



# ZIMBABWE ELECTION SUPPORT NETWORK

## POSITION PAPER

### Mechanisms to Increase Representation of Women in Elections and Governance in Zimbabwe

#### Executive summary

**T**his paper analyses the status of women's representation in elections and governance in Zimbabwe and proposes mechanisms to address identified problems. This is done by providing a historical perspective and context analysis in the introduction; identifying the key problem; sharing the legal framework; sharing key considerations from other comparative contexts; highlighting lessons from Zimbabwe; conclusions and recommendations.

While the paper is focussed on women and elections and governance, this is as a microcosm of society in which historical marginalisation and structural inequality prevails. Progress in legal framework has not been matched by transformation in structural and cultural norms and standards informing behaviour as elections and governance sphere is still to deliver gender equality.

**Lessons learnt for Zimbabwe include the need for constitutional guarantees to gender equality.**

The Zimbabwe elections cycle is replete with evidence of the unequal representation of women across the pre-electoral, electoral and post-electoral periods. Despite improvements, inequalities still transcend the continuum of planning and implementation, training and education, registration and nomination, electoral campaign, voting operations and election day and verification of results.

Structural constraints include non gender responsive constitutions, structures, processes and outcomes of political parties; weaknesses of electoral systems at both national, local and internal party level; unequal access by men and women to much needed resources for campaigning; and politically motivated violence.

Although some affirmative action was adopted within the Zimbabwe constitution, namely reservation of 60 additional seats in the National Assembly, distributed across parties using proportional representation, key stakeholders, among them the Women's Coalition of Zimbabwe, believe that experiment has failed. They cite that PR quota without addressing other key issues will not deliver the parity implied within Section 56 of the constitution on equality and non-discrimination. This belief is shared by other institutions.

As Zimbabwe grapples with how to increase women's representation, it has lessons to learn from other contexts. South Africa uses a PR system of elections where the electorate votes for parties, and candidates are on a closed party list to be allocated after elections. This is seen as accounting for all votes cast rather than winner only. Mechanisms by other countries including dealing decisively with politically motivated violence; setting up of funds to assist female candidates, among others. These are analyzed in relation to the Zimbabwe context.

Lessons learnt for Zimbabwe include the need for constitutional guarantees to gender equality. These however rely on enabling acts to be enforceable and the acts have to be rights-based. The need for temporary special measures while longer term strategies are implemented is also highlighted. More importantly, the electoral system needs to be one that can deliver gender equality.

Recommendations in this paper include the following: amendment of the Electoral Act to ensure that current hybrid systems deliver gender equality; enactment of Gender Equality Act to give effect to constitutional provisions not just in elections and governance but across all sectors; review of Political Parties Finance Act to incentivize parties to increase women's representation and review of Urban and Rural District Councils Act to include requirement for gender balance.

## Introduction and Context Analysis

The Zimbabwe Election Support Network (ZESN) notes that women in Zimbabwe continue to suffer from historical marginalisation and structural inequalities that exist in all spheres of life, including the governance arena.

Even though some progress has been made in legislating the participation of women in elections and decision-making in Zimbabwe, including adopting a quota system in parliament, women's participation in government at all levels, from the local to the national, remains extremely low and in some cases, has regressed.

Governance principles key to social justice and equality namely accountability, transparency, responsiveness, equity, inclusiveness, upholding rights, and the rule of law are yet to deliver gender equality and women empowerment. Gender inequality prevails in the political structures, processes and outcomes of decisions at various levels.

Women are systematically excluded from decision-making from the household to global institutions. When included, women's voices are muted not just by men but by some women gatekeepers, requiring more efforts and resources for advocacy for recognition of rights and social accountability to gender equality. Specific to elections, the graph below outlines the cycle.

While some improvements have been noted in terms of social integration to ensure women's equal participation, much more efforts need to be made. In-between elections, inequalities also persist not just among those elected/appointed as duty bearers but also among the citizens who are rights holders. And this perpetuates the cycle of unbalanced governance.

Various stakeholders in Zimbabwe are exploring ways in which equal participation in elections and governance can become a reality. The Women's Coalition of Zimbabwe, in view of the pending lapse ahead of 2023, of the parliamentary proportional representation quota system adopted in 2013, believes the mechanism did not serve its intended purpose. In response to proposals to amend the Constitution and extend the quota system beyond 2023, WCOZ stresses that the country does not need to further amend the Constitution in order to achieve gender parity and equal representation of women and men in elections.

The umbrella body also argues that half hearted interventions such as reserving 60 seats for women in Parliament without similar concessions in the presidium and local government will not help in fulfilling the spirit of the Constitution, Regional and International instruments. WCoZ position is to 'let us fully implement the Constitution. We must simply implement what sections 17 and 56 of the Constitution dictates. This can be achieved without touching the Constitution. We are calling for an intervention that effectively entrenches Constitutional principles of gender equality and gender parity in the Electoral Act'.

The Zimbabwe Gender Commission (ZGC), under its campaign on Gender, Politics and Decision making has also noted that the quota by itself has not adequately transformed the political space to ensure gender equality. The Commission believes that there is need to enact a Gender Equality Act to give effect to the constitutional provisions. The Act would be used to hold political parties and other actors to account on increasing women's participation in elections and governance within and outside of elections.

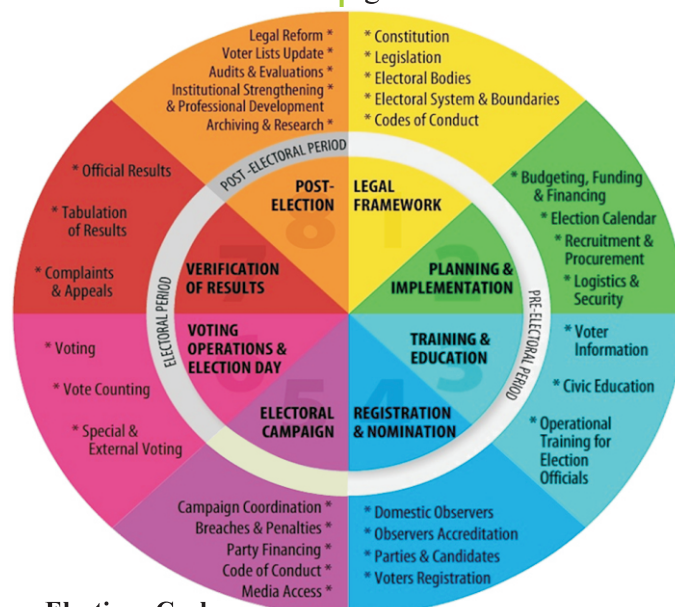


Figure SADC Parliamentary Forum Elections Cycle

## Statement of the Problem

Despite women being the majority population and voters, participation in leadership and decision making in elections and governance remains low. Gender and women's rights groups note that there are gender gaps in the Constitution and subsequently in the Electoral Act.

The constitution, for example contains a 10-year quota for women representation in National Assembly but no special measure for women's representation in Local Government. The Electoral Act, in its current state is also not sufficient to guarantee equal representation of women. This was proved by the outcomes of the 2018 harmonised elections where only 12.4 % women were elected outside the women's quota in the House of Assembly while representation of women at local government level is 13.3 percent according to ZESN.

A study of the Zimbabwe electoral cycle and systems shows consistent gender inequalities across the pre-electoral, electoral and post-electoral periods. Attendant inequalities exist from electoral act, planning and implementation, training and education, registration and nomination, electoral campaign, voting operations and election day and verification of results.

Structural constraints include non gender responsive constitutions, structures, processes and outcomes of political parties; weaknesses of electoral systems at both national, local and internal party level; unequal access by men and women to much needed resources for campaigning; and politically motivated violence.

While the Constitution has adopted affirmative action, this needs to be consolidated through legal reform that removes the root causes of vulnerability and exclusion. Despite the Zimbabwe Electoral Commission (ZEC), as an institution, being relatively gender balanced the challenge is that during elections it delivers its mandate through a gender neutral law and transient male dominated structures and mechanisms.

For example, the in-post staff seconded from relevant Ministries, Departments and Agencies to preside over elections represent the stark imbalances based on gender profiles of the said institutions. While the Code of Conduct governing political parties is clear on the issues that are unacceptable, it appears the lack of equal participation by women in elections and governance is not viewed in the same light as other infringements.

## Legal Framework

The Zimbabwe Constitution provides for: gender equality as a founding value and principle of freedom from discrimination on grounds of gender among others; gender balance as a national objective; elaborate clauses on gender balance in representation in politics and decision making; affirmative action for historically marginalised groups. Specifically Section 17 states that 'the state must promote gender balance to ensure that women fully participate in all the various spheres of Zimbabwean society,' Section 56(2): 'women and men have the right to equal opportunities in political, economic, cultural and social activities' and Section 80(1): 'every woman has full and equal dignity of the person with men and this includes equal opportunities in political, economic and social activities.'

Global instruments that Zimbabwe is signatory to provides benchmarks for assessment and measuring gender responsiveness of the electoral processes and governance. The Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination Against Women, Sustainable Development Goals in particular 5, 10 and 16 and the Beijing Platform for Action are indicative. These instruments guarantee the right of women and men to participate equally in electoral processes and

governance. At continental level, the 2003 Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa and the 2004 Solemn Declaration on Gender Equality in Africa, among others also included minimum standards.

The African Charter on Democracy, Elections and Governance, on Article 29 states that: 'State Parties shall recognize the crucial role of women in development and strengthening of democracy; State Parties shall create the necessary conditions for full and active participation of women in the decision-making processes and structures at all levels as a fundamental element in the promotion and exercise of a democratic culture; State Parties shall take all possible measures to encourage the full and active participation of women in the electoral process and ensure gender parity in representation at all levels, including legislatures...'

The Southern Africa Development Community (SADC) Protocol on Gender and Development (2016) and the SADC Gender Policy emphasize women's participation in politics and decision making and set a target for member states to increase and improve representation of women in all structures of government and all levels of decision making in public, private and social spheres to at least 50 percent.



In Zimbabwe, the Electoral Act (Chapter 2:13) governs the conduct of elections. A gender analysis of the Act by the ZGC noted that the Act does not adequately address other forms of political violence such as hate speech, in the press and social media that tend to discourage women from seeking election into public office.

Peaceful and violence free elections encourage the effective participation of women and youths in electoral processes.

The Act is silent on penalties for political parties for non compliance including on gender equality issues even though political party constitutions, processes, structures and policies should be gender responsive. ; in dealing with nominations of candidates the Act is silent on constitutionally required gender balance yet this is where gender inequalities manifests in terms of 50/50 principle; on council elections, Act is gender neutral resulting in far less female councillors, at 13.3% than the gender balance required by the constitution; the women's quota provided for in the Act in accordance with the constitutional provisions will lapse at the end of 10 years; and the direct elections, under the First Past the

Post electoral system, will not deliver equal representation.

The following gender sensitive provisions were introduced by the Electoral Amendment Act of 2018: Section 5: Functions of ZEC now include ensuring that gender is mainstreamed into electoral processes; Section 11: Provisions to ensure independence, impartiality and professionalism of Commissioners and staff and agents of Commission now include: the enhancement of gender equality in connection therewith; Section 40B: Functions of Commission with respect to voter education now include to provide adequate, accurate, gender sensitive and unbiased voter education; Section 40G: on Functions of accredited observers now includes observing any other factor that has a bearing on gender equality and elections, or in the conduct of the polling at the election; and Section 40H:

The Observers Accreditation Committee now includes one person nominated by the Minister responsible for women's affairs, gender or community development. However, as already outlined, this is not enough.

## Key considerations from other contexts

This section analyses examples of mechanisms adopted in other countries to ensure increased representation of women in elections and governance. The list is, however, not exhaustive.

Rwanda is among leading countries in representation of women in parliament at 64 percent and in cabinet 52 percent. This is a result of a combination of reserved seats and other measures. The integration of gender is part of an integrated results based management system applying from problem analysis until monitoring and evaluation in the public sector. The political will is exhibited at the highest, with the President holding everyone accountable through performance measurement.

South Africa follows the PR elections system where each party submits a closed list of candidates based on seniority including female candidates. The proportion of representatives is informed by percentage votes garnered in the election. Criticism of the system is that while representative of minority interests, among which gender is one, in terms of governance in general, it may result in a hung parliament due to the lack of a majority winner. In Namibia, SWAPO party has a voluntary quota based on 50/50 principles.

A motion has also been moved to ensure that the gender parity principles applies as a benchmark across parties. Tanzania adopted a system of 30 percent quota which has seen an increase in representation. Mauritius uses a gender neutral quota which stipulates at least 30 percent representation in local government.

Lesotho introduced the 50% quota system for PR leg of the Mixed Member Proportion (MMP) electoral system in the 2012 parliamentary elections. The National Assembly Electoral Act (2011), obligates political parties when submitting PR lists to 'arrange the candidates in order of preference from top to bottom, with a female or male candidate immediately followed by a candidate of the opposite sex.

It should be noted that across the SADC region, most countries use hybrid electoral systems which may includes special measures to increase women's representation. What is clear is that numerically quotas increase critical mass of women in electoral processes and governance. However, unless the measures are constitutional, this means that more advocacy should be done to stimulate demand for representation by women on one hand, and responsiveness by duty bearers within relevant structures.



## Lessons for Zimbabwe

The key lessons learnt in exploring mechanisms to increase women's representation in elections and governance include the following:

- Constitutional guarantees on gender are not enough but should be made achievable through enabling acts that will clarify expectations, provide an implementation framework for institutions and outline penalties for non-compliance, such as a Gender Equality Act;
- Electoral system will determine whether equal representation happens, Zimbabwe uses a hybrid system of First Past the Post (FPTP) and PR. FPTP, without deliberate moves by political parties to not only field women but to ensure that this is done in winning constituencies, will not deliver gender equality;
- While PR has succeeded in increasing the numerical representation of women in Senate as an affirmative action and based on seats garnered in direct elections, this has been largely due to the zebra formation which would have seen equal representation if traditional

chiefs, mainly male were not included. There is therefore scope to adopt the zebra formation at downstream levels of party activities to ensure guaranteed outcomes;

- There is need to make rights more central to governance institutions and processes, with stronger systems of accountability for honouring gender commitments. There is also need to ensure that policies are responsive to all citizens, informed by participatory processes that identify the different needs of women and men;
- That all governance processes should be transparent and accountable on gender equality, build the capacity of women and men in governance institutions and be consolidated through political will;
- Temporary Special Measures (TSM) are exactly that, they should be complemented by policies to increase women's participation in the political sphere by tackling structural barriers. However TSM should only be removed once equality has been reached or to make way for more transformative mechanisms.

## Conclusions

While Zimbabwe has a relatively progressive gender legislative framework, this is still to translate into increased women's representation in elections and governance. The country is still to have truly national strategies that: go beyond piecemeal strategies to increase women's numerical rather than meaningful representation and enable women to enter government; support women in government and build their capacity; tackle underlying prejudices in institutions; raise the profile of gender issues; and ensure public spending targets meet women's as well as men's needs.

While women's organizations and gender-focused CSOs are playing a key role in facilitating these processes of capacity building and awareness-raising, government and democracy strengthening institutions have social accountability mandates and should take on these responsibilities. There is need to enforce provisions of the legislative framework to support structures within political institutions for all women vying for political office, through mentorship, facilitation of access to resources and security issues, among others.

Whether one participates in electoral processes and governance is dependent on engagements at family, community and national level to address socio-cultural practices that entrench gender inequalities. Media law reforms (including social media) are necessary to ensure access to, and curb abuse and

insensitivity towards women in general and those in politics in particular. This will ensure positive thought leadership and a level playing field for women in politics, socially, economically and politically. The State needs to Criminalize VAW in elections.

The lessons learnt have shown that supportive measures in addition to quotas and other temporary special measures are necessary as well as engagement with political parties who determine everything. This includes enforcing the 50/50 gender parity clause at all levels beginning with political parties. Women voter/election administration outreach and education should be prioritised.

Electoral Act in its current form will not deliver equal participation unless it ensures that Proportional Representation is beneficial to the Gender Equality Agenda. There is therefore need to finalise the (re)alignment of laws to the Constitution with gender equality implications. The Political Party Financing Act should be reviewed to reward compliance and punish non-compliance with gender equality principle.

In view of the complaints against the current quota, the proposition is that any mechanism that is acceptable has to be one that delivers gender equality within the constitutionally provided seats of the national assembly as this will facilitate substantive representation by the women candidates.

## Recommendations

**In view of the foregoing, this paper makes the following recommendations:**

### **1. Amendment of the Electoral Act**

The Legislature should amend the Electoral Act to entrench the principles of gender equality and gender parity. The amendment must obligate parties to reserve at least 50% seats for women across all levels requiring more than one person. Gender parity and seat reservation system also apply to local government. Currently the country uses a mixed electoral system and this could be extended to apply across all elected positions e.g. FPTP among political parties to determine not just representation but gender, youth, disability and other factors. Retain FPTP electoral system but voting be for parties rather than individuals.

Parties would present to ZEC closed lists with zebra system - the system allows the electorate to vote for the party and not candidates. The parties would have conducted their internal and primary processes across the country to inform their closed list, responsive to the constitutional representation guidelines. Expand current PR quota system in National Assembly to explore double seat constituencies and stipulate zebra formation across all political party lists. This would mean the 210 seats derive from 105 constituencies with mixed member proportion.

### **2. Legislative mechanism to compliance of political parties to Gender Equality principle**

Consider enactment of a Gender Equality Act, which would give effect to the gender equality provisions in the constitution. The Act would provide mechanisms on mainstreaming gender into legal frameworks, structures, processes and outcomes.

It would also provide penalties for non-compliance to gender equality and non-discrimination by public and private institutions in line with Section 2 (1) & (1) of the constitution. There is urgent need to formulate policies that protect women's rights within and outlaw harassment of women in political parties.

The Ministry of Justice, Legal and Parliamentary Affairs should formulate meaningful and well informed measures to ensure women's equal participation and representation in the political arena. In view of the mounting evidence of the negative impact of Sexual Harassment on women's participation all sectors but particularly in electoral processes and governance, enact Prohibition of Sexual Harassment Act.

### **3. Review of the Political Parties (Finance) Act,**

There is urgent need to extensively review the Political Parties (Finance) Act, in order to align it to the Constitution, and address gaps pertaining to gender and inclusivity. In this regard, we are keen to address deficiencies in Electoral Dispute Management System through legal mechanisms that anchor the Code of Conduct for Political Parties and also liberalise the Multi Party liaison system.

### **4. Amend Urban Councils Act and Rural District Councils Act to facilitate increased gender balance in electoral processes and governance at that level**

There is need to ensure that mechanisms to increase gender equality in representation of women in elections and governance will apply also to sectoral laws. This will facilitate the aligning of related processes to ensure outcomes that deliver equal representation.