shah et. al, 2014⁷). In their paper, they argue that “access to abortion is commonly restricted, not only by the law, but also by other barriers” (Shah et. al, ibid:2). This section seeks to answer research *Question 3*.

4.4.1 Christianity and its impact to Abortion Discourse(s) and Practice(s)

On constraints which affect young women’s access to safe abortion other than law, some male respondents cited the issue of religion. This finding is in line with the fact that Zimbabwe is a country that adheres strictly to the Christian religion values, doctrines and teachings (Phillip Chidavaenzi *Newsday*, 4 May 2013). Such values and teachings are in contrast with the advocacy and practises of NGOs and human rights organisations such as Musasa project and Action Aid who advocated for the reform of the abortion laws during the 2012 constitution review process (*New Zimbabwe* 19 April 2012). Because of this strong influence of Christianity, many young women face challenges when they raise the issue of safe abortion within the Zimbabwe Christian circles and in society. Statistics show how Zimbabwe is regarded as a Christian country with 84.5% of the population of 14.2 million regarded as Christians, the other 16% attributes to traditional beliefs and others (Zimbabwe National Statistics Agency 2012)

In the case of Zimbabwe, I discovered that the strong presence of Catholics within the Zimbabwean government structures heavily stalled efforts and dialogue on the need to liberalise the right to access safe abortion the following comment from K1 (a medical personnel) with vast experience in sexual and reproductive health elaborates the above-mentioned point. The respondent revealed that:

There are many Catholics within the parliament and they are the law makers we cannot expect a liberal law on abortion, though besides the law being restrictive people still obtain abortions by other ways and the measures that are put in place suit the conservativeness of the government officials (K1/ 19/07/2016).

Asked on the question why it was difficult for young women to realise safe abortion in Zimbabwe, another respondent made similar remarks to the ones outlined above. The respondent stated that:

⁷ ICPD Beyond 2014 Expert Meeting on Women's Health - rights, empowerment and social determinants 30th September - 2nd October, Mexico City

The government is run by religious and conservative people especially the Catholics it's hard to realise certain rights under such a rule (Interview with Tinashe 26/07/2016).

Although, some of the interviewed respondents seem to concur on the role of Christianity in stalling policy and legislation reform on the right to abortion (as elaborated above). One can contest the notion that the mere presence of Catholics and believers of Catholicism among government ministers within government structures really influenced policy decisions on the law and practise of abortion in Zimbabwe.

The role and significance of Christian religion in the abortion discourses is contested in Zimbabwe and elsewhere in Africa. Previous studies have examined in detail the ability of Christian religion (mainly Catholicism) in regulating the conduct of both safe and unsafe abortions. To this effect, there is an emerging literature, though not centring on Zimbabwe (e.g. De Zordo and Mishtal 2011). These studies cite religious beliefs (mainly Catholicism) embedded within the government system as an obstacle to the recognition and realisation of safe abortion (which is as a reproductive health right) [ibid].

In their comparative study on Brazil and Poland, de Zordo and Mishtal's (2011) study established that pushing for abortion rights within countries with a strong influence from the Catholic church indeed, was a challenge. Other scholars also alluded to how the presence and influence of the Catholic Church in many parts of sub-Saharan Africa influenced people's attitude and perceptions on abortion (Brookman-Amissah and Moyo 2004; Braam and Dangor 2002).

Varied perspectives surfaced in relation to the role of Catholicism in mitigating the practises of unsafe abortions in Zimbabwe. For instance, even though some male respondents professed being Christians - (Catholics), they still encouraged their partners to commit abortion. As I gathered throughout my interviewees, this indeed was a contradiction to the very teachings, doctrines and values of Christianity, in specific Catholicism. The comment below by Thando (aged 24) who narrated several stories on how his Catholic friends who had impregnated their partners but later encouraged them to engage in unsafe abortions fully elaborates the contradiction among young men who purports to adhere to Christian values. As Thando recalls:

I actually have several friends who I go to church with that have been involved in making the decision to abort because they had impregnated their girlfriends, one of my close friends who is also Catholic - had to ask me to help him find a doctor who could offer termination of pregnancy services (Interview with Thando 13/07/2016).

In the next section, I further examine the role of evangelical church in constraining women's agency in mobilising to claim the right to safe abortion in Zimbabwe.

4.4.2. Evangelical Churches and the Abortion Discourses

Important to note is that not only is Zimbabwe a strong nation with devout Catholics. Zimbabwe over the past decades has witnessed the emergence and

rise of evangelical churches that preach the prosperity gospel and other mainstream conservative Christian teachings. Such examples, include the Prophetic Healing and Deliverance (PhD) Ministries⁸ (led by prophet Walter Magaya) and the United Family International Church (UFIC⁹) led by prophet Emmanuel Makandiwa among others. As some respondents in this study alluded, such evangelical churches have also played a role in providing teachings that go against the practises of abortion in Zimbabwe. For example, one interviewee said:

I have attended some sessions in these churches. They talk about abortion as a sin. They teach the gospel of purity and the views from these preachers are seen as the words coming from ordained people. Even government officials attend church services in their ministries. These preachers even call for sterner laws on abortion. But above all they talk about the harsh laws from the Lord to those who abort (Interview with Simba 11/07/2016).

In a similar point, another respondent, Rudo a 23-year-old Christian and college student (who attends evangelical churches) highlighted that even though young women resorted to unsafe abortions the Christian religion still plays a major role in propagating for a firm anti-abortion stance. The comment below illustrates her views:

Personally, I would never have an abortion because according to Christianity aborting is killing a child and I would be so worried about deliberately sinning against God. So, I will rather allow God to decide my fate rather than killing a Child (Interview with Rudo, 12/07/2016).

One surprising finding was that even though, some young women believed abortion was bad as observed by Rudo in the above quote. Paida a respondent who had carried out unsafe abortions before still concurred that abortion was bad. This point is captured below:

You know it is a sin to kill and the commandments state that thou shall not kill, even though I had this experience I acknowledge that it's a sin (Interview with Paida 12/07/2016).

Yoliswa Dube who argues that 'from a religious point of view, abortion is murder' also supports the above perspectives (Yoliswa Dube, *Chronicle*, 4 January 2014).

Responses from an interview with Tinashe, contradicts with the above claims. To reiterate the above discussed claims, dismiss abortion out rightly, regardless of circumstances. In his words, Tinashe noted that:

Even though I am against abortion, I think that in certain circumstances it is important for an abortion option to be made available for instance in cases of rape (interview with Tinashe 26/07/2016).

From a socio-legal lens, one can argue that although the restrictive Zimbabwean laws affects young women's access to the reproductive health rights, religion also plays a significant role in discouraging young Zimbabwean

⁸See the church website at <http://www.phdministries.org> accessed on 1 November 2016.

⁹ See the church website available at <http://www.ufiministries.org> accessed 1 November 2016.

women to resort to unsafe abortion. This brings to the fore arguments raised by socio-legal scholars who argue that the law does not only exist in a vacuum. Social interactions and discursive forms of cultural and symbolic power regulate law (Ewick and Silbey 1998).

4.5. Efforts towards mitigating unsafe abortions in Zimbabwe

In what follows, I explore the different efforts towards mitigating unsafe abortions in Zimbabwe by the state as well as non-state actors. The data from the field show that local women rights organisations continue to played a significant role in pushing for the reform of restrictive abortion in Zimbabwe. Prior, to the adoption of the new constitution in 2013, women organisations pushed for reform and decriminalisation of abortion laws. Such organisations include the Zimbabwe Women Lawyers Association (ZWLA), Katswe Sistahood and Sexual Rights Initiative among others (see Katswe Sistahood and Sexual Rights Initiative, 2016 Reports). As experience, has shown from elsewhere, it does not necessarily follow that the formalistic legal reforms will result in the realisation and enjoyment of human or women's rights. As Shah et al, (2014) outlines, asserting the right to safe abortion in several countries through legal reforms is confronted by several challenges. This is partly because of the inconsistencies between "wording of the law (*de jure*) and its application (*de facto*)" (ibid:5).

In the case of Zimbabwe, women organisations and human rights organisations have done advocacy work in lobbying the parliamentary caucus on gender and women's issues as well as at regional and global human rights forums to oblige the state to respect reproductive health rights. This highlights the significant role played by local human rights translators in pushing for the realisation of reproductive rights within the Zimbabwean context. The major challenge however, is that Zimbabwe has not domesticated the provisions contained in CEDAW.

In the same perspective, the church community has played a substantial role in discouraging the young women in engaging in acts and practises of unsafe abortions (as discussed at length in the preceding sections). At government level, the government has made policy pronouncement on the need to provide post – abortion health care even to those who would have conducted unsafe abortions. This point is confirmed in the below quote from the then Deputy Minister of Health who noted that:

Everyone who has aborted and come for treatment will not be reported to the police because that is not our mandate. We treat everyone regardless of the circumstances of abortion. Health workers are not policemen. All we want is to prevent death from haemorrhage, post abortion sepsis and other complications that may arise. Some people may end up with infertility for life,

so we want to prevent women from suffering such consequences (Minister Henry Madzorera cited by Kitsepile Nyathi *Africa Review* 4 August 2012).

Although the then deputy minister of Health made such claims back then in 2012, this study established that young women who illegally aborted still faced challenges of prosecution when as they sought post-unsafe abortion health care. In the section that follows, I offer a summary to the entire chapter.

4.6. Summary

The chapter started by exploring the young women and men's perceptions, attitudes, experiences in realising the right to safe abortion in Zimbabwe. The chapter further went on to explore the challenges faced by this demographic group in seeking to translate or claim reproductive health rights within the current Zimbabwean legislative framework. Thereafter, the chapter also examined the current efforts towards mitigating unsafe abortions in Zimbabwe by both state and non-state actors. As observed in the chapter, numerous challenges and barriers (legal and non-legal) restrict or hinder young women's access to reproductive health rights in particular, safe abortion in Zimbabwe.

Basing on the sampled population, the chapter established the low level of legal consciousness influenced the young women's decision in asserting and claiming reproductive health rights (services and facilities). For instance, their access to post-abortion services and healthcare. Surprisingly, after the legal constraints – religion was found to be another major constrain in realising young women's reproductive and human rights concerning safe abortion. Overall, the above-discussed limitations have led to the persistence of unsafe abortions among young women in Zimbabwe. The next chapter provides a synthesis of the whole study.

Chapter 5 Conclusion of the Study

5.1. Introduction

This final chapter of the research paper presents a summary to the whole study on the topic: *Understanding unsafe abortions among young women in Zimbabwe: A Socio-Legal Study of Reproductive rights*. The purpose of the chapter is to reflect on the paper's key findings against the set questions and objectives and theoretical framework, as well as providing a brief overview on the methodological approach adopted in conducting the fieldwork. It then goes on to present the summary and key findings derived from the study.

5.2. Reflections on Research Questions, Objectives, Methods and Theory

The aim of this study was to *understand the challenges faced by young women in realizing abortion as a reproductive health right in Zimbabwe*

The study was guided by the following main research question:

'What are the perceptions, experiences and attitudes of young women and men concerning their challenges in accessing reproductive health rights in specific reference to safe abortion in Zimbabwe'

In order to answer this question, the researcher conducted fieldwork research in Harare. In the quest to explore, the legal, non-legal barriers and challenges faced by young women in realising reproductive health rights in relation to abortion the study used a qualitative research design approach. This involved relying on interviews with key informants, review of grey literature from NGOs, women organisations and a review of existing secondary literature, case laws, statutes, and national legal frameworks guiding abortion in Zimbabwe.

The concept of legal consciousness also helped in clarifying the perceptions and views of young women and men concerning the restrictive law on abortion in Zimbabwe. The theory also helped to bring to light the inadequacies and challenges in translating (vernacularizing reproductive rights) Merry (2006) contained in global, regional human rights instruments in seeking to realise safe abortions among the young women in Zimbabwe.

5.3. Summary of the Study's Key Findings

The study established that despite the illegalisation and the attendant attempts to curb abortion in Zimbabwe through various legislation such as the Pregnancy Termination Act, this has not helped (as this had led to the rise in practices in unsafe abortions).

The paper found that there were significant limitations in seeking SRHRs (in particular safe abortion) among young women in Zimbabwe through reliance on judicial and legal spaces. As seen in the study, the legal spaces (restrictive legislation) played a role in confining access to reproductive rights (safe abortion) among young Zimbabwean women.

The study further identified several non-legal challenges and obstacles hampering young women's access to safe abortion. In result, this trigger a rise in unsafe abortions among young women in Zimbabwe. Among these factors are issues on abortion stigma, Christianity (Catholicism and Pentecostalism), and lack of adequate knowledge on abortion services and societal stereotyping and stigma of unsafe abortion practises.

The research revealed that although, Zimbabwe is a state party to several global and regional human rights instruments a lot of advocacy still need to be done. It has fallen short in translating (domesticating and adapting) these human rights frameworks into the local domestic context. This in part, also reflects why it has been difficult to claim and realise the right to safe abortion. This finding indicate the gap in the law, as it exists and the law in terms of practise[s] (implementation). This finding was established in the case law mentioned in chapter 4.

5.4. Areas of Further Scholarly Inquiry

Significant gaps exist within the few scholarly studies and research on unsafe adoption in Zimbabwe (Ngwena 2014). As I have gathered in my review of literature on abortion in Zimbabwe, there seem to be disjointed researches on this subject. This is reflective in the body of literature, which appear to have been conducted from diverse scholarly and methodological perspectives. For example, some streams of literature approach the issue of abortion from a feminist lens (Katswe Sistahood 2016). Whereas, some approach the theme from a bio-medical, religious and moral, legal, women and human rights lens. As a result, existing literature seem to fail in adopting an integrated approach in examining how all these themes intersect. Further research that combines these various cognate disciplines is needed to better ascertain how young women can claim, exercise and realise their reproductive rights with-[in] a diverse society with competing interests and actors.

One can as well observe that in the prevailing literature on safe abortions in Africa, there seem to be a tendency to cover broad themes. This is normally done without narrowing down to specific issues (see for example, Ngwena 2010). This leaves the subject of abortion under researched. I then recommend future studies, which address this gap. Now turning to the Zimbabwean literature, up to now, the theme of unsafe abortions in Zimbabwe have only begun to receive wide coverage and attention in NGO grey literature. This trend is replicated in newspaper articles and there are few existing academic studies.

However, one limitation of such NGO literature is that most of it tend to be advocacy oriented rather than academic. In light of such gaps in literature, future scholarly studies centring on the current theme (of unsafe abortions) are therefore recommended.

5.6. Study's contributions to policy and theory

The study has a potential to contribute to broader policy efforts in understanding the phenomenon of unsafe abortions and the associated abortion-related mortality among young women in Zimbabwe. The findings presented in this research paper will also add to our understanding of how global and regional human rights instruments and frameworks can be adapted in local contexts in seeking to protect, promote and fulfil reproductive health rights. In particular, the right to attain safe abortion in Zimbabwe. Seen in the light of gross abuse and violation of women SRHRs on everyday basis this knowledge will be important in terms of contributing to women and human rights lobby and advocacy work. Such advocacy is significant in several respects, including pushing for legal and policy reforms.

In addition, the findings of the study will be of value in terms of adding insights to policy makers and various stakeholders. Stakeholders of target includes those in the judiciary, law makers, officials in the executive, human rights actors (translators), women and human rights organisations, the police, multi-lateral donor agencies and those in the medical sector.

In terms of theory, the study has a potential to add new empirical insights to the prevailing literature on socio-legal studies. In particular, the study will add nuanced insights on how to understand the intersection between abstract reproductive rights (as enshrined in international, regional and local human rights instruments) and their actual realisation.

5.7. Summary

The study started by investigating the young women and men's perceptions, experiences and attitudes on unsafe abortions in Zimbabwe within the reproductive rights lens. In so doing, the study succeeded in answering the set questions and in fulfilling the study's set objectives. Through the use of qualitative research methodology, the research paper was able to show the different challenges (legal and non-legal) faced by young women and men in Zimbabwe in realising reproductive rights, precisely, realisation of safe abortion. Although, I have drawn broad conclusions, I am mindful of the fact that my interview population was very small. To conclude, it is possible that the findings of the study will not be generalizable beyond the response group. Put somewhat differently, the findings simply mirror a selection effect considering the limited sample size. However, this do not in any way, disprove the contribution of the study to both theory and practice.

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Appendices

Appendix A: Characteristics of Key Informants

Source: Field work

Participant	Occupation	Sex
K1	Director of Medical services	Male
K2	Public health and SRHR Activist	Male
K3	Academic (Lecturer)	Female
K4	Lawyer	Male

Appendix B: Key Informant Interview Guide

1. What is area of work?
2. What are your views on abortion practices in Zimbabwe?
3. Why do you think the law is still not changed?
4. What work has been done to ensure that Abortion (legal or illegal) is realised as a right?
5. What effective measures should be taken to ensure that unsafe abortions are reduced?

Appendix C: Respondents Interview Guide

For women

1. How old are you
2. Marital status
3. Educational level
4. Number of children
5. How do people perceive abortions in the place where you live?
6. Do you know anyone who has had an abortion? How were they/you able to access the abortion? What options were available to them/you and why?
7. Do you think there is enough information about abortion in the country?
8. What do you know about the termination of pregnancy act?
9. How do you feel about the abortion laws? Do they support the reproductive needs of women? If not, why do you say so?
10. In what ways did this law shape your reproductive decisions/experiences?
11. What is your view of the criminal tag attached to women who experience abortion in Zimbabwe?
12. What were your experiences with this tag and how did you navigate past this?
13. Do you think that the state should control women's reproductive choices? Whose choice should it be?
14. Was your partner involved in the decision making process?
15. Would you have an abortion again if the situation was the same?
16. Do you think that abortion is a human rights issue or a women's rights issue, or both?
17. Do you think abortion being made legal would be a good or bad decision, and why do you feel that way?
18. What do you think should be done to reduce unsafe abortions in the country?
19. Did you access any after care after the procedure? If so, why or why not?

For men

1. How old are you
2. Marital status
3. Educational level
4. Number of children
5. What are the main discourses around abortions in your community?

6. Do you know about the termination of pregnancy act?
7. What is your view on abortion as a birth control option?
8. How do you feel about the abortion laws in your country?
9. If your girlfriend/wife got pregnant would you think about getting an abortion? Why or why not.
10. Do you think abortion is a good practice? Why or why not.
11. Do you think there should be a law against abortion? If so what should the law state? If no, why not? Do you think abortion being made legal would be a good or bad decision, and why do you feel that way?

Appendix D Letter of clearance

International
Institute of
Social Studies

Date
27 May 2016

Subject
Confirmation of ethical clearance

Department
Major Programme in Social Justice
Perspectives (SJP)

Visiting address
International Institute of Social Studies
Kortenaerkade 12
The Hague

Postal address
P.O.Box 29776
2502 LT The Hague
The Netherlands

T +31 70 426 0585
E Handmaker@iis.nl
W www.iis.nl

To Whom it May Concern:

This Letter is to certify that Vita G Hwenjere is enrolled as a Master's student at the Institute of Social Studies of Erasmus University Rotterdam. The Institute has examined her research proposal and has found the proposed research to be in accordance with the ethical standards of the International Institute of Social Studies of Erasmus University Rotterdam.

Students name: Vita G Hwenjere

Major: Social Justice Perspectives

Research topic: A socio-legal exploration of the knowledge, attitude and practice of abortions amongst young women and men in Zimbabwe.

The above-named researcher has been granted ethical approval to conduct field research in Zimbabwe in relation to this topic.

Regards,



Yours sincerely,

Jeff Handmaker, LL.B, LL.M, Ph.D.
Senior lecturer in law, human rights and development.

Erasmus University Rotterdam

