

Gender Equality and Women's Rights under the 2013 Zimbabwean Constitution

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Introduction

The promulgation of the 2013 Constitution in Zimbabwe heralded the dawn of a new era with regards to gender equality. It was that flicker of hope for many who had been lobbying for reform in the area of gender equality. This Constitution clearly espouses values and principles of gender equality, a welcome gesture moving away from the Lancaster House Constitution which had retrogressive provisions that allowed discrimination in areas governed by personal law. One of the key values clearly stipulated in the current constitution is that the Constitution is the supreme law of the land and any law that is inconsistent with it is void to the extent of the inconsistency. This is referred to as constitutional supremacy, meaning that the Constitution takes precedence over all other laws. Supremacy of the Constitution is provided for in section 3(1)(a) as the first founding value or principle on which Zimbabwe is founded. In addition, section 2(1) specifically states that “[t]his Constitution is the supreme law of Zimbabwe and any law, practice, custom or conduct inconsistent with it is invalid to the extent of the inconsistency”. Section 2(2) goes on to specify who is bound by the Constitution and it states: “The obligations imposed by this Constitution are binding on every person, natural or juristic, including the State and all executive, legislative and judicial institutions and agencies of government at every level, and must be fulfilled by them.” The effect of this wording is that constitutional obligations are binding on every person and not just organs of state. Section 3(g) clearly articulates that gender equality is one of the values of Zimbabwe, an indication that it holds a special place in the Constitution as well as the country. To further rubber stamp its commitment to gender equality, section 17 of the Constitution identifies gender balance as a national objective which must guide the state at every level in the formulation and implementation of laws and policies. Section 56(1) provides that all persons are equal before the law and have the right to equal protection and benefit of the law. Further, in its pursuit to promote gender equality, the Constitution in section 246 (a) provides for the establishment of an institutional mechanism whose function is to monitor issues concerning gender equality to ensure gender equality as provided in this constitution.

Key Words: Gender Equality, Women's Rights, Constitution, Zimbabwe.