

## GENDER AUDIT OF ELECTORAL LAWS, POLICIES AND PRACTICES: MOZAMBIQUE

### Key facts

Level	Last election/ announcement	Next elections	Electoral system	No of seats/ candidates/ appointments	No of women	% Women
Local government	2013	Oct 2018	PR/Voluntary Quotas	1959	274	36%
Parliament	2014	Oct 2019	PR/Voluntary Quotas	250	99	40%
Cabinet	2014			22	7	32%
Presidential elections	2014	Oct 2019		4	0	0%

### Synopsis

This country profile is part of the *Gender Audit of Election Related Laws, Policies and Practices* commissioned by the East and Southern Africa Region (ESARO) office of UN Women. It sets out key issues and options for the increased representation of women in politics in Mozambique following the October 2013 and 2014 elections that witnessed an increase in women's political representation at national and local level. The issue is of critical importance given that:

- Mozambique is going for elections on 15 October 2019. Although it is too late to effect any electoral reforms or Temporary Special Measures (TSM) for the coming elections, a gender audit of the 2019 elections will help to make the case for measures needed to ensure that Mozambique achieves gender parity in political decision-making by 2030, the deadline for the Sustainable Development Goals (SDGs).
- The Proportional Representation (PR) system that prevails both at national and local level is conducive to women's political representation, but only when combined with legislated gender quotas.
- Presently the ruling Frente de Libertação de Moçambique (FRELIMO) has a voluntary 40% quota and the two main opposition parties have 30% quotas for women in political decision-making. There is need to ensure that all political parties have a 50% quota.

### Barriers to women's political participation:

Following Mozambique's independence in 1975, and the protracted civil war that followed, the approval of the Constitution of the Republic of 1990 and the signing of the General Peace Agreement in 1992, paved the way to the peaceful multi-party elections that followed. Mozambique has had five general elections (1994, 1999, 2004, 2009 and 2014) and five municipal elections, 1998, 2003, 2008, 2013, 2018, and the mid-term elections of Nampula in 2017). Presidential, Legislative, and Assembly elections for provincial councils are scheduled for October 2019.<sup>1</sup>

The PR electoral system adopted in Mozambique is common in many post conflict countries, as a way of promoting greater inclusion. It is a far more favourable system for women's political participation than the First Past the Post (FPTP) system, especially when combined with gender quotas.

But Mozambican women continue to suffer discrimination within their parties where men still dominate in all party structures despite voluntary party quotas. Sexual harassment is rife and seldom effectively dealt with. Women are disadvantaged by the distribution of resources and the exercise of power.<sup>2</sup>

Most women do not question social relations between men and women for fear of losing party patronage. Other barriers for women include poverty; limited financial resources; low education levels; low self-esteem and the guilt of having to give up certain socially prescribed duties such as family responsibilities. 63% of families in Mozambique are headed by women; 76% by women farmers.

## **Normative frameworks**

**International Policy Framework:** Mozambique is signatory to several international instruments providing for gender equality including the Sustainable Development Goals (SDG's), UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) which it acceded in 1997, the CEDAW Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (adopted on 6 October 1999), the Beijing Declaration on the Platform for Action, BDPFA, (1995); the Convention on Civil and Political Rights (CCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR), (adopted on 16 December 1966), The International Covenant on Civil and Political Rights (ICCPR), (adopted on 16 December 1966; and the Convention on the Elimination of the Worst Forms of Child Labour and the Convention on Economic, and Social and Cultural Rights (ECOSOC) among others.

**Regional Policy Framework:** In July 2004, Mozambique ratified the Protocol to the 2003 African Charter on Human and People's Rights on the Rights of Women (the Maputo Protocol). Mozambique is also party to the 2004 Solemn Declaration on Gender and Equality in Africa. Mozambique has ratified the Southern African Development Community (SADC) Protocol on Gender and Development Protocol (2008) and the amendment updating the Protocol in line with the SDGs (2016). These instruments advocate women's equal and effective participation in all areas of decision-making.

## **National policy framework**

Mozambique has a National Gender Policy adopted in 2006 that guides gender mainstreaming within all ministries. The National Gender Policy espouses general principles of equity and equality but does not include specific targets, time frames, and a strategy for attaining gender parity in political decision-making.

## **Constitutional provisions**

At the level of *principle*, Article 35 of the Mozambique Constitution states that men and women shall be equal, and also in the article 36 of the same Constitution<sup>3</sup>, pronounces the "Principle of Gender Equality: Men and women shall be equal before the law in all spheres of political, economic, social and cultural life." The Constitution's Articles 66 and 67 recognise formal equality between men and women before the law "in respect of rights and duties and in all spheres of life".

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<sup>2</sup> Ibid

<sup>3</sup> [https://www.constituteproject.org/constitution/Mozambique\\_2007.pdf?lang=en](https://www.constituteproject.org/constitution/Mozambique_2007.pdf?lang=en)

Article 53 states that participation of women in politics shall be guaranteed. Article 57 tasks the state with ensuring the substantive equality of women: "The State shall promote and support the emancipation of women, and shall provide incentives to increase the role of women in society. The State recognises the value of, and shall encourage, the participation of women in the defence of the country and in all spheres of the country's political, economic, social and cultural activity." Article 69 outlaws and makes punishable "actions that generate privilege or discrimination on the basis of sex."

The Constitution does not make any provision for independent bodies to promote gender equality. It also does not make provision for independent candidates to stand for election.

### **Electoral system and quotas in Mozambique**

Article 135 of the Constitution (covering General Principles of the Electoral System) states that: "results of elections shall be calculated according to the system of Proportional Representation (PR)." The following laws spell out how elections are to be conducted.

**National:** Mozambique has a unicameral parliament known as the *Assembly of the Republic*. The 250 members of the Assembly are elected by Proportional Representation (PR) in eleven multi-member constituencies based on the country's provinces and on a first-past-the-post basis from two single-member constituencies representing Mozambican citizens in Africa and Europe. Under a modified version of the d'Hondt system of PR, parties or coalitions must secure 5% or more of votes on a national basis in order to qualify for a seat.

**Local** government is enshrined in the Constitution Article 27.2, as amended by Law No. 9/96: "Their purpose shall be to pursue the interests of the local population, without prejudice to national interests and to the role of the State." The Constitution defines two types of local authority: municipalities in the cities and towns, and village councils in rural areas. It requires assemblies to be elected by proportional representation, and the president or mayor of a council to be directly elected. Only a portion of Mozambique has local government. There are 53 municipalities which 6 of them are led by women, covering Mozambique's 33 cities and 20 of the 128 towns in the districts.<sup>4</sup>

### **Electoral Laws in Mozambique**

<b>Electoral Law</b>	<b>Purpose</b>
Electoral Law no amended and republished by Law no 5/2013.	Regulates voter registration,
Electoral Law no 8/2013, amended and republished by the Law no 2/2019	Regulates presidential and legislative elections,
Electoral Law no 3/2019	Regulates elections to the Provincial Assemblies
Electoral Law no 7/2013, amended and republished by law no 7/2018	Regulates municipal elections
Electoral Law no 6/2013, amended and republished by Law no 30/2014	Governs the National Electoral Commission.

Source: Electoral Institute of Southern Africa (EISA)

<sup>4</sup> [http://www.clgf.org.uk/default/assets/File/Country\\_profiles/Mozambique.pdf](http://www.clgf.org.uk/default/assets/File/Country_profiles/Mozambique.pdf), accessed 8 Sept 2019.

### ***General provisions***

The Electoral law makes the following key provisions:

- **Article 37:** Political parties, coalitions of political parties or groups of proponent citizen voters are entitled to equal treatment by the electoral administration bodies of public and private entities, in order, freely and in the best conditions , to carry out their electoral campaign.
- **Article 38:**1. No limitation on the free expression of political, economic, social and cultural principles may be imposed during the electoral campaign. 2. During the period of the electoral campaign, no penalties for acts that do not offend the Constitution of the Republic and other laws may be applied to companies that exploit the media or their
- **Article 75: 1.** The act of voting is a right of every citizen. 2. Public and private entities, enterprises and other employers shall grant their officials, state agents and workers, if necessary, time off in order to be able to vote.

### ***Violence Against Women in Elections***

Article 39 of the Electoral Act has the following generic provisions:

- No one may be coerced into taking or not taking part in any meeting or demonstration.
- The administrative authorities or the Police of the Republic of Mozambique may only interrupt the holding of a meeting or demonstration, held in public places or open to the public, when it is disregarded of its purpose or objectives, and when disturbing public order and tranquility.
- The processions and parades can be carried out respecting the limits imposed by the maintenance of the public order, the order of the transit and the period of rest of the citizens.
- The presence of agents of the police authority in meetings or demonstrations organized by any candidature can only be requested by its competent organs, being the organizing entity responsible for the maintenance of the order when it does not make such request.

There are no specific provisions with regard to Violence Against women in Elections (VAWIE). In Mozambique, women citizens are able to express political opinions without any legal interference or limitations. All citizens, women and men have the right to receive and impart information and to make an informed electoral choice. Since the ending of the civil war in 1992 elections in Mozambique have generally been peaceful. The PR system also provides some safeguards against the personalised attacks in the FPTP system as voters vote for a party rather than an individual. However gender violence takes many forms, including verbal abuse, which is often a deterrent to women in politics.

### ***Political Parties:***

The Constitution Article 122(1) provides all women and men equal rights to hold public and political office. Mozambique is officially a multi-party system, which presently has three main parties, though dominated by the ruling FRELIMO since independence. There is no requirement in either the Constitution or the electoral laws that political parties should have quotas for women. This is left as a voluntary decision for the parties.

### Gender audit of political party manifestos in Mozambique<sup>5</sup>

GENDER QUOTA	GENDER SPECIFIC REFERENCES	GENDER MAINSTREAMED IN MANIFESTO
<b>FRELIMO</b>		
Frelimo has a voluntary 40% quota for women.	<ul style="list-style-type: none"> <li>• Fights against all forms of GBV, forced marriages, sexual violence and domestic violence.</li> <li>• Ensure freedom of expression for women</li> <li>• Ensure implementation of public policies and laws which promotes gender inclusion.</li> <li>• Consolidate and harmonize structures and systems that provides inclusion and eliminates discrimination in the workplace.</li> <li>• Value active role of women in the family and community.</li> <li>• Strengthen the role of mozambican women in public, social, economic life at all levels.</li> <li>• Implement actions that stimulate women to find alternative solutions for income generation.</li> </ul>	<ul style="list-style-type: none"> <li>• Access of education and job creation</li> <li>• Develop initiatives to support inclusion in economic life and increasing opportunities including for women.</li> <li>• Boost the development of local associations.</li> <li>• Strengthen family stability in the creation of a new generation in the country.</li> </ul>
<b>RENAMO</b>		
RENAMO has a 30% quota for women.	<ul style="list-style-type: none"> <li>• Reduce barriers to women in politics.</li> <li>• Strengthen the parliamentary system to ensure independence, transparency and gender inclusion.</li> <li>• Give women senior leadership positions within the party.</li> <li>• Severe punishment for perpetrators of gender violence.</li> <li>• Create centers for women victims of violence.</li> <li>• Introduce an incentive for female nurses operating in rural areas.</li> <li>• Recognise and value the social function of women by increasing literacy, including women and encouraging their participation in political and business life;</li> <li>• Award scholarship for young women; provide bursaries and scholarships to girls.</li> <li>• Prioritise maternal protection through establishment of services for vulnerable women and children.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure quality education that is inclusive from grade zero to pre -school.</li> <li>• Family, women and children will be given a special attention.</li> </ul>
<b>MDM</b>		
The MDM has a 30% quota for women.	<ul style="list-style-type: none"> <li>• Historically women have been neglected therefore the party will ensure inclusion of women as key to fight inequality and promote economy.</li> <li>• Ensure gender equity is observed in decision making positions.</li> </ul>	<ul style="list-style-type: none"> <li>• Men and women must be alert to fight violation of human rights</li> <li>• Promoting equality in areas such as access to justice, health, nationality, land</li> </ul>

<sup>5</sup> From political party manifestos for the 2019 elections accessed from their websites

GENDER QUOTA	GENDER SPECIFIC REFERENCES	GENDER MAINSTREAMED IN MANIFESTO
	<ul style="list-style-type: none"> <li>• Elevate the status of women through inclusion of women in leadership positions and eliminate injustice.</li> <li>• Ensure women’s empowerment through support and reform policies in particular gender policies contributing for development of the country.</li> <li>• Fight GBV, VAW and disseminate policies that fight violence.</li> <li>• Create a specific bank credit for women to develop the economic activities.</li> <li>• Ensure women’s empowerment by supporting gender specific policy reforms such as combating GBV.</li> </ul>	<ul style="list-style-type: none"> <li>rights, social security and inheritance</li> <li>• The party will create health systems which are inclusive and gender priority</li> <li>• Parental leave segmentation</li> <li>• Reproductive rights issues</li> </ul>

The analysis, based on party manifestos for the 2019 elections, shows a high level of gender awareness among political parties, both in their specific references to women’s empowerment, and mainstreaming of gender in their various pledges. Areas covered include political participation; GBV; employment and health. A commendable feature is that all the parties have a voluntary quota for women: 30% in the case of RENAMO and MDM, and 40% in the case of FRELIMO.

FRELIMO held its 11<sup>th</sup> Party Congress in September 2018 where the Party President was elected. The Congress also re-elected the political commission and its central committee, including several women. At the Congress President Filipe Nyusi committed his Government to strategies and priorities towards efforts for gender parity including:

- Ensuring that political female knowledge and skills are cascaded down to rural and communities to enable female representation at grassroots level which are the pillars of a great and successful nation.
- Increasing women leadership in local government (presently only six out of 53 councils are led by women). The Ministry of Local Government was tasked with investing in capacity building and searching for potential female candidates for the 2018 Local Government elections.
- Working with other political parties to ensure women representation in political decision making in increased.

### **Elections Management Body**

The Mozambique Electoral Commission (CNE) is established under the Constitution. The Commissioners are elected by Parliament in terms of political party representation. Presently the Commission consists of 17 members, including a Chairperson and two Deputy Chairpersons as follows:

- Five representatives of FRELIMO (Frente de Libertação de Moçambique);
- Four representatives of RENAMO (Resistência Nacional de Moçambique);
- One representative of the MDM (Movimento Democrático de Moçambique);
- Seven members from civil society organisations.<sup>6</sup>

<sup>6</sup> <https://eisa.org.za/wep/moznec.htm>, EISA, 2019,

The Commissioners are appointed for a five-year term.<sup>7</sup> Members must be citizens of Mozambique, over 25 years old, of recognised moral and professional merit and "are fit to exercise their duties with trustworthiness, independence, impartiality, neutrality, objectivity, competence and zeal"<sup>8</sup>

Equal representation of women in the CNE is not a legal requirement. Of the 17 members, 2 are women (12%). None of the ten representatives put forward by political parties are women. The chair and the two deputies are all men.

The CNE is responsible for supervising voter registration, conducting of elections and holding of referenda. The Technical Secretariat for the Administration of Elections (STAE) acts as the executive arm of the CNE. It is headed by a General Director, who is appointed by the President after a public nomination process. The General Director is assisted by two deputies during election period. The functions of the Commission and STAE are: registration of voters; supervision and conduct of all electoral processes.<sup>9</sup>

The Provincial and municipal or district electoral commissions are ad hoc structures created to execute electoral operations for the CNE. The Constitutional Council supervises electoral process, verifies presidential candidates, receives petition appeals, validates and declares final results of elections. The Constitutional Council appointed by the president and parliament with equal representation of political parties in the Assembly of the Republic.<sup>10</sup>

There is no written evidence that the EMB is committed to gender mainstreaming in its structures and operations. Data collection is sex-disaggregated but not in all parts of the electoral process. Collaborative activities between CNE and civil society organisations such as EISA have included gender equality components especially voter education and stakeholder consultations, though there is scope to extend this.

### Voter enrolment and education

Article 73 of the Constitution provides all women and men, over the age of 18, with equal voting rights and participation in the political election process at all levels of state and society.

On 15 April 2019 CNE Chair Abdul Carimo **Sau** announced the voter registration process including times and measures for special cases such as the areas hit by Cyclone Idai. The CNE keeps sex disaggregated data. In the 2019 elections women comprised 6,910,388 (53,5%) voters compared to 6,035,533 men (46.5%).

Three key programmes for voter education include:

- **Civic Education:** The Electoral commission provides detailed explanation of the steps needed to vote on Election Day. In addition, in the two weeks prior to the election, CNE sends text messages per day focusing on the importance of voter participation.
- **Electoral Hotline:** Citizens receive and send text



<sup>7</sup> <https://www.ecfsadc.org/en/members/79-national-election-commission-cne-mozambique.html>

<sup>8</sup> Law 6/2013, Article 5.

<sup>9</sup> Ibid

<sup>10</sup> <https://www.ecfsadc.org/en/members/79-national-election-commission-cne-mozambique.html>

messages reporting electoral problems or issues to an electoral hotline. Queries and concerns are often responded to before, during and post elections.

- **Civic Education plus Electoral Hotline (Newspaper):** The newspaper program combines elements of other two interventions to strengthen civic education and share latest information on elections.



The CNE works closely with media partners such as radio, television and print media to disseminate elections information at the different stages. There is no specific requirement for the CNE to promote gender equality in its voter education. However, as seen in the posters below, the CNE has made great efforts to ensure that its materials are gender aware through use of women (including young women) in the imagery and publicising the fact that women comprise the majority of voters. EMB have specific modules targeted at women. That includes audio and TV spots

### **Civil society**

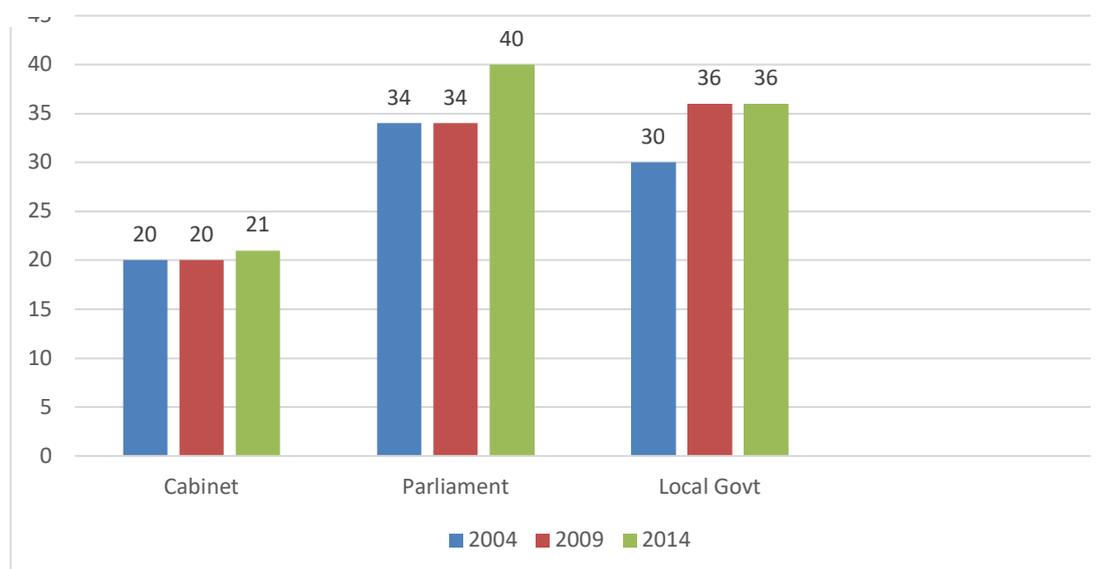
Women's rights organisations are among the civil society stakeholders consulted in the elections by the CNE including as part of stakeholder consultations and as election observers. CSOs use the voter education to remind commitments made by member states to advance gender equality. The Institute for Multiparty Democracy has supported and held training sessions with gender CSO, Parliamentarians and Government Officials

Civil society organisations (CSOs) in Mozambique promote the 50/50 campaign as part of voter education and capacity building of women candidates and women politicians. In this work, CSOs collaborate with women Members of Parliament (MPs) through the Mozambique Women's Parliamentary Caucus, as well as through local authorities. These include:

- *Forum Mulher* is an umbrella organisation based in Maputo which functions as a resource and communication network to improve the efficiency of WRO already involved in gender advocacy and gender mainstreaming. Forum Mulher plays a very active and decisive role in the development of a more gender-sensitive Family Law.
- *The Association of Mozambican Professional all Business Women (ACTIVA)* is a national association established in 1990 to support women's role in the country's economic development. With a large membership, ACTIVA has a number of working groups involved in promoting gender-sensitive legislation regarding female entrepreneurs.
- *Gender Links Mozambique (GLM)* plays an instrumental role in promoting gender equality and justice especially at the local level through its Centres of Excellence for Gender in Local Government.

GLM conducted gender audit of the 2013 local and 2014 national elections, and will conduct a gender audit of the 2019 elections. The results are used as advocacy tools before, during and after all electoral systems.

## Gender and elections outcomes over the last three elections



The graph tracks women's participation in politics in Mozambique over the last three elections. Women's representation in parliament has increased from 34% to 40% and in local government from 30% to 36%. Following the 2014 elections, parliament elected the first women to chair the Assembly of the Republic. Renamo and Frelimo appointed women party whips. Three of the nine specialised parliamentary committees are chaired by women. But in Cabinet, an important indicator of political will, women's representation has remained stagnant – around 20% to 21%. Looking at the trends over the last three elections, the main concern is how to move in Mozambique from minimum positions on women's representation to gender parity.

### Representation of women in parliament by party

Party	Total seats	Total women	% women
FRELIMO Bench	144	69	48%
RENAMO Bench	89	23	26%
MDM Bench	17	2	12%

The table disaggregates women's current representation in the assembly by political party. This shows that with 48% women in the national assembly FRELIMO has exceeded its 40% target. But at 26% and 12% respectively, RENAMO and the MDM lag behind. This is unlike neighbouring South Africa, where over time the proportion of women among opposition parties has increased, such that the representation of women is not solely dependent on the ruling African National Congress (ANC).

In the party lists for 2019, FRELIMO honoured its 40% quota for women on its lists. RENAMO and MDM have 28% and 21% women candidates – lower than their 30% quota. Across all parties, women candidates make up 30 percent of the lists in the legislative elections. This suggests that there is unlikely to be a dramatic increase in women's representation in the 2019 elections. Indeed, if the FRELIMO majority declines, there could even be a reduction in women's representation.

### ***Options for increasing women's representation in Mozambique***

To safeguard and increase women's participation in politics, Mozambique could consider revising articles of the electoral law that govern the organisation of the candidate lists in the closed-list system. Consideration could be given to a one woman, one man "zebra" list or at worst ensuring that one out of every three candidates on the list is a woman.

There is a precedent for the latter in local government in Namibia where the law requires that one in every three candidates on PR lists be a woman. The ruling South West African Peoples Organisation (SWAPO) introduced a motion in parliament in June 2019 to introduce a 50% legislated quota in the national assembly. This will not become effective until after Namibia's elections later this year. However, this is a crucial move for the 2024 elections that Mozambique could benefit from studying, given the similarities in systems.

### **Conclusions and recommendations**

Mozambique has made commendable strides in establishing a robust legal and policy framework for governance and democratic processes. It is important to safeguard this enabling legal and policy environment while addressing the longer term root causes of gender inequalities.<sup>11</sup> Key recommendations include:

**Electoral systems and quotas:** Mozambique should consider legislating a 50% quota for all political parties and require that women be evenly distributed in PR lists at national and local level. Such a bold move would guarantee gender parity in the next elections; and ensure that a matter of such import is not left to the whims of political parties.

**Electoral Laws:** The several reviews of electoral laws were an important step for the Government of Mozambique to ensure smooth facilitation of elections. However, these reviews missed the opportunity to go from gender neutral to gender aware provisions. Bold and systematic integration of gender into electoral laws is crucial for the achievement of gender parity. Specific areas for review include:

- Financing of campaigns.
- Bribery by candidates.
- Academic qualifications.
- Method of voting.
- Response to political violence, including GBV.

**Political parties:** The revised electoral law should require that all political parties adopt 50% quotas in all internal party procedures as well as election lists. Parties should also:

- Amend their constitutions and manifestos to ensure consistency and compliance with agreed quotas, including in their own structures.
- Develop and adopt system-wide gender policies, and not isolate gender issues to women's wings.
- Offer equal support and additional encouragement to women candidates.

**Electoral Management Body:** The CNE should:

- Develop and adopt a gender policy to ensure women's equal and effective representation in the commission, its staff, electoral operations and practices.
- Integrate the gender and elections checklist into preparations for; analysis and recommendations for improving the gender responsiveness of elections.

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<sup>11</sup> Sindy Karber, Female political participation and their influence towards greater empowerment of women in Mozambique, 2015

- Work with law reform bodies in lobbying for changes to electoral systems and laws to make these more gender responsive.
- Work with WRO to mainstream gender in voter education.
- Expand voter education to include gender and leadership in order to change societal attitudes towards female candidates.
- Provide security and safety for all candidates and voters during elections especially women.

**Civil society organisations:** WRO in Mozambique must continue to lead the watchdog, capacity building and advocacy roles including:

- Monitoring electoral processes from a gender perspective;
- Conducting gender audits of elections and widely publicising the findings.
- Lobbying for electoral reform.
- Building the capacity of women candidates to campaign as well as be effective leaders in office.
- Facilitating 50/50 campaigns at national and local levels.

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