

THE STATE  
versus  
PROGRESS MANGIRANDI

HIGH COURT OF ZIMBABWE  
MUNGWARI J  
HARARE, 12 January & 26 June 2023

### **Criminal Trial**

Assessors: Mr *Chokwinga*  
Dr *Mushonga*

*C Mutimusakwa*, for the State  
*T Maswazi*, for the accused

**MUNGWARI J:** Another tragic loss of life as a result of domestic violence. Progress Mangirandi, a female adult aged 30 years (herein after referred to as “the accused”), appeared before us charged with the crime of Murder in contravention of s 47(1) of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*] (hereinafter referred to as “the Code”). Prosecution alleged that on 21 March 2020 at 4244 Glen Norah in Harare, she struck and kicked her husband Takawira Marumisa (hereinafter referred to as “the deceased”) with fists all over his body causing fatal injuries.

The state alleged that on the day in question, the accused returned to the couple’s rented accommodation in Glen Norah. She was drunk. Upon entering the bedroom the deceased questioned and rebuked her for coming home late and in a drunken stupor. The accused didn’t take it lightly. It resulted in a misunderstanding and an altercation ensued between the two. The deceased’s sister who was present at the house, attempted to separate the two who were locked in a scuffle. The accused however continued to assault the deceased, tearing his t-shirt in the process. She subsequently bit the deceased and kicked him all over his body, causing him to bleed profusely and vomit blood. She then left the scene in a huff and without checking on the deceased’s condition. In the hours which followed, the deceased’s health deteriorated. Two days after the incident he was taken to the hospital and underwent surgery. He did not recover and passed away on 27 March 2020. An autopsy conducted on the deceased’s remains concluded that death was due to septic shock, peritonitis, small intestines rupture and severe abdominal trauma. The accused was subsequently charged with murder.

The accused pleaded not guilty to the charge and gave her own account of the events. She stated that on 21 March 2020, she went to Budiriro to visit her mother with her five year old daughter. Before she left she had been instructed by the deceased to return home early. When she returned home around 8pm, she found the deceased drunk and angry that she had come back late. He insulted her and accused her of being promiscuous, which led to an argument. The deceased then assaulted her, causing her to fall to the ground. He pinned her down and choked her. She bit him on the cheek in self-defense. The deceased called his sister and she came running to his aid. The deceased eventually got off her. A while later the deceased started vomiting a brown like substance which he attributed to the sadza that he had eaten at work earlier that day. The deceased's sisters started insulting her and in anger the accused left the house and went to a colleague's pub. She returned later that night and asked the deceased for taxi money to return to her mother's house. She left again only to return the following morning. She however stayed in constant communication with the deceased and inquired about his condition. The accused alleged bias on the part of the state witnesses, who are relatives of the deceased and therefore emotionally invested in his death. In short, she denied assaulting the deceased in the manner alleged and causing his death.

### **Issues for resolution**

As can be discerned from the state's allegations and the accused's defence outline the facts of this matter as will be illustrated are largely common cause. It is not disputed that an altercation took place between the accused and the deceased; there is little doubt if any that the accused in one way or another assaulted the deceased who became ill and began vomiting thereafter. What remains to be resolved from the facts is whether the assault was fatal or whether there was an intervening act that may have caused the deceased's death.

### **State case**

The evidence of Olivia Marumisa (Olivia) and Givas Marumisa (Givas), both siblings of the deceased and Tawanda Moyo a member of the police force was formally admitted in terms of s 314 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] as it appeared in the state's summary of evidence.

The evidence of those witnesses established the following relevant facts:

1. The accused was drunk on the fateful day when she returned home from an outing at around 8pm.

2. Olivia who stayed at the same house with the couple, was a short while later called by the deceased to come to his aid because the accused was biting him. She got inside the bedroom and witnessed an altercation between the accused and the deceased, during which the deceased was on top of the accused, while the accused grabbed his hands from behind. She managed to separate the two, but the accused went back and kicked the deceased all over his body, causing him to bleed from the mouth and chin. An hour later the deceased began vomiting and complained of stomach pains. He did not get better.
3. The accused walked out of the house and stated that she was going to spend the night at the night club in order to avoid killing someone. She only returned home the following day.
4. Givas who was not present when the altercation occurred tried to engage the accused the following day about the incident but met with resistance. The accused was drinking beer and smoking a cigarette and had the radio volume turned up high. When he tried to engage her she turned up the volume even higher indicating that she was not willing to discuss the matter further. He left before he could get an explanation from the accused.
5. Olivia and Givas Marumisa accompanied the deceased to the clinic on 22 March 2020. Due to the deceased's deteriorating condition he was referred to Harare central hospital where he was operated upon and later died.
6. Tawanda Moyo a duly attested member of Zimbabwe Republic Police arrested the accused on 6 July 2020.
7. A warned and cautioned statement was recorded from the accused according to the law.

#### **Oral evidence**

The State led *viva voce evidence* from one witnesses namely Agritta Marumisa. The accused on the other hand was the sole witness for the defence.

#### **Agrittah Marumisa (Agrittah)**

She is a sister to the deceased and a sister in law to the accused. Just like Olivia, she was another crucial eye witness to the altercation that took place between the accused and the deceased. She also resided with the couple and enjoyed cordial relations with the accused. On the fateful day she saw the deceased come home from work jovial and fit. Sometime later she

also saw the accused enter the house apparently drunk. The accused went straight to her bedroom where the deceased was.

According to her testimony, she reacted when she heard the sounds of a scuffle emanating from the deceased's bedroom. She went inside where she witnessed the accused biting the deceased on the cheek as the two were entangled in a violent embrace. The accused had her arms wrapped around the deceased in a tight grip. She managed to pull them apart and asked the deceased to leave the room. She gave the deceased who was barely dressed a t-shirt and he wore it. He left the room and went and stood in the passage.

When Agritta left the bedroom the accused stormed out of the bedroom, charged towards the deceased and started attacking him whilst he was standing in the corridor. The witness saw the accused kicking the deceased all over his body and hitting him with bare hands. The deceased did not retaliate but instead back peddled as he asked her to look at how the accused was acting. The attack on the deceased spilled into the dining room where the accused continued to attack the deceased for a continuous period of approximately three to four minutes. Agritta and others tried to restrain the accused, but she overpowered them and threw stools, picture frames and a speaker towards the deceased. The witness saw the speaker land on the upper part of the deceased's body. She also saw the accused take a wooden stick and beat the deceased with it all over his body until it broke. The four children who had been eating their food in the dining room scurried out of the room as the accused threw all their food on to the floor and broke the plates. According to the witness, the accused had so much strength that they all failed to contain her. Meanwhile the deceased moved around in circles as he tried to dodge the blows from the accused. During the melee, the deceased suddenly hunched over and walked towards the kitchen where he started vomiting on the floor and complained of stomach pains. He made his way to the bedroom while cradling his stomach with his hands and closed the door behind him.

The accused remained behind and proclaimed that she was prepared to kill the deceased's entire clan but was going to the bar because she wasn't interested in staying at the house any longer. She then walked out. Due to the excruciating pain that the deceased told her he was experiencing, the witness continued to check on the deceased throughout the night. She saw him holding on to the walls and writhing in pain. Around 7am the following morning, the accused returned home, a bottle of beer in hand in hand and a cigarette stuck between her lips

Aggrita's evidence was crucial. She saw the assaults. She heard the accused's threats that she would kill the deceased and anyone else if she remained at the house. She saw the deceased begin to vomit and complain of stomach pains immediately after the vicious assault on his person. The following morning she saw Givas take the deceased to the clinic in a motor vehicle as he could hardly walk. He had resorted to walking in a bended position because of the stomach pains. As already stated the deceased never recovered until he died. She was clear that the accused was the aggressor and had attacked the deceased relentlessly, indiscriminately and viciously using anything and everything she laid her hands upon. The deceased never stood a chance and never retaliated. She refuted the suggestion that the accused could have been acting in self-defence. She also told the court that she saw everything clearly in the glare of the electric lights.

After the incident the witness said she lived in fear of the accused. The incident had revealed an unpleasant side of the accused that she had had the misfortune to witness in her short period of stay with the couple. Their relations became strained after the incident as she out of fear, deliberately sought to avoid her. Regardless of this, she told the court that she had no reason to fabricate anything because prior to the incident she had enjoyed cordial relations with the accused.

No meaningful cross examination of this witness was conducted. That failure left her evidence largely unscathed. Her demeanour on the witness stand depicted a truthful narrative which was corroborated by the formally admitted evidence of the other state witnesses. We therefore have no reason to disbelieve her testimony and find it credible.

### **Defence case-Progress Mangirandi**

To a large extent the accused maintained the story she alluded to in her defence outline with some few additions. She claimed that when she arrived home late from Budiro, the deceased started assaulting her with clenched fists on the face while accusing her of prostituting herself. The deceased became increasingly violent and when she fell off the bed, he stepped on her right leg and grabbed her by the neck and strangled her. The accused managed to escape from the deceased's grip by biting him on the cheek, which led him to shout for help. His two sisters Aggrita and Olivia, came into the room and removed the deceased from on top of her. She informed the two women that the deceased had injured her on the neck, but they only took the deceased out of the room and left her inside. The accused claimed that she followed them and was insulted by Aggrita and Olivia who accused her of biting the deceased like a witch.

The accused denied that anything happened in the passage and claimed that it was the deceased who was restrained not her.

Two hours after the incident she heard the deceased complain of stomach pains. He started to vomit some brown-colored stuff which he attributed to the sadza and the opaque beer that he had taken earlier. Meanwhile, the sisters continued with the verbal attacks demanding to know why she had bitten the deceased on the cheek. She decided to leave the house. Later that evening, she returned to the house and asked the deceased for some money through the window. She was given \$10 USD, which she used to buy alcohol at a bar. She stayed at the bar and only returned home the following day. She arrived home to find the deceased still complaining of stomach pains. According to the accused he never got better as even the next day he continued complaining of stomach pains.

On 27 March 2020 she left Glen Norah for Budiro and was informed of the deceased's passing while at her mother's place. She did not attend the funeral because she was informed that a police report had been made against her. The accused denied kicking the deceased and only admitted to biting him. She however admitted to biting the deceased with full force and acknowledged that it was a significant bite. This admission supports the state witnesses' claim that the accused displayed unusual strength on the day in question.

She also denied being drunk or being rude to Givas when he asked her what happened. This contradicted her earlier agreement to the formal admission of evidence presented by Olivia and Givas. Evidence which had already been made common cause and which she herself had confirmed. In the end she was cornered and decided to disown her own defence outline claiming instead that it had not been captured properly by her defence counsel and that she disputed the evidence of Olivia, Agritta as well as that of Givas. Her abrupt change in position caught her defence counsel off guard and left her floundering while also creating the impression that the accused was dishonest, especially as she continued to modify her testimony to fit her version of events.

Under cross examination the accused claimed to have had a happy marriage with the deceased. She also denied any knowledge of why any of the state witnesses would falsify their evidence against her. Although she suggested that there may have been bad blood between them, she failed to provide any evidence to support her claim, putting her allegations of bias by the witnesses to rest.

While she claimed to have been injured by the deceased she told the court that she did not have any money to go to the hospital for treatment. Surprisingly she apparently had the

energy to go to the night club. She also admitted that he had given her money to go to the bar and drink beer. She claimed to have gone out to drink beer to aid her in getting some sleep. She also stated that she bought beer for her colleague as a token of appreciation. That piece of evidence suggested that her priorities were skewed. It is doubtful that she was injured in any way. If she was then she did not take her injuries seriously. The details of how and where she sustained her injuries were notably absent from her testimony which further supported the possibility that she was not injured. We are inclined to believe that she was not injured and her claims thereto were an attempt to persuade the court to believe that the deceased retaliated and caused her to sustain some injuries. In addition it shows her complete disregard for the health of the deceased who was her husband.

Overall, the accused's testimony was neither credible nor coherent. Her explanations for her actions were unconvincing and did little to support her defence which we found to be self-exculpating. She did herself a disservice with her testimony. In the end we concluded that her story was completely false.

#### **Doctor Tsungai Victor Javangwe**

The state presented medical evidence in the form of an autopsy report compiled by Doctor *Yoandry Olay Mayedo* a pathologist employed at Parirenyatwa Hospital. On the face of it the report indicated that the deceased suffered multiple injuries to his abdomen which led to his death. With the consent of the defence the postmortem report was duly admitted into evidence as exhibit no 1. The accused in her evidence intimated that the deceased might have succumbed to other causes not related to the assault that occurred on the day. For this reason this court acting in terms of s 278 (12) considered it necessary to call for the expert opinion of a pathologist to clarify the cause of death and clear the grey areas that were evident from Exhibit No. 1. Section 278 (12) provides as follows:

“The court in which any affidavit referred to in this section is produced in evidence may, of its own motion or at the request of the prosecutor or of the accused, cause the person who made the affidavit or any other person whose evidence the court considers to be necessary to give oral evidence in the proceedings in question in relation to any statement contained in the affidavit or may cause written interrogatories to be submitted to such person for reply, and such interrogatories or any reply thereto purporting to be a reply from such person shall, on their mere production in those proceedings by any person, be admissible in evidence.”

The prosecutor advised the court that Dr Mayedo a Cuban doctor and the examining pathologist in this matter had been in the country at the time he did the examination. He was

employed pursuant to a bilateral agreement between the governments of Zimbabwe and Cuba. His period of employment lapsed and he left the country. As a result he could not attend court to testify. Dr Javangwe a qualified pathologist employed at Parirenyatwa Group of Hospitals was called in his stead and attended for that purpose. The witness explained the import of the autopsy report that was compiled by Dr Mayedo (the examining pathologist) on 3 March 2020. He stated the following:

The deceased was admitted at hospital on 23 March 2020 complaining of abdominal pains. The first sign of trauma that the deceased had undergone was observed on the left cheek, where a lesion with a scab was observed and noted. Additionally a left flank abrasion and ecchymosis with a scab were also observed. The deceased had no underlining diseases.

Under cross examination from the defence the witness explained that the deceased had undergone surgery for an exploratory laparotomy meant to investigate the goings on in his abdomen. The laparotomy procedure that was performed on him was meant to look, assess and attend to any medical issues that would have been detected as well to salvage what could be salvaged with the intention of saving the deceased's life. The surgeons had gone into theatre with the deceased because they suspected that there was peritonitis taking place inside the deceased's abdomen. The witness explained that peritonitis is a consequence of a rupture of the intestines and their contents spilling into the stomach. Dr Javangwe stated that in this case, the surgical operation that was performed on the deceased involved suturing his intestines on two different parts where two significant injuries had been noted.

According to the witness, the examining pathologist subsequently noted hemorrhagic infiltration around the surgical wound and a septic appearance which was consistent with peritonitis. He assessed the way the wound was sutured and saw dehiscence of the suture and an irregular surface which indicated that there wasn't 100% integrity. Defence counsel suggested to the witness that the dehiscence that was noted by the examining pathologist could have been the possible cause of death in this case. Dr Javangwe refuted that suggestion and stated that, if a bowel has been cut there will always be inflammation and in most cases the sutured area will not always be smooth. It is not uncommon for patients to get complications and the fact that bowels can become leaky after a repair is a known complication which may occur due to a number of variables. In this case the deceased had peritonitis already. Once he had peritonitis he was already slipping into septic shock which is fatal. He explained further that while it was possible that the delay in operating could have contributed to the death this was also dependent on the deceased's ability to fight the illness and as result very unlikely.

Even if there wasn't 100% integrity on sutures the cause of death would not change to be a result of the complication. It would still remain that of ruptured bowels.

The defence suggested that the deceased could not have had peritonitis as he only passed away 6 days later and yet medical writings suggest that one with such an ailment does not survive beyond forty eight hours. Dr Javangwe however explained that while peritonitis is serious, the textbook definition that a patient does not last forty eight hours is not true as in his experience he had seen some who died seven days later. The fact that the deceased lasted six days did not mean anything therefore. He had peritonitis and the need for surgery was not optional. It was an attempt to save his life which was already under threat. He concluded by saying that the septic shock observed by the examining pathologist was consistent with his findings of peritonitis therefore.

### **The break in causal connection argument**

#### **The law**

Author Jonathan Burchell in his work titled *Principles of Criminal Law*, 5<sup>th</sup> Edition 2016 deals with the need for a causal connection between the act or omission alleged and the ultimate unlawful consequence. These are both factual and legal issues. Put differently the act or omission complained of against an accused person should create a causal link or connection to the now deceased's death. There must not be an intervening act or event which serves to break the chain of causation. For instance in this case, if the injuries were of such a nature that the deceased would have died in any event, despite medical treatment, then the fact that the treatment was injudicious or negligent does not amount to a *novus actus*.

#### **Applying the law to the facts**

The accused admitted that she assaulted the deceased. It is the manner of the assault which is in issue. The evidence regarding the manner of the assault is from the direct evidence of the two eye witnesses, Olivia and Agritta Marumisa. Agritta's evidence which we found to be credible, gave graphic detail on the objects that were used to injure the deceased with and the scene that prevailed. She spoke to the use of instruments such as a wooden stick, stools, picture frames, and a speaker which were all thrown at the deceased by the accused. She also explained how the accused kicked the deceased and the immense strength she exhibited in doing all this. It was a brutal assault and certainly not the common fight which the accused person in her closing submissions urged the court to believe it was. It was indiscriminate. It was a huge and ugly scene which frightened everyone in the house and left the children

scurrying for safety. It left the deceased badly injured. To this was added the uncontroverted evidence of Olivia Marumisa, Givas Marumisa and Tawanda Moyo. We had no reason to doubt its veracity. We found it as a fact therefore that the accused was extremely violent towards the deceased on the night in question. She kicked him and hit him applying blunt trauma on him until he was bowled over by abdominal pains. He never recovered from that time until his death.

The accused argued that the deceased was unfortunate not to receive proper and prompt medical care and this is what caused his death. Dr Javangwe was however clear that the ruptured bowels remained the cause of death. He threw out any suggestions of intervening acts which may have severed the causal link and insisted that the underlining cause remained that the deceased had a ruptured bowel brought about by blunt force trauma. Notably he explained that blunt trauma can be brought on by kicking, hitting at the abdomen with force and that this can rupture one's intestines. He excluded eating sadza as had been suggested by the accused. He attributed the death to blunt force trauma as detailed by the examining pathologist. He excluded the possibility of the death being as a result of the surgery or anything else and explained that the underlining cause of death remained the ruptured bowel which is a known complication of blunt abdominal trauma.

With that conclusive expert testimony the cause of death became conclusive. Death was a result of ruptured bowels. Being a professional expert witness he had no reason to falsify anything. In fact no one made any such suggestion. We therefore accepted his evidence as truth.

Counsel for the accused Ms *Mswazi* placed reliance on the case of *S v Mubila* 1956(1)SA 31 in which the following was said:

“Where a person murderously attacks another and inflicts injuries that require medical treatment, the courts are very reluctant to find that subsequent medical advice constitute a break in the causal chain. This is especially so where the wounds originally were serious. However, if the initial injury was trivial and there is grave medical negligence or stupid failure to follow medical advice on the part of the victim, the chain of causation maybe broken”

*In casu*, the evidence before us shows that the deceased had no underlying conditions. He suffered severe injuries resulting from blunt abdominal trauma. The operation carried out on the deceased was done to save his life as his intestines had already ruptured. Even if there hadn't been the medical intervention his wounds were mortal. He would have died anyway because he had peritonitis and was heading towards septic shock. Because of this there was

neither a break in the causal link, nor was there an intervening act or event. The cases of *S v Rahman* SC 178-82 and *S v Runokanda* SC 27-85 support this contention. In both cases where medical negligence was alleged the court held that there was no break in the causal link and in both instances the accused were held liable.

State counsel in closing submissions made concessions to the effect that the evidence on record shows that the accused negligently assaulted the deceased and caused his death and therefore should be found guilty of contravening s 49 of the Criminal Law Code. She correctly summarized the evidence, including that the couple was refrained from fighting and the deceased stopped, however the accused continued assaulting the deceased throwing things all over his body and throwing things all over the dining room. How this becomes negligent conduct boggles the mind. Ms *Mutimusakwa* did not put us in the picture of how it becomes so. She simply said based on those facts the accused acted negligently and that the evidence on record cannot not sustain a charge of murder because of lack of intention. We are not inclined to convict the accused of culpable homicide as prayed for by the state in the absence of a satisfactory explanation.

Indeed the accused may have not directly desired death. Her drunken utterances may not be construed to have meant that she intended to directly cause death. The reality however is that intention at law comes in various forms. The Criminal Law Code provides in ss 13, 14 and 15 for intention, knowledge and realisation of real risk or possibility respectively as the states of mind which constitute intention. The evidence in this case shows that the accused wanted to assault the deceased as payback for the accusations of promiscuity and the disagreement they had had a few minutes earlier. She had bitten him significantly and had had to be restrained. She got another chance to settle it with the deceased when she saw him standing in the passage alone. We are satisfied from the facts on hand that the accused must have realised the real risk or possibility that her unrestrained and indiscriminate assault on the deceased could result in death. We are convinced that indeed she subjectively foresaw the possibility that if she continued assaulting the deceased in the manner she did, death could result. The deceased's sisters alerted her to this reality and tried to restrain her but failed. She was headstrong and persisted with her conduct. She assaulted a hapless man who did not retaliate. Even after it was clear to her that the deceased had sustained serious injuries, she did not show any remorse. She even threatened to unleash more harm on the whole clan and stormed out of the house and went out drinking at the pub with friends. The following morning when Givas came and attempted to engage her, she was still unrepentant, drinking beer and

smoking a cigarette with the radio playing loudly in front of her ailing husband. On that basis the accused clearly had legal intention to commit the murder.

It is trite that in analysing and assessing evidence, it should not be looked at piecemeal but in a holistic manner. One should not cherry pick the evidence that satisfies the eyes or where their sympathies lie. If that were to happen then what becomes of the evidence of Agritta, Olivia and Givas? The evidence cannot be wished away as it is there on the record. We are thoroughly satisfied with these witnesses' evidence on the assault of the deceased by the accused.

In the final analysis, we have no apprehension to hold that:

- i. The accused thoroughly assaulted the deceased by kicking him and striking him with fists all over the body including the abdomen. The blunt force trauma ruptured the deceased bowels.
- ii. The deceased sought medical assistance. However, peritonitis had already set in when he was operated upon. Unfortunately the surgery could not save his life and he died
- iii. The causal link was not interrupted in anyway. The cause of death remained the ruptured bowels, specifically septic shock, peritonitis, small intestine rupture and severe abdominal trauma at the accused's hands
- iv. The accused's conduct in its totality, her use of excessive force, her brutality of using booted feet to kick the deceased's stomach leave us without a doubt that she foresaw death ensuing from her conduct but chose to ignore it as she persisted with the assault.

It is against the above background that we are convinced that prosecution managed to prove the accused's guilt beyond reasonable doubt. **She is accordingly found guilty of murder as charged.**

## **PROGRESS MANGIRANDI**

## **REASONS FOR SENTENCE**

In passing sentence the court considered all the mitigating and aggravating factors as submitted by both counsels. The starting point however is to assess whether the murder the accused has been convicted of was committed in aggravating circumstances. The State and defence counsels both submitted that this murder was not committed in aggravating circumstances as per s 47 (2) and (3) of the Code. We agree with them as we found that none

of the factors contained therein apply to this matter. The murder was therefore not committed in aggravating circumstances.

In mitigation we considered that the accused is a female first offender. She is twenty-eight years old and is a mother to a girl child aged 8 years. She has attendant family responsibilities which also include taking care of her siblings. The case of *S v Matanhire* 1982(1) ZLR 139 supports the proposition that first offenders should be dealt with leniency. Due consideration of this will be reflected in the sentence.

We also took into account that, the accused was inebriated. She was insulted by the deceased who accused her of prostituting herself. She was angered by this, failed to restrain herself and killed him. The court is satisfied that she was driven by her emotions in committing this murder.

What aggravates the accused's case is that she stands convicted of murder which is an inherently serious offence. This is because life is sacrosanct. The right to life is a constitutionally guaranteed right in terms of s 48 of the Constitution of Zimbabwe. Murder is a crime which the courts must always take a dim view of. There is no doubt that invariably it must attract a significant term of imprisonment. The accused used all types of weapons to kill her own husband. She threw a stool and other pieces of furniture she could get her hands on. She used a stick on him until it broke. She was unrestrainable. It was because of such callousness that the court ruled that the accused must have appreciated and did foresee the risk of serious injury or death resulting from the use of such weapons. Needless to say a precious life was lost. The deceased died a painful death given the nature of the injuries sustained as per the post-mortem report.

What also aggravates the accused's case and is unsettling is that violent offences by women against their husbands committed within domestic settings continue to be on the rise. It is the duty of the courts to remind spouses to be slow to resort to violence in solving their matrimonial challenges. The Constitution of Zimbabwe, 2013 in s25 is clear that:

“The state and all institutions and agencies of government at every level must protect and foster the institution of the family and in particular must endeavour within the limits of the resources available to them, to adopt measures for-  
(b)the prevention of domestic violence”

The circumstances of this case are further aggravated by the fact that this crime occurred in the presence of children. The trauma suffered by these children is unimaginable and the events will forever be etched in their memory.

It is equally disconcerting to note that throughout the trial the accused did not show any signs of remorse. She was intent on trying to make the court believe her inconsistent version. In the process she exposed herself for not being contrite and as someone eager to escape liability by whatever means possible.

A lengthy custodial sentence is in these circumstances is called for.

Accordingly accused is sentenced to **20** years imprisonment.

*National Prosecuting Authority, State's Legal practitioners*  
*T Pfigu Attorneys, accused's legal practitioners*