

CHAPTER FIVE: DISCUSSION

The previous chapter has focused on presentation and analysis of findings from this study. The current chapter discusses the key findings of the study in relation to access to justice for girls and women with disabilities. The discussion is structured along the main themes of the study organised around research questions. Essentially, these include girls and women living with disabilities as victims of crimes as they relate to their right to access justice. Four main themes were identified in this study: equality, accommodations, participation and training of professionals. This chapter will also look at the justice delivery system and the extent to which their essence and delivery strategies and management supports GWWD rights and access to justice. The discussion is undertaken in the context of knowledge that already exists about girls and women with disabilities in relation to the right to justice.

In spite of increased need for access for GWWDs, Zimbabwe still faces problems in the provision of that service. Overall, the study found varied responses to violence against girls and women with disabilities. The study offered different points of view on girls and women with disabilities access to justice, one of which being the understanding of the concept and context of components of justice that is at the heart of this study, was necessary to inform measures to navigate the study processes. Besides, it offered an important take-off point for the study whose essence was the issue of access to justice. These issues were best answered by the survivors themselves.

In the context of violence perpetration, the study found the justice concept was understood although it was explained differently (in non-technical language). They analysed it using the concepts of the 'wronged' and the 'wrongdoer', together with the feeling that some measure(s) of a punitive nature needed to be meted out to the 'wrongdoer' to realise justice. This finding is supported by McGlynn and Westmorland (2018) who argue that a trigger must exist to define the path to justice that although it can continue to shift, is pursued in the search for resolution.

The 'wronged' (current subjects of the study), would fall into the realm of 'victimology' – the study of victims of crime, an important dimension though

not sufficiently addressed for people with disabilities as a specific category of 'victim' (Madriaga & Mallett, 2010). UNDP (2004) in Beqiraj *et al.* (2014), makes reference to the growing recognition within victimology that the experience of many a woman in this situation is that of being a victim, largely because of their disability which constrains them from doing much to help themselves out of crime situations. This is a notion affirmed by Edwards *et al.* (2012) when they state that 'disabled people are significantly more likely to be victims of crime than non-disabled people'. The findings of this research revealed that many factors pushed GWWD into becoming victims of crime. This was largely borne out of their disabilities that limit them. The GWWD are as argued by the findings of this research often neglected and left alone for long periods of time due to their disabilities. The study established that GWWD assume victim status when a crime is committed against them and this crime is in turn brought to light.

Vulnerable individuals who experience crime often identify as victims. Their understanding and perception of justice (how they "feel" justice) is significant to this study because that understanding should, theoretically, improve their access to it. Furthermore, while these individuals readily understood and could explain their own disabilities, their understanding was limited to their personal experiences and lacked exposure to the broader spectrum of disability. They easily identified the "disadvantages" of their specific disabilities, focusing on what they could not do. This aligns with the United Nations' understanding of disability as a continuum of impairment, disability, and handicap: and reflects a medically-focused perception of disability, as described by Wasserman *et al.* (2016). This limited perspective is important to note, as it highlights the need for a more comprehensive understanding of the multifaceted challenges faced by people with disabilities, which extend beyond purely medical concerns.

The researcher found that access to justice is defined as, access to justice is an important component of a legal and democratic state. It implies the right to an effective remedy, the right to equal access to courts, the right to legal aid measures that improve access to courts and access to legal representation to ensure effective implementation of the law and practical enjoyment of rights by individuals. Access to justice "refers to the various elements leading to

appropriate redress against the violation of a right". The requirement of equality, including gender equality, is at the centre of the meaning, the exercise and the fulfilment of the right to justice. Women's rights and women's full and effective access to justice are integral parts of the overall justice system that should exclude any discriminatory activity (Markaryan, 2015).

This was pivotal to the study aimed at exploring the barriers that people living with disabilities who report crime and abuse face in accessing the criminal justice system in Zimbabwe. Moyo (2018) observe that, "every person has the right of access to the courts, or to some other tribunal or forum established by law for the resolution of any dispute" (: 39). The UNDP (2004) cited in Beqiraj (2017) observe that access to justice is, considerably more than simply increasing an individual's access to the courts... It must be defined in terms of achieving just and equitable legal and judicial outcomes.

The findings of this research show that access to justice is pivotal to access of other key rights. From the findings it emerged that some parents and caregivers of GWWD feel that access to justice was elusive and some of them may not even report crimes against GWWD and seek access to justice due to fears of social stigma and to notions of a corrupt justice system.

The section of the study took off by examining some contextual abuse perpetration patterns that included most prevalent crimes, the perpetrators and commonest locations of crime perpetration. Are most prevalent. of the factors, sought to unpack, in the view of the different groups, what these factors were, understanding that would enable response to the factors by the concerned parties.

The study found that rape and attempted rape were the commonest crimes perpetrated against women and girls with disabilities. Some GWWDs added gender-based violence and stigmatisation. These findings were not unique to this study as Ozemella *et al.* (2019), also confirm their findings that commonest among crimes perpetrated against women and girls with disabilities were sexually inclined crimes such as rape. On the other issue, familiar people in the family or community environment, were identified as

main perpetrators of such crimes that also happen to frequently occur within the home setting or nearest surroundings, a finding endorsed by Lodenius (2020) who concluded that perpetrators against girls and women with disabilities were dominated by those from the immediate environment of the victim (family and community). Subsequently, that closeness, she argues, may influence the action that social structures, especially the family take; such as downplaying the crime. It is further argued that some families even go on to receive money in lieu of reporting the case to the police (Lodenius, 2020). In agreement, Chikate (2020) found that GWWDs are mostly attacked by abusers in their immediate environment, especially the home. The assessment of crime category, perpetrator and location were extended to all groups under this study and the pattern of findings was unanimously agreed.

The findings of this study revealed crime pattern dimensions that include perpetrator identify, type and location of crime. Ozemela *et al.* (2019) argue that the interplay among these dimensions. Table 5.1 depicts the relationship between perpetrators, type of crime and location of crime.

Table 5.1: Crimes against GWWD: Location, Perpetrator and Vulnerability Factors (: Ortiz and Urban, 2019:10-11)

Location of violence against GWWD	Perpetrator(s)	Factors that Increase Vulnerability
Social Groups such as family	Family Members	Negative public attitudes about disability
Residential settings such as the home, apartment or boarding home	Paid caregivers/personal assistant	Social isolation of persons with disabilities with their families
Service settings such as hospitals, group homes, institutions	Other people with disabilities, especially those closest with their victims in service settings	Reliance of people with disabilities on others for care
Public spaces	Lack of support for family members who assist people with disabilities
		Lack of opportunities for people with disabilities to develop social skills through typical social interaction.
		Nature of the disability
		Gender, particularly with

		reference to sexual abuse (where women face a very high risk of victimisation)
		Poverty and other economic factors; affecting people with disability
		Lack of control or choice of people with disabilities over their personal affairs
		Perceived lack of credibility of people with disabilities when they report or disclose abuse
		Socialisation of people with disabilities to be compliant; learned helplessness
		Alcohol and drug abuse by perpetrators
		Ineffective safeguards

The diverse variables all coalesce to create a complex web of conducive conditions that can favour crime perpetration against women and girls with disabilities. In the context of the position that the GWWD are exposed to vulnerable conditions, this study should provide useful insights into what might be needed to address the issue of crime perpetration against women and girls with disabilities.

This aspect of the study took interest in those factors that had a positive influence on access to justice for women and girls with disabilities. It was found that legal and institutional efforts set up by the Government were, at least potentially, promotive of the access to justice agenda. Makaryan (2018) is in agreement with prior scholarly assessments, referring to these governmental actions as "national good efforts and practices," acknowledging their positive contribution at the national level, even if they are not comprehensive or fully effective

In spite of all efforts and good work that may be done by various players, access to justice remains a pipe dream for many survivors of sexual violence. Many barriers stand in the way and the study found the following common ones.

The study has found that this to be a critical barrier identified by all participants, because, by virtue of geographical location, service points are beyond the reach of many survivors. This has capability as well cost implications for travel to those sites and the nature of the disability can make it impossible for the survivor even to try which costs associated with such travel can have a prohibitive effect. In support of this finding, Beqiraj & McNamara (2014), make reference to what they term the physical factor of access to justice delivery in which they highlight its manifestation as “insufficient and unequal geographical distribution of justice institutions”. OECD (2016), groups these related factors simply under “geography”. This incorporates distance to the service, physical location, general issues to physical access to justice services, including condition of the road that makes transport providers to shun the routes to the detriment of access to justice services.

The effects of this barrier, together with its associated factors on access to justice cannot be wished away in a Province like Mashonaland Central where research data shows that there is only one regional court (and correspondingly one regional magistrate and one sign language interpreter) mandated to try sexual violence crimes. This creates a situation of massive movement of the population across difficult terrains, to access this court. The sentiment is well summarized by Mutanana and Gasva (2015) who argue that in predominantly rural areas, the distance from communities to reporting centres, or even for service to travel for evidence gathering is a barrier in itself. Besides, the nature of the disability itself may be a limiting factor to movement. It goes without saying that access to justice for girls and women with disabilities might remain a pipe dream as long as these conditions are allowed to remain the way they are. This study carries some recommendations seeking a redress of the current conditions.

On this aspect, the study found that suitable logistical support was considered paramount, especially in the context of the long-distance barrier. Examples identified included transport and inadequate funds to support GWWD to travel to police stations, clinics and courts and, reciprocally, justice services to go out to the people. Economic circumstances, cited as the root cause of this predicament, were a thorn in the flesh. It saw some cases

going unreported or, worse still, families and caregivers opting to be paid damages or compensation in lieu of reporting the case to responsible authorities. In their study of Barriers and Consequences of Reporting Cases, Mutanana & Gasva (2015) confirmed the inadequate support provided to Victim Friendly Unit (VFU) officers, specifically citing a lack of transportation and financial resources to effectively handle cases. This lack of support results in cases remaining un-investigated, hindering further action and obstructing justice delivery.

To benefit from a system, awareness of the system and knowledge of its workings should be a basic requirement. Knowledge and information about the justice system and the services it provides should be empowering enough for those seeking those services. In solid support of this argument are Beqiraj & McNamara (2017) who opine that information sharing, raising awareness and spreading good practice are pre-requisites towards efforts to improve access to justice. However, this study found that the community and family levels were the most ignorant in terms of such awareness, a situation that denies them access to justice.

Information and knowledge gaps among communities and the survivors is not a new phenomenon as Women Enabled (2018) found out, subsequently arguing: “Women with disability often lack knowledge about their rights and the justice system due such information not being made available in alternative format (e.g. braille, plain language, text to speech or easy read)” (p1). Equally, this may arise from different levels of understanding and access to the information (LRF, 2021). In a related argument, Human Rights Watch (2018) also argue that information accessibility may be an issue affecting actions of women and girls with disability. To buttress their position, they give examples of those with intellectual and psychosocial disabilities who may not be aware that non-consensual sexual acts, for example, are criminal and should be reported. This is the bad side of lack of accessible information.

When people are deprived of information, they remain ignorant and some of the consequences include lack of reporting begin, a kind of behaviour that denies them their right to access justice.

It was established that GWWD lacked information concerning their rights and the procedures to follow even to make a report to the police station. In other cases, the information, though available, may not be easy to comprehend. As a result, GWWD remain unsure of how to respond to crimes committed against them. In support of the results is LCDZ (2015) which observe that "GWWD often lack adequate information on how to respond to such attacks".

Questions of why categories of the justice system (communities, survivors) should remain, unaware and ignorant in a system that has pledged to carry out such activities at the very minimum, continue to be asked. Although the judiciary explained this as lack of the means to go out on awareness outreaches, civil society believes there is also lack of commitment and political will. This finding is particularly relevant to this study which seeks to leave no stone unturned in its quest to provide answers to why problems continue to manifest in the system.

There is an argument about the effects of extensive discrimination on certain members of society, the reason of which may be simply their structural and inherent characteristics (Beqiraj, 2017). Legal and informal discrimination or stigmatisation in practice can impose obstacles based on grounds such as ethnicity or migration status. Such discrimination can occur at all levels, the courts, the police, the community and even within the family. With reference to the current study, people with disabilities, especially girls and women with disability, can find themselves in this predicament, based on both gender and disability stereotypes (Women Enabled, 2018); yet the right of equality that appears to be blatantly violated, under the law must prevail (Holness and Rule, 2015).

The Constitution of Zimbabwe (2013) goes to great lengths to expose some practices as gross violations. As argued by the Constitution of Zimbabwe (2013), "Every woman has full and equal dignity of the person with men and this includes equal opportunities" (:38). It goes further to argue:

Every child, that is to observe how: every boy and girl under the age of eighteen years has the right (a)to equal treatment before the law including the right to be heard (:38)

Underscoring the above position, Waddington and Broderick (2017) define equality as being the “same rules” (:10) applying to a person with disabilities and one without. Lawson and Beckett (2021) argue:

... disabled persons are entitled to equality by virtue of their equal humanity, not because they satisfy sameness norms and ‘antidiscrimination and equality measures’ demanding the investment of resources are recognised. It emphasises the ‘indivisibility’ and the ‘process and outcome of human rights’ (:360).

The findings of this study established that GWWD, as victims of crime, become victims due to lack of equal opportunities with their peers. GWDI observe that,

Handina kuenda kuchikoro nenyaya yekuti ndanga ndisingakwanisi kufamba ndega. Vamwe vangu vakaenda kuchikoro nevadiki vangu vanoenda kuchikoro. Ndinoswera pamba kazhinji ndega: [Translation: I did not go to school because I could not walk to school due to my disability. My siblings went to school. I usually stay at home.

Worm (2012), in support, states,

In many countries, the capabilities of children and youth with disabilities are not recognised and their views not taken into account. They are often denied access to education or vocational training and are more vulnerable to violence and abuse than their non-disabled peers. (:7)

There is a nexus between access to justice for GWWD and the access to other rights. By accessing justice GWWD particularly girls with disabilities are given leeway to speak. The goal of equality for persons with disability is described as follows:

The goal is to achieve a barrier-free society for persons with disabilities which accommodates a wide spectrum of individual abilities and not a society which simply expects all to conform to one hypothetical, typically fictional ‘normalcy’ standard before they ‘fit in’. Equality seeks to attain an environment whose old barriers are removed and where new barriers are prevented before they are created, in which persons with disabilities are fully included as of right, free from stereotype or other impediment, with full respect for their dignity and worth as individuals, and with full, effective and timely accommodation (Holness and Rule:1909)

This research established that there is an imbalance in terms of equality for GWWD and other victims who are not disabled.

Nkhata (2020) observe that for persons with disabilities it is important to note that equality before the courts requires that actual efforts are made to ensure that barriers in the justice system are removed. Ortoleva and Lewis (2012) state, women with disabilities remain unequal in the justice system due to the barriers that limit them including; stigma, discrimination and lack of decision-making capabilities. The researcher found that there many barriers such as these tabulated below for GWWD.

The study that identified negative attitudes and discrimination to be strong systemic barriers to access to justice for women and girls with disabilities, goes on to call for a change in such attitudes. These were said to prevail at the level of courts, the police and other institutions that are responsible for the uptake of the cases. Sometimes even what the system observe how: to the reporting survivor can literally destroy the witness' prospects of pursuing their case (Human Rights Watch, 2018), such as how a woman with an intellectual disability was treated when she presented herself at reporting: "the police said, she is mental, why should I pay attention to her?" (para, 1). The issue is also confirmed Manjoo (2012), whose study concluded that police and the judiciary showed negative perceptions of women with disability, particularly women with intellectual limitations. Regrettably, as argued by the author, the woman with intellectual disability may be the only evidence of the crime taking place.

The Access to Justice for Persons with Disabilities Toolkit for Disability for Africa (Nd) adds its voice to the debate about negative attitudes and false beliefs or assumptions being a strong attitudinal barrier that diminish or totally deny access to justice for women and girls with disabilities. They list those accused of holding such beliefs as including the police, lawyers and judges, who are meant to be in the forefront of facilitating fair access to justice. As argued by their argument, the result can easily be that of considering and treating persons with disabilities as less credible at all stages of legal processes

... “including when reporting a crime, in terms of whether one can serve as a witness or in making legal decisions, seeking remedies for alleged violations of their rights, or otherwise participating in legal proceedings” (p7).

The study also found out that some attitudinal related barriers also emanate from the community side. In large measure, these manifest as non-reporting of cases that involve GWWD. This is because the community marginalises and dehumanizes some GWWDs, especially those who roam around or are dirty. Even when they do report a committed crime, it is done in the form of anonymous tip offs due to fears of being labelled as ‘sell outs’ or ‘gossipers’. There are also categories of GWWDs, such as those with hearing, speech or intellectual impairments, who are normally perceived as not comprehending what the perpetrator has done. As a result, such survivors continue to experience high levels of abuse. Lodenius (2020) brings a fine argument regarding stigma arising from within the family set u: His argument is simple: heightened stigma within family they try to hide the crime in an effort to reduce the shame and discriminations associated with the victim disability and the crime itself. It is also confirmed that in some parents, especially in rural areas, go to the extent of hiding their children that have disabilities to avoid being shamed or shunned due to stigma surrounding disability. Others get to the extent of leaving their children at home while they work or cultivate fields, “sometimes for days at a time, and sometimes tied up so that they don’t wander off”. 35, 36 Aley (2016) and Andrae (2017)

The finding of attitudes as a barrier that pervades the entire justice system should be unsettling enough for a system that should be supporting the women and girls with disabilities. It raises the question: who should they look up to for support? Whereas the answer appears to lie in lobby and advocacy efforts within all justice circles, refusal to accept that they actually hold these attitudes might be a barrier in itself. Nevertheless, the study makes the recommendation that these should be addressed as part of the process of inevitable change if the plight of girls and women with disabilities is going to ease off.

Institutions and infrastructure must remain accessible if justice is to be readily available for people with disabilities. In support, Beqiraj *et al.* (2017) argue how physical accessibility is necessary to remove barriers to accessing

of services. However, this study found that access was limited, because most of the physical structures at justice delivery sites throughout the system remain inaccessible. Although some modifications had been made at the regional court to accommodate wheelchairs through the construction of ramps, the feeling was that this was not even near enough. Ortoleva and Lewis (2012) posit, physical access to the justice system is not limited to the court house but extends to police stations and hospitals. Besides, even those that have received some modifications to accommodate ramps are often not up to standard (Chikate, 2020; Choruma 2007). This finding signals a justice accessibility gap that should call for concerted efforts to rectify.

Besides physical accessibility, the justice system needs other important resources to make it function. Some of these include finances, material and human resources. Beqiraj and McNamara (2014) concur when they cited “insufficient financial and human resource allocations to justice institutions that create shortcomings in the effective functioning of the justice system” (p18). In addition, OECD (2016) bemoans the situation of too few legal officers to meet demand of cases and challenges of retaining those staffs. The study discovered that there were insufficient numbers of suitable specialists that hamper delivery of services between witnesses and the justice system. For example, inadequacy or outright absence of language specialists at hospitals and police stations become a barrier to communication.

These issues could not be more relevant to the situation of the current whose findings concur with those of the researchers’ earlier findings. It would appear, therefore, that the issue of shortages of resources is not a new phenomenon. In this study, it is highlighted that disability specialists are in short supply while the administration of the VFU position remains insensitive to the plight of the courts with willy-nilly transfers taking place at the expensive of the critical role that the officers must play. The net effect is the same, the disruption of delivery of justice services for girls and women with disabilities. The study raises these challenges hoping for corrective interventions.

Accommodations refers to the provision of appropriate support suited to persons of different ages and disabilities. Article 13:1 of the CRPD (2006) observe that,

1.State parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including investigative and preliminary stages (:11)

Msipa (2015) observe that,

In the criminal trial setting, the question should not be whether a person is competent to testify; rather it should be what types of accommodations are required to enable the person to give effective testimony? (: 89)

Protocol on the Multi Sectoral Management and Sexual Abuse and Violence in Zimbabwe, ensures that the relative bodies work fluidly to get an adequate response to accessing justice. Victim Friendly system, ensures that women and girls as vulnerable groups get access to important services such as health care and counselling after they are victimised. The Victim friendly system makes an allowance for all persons with disabilities Zimbabwe Constitution 2013 and the subsequent introduction of the day of the disabilities and the DPA also plays a significant role in the creation of legislature for persons with disabilities.

Through government developments and amendments in the constitution such as the Victim Friendly Sub Committee knowledge dissemination between non-government actors and government actors has become more fluid. for instance, VFU03 stated that the referral protocol has become clearer due to the Protocol on the Multi Sectoral Management and Sexual Abuse and Violence in Zimbabwe of 2012 and subsequent trainings on the referral process. Further to this, trainings and sensitisation campaigns held by partners in the VFSC also elucidate the concept of disability and disability specific responses to disabled persons who are victims of crime.

Such sensitisations held by LCDZ and MoWAGCD as argued by SVFU01, enlighten VFU officers and other partners on how to respond adequately to GWWD as victims of crime. The study found that sensitisation training workshops ensure that there is a steady flow of the justice system by arming the necessary partners with adequate information on who to contact for assistance be it in deciphering the information being said or seeking basic services that are required during the judicial process. The study also

established that the VFU they have their own methods of knowledge dissemination; one such method is through awareness campaigns held by the VFU and in some cases held together with other partners.

Participation is the effective role as direct and indirect participants in the justice process.

Participation is both a means (participatory approach) and an aim (the right to participate). It entails empowering rights-holders such as persons with disabilities to articulate their expectations towards the State and other duty bearers, and to claim their rights. This principle is summarized in the central slogan of the disability rights movement, 6 “Nothing about us without us”. In this way, participation goes beyond a methodology for quality programming and becomes the central idea of disability inclusiveness (Worm, 2012:8)

White *et al.* (2020) states “A barrier and recurring obstruction to witness participation is the victim’s level of disability and ability to be a competent witness” (:9). Nkhata (2020) strongly argues that persons with disabilities should be allowed to testify and participation in this way shows lack of discrimination against them. Ortoleva and Lewis (2012) in support state,

Witnesses play a crucial role in the justice system, and for witnesses who are also a victim of the crime at issue, they may offer the only evidence that a crime occurred. Stereotypes about the competency and believability of witnesses with disabilities compounded by the fact that in many cultures’ women are not viewed as credible, works systematically deny women with disabilities access to the witness stand (:115)

The findings of this study show that GWWD are allowed to testify depending on psychiatric evaluation reports that are supposedly determinant of their competency to articulate issues.

The CRPD, particularly in Article 13, pinpoints the importance of persons with disabilities being active participants as witnesses in the court process. Edwards *et al.*, (2012) argue how “creating coordinated access and personalized support for people with disabilities who are victims of crime “(:6) is a crucial step in enhance participation of GWWD as victims of crime during the judicial process. Ortoleva and Lewis (2012) in support argue how, women with disabilities are not only excluded as witnesses due to their

difficulty in communication with police and court officials, but stereotypes about women with disabilities operate to exclude or discount their testimony

Edwards *et al.* (2012) opine that provision of intermediaries or disability experts lifts barriers to communication at any stage of the reporting of the crime and referrals made thereafter. White *et al.*, in support observe that the intermediary can act as a support person during the court process and a mouthpiece to communicate where communication barriers exist .The researcher found that the use of disability experts in the assistance of GWWD eases the process.VFU06 observe that, the availability of a disability expert when there is a communication barrier assist in taking down of statements, during the reporting phase .It also assists when the victim is taken to hospital for either psychiatric evaluations or post trauma treatments to be able to ease communication

Promotion of appropriate knowledge dissemination through trainings and sensitisations. Article 13:2 of the CRPD (2006) observe that, to help to ensure effective access to justice for persons with disabilities. States parties shall promote appropriate training for those working in the field of administration.

Awareness creation is a necessary model of knowledge dissemination. SFVUO3 argue how,” when awareness is created on issues such as GBV there is an increased response in reports about GBV. It is a necessary tool to make people aware of their rights and in turn motivates them to seek justice”.

The study established that awareness creation is of paramount importance in accessing justice for victims and for prevention of violence against potential victims Awareness creation lies in the opines of knowledge dissemination for systems that propagate justice. Awareness on disability rights was found to be imperative for Law enforcers, health personnel, policy makers and GWWD themselves. It is within the precipice of the transformative approach that awareness is indicated for essential support systems to ensure that access to rights such as justice are fulfilled in general and in this study for GWWD victims of crime.

The study found that the main issue arising for GWWD as victims of crime were rooted in systems that are not entirely capacitated and ready to fully assist GWWD in their bid for justice. The study also brought to light gaps in policies and legislature that prevented real change from taking place for GWWD. The Human Rights Based Approach (HRBA) demands for the fulfilment of all rights for an individual and as the pillars of the CRPD for all persons with disabilities. The Transformative approach plays a complimentary role in this study and sought to give a voice to knowledge held by the array of participants that contributed to this study in the hope of bringing GWWD as victims and part of marginalised groups and bring change.

As depicted in the literature above access to justice for GWWD is enshrined in the CRPD. An article A Human Rights Based Approach to Disability corresponds with this assertion and observe that, “HRBA demands more than simply adding persons with disabilities to the target groups of development programmes. It means adhering to and promoting the core human rights principles that underpin international human rights law.” (:5). The article also enshrines that,

Persons with disabilities have long been seen as passive recipients of aid, often reduced to their impairment-related health needs. A human rights-based approach to disability implies that all people are active subjects with legal claims and that persons with disabilities need to participate in all spheres of society on an equal basis with their non-disabled peers” (:4).

The current study found that Zimbabwe has developed legislature, policies and boards whose purpose was to guide fulfilment of rights for Persons with Disabilities (PWDs), The legislature embedded in the constitution and complementary documents such as the Disabled Persons Act, creation of a disability Board and the ratification of the CRPD were all positive and progressive strides. The situation on the ground depicts that GWWD are largely unaware of their rights and their basic human rights are still to be met.

The study found that the aim of these largely is to spread awareness on GBV issues reporting procedures and to bridge the gap that exists between the police and the community. Musuguri (2018) observe that community policing strategies should focus more on awareness creation, capacity building and

assisting the community. The study further found that the aim of these largely is to spread awareness on GBV issues reporting procedures and to bridge the gap that exists between the police and the community. Musuguri (2018) observe that community policing strategies should focus more on awareness creation, capacity building and assisting the community.

partner training and sensitisation conducted by civil society disability organisations has set the map for a more accommodative stance towards persons with disabilities in the justice system. The findings of this study elucidate that the trainings and sensitisations at VFSC level sought out to uproot barriers in the justice system for persons with disabilities and in this case GWWD. Training was conducted by LCDZ as a way of flattening the curve and reducing barriers to accessing justice. It was found that despite the efforts already made there are still significant changes that need to be made to address barriers to justice at community, police station and court level.

Moyo in an article by the Zimbabwean (Women with disabilities face more abuse,2013) observe that, the attitude of staff at institutions such as the police station and hospital, tends to be one of hostility towards people living with disabilities. In most cases a disabled rape victim is ridiculed and blamed. I personally know a situation where a police officer at a particular police station openly told a rape victim that she should thank the rapist because, if she was not raped, she was never going to enjoy the pleasure of sex in her life (par. 9). The findings of this study show that there are significant barriers that still need to be attended to such as attitudinal barriers that make accessing justice difficult for women and girls living with disabilities.

The study results found that significant strides had been made to train VFU officers on disability issues and had seen the training of some VFU officers in sign language to better enable communication between deaf victims of crime and the police. Lodenius (2020) shares that training of VFU officers on disability issues is important to ensure a smooth flow of their part in the justice process. Chihambakwe (2016) also shares that for the VFU system to fully assist persons living with disabilities it is necessary for them to be trained on the relevant schools. The author observes that VFU are capacitated

with necessary counselling skills and require capacitation to adequately and effectively communicate with GWWD.

Lodenius (2020) bemoans the lack of sign language and observe that, the first reason, and criteria for this theme, is an institutional issue discussed in the previous theme – lack of sign language. A 32-year-old deaf woman named Saru explains this issue is particularly problematic when trying to report a crime:

If I am raped it's hard to report". The police are not using sign language. Some of my deaf friends, both the mother and the child are raped, but the police cannot use sign language, so we just keep quiet. When I accompanied my friend to report rape, the police could not observe how: anything in sign language and there was no interpreter (Peta, 2017).

Communication barriers as cited by Edwards *et al.* (2012) also create a bridge between the victims of crime who are GWWD from the law enforcement agents that are meant to assist them.

VFU officers received sensitisation training through NGO stakeholders during monthly VFSC meetings. Though this was done there is need for a further impetus to train police even those who are not in the VFU to better relate and communicate with GWWD victims of crime. The findings of the study showed that sometimes victims are met with negative attitudes from officers who are not adequately trained and this puts a hamper on them and some may end up not reporting.

The study found that VFSC had been sensitised on issues affecting persons with disabilities and in particular GWWD. VFU officers and senior officers unanimously agreed that they had undergone sensitisation training concerning disability issues to make them more aware and more sensitive to disabled persons when they report crimes levelled against them. RMI observe that,

There are sensitisation meetings conducted by VFSC stakeholders whose main focus is on disability issues. These have made the other stakeholders aware of the specific needs of persons with disabilities when seeking justice. This enables us as stakeholders to garner adequate responses. (RMI)

It was found that LCDZ had conducted these sensitisation sessions at the regional court and from these discussions of disability related issues the VFSC in its different facets took strides to accommodate persons with disabilities. One such stride was the hiring of a sign language expert at the Bindura Regional Magistrates Court as a direct response to enabling effective communication by persons with disabilities. Culmination of sensitisation by civil society organisations on disability issues is embedded in taking up of issues of violence against GWWD at awareness campaigns by VFU officers as a direct response to sensitisation.

The findings of the study revealed that some efforts had been made to ensure networking and collaboration of all stakeholders in the Victim friendly. subcommittee This was achieved through the inception of the Multisectoral protocol which introduced a clear referral system which any member could refer a victim who is a GWWD to seek assistance. The findings revealed that it is imperative to further sensitise VFSC members on disability issues to ensure that they have full knowledge. UNAIDS (2012) acknowledges that to reduce all forms of stigma and discrimination there is need for sensitisation of law makers and law enforcement agents. Sensitisation and rights-based training with law enforcement officials. This study further established that despite sensitisation workshops being done at VFSC level there is need for more of these as refresher courses and a need to introduce them to the greater police body to ensure that PWDs can fully access justice without discrimination from the very people meant to help them.

The study results revealed that as a country Zimbabwe has made significant strides to accommodate persons with disabilities. The constitution of 2013 enshrines their rights and enforces the rule of law on those who violate those rights. the study results further note that there is still a long way to go in terms of ensuring full access of rights for PWDs and in particular GWWD. The level of discrimination and stigma rooted in a largely cultural society such as is in the Zimbabwean context needs further uprooting if PWDs are to fully access justice.

The study further established that discrimination and marginalisation of disabled persons is still emanant in Zimbabwean social circles despite

modernization and globalization progress. Pearce, Paik and Robles (2016) argue how while the pervasive effects of gender inequality affect all women, other factors including ethnicity and race, class, religion, age, sexual orientation, and disability also contribute to multiple layers of discrimination (Moodley & Graham, 2015; Erevelles & Minera 2010). Lodenius (2020) paints the image of cultural stigma or rather fear of and from the community results in most crimes against GWWD going unreported. For GWWD their marginalisation and discrimination emanate from the point that not only are they women, residing in a largely oppressive patriarchal setup that marginalises women and sets them up to be secondary owners of property but they are also disabled which further marginalises them and limits their access to justice.

The study found that more girls with disabilities than women with disabilities are violated. Pearce, Paik and Robles (2016) in support argue how, Research in non-humanitarian settings underscores the fact that violence is pervasive in the lives of persons with disabilities, and that the prevalence of sexual abuse is higher for adolescents with disabilities. Pearce *et al*, (2016) goes on to argue how, as children, both girls and boys are more vulnerable than adults to various human rights abuses. ACPF (2010) in Pearce *et al*, (2016) also states Studies have also called attention to the unique vulnerability faced by adolescent girls with disabilities, given not only their disability but also their age and the gender norms and stereotypes in society. Surveys of adults with disabilities in Ethiopia, Senegal, Uganda, and Zambia found that all participants had experienced some form of sexual violence as children: 37 percent of participants reported being raped; more than 90 percent reported that sexual violence occurred when they were between 10 and 17 years of age; and girls were more likely than boys to repeatedly experience such violence.

The data presented in Chapter 4 depicts a multifaceted justice system, an indication of the need to embrace all players and strategies to make it work. This section discusses roles of different players as identified in chapter four of this report. These include the Government of Zimbabwe, the Courts, the police, civil society, communities and the survivors themselves.

Governments have specific obligations under international law to respect, protect, and fulfil the right of women with disabilities to access to justice. Governments must:

- **Respect:** This obligation requires States—including any state actors—to refrain from impeding access to justice. The State must enact laws and regulations to safeguard effective access to justice, for instance by ensuring that everyone enjoys full legal capacity.
- **Protect:** This obligation requires States to protect the access to justice of women with disabilities from interference by private actors, for instance by ensuring they can safely report violence against them without intervention or risk of retaliation by legal guardians.
- **Fulfil:** This obligation requires States to take necessary measures to ensure that women with disabilities can be equal and active participants in the justice system, including, for example, by ensuring that women with disabilities can testify in courts with appropriate support as needed. [Women Enabled International; Access to Justice for Women and Girls with Disabilities, FACTS: www.womenenabled.org]

In summary, the role of the Government is identified as that of providing the legal and policy environment and other institutional structures and programmes within and around which the rest of the implementers can do their work. It was noted that in carrying out this role, the Government must recognise its place within the family of the global and regional community. To that end, it signs to and gets direction from various international and regional agreements. Those that relate to the current issue of access to justice for women and girls with disabilities are identified in chapter four. Once the necessary ratifications have taken place, the Government endeavours to domesticate the provisions into national laws, an exercise that begins with the national constitution and specific instruments.

The role of the Government of Zimbabwe was eloquently articulated by court officials and the police. Given their functions as arms of the state, it was

logical that they were best placed to understand that role, particularly the bigger picture role.

The Regional Magistrate (RM1) and Senior Police Officer (SPO1) provided a detailed narration to the effect that issues of disability, coupled with the related issues of perpetration of abuse had assumed global proportions. The development of various instruments and protocols on these issues, they said, were a demonstration of global commitment to the response. It then becomes the challenge and duty of Government to follow this up: ratify and make efforts to domesticate into national legislation. Among other instruments, the Government of Zimbabwe has, at different times, ratified the United Nations Convention on the Rights of the Child (1990), the Convention on the Elimination Discrimination among Women (CEDAW) (1991) and, at regional level, the African Charter on the Rights and Welfare of the Child. While issues of disability are implied, the international community saw it fit to come up with one instrument targeted on disabilities; the Convention on the Rights of People with Disabilities. Zimbabwe has gone on to embrace and ratify the same (2013).

The study found that Zimbabwe has gone further to develop national laws and policies and that include the Zimbabwe Constitution of 2013 in addition to earlier laws such as the Mental Health Act of 1992 to address the plight of vulnerable groups in society. The Government also introduced programmes to operationalise the laws. These include, among others, the National Case Management System, a way of organising and carrying out work so that children's cases are handled in an appropriate, systematic and timely manner, the Protocol on the Multi-Sectoral Management of Sexual Abuse and Violence in Zimbabwe of 2012 (to deal with response to increasing cases of perpetration of abuses) and the Victim Friendly System to directly deal with cases of violence against women, including girls and women with disabilities. All these efforts go to show the role of Government as leading the way in terms of providing a response framework within which implementers can confront the problems. At the lower end of the respondent spectrum, and GWWDD themselves, while acknowledging that important role, bemoaned the 'less than enough commitment' to see these through in terms of adequate resource allocations.

As argued by the findings of this study, the arresting role was the most mentioned across respondent groups. Related roles such as ‘watching over any acts of violence against women and children’ also featured in the conversations. Given the development of the system in line with the principle of friendly delivery of service, the establishment of the special unit, the VFU, in the context of the Victim Friendly System did not go unnoticed, attracting responses such as ‘to handle vulnerable witnesses. The reporting process attracted focus since this was a critical determinant of whether the case would collapse or succeed. The essence of the discussion entailed ... reporting case, conducting investigations, arrest of offenders, compile dockets and make necessary referrals. However, institutional challenges (*lack of resources - money, transport, stationery and limited training opportunities on specialised skills*) were identified as aspects that were diminishing performance of the Victim Friendly Unit.

The findings summarized above were consistent with those defined in various guidelines and findings from studies. Gupta and Kandelwal (2021) acknowledged the decisive role play as they were the first to arrive on the scene of the crime. Gathering evidence examination of witnesses and other relevant materials that inform the evidence and this was undertaken in a disciplined way and within the confines of the law.

Various scholars have written on various roles that the police play, reflecting diversity. Whereas Matunhu and Matunhu (2021) argue how the police are divided into well synchronized units focusing on different aspects of law governance with the VFU in focusing on victims of crime, Katsinde (2021) denotes the police as having political power conferred on them by the constitution to serve as both law makers and human rights agents. Thus, the police are faced with a uniquely important role in the initiation of a process of justice (Charman and Williams, 2021).

Human Rights Watch (2018) Lack of documentation in police reports precludes women and girls with disabilities from receiving specific need-based support from the police and judiciary. Even in cases where women and girls had visible physical disabilities or identified their disabilities, police

failed to include specific details in the First Information Report (FIR), the document that sets the criminal justice process in motion.

Debashree Sabuj, deputy police commissioner for women in West Bengal, attributed many of these shortcomings to lack of training and information among police officers:

We have had no training. Though the investigating police officer tried to do the right thing by calling a support person, lacking access to proper guidance from a special educator, he misinterpreted Pooja's intellectual disability

Chiweshe, Mushayavanhu and Bhatasara (2021: 44) The police are the first point of contact for victims of SGBV Police reporting mechanism in the judicial system. Role of the police is to respond to the SGBV crime against victims. The police are also an integral part of the referral system to other stakeholders in the Multisectoral protocol Role of the VFU is to provide a conducive environment where victims and witnesses are able to report in a private friendly and confidential manner (:44).

Women and girls with disabilities face multiple barriers in accessing SRH services. The widespread misconception of their asexuality result in healthcare providers ignoring their SRH needs despite the fact that they are just as likely as anyone else to engage in sexual activities. Physical access to healthcare facilities is also a critical issue as many are not equipped with ramps or assistive communication devices such as braille signs; as a result, disabled women and girls face numerous difficulties in receiving proper services. Moreover, the mere act of getting to a facility is challenging as accessible transportation itself is limited, and even when disabled women and girls manage to receive transportation, many face abuse. Despite the lack of SRH rights and heightened vulnerability to GBV, women and girls with disabilities have limited access to justice. (Advancing the Rights of Women and Girls in Zimbabwe; UNESCO).

In low-income and middle-income countries women and girls with disabilities are more likely to experience violence than those without

disabilities. Non-governmental organisations (NGOs) and disabled people's organisations (DPOs) can help to address this. However, in countries like Botswana we know little about the preparedness of NGOs and DPOs to increase inclusion in and access to programmes addressing violence.

This qualitative study explored the capacity and preparedness of 17 NGOs and Disabled Persons' Organisations (DPOs) in Botswana to ensure women and girls with disabilities can participate in and access programs addressing violence. Interviews revealed significant gaps: both NGOs and DPOs often lacked universal design principles and reasonable accommodations, rendering their programs inaccessible to some individuals with disabilities. While some NGOs addressed violence against women, they lacked the skills and resources to effectively include people with disabilities. Conversely, DPOs, while working directly with people with disabilities, lacked a specific focus on violence against women with disabilities. Participants identified several opportunities for improvement, including policy adaptations, structural changes, staff training, mainstreaming disability across all programs, developing disability-specific interventions, and strengthening inter-organisational networks. The study concludes that while Botswana's NGOs and DPOs are well-placed to address this critical issue, they must prioritise increased accessibility, improved staff knowledge and skills related to disability inclusion, and greater participation of women with disabilities within their organisations. Targeted training, resource allocation, and meaningful involvement of women with disabilities are crucial for driving progress in this area. The positive impact of peer support groups for young women with disabilities on their sense of belonging is under investigated. We conducted in-depth, semi structured interviews with nine members of a well-established empowerment support group for young women with disabilities to explore how the group might foster a sense of belonging to the general community and a sense of shared womanhood. Results revealed that self-confidence and disability pride stemming from participation in the group were essential in helping the women counteract exclusionary messages from the outside world. The group provided an opportunity to develop a positive disability identity and to gain new information regarding the ability and right to identify as women.

This research in turn juxtaposed the roles of the government agencies and civil society with the reality of disabled women and girls in Zimbabwe who are raped or sexually assaulted to identify gaps and recommend best practices and ways to fill those gaps.

Judicial system in Zimbabwe as found in this study is multifaceted due to the multi sectoral nature of the Victim Friendly System. This research found that the government of Zimbabwe has taken many policy and legislative measures to try and accommodate persons with disabilities Including the creation of the Disabled Persons Ac of 1992. As previously stated, the Zimbabwean government was amongst the first countries to make positive strides towards disability reforms. This study however found that despite these efforts, significant gaps still exist such as those postulated by Ortoleva and Lewis (2012), including lack of adequate instituting of pro disability legislature.

Traditional justice systems were found to be wanting by scholars such as Lodenius (2020) and Mandebvu (2015) who established that due to the largely patriarchal voices in this setup women were rendered voiceless and decisions would be made about them without their participation.

The findings of this research elucidate that women's roles in the justice system are limited, the data depicted that the participants who are main actors in the justice system were largely male. There are more male VFU officers, Male interpreter, a male magistrate and 2 out of 6 senior police officers was female. Ortoleva and Lewis (2012) suggest there is a need for increased female participation in the justice system particularly women with disabilities. Ortoleva and Lewis (2012) argue how there is a need to adopt a "Nothing About Us Without Us" (NIO) approach such as the approach used during the formation of the CRPD, to ensure access to services and justice. Markaryan (2018) in support postulates that, there is limited existing data that shows the involvement of women particularly those with disabilities in the formation of laws, policies and programmes. Ortoleva and Lewis (2012) argue how,

without training key players in the justice system, addressing, accessibility concerns, using clearer language when necessary and generally acknowledging the

implicit and explicit biases facing people with disabilities will not be full and equal players in the justice system. (:115).

Following presentation and analysis of the findings on the building blocks around justice in section 4.4, the study took a focus on: what does it take for someone to be said to have accessed justice and whether they felt they were accessing it. The discussion is undertaken around two key issues: the perception of access to justice and whether or not that justice is being accessed.

This research revealed diverse understandings of access to justice, likely shaped by individual experiences. Some participants focused on punishing the perpetrator, while others emphasized support for the survivor. Many felt that the process connecting survivors and perpetrators in seeking resolution was crucial, not just identifying them. While each perspective offers valuable insight, it represents only a partial understanding of justice. However, the perspective of GWDI offered a more comprehensive view of the justice system.

“When you get the opportunity to have your case taken up through the police to the court, with minimal impediments, culminating in fair trial and the perpetrator sentenced” (GWDI).

The different perceptions should not be surprising as some researchers have already found. In support of the comprehensive meaning, the Concept Note emanating from the Half Day General Discussion (53rd Session) of the Committee on the Elimination of Discrimination against Women refers to the justice chain as the processes and institutions that women have to navigate in their quest to seek redress. Legal Resources Foundation (2020) weighs in on the definition; access to justice “refers to the various elements leading to appropriate redress against the violation of a right” (:7).

Markaryan (2015), also takes a look at the concept of access to justice and sees it as carrying an equality dimension. As argued by him, this explains why there is so much emphasis on the rights of every citizen, including those marginalised groupings such as the women in general and women and girls with disabilities in particular. His argument goes further to suggest that women’s rights and women’s full and effective access to justice are integral

parts of the overall justice system that should exclude any discriminatory activity. This point is of significance to this study, given its entire focus on access for women with disabilities. Whereas access to justice is an important component of a legal and democratic state, it implies the right to an effective remedy, the right to equal access to courts, the right to legal aid measures that improve access to courts and access to legal representation to ensure effective implementation of the law and practical enjoyment of rights by individuals. As argued by Moyo (2018), "every person has the right of access to the courts, or to some other tribunal or forum established by law for the resolution of any dispute" (: 39). The UNDP (2004) cited in Beqiraj (2017) also perceives access to justice as much more than improving an individual's access to courts... It must be defined in terms of ensuring that legal and judicial outcomes are just and equitable.

The access to justice debate was pivotal to the study. The different perceptions show the possible gaps that exist in how it is seen, pointing to the need to establish, through training, awareness of other means, of a common frame of reference if the surrounding challenges are truly going to be addressed.

The question that this study sought to answer was whether or not women and girls with disabilities were enjoying access to justice. Although perceptions also came from other participants, the GWWD were considered to be the prime focus related to this question since they are the ones best placed to assess their 'feel' of access to justice.

The findings of this study were clear and categorical – that access to justice was still a pipe dream. They highlighted several challenges that made it difficult for access to be realised, mostly drawn out of their traumatic experiences when they were violated. Even the one who pointed to satisfaction with her case, because the perpetrator had been incarcerated, there was an admission that there were various associated challenges. Among them: lack of resources and lack of knowledge and information.

The findings were hardly surprising when considered against literature on that speaks to compromised access for girls and women with disabilities. As argued by Benedet and Grant (2012), access to justice can be compromised due to adversarial trial processes. They make reference to cases of sexual assault complainants with mental difficulties. As argued by their account, these women get subjected to rigorous cross-examination ... “with repeated and leading questions, in a manner that is confrontational and accusatory” (p1). In such cases, access to Justice cannot be achieved because accurate stories of sexual assault are prevented from being heard. Rather, this could leave the women’s credibility undermined but also lead to unfair acquittal. In such cases, the authors recommend the assistance of intermediaries to support the witness, who may not always be available.

Nkatha (2020) argues the case of compromised access to justice for persons with disabilities, arising from defects in the provisions in the justice system of Malawi. This included demeaning language on persons with disabilities in the criminal law and procedures guiding trials that did not accommodate reasonable avenues for accommodation. In view of this, recommendation was to audit statutes in criminal justice system to inform legislative reform and to carry out continuous disability-rights training for all actors.

Tyagi (2021), presents some stunning arguments on how access to justice for women and girls with disabilities can dissipate at the hands of several barriers. As argued by the writer, socialisation and role assignment can militate against access to justice because it reinforces those cruel practices against women and leads to their subordination, coupled with situation of what is termed gender justice, where women are made to suffer violence, discrimination, and oppression, just because they are women. Above all these, women can be their own worst enemies due to their reluctance to take action against the various wrongs committed against them. Thus, the combination of the societal biases, patriarchy, social structure, and gender stereotypes against women that come together in different ratios, impact negatively on the psychology of the women seeking justice and the result of which is undermined access to justice (Tyagi, 2021).

Access to justice could suffer at the community level. In what the authors refer to as targeted violence, the article examines how local community members can inflict attacks on women with disabilities as a form of hate crime. Drawing on interviews with women with disabilities in Australia, experiences of physical, sexual, psychological, emotional and financial violence were reportedly perpetrated by members of their local communities (McGowan & Elliott, 2029). They experience further trauma when they reported to the police, who showed indifference. These were cases of prejudice in which their lives were portrayed as less worthy, limiting adequate responses to their cases. The access to justice space was very limited.

The current study on the issue of access to justice for women and girls with disabilities is relevant in its entirety to the situation in the Mashonaland Central Province in Zimbabwe. The general tone of the findings, that access to justice is not being enjoyed, raises many questions on the intervention front. Additionally, the situations that stand in the way of access, as depicted in the literature, together with solutions proposed equally show that much need to be done to make their (women and girls with disabilities) dreams come true. In a separate section of this report, the study comes up with recommendations in the hope they can trigger activity in addressing the challenges.

The chapter presented the discussion of the findings of this study related to understanding of the basic concepts of justice, factors that affect access to justice, the roles played by different stakeholders and the perceptions held about access to justice as it relates to women and girls with disabilities. The next chapter focuses on the summary and recommendations emanating from the findings.