

Using religion to sexually exploit young female parishioners

Case note on the Gumbura rape cases¹

By Geoff Feltoe

Religious leaders occupy positions of power and authority and are expected to exercise their power and authority responsibly, and to do so in the religious interests of their parishioners and for their welfare. Regrettably, some highly unscrupulous religious leaders grossly pervert religion to sexually exploit their parishioners. Under the guise of religion these despicable pastors sexually groom, indoctrinate, psychologically manipulate and coerce female parishioners, who are often young, naïve and vulnerable persons. The religious leaders use the “quasi-mystical force” of religion to sexually abuse devotees by wearing away any meaningful consent to sexual activity.

When a pastor is charged with rape or aggravated indecent assault upon a female parishioner² the main point of contention is often whether or not the complainant freely consented to the sexual act in question.³ If the pastor uses violence or threats of violence to force submission to the sexual act, it is clear that consent is absent.⁴ Consent to sexual intercourse is also absent if a pastor manages to deceive a young, naïve sexually inexperienced parishioner into believing that what he is engaging in is not sexual intercourse but instead some sort of religious ritual, such as a cleansing ceremony.⁵ On the other hand, consent is present if the parishioner, without any cajoling or deception by the pastor, freely agrees to have sexual relations with him because she is attracted to him. What is often difficult to determine is whether consent is effectively vitiated by the use of unscrupulous religious tactics employed by the accused.

The *Gumbura* rape cases graphically illustrate how a sexually obsessed and depraved pastor sexually exploited girls under his care by deliberately distorting and misusing religion to groom and coerce the girls. Gumbura was convicted of four counts of rape and sentenced to a very lengthy term of imprisonment. His appeal against conviction was unsuccessful.⁶ The full details of his sordid and despicable behaviour are set out in the

¹ *S v Gumbura* HH-231-14; *S v Gumbura* 2014 (2) ZLR 539 (S); *S v Gumbura* HH-665-17.

² Religious leaders may also sexually exploit young boys as is evidenced by the numerous cases of Catholic priests sexually molesting young boys.

³ If the girl is 12 years of age or below that age sexual intercourse with her would automatically be rape as a girl of or below this age is irrebuttably presumed to lack the capacity to consent to sexual intercourse. If the girl is between 12 and 14 there is a rebuttable presumption that she lacks the capacity to consent to sexual intercourse. If a girl who is over 12 but under 16 is found to have given consent to sexual intercourse, the pastor would still be guilty of the criminal offence of having sexual intercourse with a young person in contravention of s 70 of the Criminal Law Code.

⁴ See section 69 (1)(a) of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*]

⁵ See section 69 (1)(b) of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*]

⁶ *S v Gumbura* HH-665-17

appeal judgment which systematically analyses the devious devices used in respect of each of the complainants.

The pastor had founded and was head of his own church. He had no training in divinity. He already had eleven wives. The complainants were all sexually inexperienced girls whose ages ranged from 15 to 17 years and who were virgins when they were raped. The girls were living in various residences belonging to the pastor and were supposed to be under his care and protection. They were kept isolated away from the outside society. They were in virtual captivity. Guards were deployed to prevent the girls from leaving without permission. The girls were forbidden to have contact with the outside world and were instructed to mix only with devout members of the church and to stay away from the “heathens” outside the church and refrain from discussing church matters with outsiders.

The pastor demanded total submission to his will. He intimidated his congregants by telling them that he could curse them by “placing them in the hands of Satan”. The girls witnessed cursing ceremonies and fully believed that he had this evil power and that people he had cursed had died or suffered other types of harm.

The pastor preyed on young female congregants treating them as his personal property and sex objects. One complainant was obliged to undergo an HIV test before she was sexually exploited and another was told by one of the other female congregants to claim that she was HIV positive to try to discourage the pastor from having sexual intercourse with her. The pastor made amorous advances towards the girls and used various methods to groom them and induce them to submit to his sexual overtures. He would offer to “reward” them by marrying them if they submitted to sexual intercourse but they all declined his offers of marriage. In some instances he showed the girls pornographic videos and demanded to film them when they were naked. In one instance he required that the girl allow him to perform the same sex acts as in the video under the guise that this was a counselling session and the girl unwillingly complied out of fear that she would be cursed if she did not accede. A complainant who wished to continue with her education was told that she would only be permitted to do so if she had sexual intercourse with the pastor. Another complainant who wanted to obtain a passport was told that the pastor would only apply for a passport for her if she continued to have sexual intercourse with him whenever he so desired. In many of the incidents the pastor trapped the girls in rooms and forcibly raped them and here it was self-evident that there was absolutely no consent.

The pastor sought to justify what he had done by referring to passages from the Bible which he claimed gave him the right to have sexual intercourse with all the girls who were not married. He said he was God’s person and as such he could do what he liked. He

attempted to normalise his sexual abuses under the pretext that they were acts of worship.

The complainants did not report the rapes to the authorities for some time because the pastor had threatened that if they made such reports he would “place them in the hands of Satan.” He also claimed that even if they reported nothing would happen as the “police actually belonged to him” and he knew influential political leaders.

It is thus important to recognise how religious indoctrination by charismatic, authoritarian and intimidating religious leaders can be used to overbear and overawe the victim and negate any meaningful consent. In other words, situations can arise where the accused does not have to use actual physical force to rape a female parishioner. He may terrify a parishioner into submitting to his sexual advances by threatening to use his power to send her to hell if she refuses. By a process of religious brainwashing, he could persuade the complainant that he has been ordained by God and is a Messiah and that she must obey all his commands without question, including his commands to engage in sexual relations with him. In this way there would be no free and voluntary consent but instead the pressure and deception would vitiate the element of consent.

A recent newspaper report of a court case shows the extent of malign influence a pastor can potentially have over congregants. In this case a bishop has been accused of rape of a 35-year-old woman. The woman claims that she is so under the evil spell of the bishop that she turns into a zombie whenever she sees him. She says also that when the bishop touches her on the forehead during prayers she loses control and dances or moves with closed eyes. She says she attended the church because she was having marital problems. She claims that the bishop had convinced her that he was conducting a cleansing ceremony to rid her of evil spirits deposited into her womb by her husband. He had told her that her husband was satanic and was using her as a goblin and would make more money after every sexual encounter. He ordered her not to be intimate with her husband. On the day he allegedly raped her, she says he touched her forehead and she felt weak. After the cleansing ceremony she says he told her that the evil spirits had been eradicated and she should thank God for what had happened.

Religious and other cults can thus be a fertile environment for sexual abuse by powerful and persuasive cult leaders who are unaccountable for their actions. They become closed communities in which constant brainwashing is used against impressionable adherents who stand in awe of the leaders and may worship them. They dominate their adherents and claim that only they know what is best for them. This breaks down their resistance when the leaders seek sexual encounters and the adherents may finally succumb to the blandishments of the leaders and do things which are only in the selfish interests of the leaders.

The appeal court judge in the Gumbura case ended her judgment by urging the legislature to pass legislation to afford enhanced protection to children against sexual exploitation by sexual predators who use the sort of tactics employed by Gumbura.⁷ She points out that the issue of consent in cases involving children should be treated differently from cases involving adults. With children it should be taken into account that they lack sophistication and knowledge and have a tendency to be obedient to adults, particularly adults who occupy positions of authority over them. There is a need to emulate what has been done in other countries such as South Africa by having specific provisions on sexual grooming of children and to make it clear that the defence of consent will not avail where the accused abuses his authority to enable him to sexually exploit a child.⁸ So too the judge says there is a need to have a better understanding of the psychological factors that affect the nature of the testimony of sexually abused children. The courts need to deal more realistically with such evidence taking into account the behaviour likely to be displayed by children who have been severely traumatized by sexual assaults. The very criteria which are sometimes used by the courts to treat as incredulous the testimony of children may actually bolster their testimony as credible and reliable. For example, delay in reporting a rape may in fact be indicative of the rape actually having been committed.

Conclusion

The appeal court judgment in the Gumbura case is an important judgment on how the courts should approach situations where religious leaders pervert religion to engage in sexual exploitation.

⁷ See Feltoe “Strengthening Our Law on Child Sexual Abuse” https://zimlil.org/zw/journal/2017-zelj-01/%5Bnode%3Afield_jpubdate%3Acustom%3AY/strengthening-our-law-child-sexual-abuse

⁸ See Feltoe “Abuse of Power: Rape by Coercion” *UZ Law Journal* Vol 1 Number 1 June 2018. This article deals both with rape by abusing power against both children and adults