

14 Implementation of the Constitutional Provisions to Ensure Gender Equality and Participation of Women in 2018 Elections by the Zimbabwe Electoral Commission (ZEC)

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1 Introduction

Recent years have witnessed an intense demand for women participation in political pluralism and democratisation as a means of negating the historical trends of political despair and disillusionment among the women. The global gender inequalities being encountered in the contemporary societies have undoubtedly led to underrepresentation of women as critical decision makers in the political hegemony.

Gender equality being at the core of international development goals ensures that women are given opportunities to reach their full potential. The image of the modern governance systems is largely shaped by the way in which the politics embrace gender equality as a way of ushering in viable democracy that guarantees good governance. Inclusion and subsequent participation of women in elections is therefore a crucial component for strengthening Zimbabwe's democracy and is core to realisation of their fundamental rights and freedoms. The International Institute for Democracy and Electoral Assistance (IDEA) submits that “[g]ender equality is a fundamental human-rights issue that cuts across all spheres of life and is intrinsic in all the pillars of sustainable democracy building in any society ...”.¹ This paper therefore takes a conceptual and reflective view of how the Zimbabwe Electoral Commission (ZEC) implemented the legal provisions to ensure gender equality and participation of women in the 2018 elections.

2 Background of the Study

Economic Community of Eastern African States (ECOWAS) asserts that “women make up at least 50% of the electorate and have been systematically and culturally disadvantaged and therefore need to be part of the whole process, not just as voters, but also as development agents”.² In Zimbabwe's 2018 harmonised elections, the number of women who were elected as political leaders did not match the number of women in the country who are also above 50 per cent of the population and were 53 per cent of registered voters.

This was contrary to the provisions of Section 56(2) of the Constitution of Zimbabwe which provides for gender equality by stating that “[w]omen and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres”. This is further underscored in Section 80(1) which states on the “Rights of women” that “[e]very woman has full and equal dignity of the person with men and this includes equal

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¹ IDEA. *A framework for developing internal gender policies for electoral management bodies* (International IDEA, Stockholm, 2016) p. 11

² ECOWAS, *ECOWAS Gender and Election Strategic Framework* (ECOWAS Commission, Abuja, 2017) p. 1

opportunities in political, economic and social activities”.³ This shows that the supreme law of Zimbabwe empowers women to compete for political office as much as their male counterparts.

With ZEC being mandated through the provisions of the Constitution of Zimbabwe to conduct elections and referendums in Zimbabwe, it is expected to uphold the provisions of the same Constitution by particularly ‘genderising’ its electoral processes through establishing a framework that allows for equal participation of both man and women in the electoral processes.

Zimbabwe is also signatory to international and regional instruments that obligate it to implement measures to ensure gender equality in political governance. It is therefore imperative that all Zimbabwean institutions (including ZEC) put mechanisms in place to ensure gender equality. As Azuh *et al.* put it, “gender equality is crucial to a meaningful national development ...”⁴

2.1 Statement of the Problem

It is postulated that “women make up at least half of a country’s population and if they are marginalized from full and equal participation in political and decision-making processes, a country cannot be considered fully democratic”.⁵ With this assertion in mind, the democracy of Zimbabwe can be said to have been comprised with the number of women who managed to break the political leadership curtain.

According to Azuh *et al.*, “despite global efforts to improve the poor conditions of women through numerous conventions and conferences such as CEDAW, SDGs among others, gender discrimination has not ceased”.⁶ This is further supported by Maphosa who brings the challenge closer home by postulating that “Zimbabweans signed and ratified a number of regional and international instruments that call for gender equality in various spheres of life. However, in spite of the existence of these supportive instruments, the country has not fared well in advancing the participation of women in politics.”⁷

In line with the above assertion, the results of the 2018 harmonised elections show that despite the positive legislation in place meant to correct the past disparities concerning women participation in political governance, the number of women elected for political leadership positions did not reach the international benchmark. According to the ZimStats data of 2013, women constitute 52 per cent of Zimbabwe’s population. It therefore becomes worrisome that they are underrepresented in Zimbabwe’s politics. There is therefore a mismatch between the women population and their political representation. This research therefore explores how ZEC can enhance women participation in the political life through implementing the existing legislative framework. Implementation of the provisions of the constitution as a legal and binding document is envisaged as a strategy that would concretise enforcement of the principle on gender equality in the political governance of Zimbabwe.

³ Constitution of Zimbabwe Amendment (No.20) 2013.

⁴ D. Azuh *et al.*, ‘Gender Discrimination and National Politics: The Nigerian Case’ 2:2 *Covenant University Journal of Politics and International Affairs (CUJPIA)* (2014) p. 20.

⁵ S. Bibler *et al.*, *Gender Equality & Election Management Bodies: A Best Practices Guide* (Washington DC: IFES, 2014) p. 5.

⁶ Azuh *et al.*, *supra* note 4, p. 19.

⁷ M. Maphosa *et al.*, ‘Participation of Women in Zimbabwean Politics and the Mirage of Gender Equity’ 4:2, *Ubuntu: Journal of Conflict and Social Transformation* (2015) p. 127.

2.2 Research Objectives

The objectives of the study were to:

1. establish the trends of women's participation in national politics in Zimbabwe;
2. identify factors that account for the low participation of women in politics at the national level;
3. assess the role of the Zimbabwe Electoral Commission in ensuring increased participation of women in the July 2018 harmonised elections; and
4. recommend strategies that can be implemented by ZEC beyond the expiry of Section 124(1)(b) to ensure that gender equality and that the human rights of women are fully realized within political parties

2.3 Research Questions

The study was guided by the following research questions:

1. What are the trends of women's participation in national politics in Zimbabwe?
2. What are the factors that account for the low participation of women in politics at the national level?
3. To what extent did the Zimbabwe Electoral Commission ensure increased participation of women in the July 2018 harmonised elections?
4. What strategies can the Commission envision beyond the expiry of Section (124) 2023 to ensure that gender equality and that the human rights of women are fully realised within political parties and contesting spaces?

2.4 Significance of the Study

This study undoubtedly fed into the greater societal and governance debates on meaningful women participation in political governance in Zimbabwe. The study was based on the argument that to increase the impact of political participation as a way of responding to gender injustices in political governance, it is critical to have an understanding and review of how ZEC as a constitutionally mandated electoral body can enhance women participation in elections by implementing and enforcing the provisions provided within the existing legal framework. The researchers therefore believed that this study would make a contribution in establishing and implementing systems and structures that would promote meaningful women participation in electoral governance using ZEC as an institution with a mandate to manage elections in Zimbabwe. This research therefore forms a foundation upon which future electoral reforms relating to gender equality and electoral governance can be founded. It is also believed that this research can be a basis for future similar scholarly researches and debates on electoral governance and reform.

2.5 Delimitation of the Study

This research focused on the 2018 elections though it also explored the historic evolution of women participation in elections in the previous years. The research also focused on women's participation in elections as candidates and not as voters. The key informants for this research were the members of the Zimbabwe Electoral Commission, the Gender Commission, Human Rights Commission, gender focal persons from UN Women, selected members of Parliament and selected civil society groups.

This study was limited by several socio-political factors. Some of the identified key informants were not prepared to volunteer information citing insecurity due to political limbo and high level of polarisation. The research was also affected by the adverse economic environment which had an impact on collection of adequate data for the study.

3 Literature Review

This section gives a review of literature on gender equality and women participation in the 2018 elections in Zimbabwe. It presents discussions on women participation in political governance from different perspectives. It explored previous and current debates on this issue and the implications of such to the future of development of gender mainstreaming in Zimbabwe and beyond.

3.1 Theoretical Framework

3.1.1 Theory of Change

While there are many theories that explain behaviour of organisations and societies in adopting gender-centric approaches in electoral governance, this research utilised the theory of change in attempting to explore how ZEC implemented and enforced the provisions of the constitutional provisions to enhance gender equality in the 2018 harmonised elections. This theory can be presented and explained in a variety of contexts. For the purposes of this research, this theory was used with an understanding that the notion of gender inequality in political governance manifests itself through a myriad of complex forces which could be social, cultural and historically which are entrenched in different societies and such may prove too difficult to be disentangled by isolated interventions. A theory of change was used as a theory that influenced the researchers' thinking and taking the constitution as an instrument to effect change. This theory was relevant in the sense that the constitution is a transformative tool that can be utilised to deal with historical injustices, promote positive social change, institutional responses to gender disparities and craft transformative policies that cater for the marginalised.

3.1.2 Debate on Gender Mainstreaming Interventions

The disparities and discrimination faced by women are also being confronted by a myriad of strategies which include international, regional, and national laws and policies. Maphosa *et al.* contend that:

As a way of rectifying these incongruities, a number of international and regional declarations and/or conventions have been crafted to aid the participation of women in political processes. These include the Beijing Declaration of 1995, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), African Women's Rights Observatory (AWRO) and the SADC Gender Protocol, among others.⁸

Other treaties and protocols for emancipating women in politics include regional instruments like the AU Charter, African Charter on Democracy, Elections and Governance, Maputo Protocol, SADC Gender and Development Protocol which sets out the 50/50 benchmark among many others. Gender equality is also being advanced pursuant of the Sustainable Development Goals five and ten.

⁸ Maphosa *et al.*, *supra* note 7, p. 131.

At the national level, Zimbabwe has made some strides in domesticating these instruments by further crafting national legislature and policies whose intention is to open democratic and political spaces for women at national level. “In Zimbabwe, the domestic institutional frameworks for gender equality and mainstreaming in politics in the form of the Constitution and the National Gender Policy are guided and/or informed by this global and/or regional architecture on gender equality.”⁹ The Constitution of Zimbabwe and the National Gender Policy are therefore instrumental in gender mainstreaming initiatives that this country is battling to implement.

4. Legislative Framework

4.1 *Universal Declaration of Human Rights*

The Universal Declaration on Human Rights (UDHR) which was established as a stop gap measure against gross abuse of human rights especial after the Second World War set a tone for the protection of human rights by rule of law. It challenges both men and women to safeguard their rights and freedoms.

Article 2 of the UDHR provides that “[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. The freedom and the rights referred to in the UDHR include and are not limited to the right to participate and influence the development policies within the governance structures and systems by women. It has been stated that “the UDHR has been the pedestal upon which many other statutory instruments have been crafted to strengthen and uphold the notion of human rights and ensuring equality within and between genders”.¹⁰ This is further articulated in the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

4.2. *Convention on the Elimination of All Forms of Discrimination Against Women*

CEDAW came as a measure to complement the UDHR and to close gaps that were left by the UDHR as it was deemed insufficient to adequately safeguard the rights of women and regulate against gender discrimination. Among many other things, CEDAW condemns distinction, exclusion and restriction made on the basis of sex whose net effect affect the enjoyment of political, economic, civil, cultural or any other rights by women. State parties to this Convention are to protect women’s rights and eliminate any systems, structures and practices whose intention is to rob women of their human rights. Miller believes that “... CEDAW has its largest effects on women’s political rights, smaller effects on women’s social rights ...”.¹¹ This means that CEDAW is considered more biased towards women political participation and is rated highly in this regard. It is also viewed as a “positive, significant predictor of women’s political and social rights. Ratifying CEDAW significantly boosts the probability of a country registering improvement on the CIRI indicators for women’s political and social rights, even when other key factors are controlled.”¹²

Maphosa *et al.*, *supra* note 7, p. 131.

132.

¹⁰ *Ibid.*, p. 131.

¹¹ N.A. Miller, ‘The CEDAW Effect: International Law's Impact on Women's Rights’, 13:1 *Journal of Human Rights* (2014) p. 23.

¹² *Ibid.*, p. 27.

4.3 Constitution of Zimbabwe

The 2013 Constitutional reform ushered in provisions whose major effect was to have more women in leadership, governance and in the development agenda. Such constitutional provisions were to be implemented on the side lines of the existing frameworks and electoral systems and were only meant to inflate the numbers of women in Parliament as correctional measure to addresses the historic gender injustices. The Zimbabwean Constitution guarantees fundamental freedoms to women in all spheres of life including the political, economic, social and cultural setups. The Bill of Rights in Chapter 4 of the new Constitution recognises that both men and women possess alienable rights to equal treatment. Such rights include the right to fair and equal opportunities in political, economic, cultural, and social spheres.

The Constitution of Zimbabwe respects the right of women as equal partners and that they need adequate representation (Section 3), the need for gender balance for national development (Section 17), gender equality (Section 56), equal access to opportunities in politics (Section 80) and quota system through proportional representation electoral system (Section 124). The Constitution obligates the state to ensure that women are fairly represented in political life.

4.4 Zimbabwe National Gender Policy

In 2015 Zimbabwe revised its National Gender Policy to align it with the current legislation, the Millennium Development Goals and introduce more strategies for addressing gender inequality. The Ministry of Women Affairs states that one of the policy objectives, i.e. number (iii) on Gender, Politics and Decision Making, is “[t]o create a supportive environment for gender parity in politics and decision-making positions”.¹³ This means that the National Gender Policy provides a conducive framework under which women can advance their political careers.

4.5 The Electoral Act

The fourth schedule Section 160A of the Electoral Act further directs all the political parties and candidates to respect the rights of women in political contestations. The act also encourages full and equal participation of women giving the political parties the obligation of creating conducive space and environment for women to equally participate with their male counterparts.

5 Historical Perspective of Women Participation in Zimbabwe and Beyond

Women’s empowerment comes against a backdrop of a political environment that was historically hostile to women. The era of colonialism posed an undemocratic atmosphere dominated by a tradition based on white settlers’ violent, patriarchal and authoritarianism discourse. The attainment of independence in 1980 opened spaces for women who were seen moving from being passive to active players in political leadership spaces.

Zimbabwe then engaged in more platforms where issues of gender mainstreaming were being advanced; thus Zimbabwe became a participant in the much talked about Beijing Conference. This was followed by crafting of some policies in line with the conference resolution. It has been argued that “[t]he origins of many of these policies can be traced back to the United Nations’ (UN) Fourth World Conference on Women, held in Beijing in September 1995”. The

¹³ Ministry of Women Affairs, *National Gender Policy 2013-2017* (The Government of Zimbabwe, Harare, 2013) p. 11.

Beijing Declaration and Platform for Action sought to obligate “governments to take measures to ensure women’s equal access and full participation in power structures and decision-making, as well as to increase women’s capacity to participate in decision-making and leadership”.¹⁴ From the UN’s perspective, Ogato believe that “many United Nations (UN) conferences have advocated that women’s empowerment is central to sustainable development”.¹⁵ Similar arguments are being advanced by scholars of gender and sustainable development who assert that “gender equality and women’s empowerment can be achieved in least developed countries” if development is to be realised.¹⁶ Ogato also cites Baden and Oxaal United Nations Children’s Fund, reiterating that:

scholars of gender and sustainable human development assert that an effective participation of women in formal politics, support for broad programmes of democratization and good governance with a strong focus on developing civil society are important strategies for women’s empowerment and gender equality.¹⁷

The international and regional treaties, the protocols, and other legal instruments which Zimbabwe is signatory to have become a foundation upon which the Constitution of Zimbabwe and the Acts are founded.

6 The Role of Election Management Boards (EMB) in Engendering Electoral Processes

Assessing the role of EMBs in deepening gender equality in Nigeria, IDEA believe that:

The Commission is responsible not only for conducting elections, but also for deepening the democratic process in Nigeria by promoting sound democratic knowledge. Part of this effort has been to ensure the participation of marginalized and disadvantaged groups across the country.¹⁸

This means that the EMB has a part to play in ensuring that the electoral processes are engendered so as to allow more women to take up political leadership positions. International IDEA continues to assert that “[g]ender mainstreaming should situate gender equality at the centre of an EMB’s structures, systems and processes at the different levels”.¹⁹ EMBs have a key role in promoting women’s electoral and political participation. An EMB can get its ‘house in order’ so that when it conducts elections and carries out its work, it has the necessary capacity and resources to ensure that a gender perspective is mainstreamed at every stage.

The major challenge according to Obato is that, “on a macro-political level, most governing bodies are dominated by men and legislative and judicial decisions often lack a gendered perspective and do not represent women’s interests”. For this reason, the EMB being at the centre of acquisition of political power through elections is “challenged to establish institutional mechanisms for the advancement of women in the political leadership”.²⁰

¹⁴ M. L. Krook, *Quotas for Women In Politics: Gender and Candidate Selection Reform Worldwide* (Oxford University Press, New York, 2009) p. 3.

¹⁵ G. S. Ogato, ‘The quest for gender equality and women’s empowerment in least developed countries: Policy and strategy implications for achieving millennium development goals in Ethiopia’, 5:9 *International Journal of Sociology and Anthropology* (2013) p. 359.

¹⁶ *Ibid.*, p. 361.

¹⁷ *Ibid.*, p. 362.

¹⁸ IDEA, *supra* note 1, p. 18.

¹⁹ *Ibid.*, p. 27.

²⁰ Ogato, *supra* note 15, p. 367.

7 2018 Harmonised Election Women Participation-Facts and Figures

Zimbabwe Electoral Commission (ZEC) statistics of nominated candidates revealed that women made up only 17 per cent of council candidates, 15 per cent for national assembly and four out of 23 presidential aspirants were women. Of greater concern is that of the 47 political parties which fielded candidates, 20 had no women.²¹

7.1 National Gender Voting Patterns in 2018 Elections

	Number	Per cent
Total votes for male candidates	4,215,127	89
Total votes for female candidates	513,099	11
Total votes cast	4,728,226	

Source: Research Advocacy Unit, (2018, p. 11) *A Gender Audit of the 2018 Elections*. Harare

The Research Advocacy Unit (RAU) makes some conclusive arguments that based on the statistics “it is evident that much work needs to take place, and on two main themes. The first is to do with increasing representation, and this needs to focus on making the constitutional requirement a reality ...”²²

8 Methodology

8.1 Research Design: Qualitative Exploratory Research

This research design allowed the research team to use a number of data collection methods & sources including in-depth personal interviews document review and analysis including the Zimbabwe Electoral Commission reports and Gender Commission documents and statistical reports. The researchers also had the opportunity to observe the election process in a number of polling stations in Manicaland and Harare.

8.2 Sampling

The research used a purposive sampling technique to select informants with expert knowledge on the electoral processes in Zimbabwe. In-depth interviews were used to collect data from the informants as this allowed probing and follow – up to be done through snowball technique.

Convenience sampling was used get informants for the focus group discussions. Focus was on the gender focal persons who had a dialogue meeting during the Gender and Elections workshop that was held from 2-5 October 2018 in Nyanga at Montclair Hotel.

8.2.1 Sample

The sample comprised the following:

- The Zimbabwe Election Commission (Election Management Body)
- Gender Commission

²¹ Zimbabwe Electoral Commission Preliminary Report, 2018.

²² AU, *A Gender Audit of the 2018 Elections* (Research Advocate Unit, Harare, 2018) p. 11.

- Human Rights Commission
- The Peace and Reconciliation Commission (members and employees)
- Civil society organisations (human rights defenders)
- Political parties

8.2.2 Data Collection

Data was collected through Focus Group Discussions with 10 gender focal persons as indicated in the preceding section.

In depth interviews were conducted with key informants representing the following organizations:

- 2x ZEC Commissioners
- 1x Gender Commission member
- 1x Peace and reconciliation member
- 1xHR Commission member
- 1x UN women employee
- 2x Civil Society Organisations
- 3x Political parties

Total respondents 21

9 Findings

In this section, collected data was analysed thematically with a view to establish how ZEC implemented the provisions of the law to ensure gender equality in the 2018 harmonised elections. Findings were premised on the research objectives and research questions which were linked to the research topic and data sources. The objective of the data analysis was conduct deep analysis of all the issues with a view to have a deeper understanding on how ZEC as a critical electoral institution can best serve its stakeholders and be instrumental in the realisation of women’s rights in political governance spaces.

9.1 Data Presentation and Analysis

Having established the trends of women participation in the 2018 harmonised elections, the researchers sought to find out the extent to which ZEC made adequate preparations for the elections in terms of ensuring increased participation of women contesting for political leadership positions and whether the respondents were satisfied with the way women participated. Using themes derived from the research objectives and research questions, the majority of the respondents indicated that while efforts were made in terms having legislation regarding women empowerment, it was in the implementation and enforcement of the constitutional provisions that they felt that the country was not making any notable strides as the number of women contesting for high-level political positions remained low and marginal. Asked “What is your view on the percentage of women who contested for political leadership positions in 2018 Harmonised elections?”, respondent GE1 replied that:

Men are always ahead of us, we thought we made some progress in 2013 by introducing proportional representation electoral system but men quickly closed doors for women to participate through the other system and we were left with 210 men against 60 women. It’s so sad.

On the question “What do you think were the inhibiting factors?”, respondent GE7 mentioned quite a lot of factors. She stated that:

With the violence that was targeted on women, very few were bold enough to take the bull by the horns. Remember that the first two episodes of violence were targeting women, way before the nomination process. Who would then stand out to challenge such a political hostile environment? Secondly, it's a fact that our society is still patriarchal; our men are not supportive to women who intend to take political leadership. So, women are afraid of being humiliated through stereotypical verbal assaults.

RAU commenting on the 2018 harmonised elections claim that “the run up to elections became increasingly acrimonious, and the allegations of intimidation and hate speech, particularly towards women, began to increase the closer the country got to the poll”.²³ The violence arguably became an inhibiting factor that diminished women’s participation in elections. This is in synch with the arguments presented by Ogato that women are also inhibited by “the deep-rooted cultural beliefs and traditional practices of society that prevent women playing their full role in the development process”.²⁴

Another response on the inhibiting factors that respondent GE20 gave was that “[w]omen are still afraid to take up political positions as society views women politicians as having loose morals”. Such adverse societal practices are also listed by Azuh *et al.* who believe that “[s]ome of the main factors militating against women’s effective participation in politics are illiteracy, poverty, money politics, instrument of intimidation, harmful traditional practices and discriminatory cultural stereotypes, violence against women, barriers by electoral process, and religious barriers”.²⁵

This is supported by Maphosa *et al.*, who argued that:

[T]he discrepancy between the perceived and actual realities in relation to the participation of women in politics is not by accident but is founded on a systemic and calculated manoeuvre by politically dominant males to open up the political space when necessary and convenient for them.²⁶

Asked to highlight some of the challenges that women face in their bid to penetrate the political leadership space, respondent GE4 bemoaned lack of political will to implement gender equality measures citing that the success story of Rwanda was punctuated and supported by the presidium which left other political parties with no choice but to follow suit. The government can further empower the ZEC as an electoral management board (EMB) to adequately implement and enforce the legal provisions provided for the Constitution and in line with the regional and international standards and guidelines.

Respondent GE11 bemoaned the abuse of social media which was used to mock and demean women who were involved in the 2018 electoral politics. She stated that “[w]omen are not comfortable being caricatured on social media, thus, they shun the political arena”. She also claimed that where the ZEC had an opportunity to engage political parties, very few women attended. This was attributed to the diminished numbers of women in active electoral politics. The respondent recommended for ZEC to indicate in the invitation letters for parties to send at least one women representative for the political party.

²³ AU, *supra* note 21, p. 2.

²⁴ Ogato, *supra* note 15, p. 359.

²⁵ Azuh, *supra* note 4, p. 19

²⁶ Maphosa *et al.*, *supra* note 7 p. 129.

Bibler *et al.* summarises the barriers by contending that “[w]omen’s electoral participation is often hindered by a variety of political, legal, social, economic and cultural barriers ...”.²⁷ To this they claim that “it is important for the electoral management body (EMB) to identify and address these within the particular country context”.

Asked on “What is the role of ZEC in enhancing gender equality in the electoral processes?”, respondent GE19 suggested that ZEC needed to ensure that its stakeholders in the name of political parties were alive to the constitutional provisions that point to the need for including women in their politics. “If ZEC is a referee in the game then its mandate is to run the rules by all the teams participating in the game.”

As to the question on “Which laws can ZEC implement to encourage women participation”, many respondents believed that all laws relating to gender equality can be implemented by ZEC. Respondent GE14 stated that “[i]f the state has an obligation, it follows that state institutions must implement the provisions of the Constitution on behalf of the state”. Some respondents contended that all institutions are expected to implement the provisions of the Constitution on gender equality within their organisations and their processes.

On the other hand, some respondents felt that ZEC was not legally equipped to implement any provisions on gender equality. ZEC needed clearly written down provisions on how it needed to sanction political parties whose policy was hostile against their female counterparts. The argument was that “[t]he State should give ZEC teeth to bite and the teeth are to be inscribed in the law”.

On the other hand, respondent GE15 totally refuted that ZEC could engage and guide political parties with a view to have them meet the 50-50 threshold on candidates fielded as constituency and local authority representatives. She claimed that “ZEC had no jurisdiction over choice of candidates in political party primaries”.

This claim that it was not ZEC’s jurisdiction to ensure that the candidates submitted through the nomination process by political parties met the 50-50 threshold was opposed by the view given by Ballington who alleges that “although not commonly acknowledged, EMBs have a key role in promoting women’s electoral and political participation”.²⁸ Bibler *et al.* also supports this view by postulating that “the degree to which women are able to participate in elections can be strongly influenced by the policies and programs of an EMB”.²⁹ This means that the EMB must come up with administrative measures that bind political parties to balance the numbers of men and women submitted as constituency representatives.

Kellow comments on the Liberia’s experiences by submitting that “[i]n Liberia the National Election Commission’s (NEC) guidelines set a target for political parties to put forward women as 30 percent of their candidates, but parties lack of will to meet this is matched by NEC’s lack of teeth to enforce it”.³⁰ Lessons drawn from this assertion is that the EMB triggered the whole process by setting a standard, meaning that contrary to the view that it is not the EMB’s purview,

²⁷Bibler *et al.*, *supra* note 5, p. 8.

²⁸ J. Ballington *et al.*, *Inclusive Electoral Processes: A Guide for Electoral Management Bodies on Promoting Gender Equality and Women’s Participation* (UN Women, 2015) p.4.

²⁹ Bibler *et al.*, *supra* note 5, p. 2.

³⁰ T. Kellow, *Women, elections and Violence in West Africa assessing women’s political participation in Liberia and Sierra Leone Understanding conflict. Building peace* (International Alert, 2015) p. 14.

in other jurisdictions the EMB deliberately set a standard to guide the political parties. Bibler *et al.* thus believe that “EMBs play a crucial role in enforcing electoral stakeholders’ compliance with quotas and other special measures, including reserved seats, legislative candidate quotas and voluntary-party quotas”.³¹

The question on what strategies could be utilised to diffuse and militate against gender discrepancies in political life, respondent GE17 believe the EMB must work with the media to promote women’s participation as political leaders. She stated that “[t]he media was in the forefront in demonising women during the 2018 harmonised elections and ZEC need to further train and engage the media to minimise such negativity against women”. This view is supported by International IDEA, who affirms that “[w]hen an EMB disseminates and conveys information taking into account gender-sensitive perspectives in line with its internal gender policy, it delivers the public a message about the importance of striving for gender equality and thus has the potential to influence the media’s reporting on electoral issues in gender-sensitive ways”.³²

Some of the respondents believed that the proportional representation system brought in negative impact to women legislatures as they became an object of mockery by their male counterparts. Respondent GE17 heartily expressed her pain of being mocked and insulted in Parliament when she is denied giving her views because she does not represent a constituency and therefore is perceived as not representing anyone. The men are quick to state that the women who were elected through proportional representation should “give us an opportunity to speak first as we represent masses who elected us; such statements take away our ‘power’”.

Several recommendations came up on the question “What do you recommend ZEC should do to ensure that women participate in political processes?”. Respondent GE9 contended that “[t]he Electoral Act has a provision that obligates ZEC to ensure political parties submit gender sensitive candidates’ lists”. This respondent cited the Electoral Act Fourth Schedule (Section 160a) Electoral Code of Conduct for Political Parties and Candidates and Other Stakeholders which she believes must be implemented by ZEC. It provides that:

Every political party and every candidate must-(a) respect the right of women to communicate freely within parties and as candidates; and (b) facilitate the full and equal participation of women in political activities; and (c) ensure the free access of women to all public political meetings, marches, demonstrations, rallies and other public political events; and (d) take all reasonable steps to ensure that women are free to engage in any political activities.³³

The additional functions and powers of Commission in addition to the functions set out in Section 239 of the Constitution provide that the Commission shall be responsible for“(d1) ensuring that gender is mainstreamed into electoral processes ...”. The provisions of the Act are enforced by ZEC; therefore it follows that ZEC need to draw administrative measures to enforce this provision. This is in line with views by respondent GE15 who argued that “ZEC should demand political parties to submit gender friendly candidates list. The political parties should craft policies with 50/50 women representation and implement them.”

Respondent GE5 recommends a legal reform by stating that “[a]ll MPs and Councillors should be elected through PR system”. This assertion stemmed from the challenge that the MPs elected through a first past the post system often denigrate the women elected through the proportional representation system arguing that they came in cheap and do not represent a constituency. In

³¹ Bibler *et al.* *supra* note 5, p. 24.

³² IDEA, *supra* note 1, p. 12.

³³ Electoral Act (*Chapter 2:13*).

line with the above recommendation, Ogato cites Baden and Oxaal who recommend “[r]eform of political parties; quotas and other forms of affirmative action ...”.³⁴

Another recommendation which came to as a way of forcing political parties to field in female candidates was to reform the electoral law in such a way that it ties the political party financing by the state to the percentage of women fielded by the party. Another controversial recommendation was echoed by GE18 who believed that “[t]he EMB must reject all fielded candidates who do not meet the 50/50 threshold and the law should be reformed in that regard”.

Bibler *et al.* supports the aspect of the need for electoral law review so that it matches the demands for gender equality in political leadership. They contend that “review electoral law and other relevant legislation from a gender perspective to ensure they are in line with international and regional instruments, that the legal framework is consistent and transparent and is not open to arbitrary interpretation”.³⁵

9.2 Summary

The section provided an analysis of data gathered from key informants, analysis, and interpretation of that data. Research findings revealed that respondents presented diverse views on the role and responsibilities of ZEC, perceptions regarding the political will of political parties in putting forward female contestants and the challenges that women face in breaking barriers to political leadership. Data gathered was a reflection of feelings, observations and experiences of women and different stakeholders in the political field. Recommendations were given which focused on the state, the Zimbabwe Electoral Commission, civil society organisations and electoral stakeholders in what needs to be taken into account if all political actors including ZEC are to fully utilise women’s political energy and expertise for the country’s leadership and subsequent development.

10 Conclusions and Recommendations

10.1 Summary of Findings

This research brought to the fore several issues that related to how ZEC implemented the legal provisions to ensure gender equality and participation of women in the 2018 elections. Our findings underscore the view that ZEC did not adequately implement the provisions of the law which resulted in the low number of women elected as candidates for political office during the 2018 elections. The research further unearthed that ZEC did not fully uphold its legal mandate to ensure that women participated as candidates on an equal footing with their male counterparts as provided for in Section 160a of the Electoral Act³⁶

The Commission did not even have any administrative measures in place to open spaces for women participation in elections particularly as candidates. ZEC was able to conduct voter education to different groups of women to participate mainly as voters but not as candidates. In addition, during the stakeholders’ engagement forum, few or no women attended the meetings which further excluded them from the politics. This in some ways compromised the credibility of the electoral process to be viewed as a credible and transparent system in compliance with the expectations of regional and international standards for democratic elections. This is

³⁴ Ogato, *supra* note 15.

³⁵ Bibler *et al.*, *supra* note 5, p. 28.

³⁶ Electoral Act, *supra* note 33, section 160a.

condemned by Perelli who argue that “an election fails to comply with international obligations and standards unless the opportunity for full and equal participation by women is provided”.³⁷

Another fundamental finding was the perception that the Zimbabwean society still has a culture and tradition that is not receptive to women taking political leadership positions. This phenomenon was said to be common in a number of countries in Africa where societal systems are still transitioning from being patriarchal to being inclusive and democratic. Kellow makes a similar finding by stating that cultural marginalisation has severely limited women’s opportunities, and such “factors block women’s participation, both formally and informally”.³⁸ For the same reasons women are relegated to “traditional household roles, often leaving them in fear of rejection or even a violent reaction from their families if they attempt to enter politics”. The political environment in most countries, including Zimbabwe, is arguably dominated by males as suggested by Perelli who contends that “[p]olitical parties, ethnic groups or clans may be dominated by a single, strong leader, usually a male, leaving little opportunity for women to enter the political process through established political groups”.³⁹

Another finding was that media coverage of women candidates was either nonexistent or not adequate and in some cases it focused on negative coverage. Research evidence revealed that social media for example was very aggressive towards female candidates even before the election which some respondents attributed to have contributed to low numbers as some women would not want to experience such traumatic experiences.

It also emerged that ZEC was not taking commendable steps towards enforcing the provisions of Electoral Act Fourth Schedule (Section 160a) Electoral Code of Conduct for Political Parties and Candidates and Other Stakeholders. The research findings also underpinned ZEC’s responsibility and efforts to eliminate electoral flaws that underlie the observed political gender gap. However, the observation was that ZEC seem to have relegated that responsibility to the political parties who have no mandate in enforcing the code of conduct for political parties and candidates.

The research findings also revealed that the proportional representation system introduced through the 2013 referendum created negative discrepancies as women elected through this system were often mocked, hackled at and labeled as cheap as they were perceived as not representing any constituency. Such perceptions had the net effect of disempowering them, eroding their confidence and self-esteem which is crucial in giving confidence to women potential leaders.

10.2 Conclusion

Based on the findings derived from this research study, conclusions were drawn. The most critical conclusion was that ZEC need to device measures through which they can enforce the legal provisions relating to gender equality in political leadership. There was a glaring disproportionate degree of political power that is observed in the 2018 harmonised elections which could be addressed if the EMB took measures to ensure that women candidates were given adequate space to contest as candidates. In addition, political and government institutions are challenged to uphold their obligations and responsibilities in gender equality and

³⁷ C. Perelli, *Women and Elections Guide to Promoting the participation of Women in Elections* (United Nations, 2005) p. 10.

³⁸ Kellow, *supra* note 29, p. 6.

³⁹ Perelli, *supra* note 34, p. 8.

mainstreaming at all times. Bibler *et al.* makes conclusive remarks to this research by stating that:

The full participation of women in political and electoral processes is not something that an EMB should aspire to just because it is a basic human right; involving women makes practical sense. The failure to do so misses a major opportunity to deliver free and fair elections and build a more inclusive, democratic and prosperous society.⁴⁰

10.3 Implications

The implications of this research study are to provide necessary basic information to ZEC, the state and other human rights institutions on the need to enforce the provisions of the Constitution, the electoral law and policies to guide political parties on fielding gender sensitive electoral contestants.

10.4 Informative Recommendations

Based on the findings and the conclusions of the research study, the following recommendations were made:

10.4.1 Recommendations to the State and Government of Zimbabwe

Basing on the research findings, it is evident that there is a need to bring about a structural transformation in the area of political leadership to make it responsive to potential women political leaders. The state is duty bound to ensure that government institutions and commissions are held accountable for implementing the provisions of the law relating to gender equality. The state needs to consider reforming the constitutional law and the electoral law in the code of conduct with a view to set a standard that political parties must adhere to in line with fielding of female candidates in elections.

Also, the government, according to Azuh *et al.*, “[s]hould reinvigorate its political will and efforts towards promoting gender equality and women empowerment through reshaping the legal and institutional framework to hinder gender discrimination”.⁴¹

10.4.2 Recommendations to the Election Management Body

ZEC put must administrative measures in place and set a standard for the percentage of female candidates expected from each political party. Such a measure needs to be accompanied by a commitment to enforce and sanction offenders accordingly. ZEC need to commit to enforce the Constitution and Electoral Act Fourth Schedule (Section 160a) Electoral Code of Conduct for Political Parties and Candidates and Other Stakeholders. Sanctions are critical as Atherton *et al.* observe that a major weakness of the Law on Gender Equality is that it does not provide sanctions or mechanisms to ensure compliance by political parties.

Also, while the ZEC respondents observed that most political party representatives who turned up for engagement meetings where males, respondents recommended that invitations to the meetings needed to specify that at least one of the attendees be a female.

⁴⁰ Bibler *et al.*, *supra* note 5, p. 5.

⁴¹ Azuh, *supra* note 4, p. 27.

10.4.3. Recommendations to the Legislatures

The state through the legislators should consider reforming the law and have all members of the National Assembly be elected through the proportional representation system to give them equal political power. This is supported by RAU who submit that there is a need for an enforceable legal action for political parties to “field equal numbers of female and male candidates. This will only be possible through a shift from a First-Past-Post electoral system to a fully Proportional Representation one..⁴²

Also, the issue of tying political party financing to the percentage of female candidates fielded needs to be further explored with a view to incentivise the complying political parties. Ogato cites Ruzvidzo as encouraging “[g]overnments to strengthen legal frameworks that promote the rights of women and to domesticate all international and regional instruments on women’s rights”.⁴³ In addition, Kellow believes that “[p]arliaments have the power to pass electoral laws and enact affirmative action measures that can overturn longstanding gender inequalities”.⁴⁴

10.4.4 Recommendations to the Gender Commission

The Gender Commission needs to work hand in glove with ZEC for ZEC to get the necessary support for the implementation of gender sensitive policies to its stakeholders. The Gender Commission should advocate for a change in the electoral system so as to adopt one that is gender friendly and inclusive. Perelli asserts that some electoral systems are not gender-neutral. “The type of system in place can have a major impact on the number of women elected to office. More women are likely to be elected in countries with proportional representation (or party-list) systems than in countries with majority (or first-past-the-post) systems.”⁴⁵ Such a recommendation should be considered in the face of the current systems that have failed to uphold the constitutional principle of gender equality.

10.4.5 Recommendations to the Civil Society Organisations as Human Rights Defenders

Civil society organisations especially those specialising on human and women rights need to put pressure on the state and its institutions as well as ZEC for them to ensure that gender equality is mainstreamed in elections.

10.4.6 Recommendations to the Political Parties

Political parties must enact and implement policies whose thrust is mainstreaming gender within their primary elections and other electoral programmes. They should undertake to support and rally behind women candidates at party level. Political parties and candidates must desist from bullying and demonising women political contestants and ensure to provide a conducive political environment for them.

⁴² Research Advocacy Unit, *A Gender Audit of the 2018 Elections* (2018) p. 10.

⁴³ Ogato, *supra* note 15, p. 366.

⁴⁴ Kellow, *supra* note 29, p. 8.

⁴⁵Perelli, *supra* note 34, p. 12.

10.4.7 Recommendations to the Academics

This study provided the first step towards the analysis of how ZEC implemented the provisions of the law to ensure gender equality and participation of women in the 2018 elections. There are a lot of areas that the researcher left out that may need further interrogation for the benefit of women political empowerment through elections.