

**Submission to the Parliament of Zimbabwe
By the Women in Local Government Forum (WiLGF), Gender Links and the
Commonwealth Local Government Forum
March, 2020**

Executive Summary

This submission responds to the call for submissions by the Parliament of Zimbabwe to the Constitution of Zimbabwe Amendment No 2 Bill published on 31 December 2019. Specifically, the submission responds to Clause 11, the proposed amendment to *extend the party list of women members by another two extra parliaments (from two to four parliaments)*. The submission's major concern is the exclusion of local government from Clause 11 of the Constitutional Amendment.

Prior to the adoption of the current Constitution in 2013, local government was not provisioned for in the Constitution. The inclusion of local government as the 3rd tier of government in the current Constitution is a positive outcome. However, the Constitution does not address issues of women's political participation and representation at this level. While sections 17, 56, 80 124, and 277 of the Constitution provide for gender equality and local government elections, they are silent on women's representation at the local level. Women's representation in local government has declined in the last three elections from 19% in 2008 to 16% in 2013 and 14% in the 2018 election.

Against this background, the Women in Local Government Forum (WiLGF), Gender Links (GL) and the Commonwealth Local Government Forum (CLGF) welcome the spirit of the amendment, which seeks to promote women's equal participation in politics. However, we submit that the measure being proposed is insufficient to give effect to Article 17 of the Constitution which provides for: "*full gender balance in Zimbabwean society particularly with regard to promoting the full participation of women in all spheres of Zimbabwean society on the basis of equality with men and to take legislative and other measures to ensure that both women and men are equally represented in all institutions and agencies of government at every level.*"

Other sections that relate to equality are **Section 56** on equality and non-discrimination which states that: (1) "*All persons are equal before the law and have the right to equal protection and benefit of the law*". (2) "*Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres*" and (3) "*Every person has the right not to be treated in an unfairly discriminatory manner on such grounds as their nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, disability or economic or social status.*"

Section 80 provides for the rights of women. It states that: "*Every woman has full and equal dignity of the person with men and this includes equal opportunities in political, economic and social activities*".

Section 124 provides for the composition of the National Assembly and **Section 277** that governs local authorities' elections.

In particular:

1. These provisions continue to **exclude women's equal representation in local government, the tier of government closest to the people.**
2. The continuation of the 30% reserved Proportional Representation (PR) seats at the national level after two elections does not guarantee the achievement of women's equal participation at that level. Women's representation in parliament dropped from 36% in 2013 to 34% in 2018.

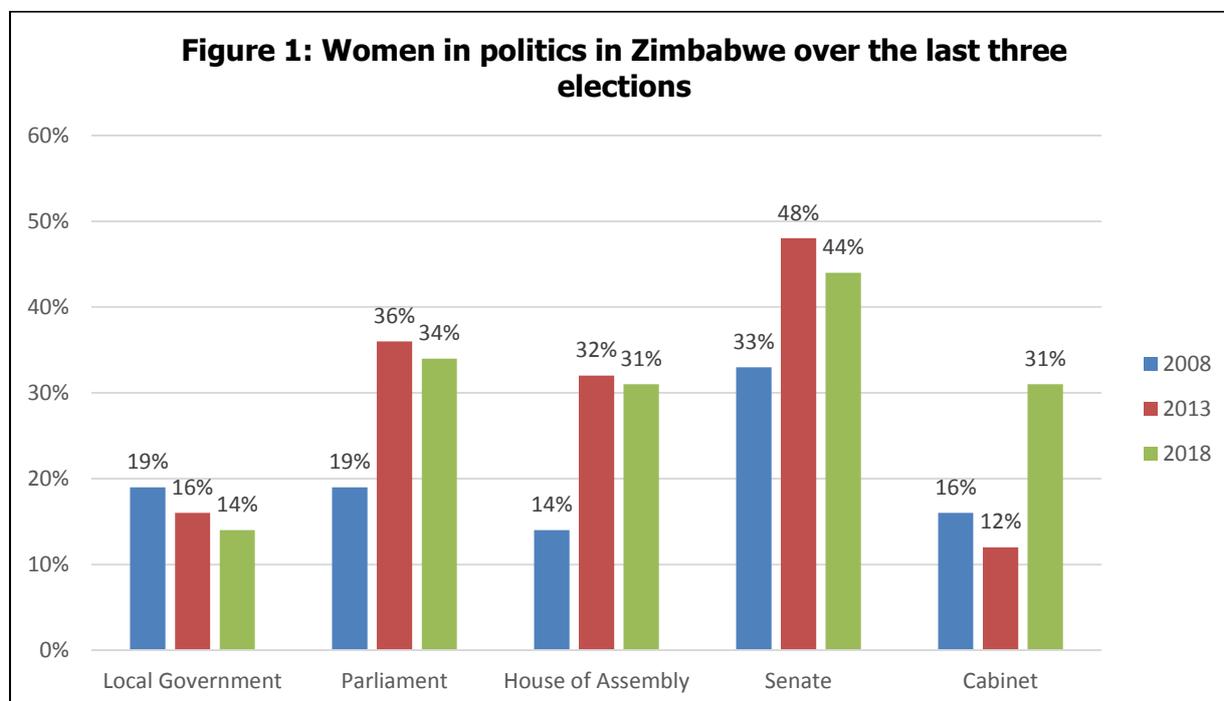
This submission:

1. Proposes adjustments to the Zimbabwe Constitution Amendment No 2 Bill (31 December 2019) Clause 11, to read: *Extend Special Temporary Measures at national and introduce such measures for local elections to give effect to Article 17 of the Constitution that provides for gender parity in all areas of decision making.*
2. Advocates that Temporary Special Measures (TSM) provided for in the Constitution include women at the **local level.**
3. Requests parliament to ensure that relevant legislation, including the Local Government Act and the Electoral Act comply with these provisions.
4. Supports the proposed Gender Equality Act that would give effect to all Constitutional provisions for gender equality.

Context

Women's representation in political decision making in Zimbabwe across all tiers of government continues to be low as shown in figure 1:

Elections outcomes over the last three elections



Source: Zimbabwe Electoral Commission and Gender Links

Figure one shows that

- The proportion of women at local level has receded with each election – from 18% in 2008; to 16% in 2013 to 14% in 2018. *Despite the provisions of Article 17, there is no quota for women at the local level where elections are run solely on a FPTP basis.*
- The highest political representation of women in Zimbabwe is in the Senate, where a “zebra” quota operates together with a PR system for 75% of the seats. However the level of women in the senate dropped from 48% in 2013 to 44% in 2018. The 50% target has still not been achieved. *However, the “zebra” quota within the PR system in the senate has been the most successful of all the measures to date in Zimbabwe for increasing women’s representation.*
- The second highest political representation for women in Zimbabwe is in the National Assembly where 30% seats are reserved for women on a PR basis. Following the adoption of the new Constitution in 2013, the proportion of women in the national assembly increased from 14% to 32%, but dropped to 31% in 2018. Overall women’s representation in parliament dropped from 36% to 34% in 2018. *The PR quota for women at national level has not delivered the 50% guaranteed by the Constitution.*

The only area in which there has been a significant *increase* in women’s political participation is in cabinet – from 12% in 2013 to 31% in 2018. This shows that there is *political will* to increase women’s political participation. This will needs to be reflected in concrete measures in the Constitution and legislation to ensure that the 50% target is achieved in all areas of decision-making.

In June 2019, the Zimbabwe Gender Commission (ZGC) with the support of UNWomen and Gender Links hosted a SADC Gender and Elections Mission that shared comparative experience from a 2015 study visit to Mauritius (which has a First Past the Post System), Namibia (a Proportional Representation System) and Lesotho (a Mixed system). The team met with key stakeholders and political parties. Evidence from the SADC region shows:

Electoral system	Overall Women %	With TSM %	Without TSM %
FPTP	13%	15%	13%
PR	38%	38%	36%
MIXED	34%	37%	23%
OVERALL	26%	38%	16%

Source: SADC Gender Protocol Barometer 2018

- A strong correlation between high levels of women’s representation in the region and the PR and mixed electoral systems.
- A strong correlation between the existence of Temporary Special Measures (TSM) and higher level of women’s representation, especially in the PR or Mixed System.
- The power of specific Constitutional provisions for gender equality both at the level of principle *and* in electoral provisions for bringing about these changes.

Please refer to **Annex A** for details on different electoral systems and how they can be combined with quotas or Temporary Special Measures to increase women’s representation in political decision-making.

Electoral provisions in the Constitution with a bearing on gender

Local government

Chapter 14 of the Constitution sets out the provisions for Provincial and Local Government. Section 265, setting out “general principles” mentions the “*democratic participation in government by all citizens and communities of Zimbabwe*” but does not specifically mention gender equality. Section 277 sets out “election to local authorities.” These are to take place concurrently with presidential and parliamentary elections, and “in the case of an election, other than a general election, to fill one or more casual vacancies, as soon as practicable after the vacancies have occurred.” Chapter 7 of the Constitution on Electoral Laws stipulates the provisions for PR seats in the national assembly and senate and related quotas for women as above, but makes no mention of local government.

National assembly: Section 124 provides that “for the next two lives of the National Assembly (commencing in 2013), an additional sixty women shall be elected under a party-list system of proportional representation based on votes cast for political party candidates. In essence this means that from 2013 to 2023, Zimbabwe will have a mixed system in the national assembly: 210 seats voted for on a constituency (First Past the Post of FPTP) basis and 60 seats distributed among parties on a Proportional Representation (PR) basis but reserved for women only.

The Senate

Section 120 of the Constitution sets out the composition of the senate, summarized below:

Criteria	Number	Electoral System	Special provisions
Elected from provinces (6 candidates x 10 provinces)	60	PR	Male and female candidates are listed alternately, every list being headed by a female candidate.
Chiefs – 2 each from the 8 provinces excluding the metros (Harare and Bulawayo)	16	Elected by assembly of chiefs	
President and Deputy President of the National Council of Chiefs	2	Elected by chiefs	
Persons with disability	2	Appointed	
TOTAL	80		

Source: Constitution of Zimbabwe and Gender Links

The table shows that 60 out of 80 seats (or 75% of the seats) are distributed among parties based on the percentage vote that they garner in the elections (i.e. on a PR basis). This is subject to a “zebra style” quota of one woman, one vote, with women always topping the list. The remaining 25% of seats in the senate are distributed to chiefs; president and deputy president of the National Council of Chiefs, as well as persons with disability.

Electoral Amendment Act

There is no requirement in the Electoral Law for political parties to have gender quotas or any other gender provisions. However, the Electoral Code of Conduct prohibits political

parties from discriminating “on the grounds of race, ethnicity, sex, gender, class or religion in connection with an election or political party.”¹

The Electoral Amendment Act 2018 has the following provisions with regard to women’s participation in political parties: “Every political party and every candidate must:(a) Respect the right of women to communicate freely within parties and as candidates; and (b) Facilitate the full and equal participation of women in political activities; and (c) Ensure the free access of women to all public political meetings, marches, demonstrations, rallies and other public political events; and (d) take all reasonable steps to ensure that women are free to engage in political activities.”

Political Party candidature at the National level in the 2018 elections

The 2018 elections witnessed a record number of political parties contesting the elections but a very low proportion of women candidates.

Table 3: Women candidates in the 2018 Zimbabwe elections

Level	No of parties that fielded candidates	No that fielded no women candidates	No that fielded only one woman candidate	% women candidates
Local	47	20	2	15%
National	40	12		17%

Source: Zimbabwe Electoral Commission and Gender Links

Table 3 shows that in the 2018 elections, 47 political parties fielded candidates; 20 of these did not field any women candidates at all and two parties fielded only one woman each. Women comprised a mere 15% of candidates. Out of 210 Constituencies in Zimbabwe, 84 were contested by men only. This meant that but for the PR quota seats women would barely have featured in the 2018 elections. Forty political parties fielded candidates for the Local Authority Elections in 2018. Of these, 12 fielded men only. Women constituted a mere 17% of the 6796 candidates. As the chances of all these women winning their seats were low, the likelihood of women’s representation dropping below the 2013 figure of 16% was high even before the elections commenced.

Options for increasing women’s representation

At the ***National level***, the system of reserving seats for women on a PR basis has resulted in the bare minimum 30% being achieved. Expressing “serious concern” at the proposal to extend the current system for another two terms, Women’s Academy for Leadership and Political Excellence (WALPE) stated:

“This proposed amendment means that the system will continue for a further 10 years in its current format. According to our research published in October 2019 titled ‘**The Efficacy of the Women’s Parliamentary Proportional Representation Quota System**’, 64% of the participants preferred that the gender balance provided for in Sections 17, 56 and 80 of the constitution be fulfilled. To note is that research participants were drawn from ZANU PF, MDC, MDC T, independent candidates, women’s rights activists, civil society leaders, Parliament, the Zimbabwe Electoral Commission (ZEC), the Zimbabwe Gender Commission,

¹ Electoral Act of Zimbabwe (2004), Section 160A.

youth representatives, disability rights organizations, aspiring women leaders, women and councilors etc).”

The key issue is **how** to achieve this. Consistent with Section 17 of the Constitution, *the quota for all parties should apply to both the PR and the FPTP seats*. While the result would be guaranteed in the case of the PR or list seats, fielding equal numbers of women and men candidates in the FPTP seats would 1) be consistent with Section 17 of the Constitution and 2) substantially increase chances of a higher proportion of women being elected as the biggest struggle for women in the FPTP system is getting past the primaries. This, combined with rules that ensure a fair playing field would, over time, enhance women’s confidence in participating in both systems².

At the **local level**, the tier of governance closest to the majority of women, elections are run solely on a FPTP basis. Section 124 of the Constitution (creating a mixed system at the national level) does not apply at the local level. This is inconsistent with Article 17 of the Constitution that provides for gender parity in all areas of decision-making. The PR system is generally not favoured at the local level where constituents prefer to be able to access and hold to account an individual councillor as opposed to a political party. There are precedents to mixed systems at the local level (for example in South Africa, where 60% of council seats are elected on the basis of wards or constituencies and 40% on a PR basis). This is an option Zimbabwe may wish to explore in the longer term, going a step further by including a 50/50 quota for women for both the PR and the FPTP seats. Such a solution is the same as the recommendation made for the national assembly and would bring the two systems in line.

If Zimbabwe retains the FPTP system at the local level, there are a number of TSM that can be considered. The details are at **Annex B**. There are pros and cons to each of these options. We believe that an adaptation of the Mauritius option, fielding equal numbers of women and men candidates, and accompanying this by strong lobbying, advocacy, capacity building and public awareness, as has happened in Mauritius, is the most democratic of these options.

Recommendations

- 1) Amend the **Zimbabwe Constitution Amendment No 2 Bill (31 December 2019) Clause 11**, to read: *Extend Special Temporary Measures at the national level, and introduce such measures for local elections, to give effect to Article 17 of the Constitution that provides for gender parity in all areas of decision making.*
- 2) **Amend Section 124 of the Constitution – Composition of the National Assembly to read:** The Assembly shall comprise 270 members chosen from the 210 constituencies that Zimbabwe is divided into. *All parties shall field equal numbers of male and female candidates.* A further 60 seats, six from each of the provinces in which Zimbabwe is divided, shall be elected through Proportional Representation based on the votes cast for members representing political parties in a general election for constituency members in the provinces *in which male and female candidates are listed alternatively.*

² The closest parallel to this is the national assembly in Lesotho, in which 40% of the seats are elected on a PR basis and 60% on a FPTP basis. A zebra quota applies to the PR seats but not the FPTP seats. If Zimbabwe applied a 50% quota to both, it would be the first in the region to do so.

- 3) **Add to Section 277, Elections to Local Authorities:** *All political parties shall field equal numbers of male and female candidates.*
- 4) **Amend the Electoral Act and the Local Government Act** to be consistent with these provisions.
- 5) **Enact** the Gender Equality Bill to ensure the substantive attainment of Sections 17, 56 and 80 of the Constitution.

Annex A: Gender, Electoral systems and Temporary Special Measures

Electoral system and quotas

There are two main types of electoral system:

- In the **Proportional Representation (PR)** or “list system” citizens vote for parties that are allocated seats in parliament according to the percentage of vote they receive. Individual candidates get in according to where they sit on the list. In an open list system, voters determine where candidates sit on the list. In a closed list system, the party determines where candidates sit on the list, although this is usually based on democratic nomination processes within the party.
- In the **Constituency or “First Past the Post” (FPTP)** system, citizens vote not just for the party, but also for the candidate who represents the party in a geographically defined constituency. Thus a party can garner a significant percentage of the votes, but still have no representative in parliament, because in this system “the winner takes all”.

SYSTEM	PROS	CONS	GENDER CONSIDERATIONS
FPTP	Good for accountability	“Winner takes all” is not good for inclusion	Women especially excluded – lack funds and networks
PR	Good for inclusion	Weak on accountability – vote for a party, not a candidate	When combined with voluntary or legislated quota results in rapid increase in women’s participation
Mixed	Includes the best of both worlds	PR candidates are regarded as token	If the PR candidates happen to be women only (e.g. national level in Zimbabwe) this adds to the notion of tokenism

Source: Gender Links

Table one summarises the prevailing electoral systems, including their pros and cons, and the gendered dimensions of these systems. The most popular electoral model practiced in SADC is the First Past the Post/simple majority electoral model. This model is seen as strong on accountability, but weak on inclusion, including inclusion of women. The system, sometimes referred to as “winner takes all” has a heavy emphasis on individual candidates. Finance, visibility and networks play a key role in success. These are often heavily weighted against women.

The PR system, sometimes referred to as the “list” system, is seen as strong on inclusion, but weak on accountability. There is overwhelming evidence internationally to suggest that women stand a better chance of getting elected under the Proportional Representation PR (and especially the closed list PR system) as opposed to the constituency electoral system.³ The reason for this is that in the latter case, candidates focus on the party and its policies, rather than on a particular individual. This works in favour of women - at least in getting their foot in the door- because of the in-built prejudices against women in politics. The

³ For more information on the comparative global data on TSM for women in politics see www.idea.int/quota.

chance of women getting elected is even higher when the PR system works in concert with a quota.

The mixed system combines both PR and FPTP. Where this happens, there is typically a higher proportion of women in the PR seats than in the FPTP. Quotas are often more usually used in conjunction with the list than with the PR system. This is demonstrated in examples shared at the Policy Dialogue that will be summarised in subsequent sections.

Temporary Special Measures (TSM)

TSM are a form of affirmative action or equal opportunity measure targeted at addressing the slow pace of change in the participation of women and minority groups in areas of society where they are historically underrepresented.⁴ There are three main types of quota (voluntary, reserved seats (Constitutional or legislated) and as well as reserved candidacy that can be constitutional or legislated).

Table 2: Possible combinations of TSM and electoral systems

Type of quota	PR system	FPTP	Mixed PR and FPTP
Voluntary party TSM	E.g. Frelimo in Mozambique.	E.g. ZANU/PF and the MDC Alliance both subscribe to gender parity in their manifestos	E.g. SA local government - ANC voluntary quota
Reserved seats – legislated or Constitutional	In the senate in Zimbabwe, 60 out of 80 seats are distributed on a PR	E.g. In the 2006 local elections in Lesotho, one third of the seats were reserved for women only to be rotated in subsequent elections (this system was then changed).	E.g. The Zimbabwean constitution reserves 30 % of seats for women (distributed on a PR basis).
Reserved candidacy – legislated or Constitutional	E.g. Local government elections in Namibia.	In the local elections in Mauritius, one third of all candidates have to be of a different sex.	In the national elections in Lesotho,

Source: Gender Links

⁴ McCann J. 2013 Electoral Quotas for Women: an International overview at http://www.waph.gov.au/About_Parliament_Departments/Parliamentary_Library/pubs/rp/...

Annex B: Details of Quotas in the FPTP system at local level⁵

Summary: Options for combining quotas with FPTP at local level

Type/ No in Annex A/ Example	How this works	Pros	Cons
Reserved seats			
1. Lesotho local (2006); India local	One third of the seats are reserved for women on a rotational basis	Guarantees the desired numerical outcomes as only women contest these seats	Open to contestation as undemocratic (as happened in Lesotho).
2. Uganda local	There is an overlay of the local constituency seats with seats for women only at district level.	Seats contested by women only are separate from the openly contested seats.	Overlapping constituencies result in confusion and undermine women councillors
Reserved candidacy			
3. France local	In each ward parties must put up a male and female candidate. Voters (women and men) vote for both	Guarantees numerical outcome. Obliges parties to honour gender parity commitments.	Can mean either creating doubling wards (costly) or combining two existing wards into one (may be politically contentious)
4. Rwanda local			
5. Mauritius local	Gender neutral candidacy quota – each party to field not less than one third of either sex	Takes the “unfairness” out of affirmative action. Ensures all parties field at least one third women candidates	No guarantee of outcome. Fielding women candidates does not guarantee that they win. Mauritius has succeeded in increasing numbers through combining the quota with advocacy and capacity building.

Reserved seats

1) INDIA

The constitution guarantees the reservation of not less than 33% of the total number of seats to be filled by direct elections in local government bodies in villages and municipalities for women. In addition, within seats reserved in every village council (panchayat) or municipality council for scheduled castes and tribes (the percentage to be proportional to the population of such groups in the respective territory) not less than 33% shall be reserved for women belonging to these groups. At least 33% of the offices of chairpersons of councils is also reserved for women. Reserved seats are allotted to different territorial constituencies on a rotational basis. The constitution further stipulates that ‘the offices of the chairpersons in panchayats, municipal councils and at any other level shall be reserved for castes, tribes and women in such manner as the legislature of a State may, by law, provide’ (Constitution, Article 243D (2), (3) and (4) and 243t).

Electoral law: Among India’s 28 states, a number provide for reserved seats ranging from 33% to 50% of the total seats in local government councils, both in panchayat and

⁵ <https://www.idea.int/data-tools/data/gender-quotas/quotas>.

municipality levels. States with 50% reserved seats in panchayats and municipalities include Andhra Pradesh, Kerala, Maharashtra and Tripura, while other states (including Assam, Bihar, Chhattisgarh, Himachal Pradesh, Madhya Pradesh, Manipur, Rajasthan, Uttarakhand, and West Bengal) have 50% reserved seats for women only for panchayats.

2) UGANDA

Article 180 (2:b) of the 1995 Constitution states that one-third of the membership of each local government council shall be reserved for women. The Electoral law states that women councillors are elected from special constituencies. 'The population quota for demarcation of electoral areas for women representatives shall be determined by the requirement of women constituting one-third of any local council being considered.' (Article 108 (3) of the Local Governments Act, 1997)

Candidate quotas

3) RWANDA

The Electoral law states that: 'At every Sector, one female member and one male member of Council shall be elected through direct and secret ballot.' (Article 155 of Law 27/2010 of 19/06/2010 on elections) In addition, '... at least thirty per cent (30%) of all District Council members shall be women and shall be elected through indirect and secret ballot as well as by the members of the Council Bureau of Sectors' (Article 156). Political party legislation: 'Each political organization shall ensure that at least thirty per cent (30%) of posts that are subjected to elections are occupied by women' (Article 5, Organic Law 16/2003 of 27/06/2003 governing political organizations and politicians as amended by Organic Law 19/2007 of 04/05/2007).

4) FRANCE

2013 Amendments to the electoral code, related to the election of the departmental councils, (Article L 191 of the Electoral Code) states that "voters in each canton of a department elect two members of the opposite sex, on a "binôme" or tandem ballot, whose names are arranged in alphabetical order on any ballot printed on the occasion of the election." This new system of nomination of both female and male candidates ('binôme') guarantees achievement of parity in departmental councils. "[The] new map is composed of 2054 cantons [for a total of 4108 seats to be filled], each represented by two elected departmental councilors in a single vote..." (Dossier de presse).

5) MAURITIUS LOCAL

The Electoral law states: 'Three councilors of a Municipal City Council or Municipal Town Council shall be elected from each electoral ward under the simple majority system.' Any group presenting more than 2 candidates in an electoral ward [for elections of councilors to Municipal City Council or Municipal Town Council] shall ensure that the candidates are not all of the same sex' (Local Government Act 2011, Article 11.6) and 'any group presenting more than two candidates at a Village council election shall ensure that not more than two-thirds of the group's candidates are of the same sex' (Local Government Act 2011, Article 12.6). In addition, a list of reserve candidates for the election of municipal city councilors, municipal town councilors or village councilors, for the purpose of filling any vacancy which may occur between 2 elections, shall not comprise 'more than two-thirds of persons of the same sex and ... not more than 2 consecutive candidates on the list shall be of the same sex' (Article 18.5:b).