

# Practices and challenges in implementing women's right to political participation under the African Women's Rights Protocol in Zimbabwe

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**ABSTRACT:** The African Women's Rights Protocol in article 9 affirms the equal participation of women in political and decision-making processes. This article largely relies on literature to examine the domestic effect of this provision in Zimbabwe, following the ratification of the African Women's Rights Protocol in 2008. Accordingly, this article explores the importance of article 9, deciphering the significance thereof. It also examines the adequacy of legal, policy and institutional practices, and the persistent challenges to women participation in public life. Guided by article 9 of the Protocol, Zimbabwe made considerable strides in ensuring women's political participation. While significant outcomes have been noted, women's participation is in most cases below the 50 per cent set by article 9. This underperformance emanates from the fact that most legal and institutional measures aimed at ensuring women participation are limited in scope, not effectively disseminated and insufficiently executed due to limited resources and political will. Besides, women continue to face persistent forms of gender based violence, poverty, socio-cultural and institutional barriers, which limit their political participation. This article recommends political and electoral reforms including the change of electoral system to proportional representation, introduction of mandatory political party and national gender quotas, levelling of the political playing field, and engaging in innovative and widespread research, lobbying and advocacy for equal women participation in public life.

## TITRE ET RÉSUMÉ EN FRANÇAIS:

**Pratiques et défis dans la mise en œuvre du droit des femmes à participer à la vie publique au Zimbabwe aux termes du Protocole relatif aux droits des femmes en Afrique**

**RÉSUMÉ:** L'article 9 du Protocole relatif aux droits des femmes en Afrique garantit la participation égale des femmes à la vie politique et à la prise de décisions. La présente réflexion s'appuie largement sur la doctrine pour examiner l'effet de cette disposition en droit interne zimbabwéen suite à la ratification du Protocole en 2008. Par conséquent, la réflexion explore l'importance de l'article 9, en analysant son sens. Elle examine également l'adéquation des pratiques juridiques, politiques et institutionnelles ainsi que les défis qui persistent quant à la participation des femmes à la vie publique. En s'inspirant des dispositions de l'article 9 du Protocole, le Zimbabwe a fait des progrès considérables en vue de garantir la participation politique

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des femmes. Bien que des résultats significatifs aient été enregistrés, la participation des femmes est, dans la plupart des cas, inférieure à la norme de 50% fixée par l'article 9. Cette sous-performance provient du fait que la plupart des mesures juridiques et institutionnelles visant à garantir la participation des femmes sont limitées et ne sont pas efficacement diffusées en raison de ressources limitées et de volonté politique insuffisante. D'ailleurs, les femmes continuent de faire face à des formes persistantes de violence sexiste, de pauvreté, d'obstacles socioculturels et institutionnels, qui limitent leur participation politique. Cette réflexion recommande des réformes politiques et électorales, y compris le changement du système électoral en vigueur au mode de représentation proportionnelle, l'introduction de partis politiques obligatoires et de quotas pour les femmes au niveau national, le nivellement du terrain politique ainsi que la recherche, le lobbying et le plaidoyer en faveur de la participation égale des femmes à la vie publique.

**KEY WORDS:** Protocol to the African Charter on the Rights of Women in Africa, Maputo Protocol, decision-making, women, political participation, barriers, gender, equality

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## 1 INTRODUCTION AND BACKGROUND

The equal representation and participation of women in public life gained impetus in the second half of the 20th century. This advance resulted from democratisation and development processes, worldwide, and the increasing emphasis on non-discrimination, justice and inclusiveness after the creation of the United Nations (UN). Indeed, a democratic society puts value and worth on all human beings' contribution to matters shaping their lives and the development and wellbeing of society at all levels.<sup>1</sup>

The quest for gender equality and non-discrimination is expressed in several UN human rights<sup>2</sup> and development<sup>3</sup> frameworks. Within the African region, a number of frameworks<sup>4</sup> speak to gender equality, including the African Charter on Human and Peoples' Rights (African Charter), and the Protocol to the African Charter on Human and

<sup>1</sup> UNDP *Zimbabwe Human Development Report 2000: Governance* (Nat print: Harare 2000).

<sup>2</sup> See art 21(1) of the Universal Declaration of Human Rights (1948); articles 3 and 25 of the International Covenant on Civil and Political Rights (1966); and articles 2 and 7 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW 1979).

<sup>3</sup> For development strategies see the Sustainable Development Goals 5-5 (SDGs) 2015-2030, which succeeds the Millennium Development Goals (MDGs) 2000-2015.

<sup>4</sup> See art 4(1) of the Constitutive Act of the AU; AU Gender Policy; Solemn Declaration on Equality in Africa; Agenda 2063; Commission on the Status of Women 59th and 60th Sessions (2015, 2016); and declaration of 2010-2020 as the African Women's Decade.

People's Rights on the Rights of Women in Africa (African Women's Rights Protocol).

Specifically, the African Charter was developed for the purposes of promoting and protecting human rights in Africa.<sup>5</sup> Although the Charter was designed to guarantee the rights of both women and men,<sup>6</sup> women's rights, as such, are specifically mentioned in only a few provisions.<sup>7</sup> This normative inadequacy<sup>8</sup> prompted the adoption of the landmark African Women's Rights Protocol on 11 July 2003. The Protocol entered into force on 25 November 2005, after securing ratifications by the required number of 15 African Union (AU) member states.<sup>9</sup> The African Women's Rights Protocol is a comprehensive framework that recognises several rights of women at the generic and specific levels in Africa. For these reasons, the Protocol is hailed as the most inventive and exciting development in women rights protection since the AU formation as it lays down essential human rights standards for African women.<sup>10</sup> A closer look at the Protocol shows the extent to which the AU recognises, reaffirms, or guarantees existing rights under UN human rights systems.<sup>11</sup>

Article 9 of the African Women's Rights Protocol, which calls for equal representation of women in political and decision-making processes, is the focus of this article. The process to achieve 50-50 representation of women and men in institutions of power includes affirmative action, enabling national legislation and other necessary measures.<sup>12</sup> The equal representation of women and men in political and decision-making institutions is crucial for consolidation of democracy. For democracy to be sustainable, it has to allow for the inclusion and participation of every citizen to represent their concerns and interests in matters shaping their lives. In a way, article 9 confirms that women are equal human beings, and emphasises the need to promote, protect and enforce their political rights.

The call by article 9 is important for African countries, including Zimbabwe, where women's participation in public life has been limited before ratification of the Protocol in 2008. Since independence in 1980,

<sup>5</sup> F Ouguergouz *The African Charter on Human and Peoples' Rights: a comprehensive agenda for human dignity and sustainable democracy in Africa* (2003) 432.

<sup>6</sup> See Preamble of African Charter.

<sup>7</sup> See art 18 of the African Charter.

<sup>8</sup> See Preamble to the Protocol; See also F Banda 'Brazing a trail: The African Protocol on Women's Rights comes into force' (2006) 50 *Journal of African Law* 72; F Viljoen *International human rights law in Africa* (2007) 529.

<sup>9</sup> Article 29(1) of the African Women's Rights Protocol.

<sup>10</sup> E Durojaye & LN Murungi 'The African Women's Protocol and sexual rights' (2014) 18 *International Journal of Human Rights* 893; B Kombo, R Sow & FJ Mohamed (eds) *A journey to equality: 10 years of the Protocol on the Rights of Women in Africa, Equality Now* (2013); VO Ayeni (ed) *The impact of the African Charter and the African Women's Rights Protocol in selected African states: Zimbabwe* (2016) 281-296.

<sup>11</sup> See F Viljoen 'An introduction to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (2009) 16 *Washington & Lee Journal of Civil Rights & Social Justice* 11.

<sup>12</sup> See article 9(1) of the African Women's Rights Protocol.

women in Zimbabwe remained largely tucked away and confined to domestic roles, and were not provided with opportunities and resources to be represented and competitively participate in public life. By the year 2000, women comprised only 1 per cent of the positions in key political and decision-making institutions.<sup>13</sup> In Parliament, female representation ranged between 8 and 14 per cent in the period between 1980 and 2008.<sup>14</sup> In the judiciary, women comprised only five of the 26 judges of the High Court by 2000.<sup>15</sup> Women's representation was also low in local governance, cabinet, the Senate and appointed decision-making bodies, including in civil service and parastatals.

The ratification of the Protocol in 2008 was expected to improve women representation in key political and decision-making institutions in Zimbabwe. Indeed, women's representation improved significantly in political and decision-making processes. This improvement was a result of the concerted efforts to implement the Protocol through constitutional and policy reforms, and other endeavours by state and non-state actors. However, this article notes that women are yet to enjoy *equal* participation in public life even with efforts to implement article 9 of the Protocol. In most cases, statistics in Zimbabwe show women comprising around 30 per cent, but that is still below the desired 50-50 representation. Notably, there continues to be few women managers, clerks and mayors in local government even after ratification of the Protocol.<sup>16</sup> In various government ministries, including the Ministry of Women Affairs, Gender and Community Development, women comprise 30 per cent or less of senior managers.<sup>17</sup>

Similarly, the numbers of party candidates and elected women parliamentarians and councillors have been decreasing. After Zimbabwe's 2013 elections, the number of elected women fell from 34 to 26<sup>18</sup> for Parliament, and from 19 per cent to 16 per cent<sup>19</sup> for local authorities. Additionally, the number of women who contested seats as National Assembly candidates fell from 105 in 2008 to 90 in 2013.<sup>20</sup> Similarly, limited numbers of women participate in electoral processes and mainstream politics as voters and political party supporters. Zimbabwe remains lowly ranked with regards to women representation

<sup>13</sup> UNIFEM *Biennial Report: Progress of the World's Women* (2000).

<sup>14</sup> Gender Links *SADC Gender Protocol Barometer 2013 Zimbabwe* (Gender Links: Johannesburg 2015); R Gaidzanwa 'Gender, Women and Electoral Politics in Zimbabwe' (Electoral Institute of Southern Africa (EISA) Publications: Johannesburg 2004) <http://www.eisa.org.za> (Accessed on 10 June 2017); C Dziva *et al* 'No easy walk through primary elections for rural women in Zimbabwe' (2013) 13 *Journal of Humanities and Social Science* 6 50-57.

<sup>15</sup> UNDP (n 1 above).

<sup>16</sup> M Zanhi 'Is there political will to translate it into reality?' (Legal Resources Foundation: Bulawayo 2013).

<sup>17</sup> Gender Links *SADC Gender Protocol Barometer 2015 Zimbabwe* (Gender Links: Johannesburg 2015) 8.

<sup>18</sup> Gender Links (n 14 above) 37.

<sup>19</sup> Gender Links (as above).

<sup>20</sup> Gender Links (as above) 36.

in appointed offices, including in Cabinet.<sup>21</sup> These statistics speak volumes about the impediments that women continue to face in wrestling for elected and appointed party and government positions.

Previous attempts to evaluate the domestic impact of African Women's Rights Protocol have tended to focus on the Protocol as a whole.<sup>22</sup> These studies hail the Protocol's declaration on socio-economic and political participation only in passing, without an in-depth analysis of the extent at which specific provisions of the Protocol have been implemented at the national level.<sup>23</sup> This study discusses the importance and practices for implementing article 9 of the Protocol, and the persisting hindrances to women's participation in public life in Zimbabwe. Additionally, the article offers measures that Zimbabwe and other state parties to the Protocol can take to ensure equal representation and participation of women in the public sphere.

Although the article focuses on Zimbabwe, other African countries with similar contexts may find the article helpful. It is anticipated that state parties, civil society, and key institutions for human rights advancements within the AU, notably the African Commission, and Solidarity for African Women's Rights Coalition, the African Women's Development and Communications Network, may find this article strategic in their quest to ensure women's political rights.

Chronologically this contribution starts with this introduction and background section, followed by a discussion on the importance of article 9 of the African Women's Rights Protocol. Thereafter, the article analyses the practices employed by Zimbabwe in implementing article 9 of the Protocol. Afterwards, the article discusses some persisting obstacles to women's political participation and representation in decision-making. Lastly, the article summarises its findings and proffers suggestions for equal participation and representation of women.

Methodologically, this article adopts a qualitative methodology as informed by historical and descriptive designs. The article heavily relies on literature review of books, journals, reports, newspaper articles, and opinions of seasoned women politicians and individuals within civil society organisations advancing women's rights in Zimbabwe.

## **2 CONCEPT AND IMPORTANCE OF ARTICLE 9 OF THE WOMEN'S RIGHTS PROTOCOL**

Article 9 of the African Women's Rights Protocol speaks of the fundamental elements of participative democracy at public level, in the following terms:

1. States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their

<sup>21</sup> Gender Links (as above).

<sup>22</sup> Kombo *et al* (n 10 above); Ayeni (n 10 above) 281-296.

<sup>23</sup> Kombo *et al* (as above).

countries through affirmative action, enabling national legislation and other measures to ensure that:

- a) women participate without any discrimination in all elections;
  - b) women are represented equally at all levels with men in all electoral processes;
  - c) women are equal partners with men at all levels of development and implementation of State policies and development programmes.
2. States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.

Article 9 provides for the equal (50-50) representation of women in political and decision-making institutions. The requirement of equal participation in political life should ensure for equal women participation without discrimination at all levels of development, decision-making and electoral processes. For state parties to achieve equal representation of women in politics and decision-making processes, they are supposed to take positive action through affirmative action, enabling legislation and other measures. Put differently, article 9 dwells more on the processes and is silent on the outcomes of these processes. Outcomes in this case would mean equal representation of men and women in Parliaments and different institutions of a country.

The equal representation and participation of women in political and decision-making improves governance. Women are believed to be naturally caring, kinder and more altruistic as compared to men. Honour *et al's* study on India noted that female members of parliament had a more caring and nurturing style of leadership, which is further defined as 'interactive' when compared to men who operate with a 'transactional', command-and-control approach.<sup>24</sup> With their motherly touch, women dilute or totally change the political culture of men in law and policy reform, and allocate crucial resources to the needy in society. Nzomo states that 'it is now generally accepted that women constitute a key national resource, whose ideas, creative solutions and concern for cohesiveness of the social fabric can help change the quality of life and society at large'.<sup>25</sup> With these attributes, women may bring a different set of values, which is important in creating a more caring, pluralist and compassionate society.<sup>26</sup>

The other argument for women participation is based on varied interests of men and women. Men and women are somehow different, hence the need for separate representation.<sup>27</sup> As Shvedova noted, 'the majority of governing institutions are dominated by men who further

<sup>24</sup> T Honour J Barry & S Palnitkar 'The quota innovation: gender and Indian politics: experience and prospects' (1999) 18 *Equal Opportunities International* 7 1-16.

<sup>25</sup> M Nzomo 'Women in politics and public decision-making' in U Himmelstrand (eds) *African perspectives on development* (2003).

<sup>26</sup> J Squires & M Wiekham-Jones *Women in Parliament: a comparative analysis* Equal Opportunities Commission (2001) 6.

<sup>27</sup> D Dahlerup 'Using quotas to increase women's political representation' in J Ballington & A Karam (eds) *Women in Parliament: beyond numbers* (2005) 94; CON Moser *Gender planning and development: theory, practice and training* (1993).

their own interests. Male-dominated political institutions of government do not promote women or women's issues'.<sup>28</sup> Unless women are represented in legislative and decision bodies, their interests may not be articulated and may therefore suffer from policy neglect.<sup>29</sup> Even though there are limited empirical studies to prove that male politicians always exclude women concerns, and that female politicians always prioritise women's issues, it can be submitted that a mixed parliament, cabinet, and other decision-making bodies are poised to be fair and to transform the lives of all groups of people in society.

Similarly, gender-balanced political and decision-making bodies tend to address more of the concerns that exclusively or disproportionately affect disadvantaged groups of the society. Lovenduski and Karam are of the opinion that the 'presence of female decision-makers greatly influences the outcome of issues debated.'<sup>30</sup> Govender was quoted by Karam to have stated that "with more women in politics, the gun culture will be eliminated from the political agendas and certain ideals such as politics as a service to humanity and creating a qualitative difference will be reinstated".<sup>31</sup> Inclusion of women in local governance, parliament and cabinet can therefore be an effective starting point for reducing conflicts, gender based violence, and for effective representation of women's needs, interests and priorities.

Furthermore, the process of participative democracy infuses leadership and political skills into women. This has the capacity to produce more women leaders who are ready for higher responsibilities. The more women practice leadership and decision-making roles, including in settings outside government such as the workplace and, community affairs, the more effective women become in articulating political views and demands at higher levels. In addition, women's active participation in political life often brings a sense of ownership to decisions and deliberations reached by politically inclusive institutions. As a disadvantaged group in society, women become empowered as they develop the capacity to share problems, experiences and propose solutions on matters affecting them. As Smith stated, developing negotiating skills and an ability to cooperate are central to the process of women's empowerment and ultimately national development.<sup>32</sup>

All things considered, women participation and representation in public life is vital for democratic transition or consolidation. In its true sense, democracy entails a fair and reflective political system, which is representative of men and women in democratic institutions and processes. As equal human beings, women must be afforded the chance to participate at the same level with men in matters shaping their lives.

<sup>28</sup> N Shvedova 'Obstacles to women's participation in Parliament' in J Ballington & A Karam (eds) *Women in Parliament: beyond numbers* (2005) 20.

<sup>29</sup> N Chowdhury 'Women in politics, empowerment' (1994) 1 *A Journal of Women for Women* 21-42; KP Panday 'Representation without participation: quotas for women in Bangladesh' (2008) 29 *International Political Science Review* 489.

<sup>30</sup> J Lovenduski & A Karam *Women in parliament: making a difference* (2000).

<sup>31</sup> J Ballington & A Karam (ed) *Women in politics: beyond numbers* (2005).

<sup>32</sup> BC Smith *Good governance and development* (2007).

In several African countries, including Zimbabwe,<sup>33</sup> women constitute 50 per cent of the population, meaning their full representation in corridors of power and decision-making guarantees fairness, justice<sup>34</sup> and represents a functional and sustainable democracy. Indeed, liberal feminists generally locate the uniqueness of men and women in their capacity for rationality.<sup>35</sup> Representative democracy demands that political and decision-making institutions and structures are composed and representative of men and women. Expectedly, gender balanced decision-making institutions and structures are poised to be efficient, effective and responsive to the concerns and perspectives of all segments of the society.

### **3 PRACTICES FOR IMPLEMENTING ARTICLE 9 IN ZIMBABWE**

#### **3.1 Constitutional reform**

Since independence in 1980, Zimbabwe was governed by the Lancaster House Constitution of 1979. This Lancaster House Constitution had a limited Bill of Rights, which failed to adequately provide for women's participation in public life.<sup>36</sup> At one point, Jessie Majome, a legislator in Zimbabwe, described the Lancaster Constitution as one of the worst constitutions in the world, due to its failure to provide for equality and to protect women rights and needs.<sup>37</sup> Amid numerous calls by feminists for a new Constitution, Zimbabwe renewed the process of writing a people-driven constitution, which was finally adopted in 2013. This was an opportunity to incorporate the African Women's Rights Protocol into domestic law. However, the full incorporation of the African Women's Rights Protocol into the Constitution was limited by Zimbabwe's dualist approach to the implementation of international treaties. This approach entails that international treaties ratified or acceded to by Zimbabwe do not become self-executing upon ratification or accession, but must first be domesticated through parliamentary approval and be incorporated into domestic laws through an Act of Parliament before they become binding.<sup>38</sup>

<sup>33</sup> Zimbabwe National Statistics Agency (ZimStats) *2012 Census: preliminary report* (2012) 1.

<sup>34</sup> J Squires 'Quotas for women: fair representation?' in J Lovenduski, & N Pippa (eds) *Women in politics* (1996) 12.

<sup>35</sup> R Tong *Feminist thought: a comprehensive introduction* (2009).

<sup>36</sup> M Makonese 'Women's rights and gender equality in the new Zimbabwean Constitution: the role of civil society in implementation and compliance' in CM Fombad (ed) *The implementation of modern African Constitutions: challenges and prospects* (2016) 156-176.

<sup>37</sup> M Zungura & EV Nyemba 'The implications of the quota system in promoting gender equality in Zimbabwean politics' (2013) 3 *International Journal of Humanities and Social Science* 2.

<sup>38</sup> See section 327(2) of the 2013 of the Constitution of Zimbabwe.

Nevertheless, the 2013 Constitution endeavours to incorporate provisions of the African Women's Rights Protocol. Unlike the Lancaster Constitution, the 2013 Constitution includes an expanded Declaration of Rights that explicitly guarantees equal human rights for women and men, including socio-economic and cultural rights, and civil, political and electoral rights. Under section 80, the Constitution affirms women's right to participate fully in political, social and economic affairs. Specifically, section 80(2) of the Constitution directs the state to take measures to achieve the progressive realisation of women's economic, social, and political rights. A cohort of civil liberties provided under the Constitution includes the right to vote, freedom of assembly, expression, and association. These liberties are crucial for the effective realisation of women's equal political participation.

The Constitution requires the state to progressively ensure gender balance in elective and appointive body members.<sup>39</sup> Specifically, section 17(b) mandates the state to take the necessary measures, including legislative measures, to ensure that 'both genders are equally represented in all institutions and agencies of government at every level; and women constitute at least half the membership of all Commissions and other elective and appointed governmental bodies established by or under this constitution or any act of parliament'. In this provision, the Constitution goes further than the wording of article 9 of the African Women's Rights Protocol. Section 17(b) does not only provide for equal participation of men and women in political and decision-making processes, but goes further to obligate the state to ensure that there is equal representation in different governmental bodies, Commission and elective positions. The Constitution of Zimbabwe should therefore be applauded for ensuring equal participation of men and women.

The section of the Constitution further provides for national institutions to ensure that women have equal access to resources such as land. Under section 17(2), the state is directed to 'rectify gender discrimination and imbalances resulting from the past practices and policies'. Clearly, in this respect the Constitution also goes beyond the Protocol by extending beyond processes stipulated in the Protocol. This move goes a long way towards ensuring gender parity outcomes in national institutions. Indeed, national institutions re-constituted after 2013, including the Public Service Commission, the Zimbabwe Gender Commission (ZGC), the Zimbabwe Human Rights Commission (ZHRC), and the Local Government Board achieved gender balanced Commissioners.<sup>40</sup> In addition, the ZGC and the Zimbabwe Electoral Commission (ZEC) have women chairpersons.<sup>41</sup> Similarly, the

<sup>39</sup> See sections 17 and 104 of the Constitution of Zimbabwe.

<sup>40</sup> Gender Links (n 14 above) 36.

<sup>41</sup> 'Gender Commission Appointed' *The Herald* 30 June 2015.

representation of women in public service improved significantly, to reach 31 per cent in 2014.<sup>42</sup>

Quotas are one of the special measures to improve women representation under article 9 of the Protocol. The Constitution introduced quotas to guarantee women representation in Senate and Parliament under section 120<sup>43</sup> and 124, respectively.<sup>44</sup> Specifically, section 120(2)(b) stipulates that elections of senators to be conducted under a party-list system of proportional representation ‘in which male and female candidates are listed alternately, every list being headed by a female candidate.’ Similarly, section 124(1)<sup>45</sup> provides for ‘an additional sixty women members, six from each of the provinces into which Zimbabwe is divided, elected through a system of proportional representation based on the votes cast for candidates representing political parties in a general election for constituency members in the provinces’. The introduction of constitutional quotas has the effect of improving numerical equality of men and women National Assembly. All the countries that have achieved or exceeded 30 per cent representation of women in Southern Africa – Lesotho (58 per cent), Mozambique (35, 6 per cent), South Africa (40 per cent), Tanzania (34 per cent) and Namibia (42 per cent) have some form of quota.<sup>46</sup> In Zimbabwe, the introduction of constitutional quotas increased women representation from 14.29 per cent in 2008 to 32 per cent in 2013 (Parliament), and from 24.2 per cent to 48 per cent (Senate).<sup>47</sup> With the introduction of this constitutional quota, Zimbabwe improved on the Inter Parliamentary Union (IPU) World Classification of women in national parliaments: from 90 out of 190 countries in 2012 to 27 out of 190 after the 2013 elections.<sup>48</sup> This improvement is commendable even though it remains below the 50-50 appeal of African Women’s Rights Protocol.

In appointing Ministers and Cabinet, the President of Zimbabwe is guided by considerations of gender balance.<sup>49</sup> With section 104(4) of the Constitution requiring gender balance, leaders are constantly reminded of this need in all appointments. In a way, inclusion of a provision on gender balance has given impetus for advocacy in cases where political leaders have reneged in ensuring gender balance in their appointments. In 2013, feminists and scholars made headlines accusing the President of Zimbabwe for appointing a male-dominated Cabinet with only three women out of the 26 Ministers, arguing that

<sup>42</sup> First Report of the Portfolio Committee on Women Affairs, Gender and Community Development on Ministry of Women Affairs, Gender and Community Development’s Programmes, Activities and Challenges and Gender Mainstreaming in Government Line Ministries, Parliament of Zimbabwe, September 2014.

<sup>43</sup> Section 120(2)(a) of the Constitution of Zimbabwe.

<sup>44</sup> Section 124 of the Constitution of Zimbabwe.

<sup>45</sup> See Section 124 of the Constitution of Zimbabwe.

<sup>46</sup> Gender Links (n 14 above) 38.

<sup>47</sup> Gender Links (as above).

<sup>48</sup> Inter-Parliamentary Union ‘Women in National Parliaments’ 2013 <http://www.ipu.org/wmn-e/arc/classifo11213.htm> (accessed 11 June 2017).

<sup>49</sup> See section 104(4) of the Constitution of Zimbabwe.

this position is against section 17 of the Constitution.<sup>50</sup> Using section 17 and 104<sup>51</sup> of the Constitution as the basis of their argument, feminists and other scholars denounced this move by the President as a mere lack of political will for constitutionalism. Persistent calls by activists contributed to numerous subsequent Cabinet reshuffles, which saw an improvement in women representation from three in 2013,<sup>52</sup> to four female Ministers as of September 2017.<sup>53</sup>

Similarly, President Robert Mugabe rejected the proposed boards for state-owned Zimbabwe Mining Development Corporation, the Minerals Marketing Corporation of Zimbabwe, and Marange Resources in 2015 on the basis of it being not gender balanced in violation of section 17 of the Constitution and article 9 of the Protocol.<sup>54</sup>

### 3.2 National policy reforms

The National Gender Policy (2013-2017) is the key policy with regard to women participation in politics and decision-making processes in Zimbabwe. It is noteworthy that the Policy mentions the African Women's Rights Protocol on several occasions. In line with the Protocol, the AU Gender Policy and the African Women's Decade, the Policy calls for the 'inclusion and active participation of women in politics and decision-making processes'.<sup>55</sup> The closest the Policy mirrors article 9 of the African Women's Rights Protocol is when it sets out women's participation in politics and decision-making as one of the eight priority areas.<sup>56</sup> Above all, the Policy recognises women as equal partners in socio-economic and political development, and calls for their full participation in public life. One set activity under the Policy's

<sup>50</sup> B Dube & C Dziva 'The appointment of 2013 Cabinet Ministers in Zimbabwe: a lost opportunity for gender parity in decision-making positions' (2014) 5 *International Journal of Politics and Good Governance* 1.

<sup>51</sup> Section 104(4) of the Constitution of Zimbabwe states that '[i]n appointing Ministers and Deputy Ministers, the President must be guided by considerations of ... gender balance'.

<sup>52</sup> The 3 women ministers were: Olivia Muchena, Higher and Tertiary Education, Science and Technology Development; Oppah Muchinguri, Minister of Women Affairs, Gender and Community Development, and Sithembiso Nyoni, Minister of Small and Medium Enterprises and Co-operatives.

<sup>53</sup> The 4 women ministers after the reshuffling in 2015 are: Prisca Mupfumira, Ministry of Public Service Labour and Social Services; Nyasha Chikwinya, Ministry of Women's Affairs, Gender and Community Development, Oppah Muchinguri, Ministry of Environment Water and Climate, and Sithembiso Nyoni, Minister of Small and Medium Enterprises and Co-operatives.

<sup>54</sup> 'Outrage over Cabinet gender bias' *The Independent* 20-26 September 2013; 'President Mugabe appoints new Cabinet' 10 September 2013 <http://www.herald.co.zw/breaking-news-president-mugabe-set-to-announcecabinet/> (accessed 20 June 2017); 'Mugabe excuses of gender bias lame' *The Independent*, 27 September to 3 October 2013.

<sup>55</sup> The National Gender Policy (2013-2017) (Ministry of Women Affairs, Gender and Community Development: Harare 2013) [www.women.gov.zw/downloads?download=3:2013-national-gender-policy](http://www.women.gov.zw/downloads?download=3:2013-national-gender-policy) (accessed 20 June 2017).

<sup>56</sup> National Gender Policy (n 55 above).

implementation strategy is to track the progress made on the participation of women in decision-making and leadership positions.<sup>57</sup>

Policies in place for women empowerment include the Girl's and Young Women's Empowerment Framework (2014), Economic Empowerment Policy<sup>58</sup> and the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (Zim-Asset)<sup>59</sup> policy. Specifically, the Girl's and Young Women's Empowerment Framework<sup>60</sup> was launched to guide stakeholders in implementing empowerment measures and eliminating all forms of discrimination and harmful practices against girls and young women. The framework recognises that empowering girls and young women contributes to their development, and to the future economic and political development of the nation. Women's empowerment and independence ultimately expands women's freedom to participate in politics and decision-making institutions.

Affirmative action practices have also been used to improve women's access to productive resources, capital, employment, and affordable and quality education. In the Public Service Commission affirmative action measures have engendered and improved women representation and participation in policy formulation and implementation within the government. Resultantly, the Public Service Commission has achieved a 30 per cent representation of women in all senior managerial posts in the civil service, while Ministry of Small and Medium Enterprise (SMEs) has increased its percentage of women receiving loans to above 30 per cent.<sup>61</sup> Similarly, the Ministry of Women Affairs, Gender and Community Development facilitated an affirmative action measure requiring 30 per cent of women's participation in tourism and mining sectors.<sup>62</sup> These efforts emulate article 9 of the African Women's Rights Protocol, and they remain crucial in uplifting the standards of women and ensuring women representation in public life.

Through various affirmative action practices, girls have been prioritised in universities and colleges, and in allocation of resources. Universities relax entry requirements for women in highly sought degree programmes such as law, engineering and medicine, which used to be predominantly pursued by men. Affirmative action measures resulted in improved enrolments for women in the education system, and key disciplines. In 2015, national enrolment rate at secondary school level was at 45.9 per cent for females and 43.1 per cent for males.<sup>63</sup> In addition, 40.7 per cent are female students in technical

<sup>57</sup> National Gender Policy (as above).

<sup>58</sup> See section 3(3) of the Indigenisation and Economic Empowerment Act Chapter 14:33.

<sup>59</sup> ZimAsset is the 'economic blueprint' set to revive the fortunes of Zimbabwe between 2013 and 2018.

<sup>60</sup> See The Girls and Women's Empowerment Framework, 2014.

<sup>61</sup> Gender Links (n 14 above) 49.

<sup>62</sup> Gender Links (as above).

<sup>63</sup> ZimStats *Women and men in Zimbabwe Report 2013* (2013).

colleges and 42.1 per cent in universities.<sup>64</sup> Women's access to education is one of the main drivers of equality and their enlightenment for political participation. Educated women have improved skills, self-esteem and are likely to be appointed in key government posts and political positions. Thus, women empowerment and affirmative action measures have long-term potential to break inequalities hindering the advancement of women as voters, potential job seekers and candidates for appointments in public offices.

### **3.3 Practices by political parties**

The task of ensuring women participation in public life extends beyond the role of the state to include political parties. Over the last years, political parties in Zimbabwe, including the Movement for Democratic Change (MDC-T), and Zimbabwe African National Union Patriotic Front (ZANU PF) have been consistent in engendering their structures through their women's wings. Women's wings provide avenues for women to be active participants, and to learn political and decision-making skills, and develop networks within political parties.<sup>65</sup>

Political parties in Zimbabwe have established various committees to mainstream gender equality in party decisions and to bring about desired outcomes of the Protocol. The MDC-T has a gender committee which carry out gender analysis of party policies and proceedings.<sup>66</sup> Similarly, ZANU PF's structures comprises of at least one-third of women in the party's principal organs, namely the Politburo, Central Committee, Provinces, District Committees, the Branch Committees and the Cell/Village Committees.<sup>67</sup> As supreme decision-making structures, within ZANU PF, engendering of these structures develop women's political skills and accords women the opportunity to partake in matters of concern to them. According to the UNDP,<sup>68</sup> political parties are the primary and most direct vehicle through which women can access elected office and political leadership. Thus, participation of women in party politics remains a key determinant of their prospects for political empowerment, particularly in local government, National Assembly and Cabinet.

Political parties improve outcomes of the Protocol through reservation of seats or constituencies for women to compete against each other. In South Africa, this reservation of constituencies for women members by the African National Congress proved an effective

<sup>64</sup> ZimStats (n 63 above).

<sup>65</sup> United Nations Department of Public Administration, *Women and elections: a guide to promoting the participation of women in elections* (United Nations Department of Public Administration: United Nations 2005).

<sup>66</sup> UN Women *Zimbabwean women in conflict: transformation and peace building, past experience, future opportunities* (2013).

<sup>67</sup> L Sachikonye *Political parties and the democratic process in Zimbabwe* EISA Research Report (2005) 16.

<sup>68</sup> UNDP & NDI *Empowering women for stronger political parties: a good practices guide to promote women's political participation* (2011).

way of ensuring a substantial number of women members of parliament during the 1994 and 1999 elections.<sup>69</sup> One challenge of party quotas remain the fact that they are voluntary. Yet, the success of discretionary quotas depends on the strong will and commitment of the party leadership to promote women participation in politics.

In most cases, voluntary party quotas that are not accompanied by compulsory constituency quotas are ineffective in increasing women representation. For instance, a certain party may reserve a constituency for a female candidate, while the opposition party may take advantage of this development by fielding a strong male candidate to compete the seat. This scenario forces political parties to overlook voluntary reservation of seats in face of stiff competition from the opposition. Furthermore, women themselves are demotivated to take the reserved seats as a result of societal shame and ridicule associated with such.

Besides, female politicians in Zimbabwe complain that political parties identify and shunt women candidates in constituencies that are not the party's strongholds, or where they often lose. When ZANU PF adopted and implemented the 25 per cent quotas in the National Assembly in 2005; the party was accused of nominating women candidates in opposition strongholds where they had little chances of success. Resultantly, only 17.7 per cent of elected ZANU-PF members were women.<sup>70</sup> Women party members continue to accuse political parties of viewing them as losing candidates. These double standards by political parties render the whole essence of quotas ineffective.

The implementation of special measures (both constitutional and discretionary) has also been heavily opposed and criticised in political parties, and some circles of the society. Critics view quotas as a mere tokenism for sacrificing 'quality over quantity'.<sup>71</sup> Ahikire noted that 'there is concern about ghettoisation of women in public politics by quotas'.<sup>72</sup> Some women view quotas as mere perpetuation of gender inequalities by categorising women as a low class or 'others'. As Dene Smuts commented: 'When you send a person into public life under a quota system, you automatically send her with a question hanging over her head about her competence'.<sup>73</sup> Quotas imply that politicians are elected because of their gender, not because of qualifications and that more qualified candidates are pushed aside.<sup>74</sup>

In addition, society views quotas as a negation to democracy in that women are given preference at the expense of men.<sup>75</sup> Quotas limit the

<sup>69</sup> S Hassim 'Representation, participation and democratic effectiveness: feminist challenges to representative democracy in South Africa' in AM Goetz & S Hassim (eds) *No shortcuts to power* (2003) 86.

<sup>70</sup> B Chiroro 'Persistent inequalities: women and electoral politics in Zimbabwe elections in 2005' (2005) 4 *Journal of African Elections* 4.

<sup>71</sup> Gender Links (n 14 above) 21.

<sup>72</sup> J Ahikire 'Vulnerabilities of feminist engagement and the challenge of developmentalism in the South: what alternatives?' (2008) 39 *Institute of Development Bulletin* 28.

<sup>73</sup> Ahikire (n 72 above).

<sup>74</sup> Dahlerup (n 27 above) 94.

<sup>75</sup> Dahlerup (as above).

fairness and competition of aspiring candidates, and the right of the electorate to choose a candidate of their choice: all of which are temperate elements in modern democracy. Despite this exclusionary rhetoric, extant literature confirms how compulsory and voluntary national and party quotas have proved effective in addressing deep rooted challenges deterring women from political participation.<sup>76</sup> Indeed, the CEDAW noted that the adoption of special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination, as they are adopted in the good spirit of addressing the history of inequality.<sup>77</sup>

### 3.4 Practices by NGOs and civil society

A major feature of political life involves civil society and non-governmental organisations (NGOs) in formulation and implementation of public policies the world over.<sup>78</sup> The efforts have largely emphasised on mobilisation of support, advocacy, provision of resources, awareness raising, support and imparting of skills to women venturing in political and decision-making institutions. Organisations such as the Women's Coalition of Zimbabwe, Women in Politics Support Unit, Zimbabwe Women Lawyers Association and Women's Trust have vast experience in advocating for women participation and representation in Zimbabwe, and have been utilising the Protocol and other African human rights instruments for this outcome. During the 2013 constitution-making process, the afore-mentioned organisations submitted position papers to the constitution-drafting team, calling for inclusion of clear cut provision for women participation in public life in accordance to the African Women's Rights Protocol. In addition, civic organisations mobilised women at all levels of society to actively participate during consultative meetings to canvass people's wishes in the constitution. These indubitable roles of civic organisations resulted in the adoption of a gender sensitive constitution.

In the post constitution era, civic organisations have forged modest levels of cooperation with women activists, political parties and female candidates to advocate and lobby for women's equal political participation and representation. Ahead of the 2013 elections, women's rights organisations conducted a series of campaigns including the 'Women Can Do it Campaign'<sup>79</sup> and the 50/50 Campaign to encourage citizens to vote for female candidates during the 2013 elections. These platforms have provided women with opportunities for capacity building to wrestle for the reserved seats under the constitutional

<sup>76</sup> Gender Links (n 14 above) 21.

<sup>77</sup> See article 4(1) of CEDAW.

<sup>78</sup> J Bossuyt *Involving non state actors and local governments in ACP-EU dialogue* Policy Management Brief 13 European Centre for Development Policy Management, December 2000 <http://ecdpm.org/wp-content/uploads/2013/10/PMB-13-Involving-Non-State-Actors-Local-Governments-ACP-EU-Dialogue-2000.pdf> (accessed 2 July 2017).

<sup>79</sup> The Women Can Do It Campaign was funded by UNFEM through the Women's Trust, a local NGO in Zimbabwe.

quota, and to effectively campaign and contest men during primary and national elections. The impact of such activities is both in short and long-term, as the imparted skills will even help in increasing women participation in future elections.

However, civic organisations' work to implement the African Women's Rights Protocol has been fraught with challenges in Zimbabwe. Foremost amongst these is the limited state-civic cooperation in democratisation process. Civic organisations are often mistrusted in democratisation, and have often been labelled agents of regime change in independent Zimbabwe. Civil society has gone through a polarising and traumatic experience characterised by disruption of operations, harassment, and blanket banning of activities in the third quarter of 2008, and centrally fettered engagement with the government of Zimbabwe in the better part of the first decade of the 21<sup>st</sup> century.<sup>80</sup> These unfavourable relations imposed harsh restrictions on the freedoms of assembly and association, yet the operations of civic groups in ensuring women participation in politics hinges on these liberties.

#### **4 PERSISTENT OBSTACLES TO WOMEN'S PARTICIPATION**

The previous section illustrated practices of implementing article 9 of the African Women's Rights Protocol in Zimbabwe. In spite of these efforts, women are yet to enjoy *equal* participation and representation in politics and decision-making bodies. In most cases, statistics show that female representation stands at around 30 per cent, which is well below the African Women's Rights Protocol desired level of 50-50 representation. These statistics speak volumes about the impediments that women continue to face in trying to effectively participate in public life.

Poverty plays a central role in increasing the individual, societal and institutional barriers of women to political participation. Poverty manifests itself through various indicators indicative of women's increased burden, including lack of education, information, employment, financial resources, health care, food and clothes. Available studies in Zimbabwe confirm that women comprise the bulk of poorer people, compared to men, in respect to access to income, justice, education, health, employment, civic involvement and social support.<sup>81</sup> Women head 45 per cent of households, 72 per cent of which

<sup>80</sup> K Chatiza 'Opportunities and challenges in institutionalizing participatory development: the case of rural Zimbabwe' unpublished PhD thesis, Swansea University (2008).

<sup>81</sup> ZimStats & ICF International *Zimbabwe Demographic and Health Survey 2010-11* (ZIMSTAT and ICF International Inc. Calverton 2012) <http://measuredhs.com/what-we-do/survey/survey-display-367.cfm> (accessed 12 June 2017); ZimStats *Zimbabwe 2011 Labour Force and Child Labour Survey 2011* [www.zimstat.co.zw/dmdocuments/Laborforce.pdf](http://www.zimstat.co.zw/dmdocuments/Laborforce.pdf) (accessed 12 June 2017).

are in poverty.<sup>82</sup> With limited funding and some forms of support from government and political parties, the majority of poor women cannot effectively participate in electoral processes including by attending meetings and putting themselves forward as candidates in party and national elections.

Indeed, contemporary politics and decision-making processes have been increasingly commercialised beyond the reach of the poor. Aspiring women candidates are in need of political funding to roll out effective campaigns, and to provide for the needs of campaigning aides and agents. As inequality, exclusion and dependency limit the political participation of poor women, better off women and those with well-resourced husbands and relatives are consequently financially supported to contest as candidates.

Poverty further limits the active participation of adult women in political activities. Women from poverty stricken families often find it beyond their capacity to attend political gatherings and stand in long voting queues. As Makumbe shows, active participation is often cumbersome for poor women in that attending meetings, voting and informing oneself about issues that affect one's community, and even voting itself require a lot of time.<sup>83</sup> A study conducted by Wordofa in Ethiopia revealed how poor women shun community meetings and voting processes as they find these to be 'a time consuming and tedious task that does not do much for them'.<sup>84</sup> Similarly, poor women in Zimbabwe tend to devote their energy to food and income generating activities such as working in fields, vending, and mineral panning instead of participating in public life.<sup>85</sup>

Poverty can also manifest through limited education. Limited education further reduces self-esteem and breeds an inferiority complex, resulting in many women shunning the public sphere. There is also a tendency by the electorate to vote for, and by political leaders to appoint financially privileged and educated people in society. Thus, limited education comes with resentment and the exclusion of women from the public sphere.

Women's participation in politics and decision-making institutions is also affected by strenuous processes undertaken to appoint or select them. Women's equal representation in elected positions continues to be affected by the first-past-the-post (FPTP) electoral system in Zimbabwe. The plurality-majority, FPTP or 'winner takes all' electoral system entails that the candidate with the highest number of votes wins even if the winner has no absolute majority.<sup>86</sup> The disadvantage with

<sup>82</sup> ZimStats & ICF International (n 81 above).

<sup>83</sup> J Makumbe *Participatory development* (University of Zimbabwe Publications: Harare 1996).

<sup>84</sup> D Wordofa 'Internalizing and diffusing the PRA approach: the case of Ethiopia' in J Blackburn & J Holland (eds) *Who changes? institutionalizing participation in development* (1998) 16.

<sup>85</sup> Dziva *et al* (n 14 above).

<sup>86</sup> RE Matland 'Enhancing women's political participation: legislative recruitment and electoral systems' in *Women in Parliament: beyond numbers* (1998) 68.

the FPTP system is that women candidates will be competing with men or other women directly, and voters will be focussing on the traits of an individual candidate. Because of patriarchy and stereotypes against women, voters often prefer male candidates above women candidates. This is different to the proportional representation electoral system, in which voters focus on the political party and its policies and programmes rather than on individual candidates. With proportional representation, more women are elected into office than in majoritarian systems.<sup>87</sup> As evidence, a review of 53 national legislatures in 1999 found that National Assemblies elected by proportional representation were composed, on average, by nearly 20 per cent women, compared to only about 11 per cent in majoritarian systems.<sup>88</sup>

The triumph of female candidates in elections is also affected by the strenuous process used to select candidates. Matland argues that, 'for women to get elected to parliament they need to pass three crucial barriers; first, they need to select themselves to stand for elections; second, they need to get selected as candidate by the party, and thirdly, they need to get selected by voters'.<sup>89</sup> At each stage, women face peculiar challenges that they must overcome before moving on to the next stage.

At the primary election stage, candidates are selected by internal party structures through a rigorous and often flawed process. In Zimbabwe, party primary elections ahead of the 2013 were marred with irregularities, and reports of women being intimidated by men, and some male candidates absconding with ballot boxes.<sup>90</sup> The influential role of 'male' gatekeepers who block women's entry into politics remains one of the most serious impediments to women's inclusion in primary election processes. 'Men dominate the political arena; men formulate the rules of the political game; and men define the standards for evaluation. This male-dominated model results in either women shunning politics altogether or rejecting male-style politics'.<sup>91</sup> Male leaders in political parties often favour their male friends, and a few female colleagues. In some cases, women candidates succeed through forging strong alliances with male leaders, even if this may mean providing male leaders with sexual favours.<sup>92</sup> This belief has seen many women, especially married women, shunning contesting for political party positions.

Violence and intimidation further limit women's participation in public life. A baseline study conducted by Gender Links revealed

<sup>87</sup> A M Goetz *No shortcuts to power* (2003).

<sup>88</sup> Goetz (n 87 above) 51.

<sup>89</sup> Matland (n 86 above) 66.

<sup>90</sup> Dziva *et al* (n 14 above).

<sup>91</sup> Shvedova (n 28 above) 21.

<sup>92</sup> Dziva *et al* (n 14 above).

rampant gender based violence in society.<sup>93</sup> About 68 per cent of women interviewed by Gender Links revealed how women experience some form of violence at least once in their lifetime, while 46 per cent of men confirmed to having perpetrated some form of violence against women.<sup>94</sup> Zimbabwe is also known for violent politics and elections that leave a trail of psychological scars to candidates and electorate.<sup>95</sup> Women activists are not spared of these skirmishes. In her book, Jestina Mukoko narrates her ordeal when she was kidnapped and tortured for the work of her civil society organisation.<sup>96</sup> Several studies documented how women have been victims of politically-motivated violence that flare up in each electoral cycle.<sup>97</sup> During the 2008 elections, estimates have it that 36 000 people were internally displaced, while 5 000 people were beaten and tortured, and 200 people were killed.<sup>98</sup> The short-term consequence of this experience was that women did not turn out to vote in the 2008 run-off election, while the long term effect remains the fact that women despise politics and elections as synonymous with violence.

Similarly, women partaking in public life, especially as candidates continue to be despised and to be subjected to acerbic verbal attacks by men and fellow women. This stems from entrenched societal norms which view the public sphere as a male domain. The verbal attacks are not simply targeted at the candidate's ideas, but often rounds on her person, on how many children she has outside marriage, on her single-motherhood status, on the alleged numbers of her sexual partners, real or imagined.<sup>99</sup> Verbal abuse remains one of the most pervasive women's rights violations and men use it to keep women in subordinate roles.<sup>100</sup> This character assassination against women results in many of them losing confidence, self-esteem and being discouraged to participate in public life.

<sup>93</sup> M Machisa & S Chingamuka (eds) *Peace begins at home: violence against women (VAW) baseline study Zimbabwe* (Ministry of Women Affairs, Gender and Community Development and Gender Links 2013).

<sup>94</sup> Machisa & S Chingamuka (n 93 above).

<sup>95</sup> T Murithi & A Mawadza (eds) *Zimbabwe in transition: a view from within* (Institute of Justice and Reconciliation: Cape Town 2011); N Mushonga 'A case study of gender and security sector reform in Zimbabwe' (2005) 24 *African Security Review* 4 430-437.

<sup>96</sup> Jestina Mukoko, an award winning peace and human rights campaigner from Zimbabwe, who won the many awards, including the United States Secretary of the State Women of Courage Award was abducted from her home in Norton, Zimbabwe on 3 December 2008 by plain clothed security agents for the activities of the organisation she worked with, the Zimbabwe Peace Project. See also J Mukoko *The abduction and trial of Jestina Mukoko: the fight for human rights in Zimbabwe* (2016).

<sup>97</sup> Research and Advocacy Unit 'When the going gets tough the man gets going! Zimbabwean Women's views on Politics, Governance, Political Violence, and Transitional Justice' 2010; Embassy of the United States 'Human Rights Report 2011: Zimbabwe' [http://harare.usembassy.gov/human\\_rights\\_report\\_2011.html](http://harare.usembassy.gov/human_rights_report_2011.html) (accessed 16 June 2017); Mushonga (n 95 above).

<sup>98</sup> Embassy of the United States (n 97 above).

<sup>99</sup> A Magaisa 'Politics and prejudice: plight of Zimbabwean women' 2009 <http://www.newzimbabwe.com/pages/magaisa94.18710.html> (accessed 20 June 2013).

<sup>100</sup> Gender Links (n 14 above).

Society continues to view women's best place to be at home, seized with reproductive roles while men are concerned with productive roles and leadership issues. These roles are perpetuated by the media that continues to portray women's place as being in the home rather than in public life. The media's portrayal of women in the home also affects the decision of appointing individuals and the voting behaviour of the electorate.

Confined to their homes, a majority of women spend their time doing unpaid household chores, and they consequently lack leadership experience, and political networks to run for office. The plight of women is made worse by the increase of the HIV/AIDS pandemic which has claimed many lives. In 2009, 1.1 million Zimbabweans were living with HIV/AIDS (61 per cent women, 39 per cent men).<sup>101</sup> The increase in the numbers of those infected and dying of this scourge also means increased unpaid care work for women. As noted by Duke,<sup>102</sup> the manifold demands for women as wives, mothers, and home keepers, leave them with little time and energy to participate in political meetings and campaigns, which unfortunately take place at very odd hours and with no strict compliance to time. Sometimes women, especially in rural areas, are not able to leave home for paid work or even to attend meetings. As a result, women lose out as these meetings are platforms where information is disseminated, and where appointments and elections are conducted. Although there is an increasing awareness about this emerging care work by women in Zimbabwe, sustainable responses thereto are still minimal.

## 5 CONCLUSION AND RECOMMENDATIONS

The African Women's Rights Protocol is an innovative instrument for advancing women's rights in Africa. Its article 9 calls for equal participation and representation of women in politics and decision-making processes. This provision is potentially ground-breaking for Zimbabwe and other African countries where women's participation in decision-making institutions has for long been quite limited. This article examines the importance of article 9 of the Protocol and reflects on its domestic effect in Zimbabwe. On domestic effect, the article notes that Zimbabwe goes beyond the Protocol to provide for legal, policy and institutional practices to implement article 9, and to bring about desired outcomes in relation to equal representation of women in political institutions. It further discusses the persistent forms of violence, poverty, and socio-cultural barriers that limit women's inclusion and participation in politics and decision-making institutions.

To ensure equal and effective women participation in politics and decision-making process, Zimbabwe must aim higher, and endeavour

<sup>101</sup> ZimStats & ICF International (n 81 above).

<sup>102</sup> J Duke 'The dynamics of women participation in democratic politics and sustainable development in Africa' (2010) 12 *Journal of Sustainable Development in Africa* 4.

to achieve the ideal of 50-50 participation of women, which may be derived from article 9 of the Protocol. To this end, Zimbabwe needs to undertake electoral reform including changing the electoral system from the FPTP to proportional representation ensuring for a certain percentage of women in elected decision-making.

Legal quotas have proved crucial in improving women's representation in political and decision-making institutions. Instead of making the quotas a temporary measure, there is a need to extend the life span of the women's quota for legislators in the Constitution. It is also recommended that Zimbabwe extends the constitutional quotas to local government elections and governance. Furthermore, the government must introduce mandatory quotas to political parties, so as to affirm equal participation and gender balance in internal party structures, and lists of candidates for national elections. Legalising party quotas allows for the electoral body to sanction or disqualify non-complying political parties. Alternatively, the government may offer incentives to political parties such as additional funding or more free broadcast time for inclusion of equal number of women amongst their candidates.

The government should also level the playing field for female political participants by discouraging all forms of violence in society. One way is to ensure that the rule of law is respected, and that impunity for the perpetrators of politically-motivated and gender-based violence is curbed. Similarly, efforts should be made to improve women's access to education, funding, and to reduce levels of poverty.

The national gender machinery, political parties and civil society must sensitise society and political party leadership on the basis and justifications for special measures and gender equality in general. This may persuade women in society to participate in politics and take up leadership positions. Sensitisation efforts may also make the society and party leadership to seriously consider, embrace, and implement quotas for gender equality. In this technological era, effective awareness raising methods can take the form of print and online media platforms, including social media. Through these platforms, experiences of women role models as cabinet members, legislators, party members, or civil society leaders around the globe can be more widely shared.

Efforts should also be made to sensitise and train print and visual media journalists to effectively profile and ensure responsible coverage of women leaders. These efforts motivate women to participate in politics and decision-making, and above all reinforce, among society and party leaders, the value of women in political and decision-making institutions.

For women activists, one way to force leaders to ensure gender balance is through constitutional petitions and public interest litigation, seeking the nullification of gender imbalanced appointments on the basis that they are contrary to provisions of the Constitution and article 9 of the African Women's Rights Protocol.

The AU and state parties to the African Women's Rights Protocol must continue engaging policy makers and academics to conduct

empirical studies illustrating the quantitative and qualitative impact of the Protocol, and the challenges faced by women impeding their active participation in public life. Periodic fora should be created for academics and policy makers at national and African level to monitor, discuss and critique the domestic effect of African human rights treaties and the prospects for advancing women's political rights.

Furthermore, the AU and its institutions are challenged to urge member states to abandon their strict adherence to dualist approaches to the relationship between international and national law, so as to ease procedures for domesticating international obligations.