

UNIT 2: CONTEMPORARY SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS ISSUES

2.1 Structure of the Unit

This unit is organised as follows:

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2.2 Objectives of the Unit

At the end of this unit, the reader must be able to:

- a) Identify the main SRHR challenges affecting women and girls in Zimbabwe;
- b) Relate SRHR violations to public health outcomes and legal protections;
- c) Define the key legal instruments and policies governing SRHR.
- d) Explain the opportunities for litigation, advocacy, and reform within Zimbabwe's legal framework.

2.3 Overview

Women and girls are entitled to protection and comprehensive reproductive healthcare under international, regional, and domestic legal frameworks. Yet, in Zimbabwe, this entitlement is routinely undermined by restrictive statutory provisions and entrenched gender

norms that perpetuate inequality, limit bodily autonomy, and impair access to essential services. Despite constitutional and treaty-based guarantees, prevailing legal and societal frameworks often constrain the full realisation of sexual and reproductive health and rights (SRHR), particularly for marginalised and adolescent populations. This unit interrogates key contemporary SRHR issues in Zimbabwe – namely, child marriage, sexual violence, access to safe abortion, and respectful maternity care. These areas not only reflect urgent public health concerns but also serve as entry points for examining deeper legal and normative deficiencies. Child marriage, for instance, persists despite a constitutional minimum marriageable age, exposing the disconnect between legal standards and enforcement. Similarly, the criminalisation and medical gatekeeping surrounding abortion services fail to reflect constitutional commitments to life, dignity, and health, while maternal care settings continue to normalise mistreatment and obstetric violence under the guise of clinical discretion or resource scarcity.

Each of these thematic areas reveals the compounding effects of gender-based discrimination, legal inertia, and weak accountability mechanisms. They also point to opportunities for strategic litigation as a means to challenge unconstitutional practices, expose gaps in statutory protections, and compel alignment with international human rights obligations. In doing so, litigation can serve as both a corrective and generative force, reshaping not only legal doctrine but also societal attitudes towards reproductive autonomy and gender equality.

2.4 Definition of Terms

Child Marriage is marriage where one or both parties are below 18 years of age. (UNICEF, 2025)

Forced Marriage is marriage entered into without the free and full consent of at least one party. (U.S. Citizenship and Immigration Services [USCIS], 2025)

Sexual Violence is any sexual act, attempt, or threat committed against a person without consent. (World Health Organisation [WHO], 2025)

Safe Abortion is termination of pregnancy performed by qualified professionals in conditions meeting medical standards. (WHO 2025)

Obstetric Violence is mistreatment of women during facility-based childbirth, including physical, verbal, and non-consented care. (International Confederation of Midwives [ICM], 2025)

Respectful Maternity Care (RMC) is Care during childbirth that preserves dignity, privacy, autonomy, and freedom from mistreatment. (Association of Women’s Health, Obstetric and Neonatal Nurses [AWHONN], 2025)

2.5 Key Issues for Discussion

Contemporary sexual and reproductive health and rights (SRHR) challenges in Zimbabwe include high rates of child and forced marriages, particularly in rural areas, which undermine girls’ health, education, and legal rights (UNICEF, 2023; UNICEF & ZimStat, 2019). Sexual violence remains widespread despite criminalisation, with enforcement gaps limiting access to justice for survivors and highlighting the need for systemic reform (UNFPA, 2021; NewsDay, 2020). Access to safe abortion is constrained by the restrictive *Termination of Pregnancy Act* (1977), which conflicts with recent High Court rulings expanding access in cases of marital rape or sexual activity involving minors under 18; nevertheless, unsafe abortions remain prevalent, contributing significantly to maternal morbidity and mortality (Guttmacher Institute, 2018; Africanews, 2024). Disrespectful maternity care and obstetric violence—such as physical abuse, non-consented procedures, verbal mistreatment, and discrimination—constitute violations of women’s rights and disproportionately affect marginalized populations in Zimbabwe. These practices underscore the urgent need for strengthened legal frameworks, policy reforms,

and institutional interventions to ensure respectful, rights-based maternal healthcare (World Health Organization [WHO], 2018)."

2.6 Case Law and Examples

Recent case law highlights both the challenges and opportunities for advancing sexual and reproductive health and rights (SRHR) through litigation in Zimbabwe. For example, in *Mudzuru & Another v. Minister of Justice, Legal and Parliamentary Affairs & Others* CCZ 12/2015, the Constitutional Court outlawed child marriage by setting 18 as the minimum age of marriage, affirming the rights of girls to protection from early marriage and aligning domestic law with international human rights obligations. In *Loveness Mudzuru & Ruvimbo Tsopodzi v. Minister of Justice & Others* (2016), the Court further emphasized that strategic litigation can serve as a tool for public-interest enforcement of SRHR protections. More recently, in November 2024, the High Court ruled that exclusions under the Termination of Pregnancy Act—specifically for pregnancies resulting from marital rape and sexual activity involving minors under 18—were unconstitutional, thereby expanding legal access to abortion. These judicial interventions demonstrate a growing willingness by Zimbabwean courts to interpret constitutional rights expansively in matters of reproductive justice. At the same time, the tragic case of *Memory Machaya* (2021), a 14-year-old who died in childbirth after a forced child marriage, exposed critical gaps in enforcement despite existing legal protections (Amnesty International, 2021; BBC, 2021; The Guardian, 2021). Comparative regional experiences also offer valuable lessons: in *Reproductive Health Alliance v. Attorney General* (Kenya, 2019), the Kenyan courts affirmed that access to reproductive health services is a constitutional right, demonstrating how strategic litigation can influence policy and rights protections—insights directly applicable to Zimbabwe's SRHR advocacy and litigation efforts."

2.7 Lessons Learnt and Drawn

High rates of child marriage, sexual violence, and unsafe abortion in Zimbabwe underscore the urgent need for comprehensive legal and policy reform. Existing legal frameworks are insufficient on their own and require effective enforcement, widespread social acceptance, and complementary public health measures to translate rights into meaningful protections. Strategic litigation, when combined with advocacy, community mobilisation, and evidence-based arguments, can serve as a powerful tool to drive systemic reform in sexual and reproductive health and rights (SRHR). Comparative experiences from across Africa demonstrate that courts can play a pivotal role in expanding rights protections and influencing national policy, offering valuable lessons for Zimbabwean practitioners and policymakers.

2.8 Practical Implications

Legal practitioners in Zimbabwe should integrate medical evidence alongside human rights arguments to strengthen litigation in sexual and reproductive health and rights (SRHR) cases. Activists and non-governmental organisations (NGOs) can use strategic litigation to complement broader advocacy campaigns and policy reform efforts, ensuring that legal action drives tangible change. Policymakers, in turn, must address and remove legal barriers, such as restrictive abortion laws, to align national legislation with constitutional guarantees and international obligations. Finally, law students and researchers should approach SRHR as a multidisciplinary field, recognising the intersections of law, medicine, sociology, and gender studies, and applying this holistic perspective to both research and practical interventions.

2.9 Reflecting Back on the Unit

By engaging with this unit, you should now be able to:

- Explain how contemporary SRHR issues like child marriage, sexual violence, unsafe abortion, and respectful maternity care, affect women and girls in Zimbabwe.
- Analyse the relationship between these issues and constitutional, regional, and international rights frameworks.
- Evaluate how recent case law has shaped the legal landscape for SRHR in Zimbabwe.
- Apply strategic litigation and advocacy strategies to address systemic SRHR challenges.

1.10 Activity for Learning

Case Study Discussion: *The Case of Memory Machaya (2021)*

1. Identify the SRHR rights violated in this case.
2. Which Zimbabwean constitutional provisions and international human rights instruments could be invoked to strengthen litigation on similar issues?
3. What enforcement gaps does the case reveal, despite existing legal protections?
4. If you were advising an NGO preparing litigation, what two key legal and advocacy strategies would you recommend to prevent such cases in the future?
5. Compare this case with *Mudzuru & Another v Minister of Justice* (2015). What similarities and differences do you see in terms of how litigation can address child marriage?

2.11 Unit Summary

This unit has explored contemporary SRHR issues in Zimbabwe, including child marriage, sexual violence, safe abortion, and respectful maternity care. It highlighted the legal and policy gaps, enforcement challenges, and public health impacts of these issues. Case law and practical examples demonstrated how litigation can be used strategically to advance SRHR protections, and lessons drawn underscore the importance of coordinated legal, advocacy, and policy

efforts. The unit also outlined practical implications for practitioners, policymakers, and students, emphasizing the need for Zimbabwe-focused interventions in SRHR litigation and reform.