



UNIVERSITY *of* LUSAKA

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SCHOOL OF LAW

**ASSESSING THE EFFECTIVENESS OF MINISTERIAL DIRECTIVES AND
COMPLIANCE MECHANISMS IN PROMOTING GENDER EQUALITY IN ZAMBIA: A
CRITICAL ANALYSIS OF THE GENDER EQUITY AND EQUALITY ACT NO. 22 OF
2015**

BY

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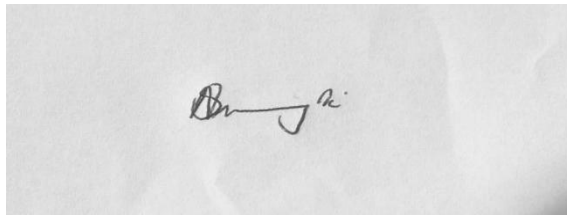
**An obligatory essay submitted to the University of Lusaka in partial fulfillment of
the requirement for the award of the Bachelor of Laws (LLB) Degree**

2025

DECLARATION

I, **NAMUKALE SIMUNYOLA**, do declare that this dissertation titled “**ASSESSING THE EFFECTIVENESS OF MINISTERIAL DIRECTIVES AND COMPLIANCE MECHANISMS IN PROMOTING GENDER EQUALITY IN ZAMBIA: A CRITICAL ANALYSIS OF THE GENDER EQUITY AND EQUALITY ACT NO. 22 OF 2015**” which is hereby submitted to the School of Law at the University of Lusaka as part of the requirements for the award of the Bachelor of Laws (LLB) degree, is my original work and has not previously been submitted for the award of a degree at this or any other tertiary institution.

The sources that have been used or quoted have been indicated and duly acknowledged as complete reference

A photograph of a handwritten signature in black ink on a white background. The signature is stylized and appears to read 'Namukale Simunyola'.

Signature:

Date 14/11/2025.....

SUPERVISOR'S RECOMMENDATION

I, **TABITHA MUKUKA**, do recommend that this dissertation titled **“ASSESSING THE EFFECTIVENESS OF MINISTERIAL DIRECTIVES AND COMPLIANCE MECHANISMS IN PROMOTING GENDER EQUALITY IN ZAMBIA: A CRITICAL ANALYSIS OF THE GENDER EQUITY AND EQUALITY ACT NO. 22 OF 2015”** done under my supervision, be admitted by the university, I have checked it carefully and I am satisfied that it meets necessary requirements pertaining to the format laid down by the university regulations.



.....
Ms. TABITHA MUKUKA
(Supervisor)

.....**20.11.2025**.....

(Date)

DEDICATION

I would like to express my deepest gratitude to my husband, Haggai Mwape Chewe who has always believed that I can achieve anything and has been so understanding and supportive. My research partner, you surely did the most during this journey and I am grateful.

To my Children; Lael, Taizya and Yadah Chewe, thank you for giving me the much needed space even when you needed my attention the most. Lael, my princess aka deputy parent, I owe you the most.

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ABSTRACT

Gender equality remains a major challenge in Zambia despite the enactment of the Gender Equity and Equality Act No. 22 of 2015, which empowers the Minister and the Gender Equity and Equality Commission to issue directives, monitor compliance, and enforce gender equity standards. This study critically assessed how effective these ministerial directives and compliance mechanisms have been in promoting gender equality in Zambia. It examined whether the powers given under Sections 47–50 of the Act are being fully used to ensure fair treatment between men and women in public and private institutions. The study found that while Zambia has a strong legal framework supported by international and regional instruments such as CEDAW, the Maputo Protocol, and the SADC Protocol, the actual enforcement of gender equality laws remains weak. Limited institutional capacity, inadequate funding, and cultural barriers continue to hinder progress.

By comparing Zambia's experience with that of Uganda, South Africa, and Kenya, the research shows that effective gender equality systems depend on independent enforcement bodies, measurable accountability tools, and strong public participation. The findings revealed that Zambia's reliance on ministerial control and lack of consistent penalties for non-compliance have made gender equality goals more symbolic than practical. The study recommended strengthening the Gender Commission's independence, enforcing penalties under Section 48(4), and adopting measurable tools like gender budgeting and equality plans. Ultimately, the research aims to support more effective implementation of the Act and promote real, lasting gender equality in Zambia.

CHAPTER ONE

1.0 INTRODUCTION

Gender equality remains a major challenge in Zambia, even though the country has laws meant to ensure fair treatment between men and women. ***The Gender Equity and Equality Act***¹ was created to help fix the unfair treatment that women face in many areas of life, including jobs, leadership positions, and access to economic opportunities. This law gives government ministers the power to make rules and check if organizations are following these rules to promote gender equality. However, many women in Zambia still face unfair treatment, showing that having laws alone is not enough to solve the problem. The way gender equality laws are put into practice in Zambia needs careful study because there seems to be a big gap between what the law says should happen and what actually happens in real life. For example, recent numbers show that only about 15% of parliament members are women.² which shows that women are still left out of important decision-making positions. This research looks at how well the current system of giving orders and checking if organizations follow them is working to make things fairer for both men and women.

This study will also look at what makes it hard for the Ministry and the Gender Commission to make sure organizations follow the gender equality rules. Understanding these challenges is important because it can help find better ways to make the law work as it should. The research will also look at how other African countries like Uganda, South Africa, and Kenya handle similar issues, to learn from their experiences and find ways to improve how Zambia deals with gender equality. By studying these issues carefully, this research aims to help make gender equality laws work better in Zambia. The findings will be useful for people who make laws, organizations that work on gender issues, and anyone interested in making sure men and women have the same opportunities in Zambian society.

¹ Act No. 22 of 2015

²<https://data.unwomen.org/country/zambia#:~:text=5.c.1%20Proportion%20of%20countries,gender%20equality%20and%20women%27s> (accessed on 11/04/2025)

1.1 BACKGROUND OF THE STUDY

Issues of gender equality in Zambia goes back many years, with women traditionally having fewer rights and opportunities than men. Before Zambia became independent, women's roles were mostly limited to taking care of homes and families, and they had little chance to get education or formal jobs.³ Even after independence, these old ways of thinking about men's and women's roles made it hard to change things and give women more opportunities.

In the 1990s, Zambia started taking more serious steps to promote gender equality. The country joined international agreements like the Beijing Platform for Action in 1995, which helped shape how Zambia approached gender issues. In 2000, the government created its first National Gender Policy, showing it was serious about giving women more opportunities in areas like education, health, and jobs.⁴ However, making these policies work in real life was not easy, as many people still held onto traditional beliefs about men's and women's roles in society.

A big step forward came in 2012 when Zambia created a Ministry of Gender to focus specifically on women's rights and equality.⁵ This showed the government was taking gender issues more seriously. However, the ministry often struggled to do its job properly because it didn't have enough money or people to carry out its work effectively. These problems continued even after the Gender Equity and Equality Act was passed in 2015.

Today, despite having laws to protect women's rights, Zambia still faces many challenges in making gender equality a reality. Women continue to face unfair treatment in many areas, especially in getting jobs, being promoted to leadership positions, and having

³ Silenced and Invisible Historical Figures in Zambia: An Analysis of the Visual Portrayal of Women in Senior Secondary School History Textbooks https://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S2223-03862021000200007#:~:text=Since%20the%20launch%20of,equality%20%28UNICEF%2C%202020%29.%20Zambia (accessed on 11/04/2025)

⁴ Ibid

⁵ https://www.jica.go.jp/Resource/english/our_work/thematic_issues/gender/background/c8h0vm0000anjqi6-att/zambia_2016.pdf#:~:text=The%20principal%20national%20machinery,2012%20as%20the%20Ministry (accessed on 11/04/2025)

access to resources like land and money.⁶ Cultural beliefs and practices often work against the laws meant to help women, making it harder to create real change. The

The enactment of the **Gender Equity and Equality Act**⁷ marked a pivotal moment in Zambia's commitment to gender equality. This Act established the Gender Equity and Equality Commission, charged with overseeing the implementation of policies and programs designed to eliminate discrimination and promote equal opportunities for all genders. The Commission's role includes monitoring compliance, conducting investigations, and ensuring that both public and private entities adhere to gender equality standards.

Despite the establishment of such legal frameworks, challenges persist in translating policy into practice. A 2025 report by UNFPA Zambia showed ongoing issues, noting that nearly 36% of women aged 15-49 have experienced physical violence, and about 29% of girls are married by the age of 18.⁸ These statistics show the gap between legislative intent and societal realities, suggesting that enforcement mechanisms may be insufficient or inadequately implemented.

In addition, the operationalization of gender equality laws has encountered hurdles. The Non-Governmental Gender Organisations Coordinating Council (NGOCC) expressed concerns in 2024 about the lack of budgetary provisions to fully implement the Gender Equity and Equality Act.⁹ This shortfall hampers the establishment of necessary institutions, such as the Gender Commission, and delays critical initiatives aimed at combating gender-based violence and promoting women's empowerment.¹⁰ These challenges highlight the importance of not only enacting progressive laws but also ensuring that adequate resources and institutional frameworks are in place for effective enforcement. The disparity between policy and practice in Zambia calls for a critical

⁶<https://data.unwomen.org/country/zambia#:~:text=For%20this%20score%2C%20we,each%20indicator%2C%20we%20calculate> (accessed on 11/04/2025)

⁷ Act No. 22 of 2015

⁸ https://zambia.unfpa.org/sites/default/files/pub-pdf/2025-03/Annual%20Report%202024-UNFPA%20Zambia_0.pdf (accessed on 11/04/2025)

⁹ Act No. 22 of 2015

¹⁰ <https://www.lusakatimes.com/2024/09/30/concerns-over-governments-budget-cuts-and-lack-of-resources-for-anti-gbv-initiatives-as-ngocc-calls-for-urgent-action-and-reform/> (accessed on 11/04/2025)

examination of existing mechanisms and the exploration of best practices from other countries.

The experience of other African countries shows that changing these deep-rooted attitudes takes time and requires more than just passing laws - it needs strong enforcement and support from all parts of society. Looking at how other African countries handle gender equality can help Zambia improve its own approach. Countries like South Africa have made progress in getting more women into leadership positions, while Kenya and Uganda have useful lessons about how to deal with cultural practices that work against gender equality. These experiences can help Zambia find better ways to make its gender equality laws work in practice.

1.2 STATEMENT OF THE PROBLEM

The Gender Equity and Equality Act¹¹ empowers the Minister to issue directives under **Section 47**¹² and compliance notices under **Section 48**¹³ to ensure public and private bodies advance gender equality. However, despite these legal provisions, gender disparities persist in decision-making, employment, and economic empowerment. A key issue is whether these directives are effectively enforced and whether non-compliance penalties (such as fines and imprisonment under **Section 48(4)**¹⁴) are sufficient to drive meaningful change. Additionally, the Act grants the Commission investigative powers under **Sections 49-50**,¹⁵ yet enforcement gaps remain, raising concerns about institutional capacity and accountability. This study examines the practical impact of these mechanisms, identifies challenges in implementation, and explores whether the Act's provisions are adequately structured to achieve gender equity in Zambia.

1.3 RESEARCH OBJECTIVES

1. To analyze the international legal framework on gender equity.

¹¹ Act No. 22 of 2015

¹² Ibid

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

2. To assess the challenges faced by the Ministry and the Commission in enforcing gender equity policies and ensuring compliance with the provisions of the Gender Equity and Equality Act No. 22 of 2015.
3. To draw lessons from the implementation of similar gender equity laws in the Uganda, South Africa and Kenya and evaluate how these lessons can enhance Zambia's approach to gender equity enforcement.

1.4 RESEARCH QUESTION

1. What are the international legal frameworks on gender equity?
2. What challenges do the Ministry and the Gender Equity and Equality Commission face in enforcing gender equity policies and ensuring compliance with the Gender Equity and Equality Act No. 22 of 2015?
3. What lessons can Zambia learn from how Uganda, South Africa, and Kenya have implemented their gender equity laws, and how can these lessons improve the enforcement of gender equity in Zambia?

1.5 SIGNIFICANCE OF THE STUDY

This research is significant as it seeks to contribute to the ongoing dialogue on gender equality in Zambia by evaluating the real-world effectiveness of legal instruments designed to advance gender equity. The study will provide insights into the gaps in enforcement and offer recommendations for strengthening compliance mechanisms. Furthermore, by drawing lessons from the experiences of Uganda, South Africa, and Kenya, it aims to inform policy makers and practitioners on how to enhance Zambia's legal framework and promote meaningful change in gender equality, benefiting both public and private sectors.

1.6 LITERATURE REVIEW

Meng Su and Simeon Djankov's ¹⁶research shows that Zambia's gender legal reforms have been primarily driven by international conventions rather than internal initiatives. They point out that despite these reforms, customary laws continue to dominate,

¹⁶ Su, M., & Djankov, S. (2023). Gender Legal Reforms in Zambia: Motivated by International Conventions. Financial Markets Group Discussion Papers

especially in land and family disputes, undermining statutory laws aimed at promoting gender equality. This study differs by focusing on the enforcement mechanisms within Zambia's Gender Equity and Equality Act, specifically the ministerial directives and compliance notices, and how they function within the existing legal framework.

Chinambu's¹⁷ study on the Anti-Gender Based Violence Act of 2011 reveals that despite the legislation, gender-based violence remains prevalent in Zambia. The research attributes this to ineffective enforcement and lack of awareness. While Chinambu focuses on gender-based violence, this study expands the scope to assess the broader enforcement mechanisms of the Gender Equity and Equality Act, including compliance notices and the role of the Commission in promoting gender equality.

Mwila's¹⁸ research examines the effectiveness of the National Gender Policy in increasing women's participation in decision-making within tertiary institutions. She finds that despite policy frameworks, women's representation remains low due to cultural norms and lack of implementation. This study builds upon Mwila's work by analyzing the enforcement of ministerial directives and compliance mechanisms in both public and private sectors, aiming to identify systemic challenges and propose solutions.

Ngulube¹⁹ explore the relationship between gender equality and economic growth in Lusaka District. They argue that gender disparities hinder economic development and that empowering women can lead to significant economic gains. While their study focuses on economic outcomes, this research investigates the legal enforcement mechanisms designed to promote gender equality, assessing their effectiveness in creating an environment conducive to economic empowerment for women.

¹⁷ Chinambu, K. K. (2023). Gender Based Violence in Zambia: The Ineffective Enforcement of the Anti-Gender Based Violence Act of 2011. *Journal of Legal Studies & Research*, 9(2), 127-133.

¹⁸ Mwila, P. (2014). Effectiveness of the National Gender Policy in Ensuring Women's Participation in Decision Making Among Tertiary Learning Institutions in Zambia: The Case of the National Institute of Public Administration and Evelyn Hone College. University of Zambia.

¹⁹ Ngulube, L., Chansa, C. T., Mwenda, M. G., Sylvester, C., Mpolomoka, D. L., & Mulenga, D. M. (2024). Gender Equality and Economic Growth: A Case of Lusaka District, Zambia. *Asian Journal of Education and Social Studies*, 50(7), 181-196.

Mateo's²⁰ study on gender equity in the Ministry of Local Government and Housing highlights that despite policies promoting gender equality, women remain underrepresented in leadership positions. The research attributes this to inadequate implementation and monitoring. This study differs by critically analyzing the specific enforcement tools provided by the Gender Equity and Equality Act, such as ministerial directives and compliance notices, to understand their role in addressing gender disparities across various sectors.

Nsana and Daka's²¹ study focuses on the underrepresentation of women in decision-making positions within Zambia's public administration. They highlight that despite the presence of gender equality policies, women occupy a smaller percentage of leadership roles, such as Permanent Secretaries and Directors. The authors attribute this disparity to structural barriers, including organizational practices that favor men for promotions and a lack of supportive policies for women. This study differs by specifically examining the enforcement mechanisms within the Gender Equity and Equality Act, such as ministerial directives and compliance notices, to assess their effectiveness in promoting gender equality across both public and private sectors.

UNFPA Zambia,²² addresses ongoing challenges in achieving gender equality and women's empowerment. It highlights issues such as gender-based violence and early marriages, underscoring the need for comprehensive action to address these disparities.

This study differentiates itself by focusing specifically on the enforcement of ministerial directives and compliance mechanisms under the Gender Equity and Equality Act No. 22 of 2015. While previous works have addressed broader aspects of gender equality, this research aims to critically analyze the practical impact of these legal provisions, identify implementation challenges, and assess institutional capacity and accountability in enforcing gender equality measures in Zambia.

²⁰ Mateo, P. (2013). The Promotion of Gender Equity in the Workplace: The Case of the Ministry of Local Government and Housing Headquarters in Zambia. University of Zambia.

²¹ Nsana, S., & Daka, H. (2023). Strengthening Gender Equality in Decision Making in Public Administration in Zambia. *International Journal of Research and Innovation in Social Science*, 7(12), 1-8.

²² UNFPA Zambia (2024): The piece "Advancing Gender Equality in Zambia: The National Gender Policy and Its Implementation Plan"

Mulamula's²³ dissertation examines Zambia's legal framework on gender equality, comparing it with Kenya's legislation. She identifies limitations within the Gender Equity and Equality Act that hinder justice and equality. While her work provides a comparative legal analysis, this study concentrates on the practical enforcement of the Act's provisions, assessing the effectiveness of ministerial directives and compliance mechanisms in promoting gender equity within Zambia.

The **World Bank's**²⁴ research team did a big study about gender issues in Zambia. They looked at things like how many women own businesses, have good jobs, or own land. Their research showed that women still face many problems in these areas. They found that women often can't get loans from banks, don't own as much property as men, and have trouble getting good jobs. The study showed that these problems continue even though Zambia has laws to stop them.

Bangani and Vyas-Doorgapersad's²⁵ research highlights that although there is an increase in women's participation, they are overrepresented in low-income employment. They note disparities in the implementation of equity targets within skills development and variations in departmental policy strategies. This study differs by evaluating the enforcement of Zambia's Gender Equity and Equality Act, focusing on how ministerial directives and compliance notices address such disparities across various sectors.

1.8 METHODOLOGY

This study uses a qualitative research approach to understand how the Gender Equity and Equality Act No. 22 of 2015 is being enforced in Zambia, and to assess whether the mechanisms in place are effectively promoting gender equality. Qualitative research is ideal for this study because it allows for a deeper understanding of people's experiences, opinions, and perceptions, which are essential in evaluating the practical impact of the Act.

²³ Mulamula, G. (2022). Examining the Legal Framework and Enforcement of Gender Equality in Zambia: A Comparative Study with Kenya

²⁴ World Bank. (2023). Zambia Gender Assessment Report.

<https://openknowledge.worldbank.org/entities/publication/8cbe7913-db30-4056-81f7-d06e0fdd8d0d>

²⁵ Bangani and Vyas-Doorgapersad's, The implementation of gender equality within the South African Public Service (1994-2019)

The research will be based on data collected from various sources such as interviews, case studies, and reviews of existing reports and documents. By gathering detailed, descriptive information from key individuals involved in the enforcement of gender equality laws, this study will gain insights into the strengths and weaknesses of the current mechanisms.

1.8.1 Data Collection

Data for this study will be collected through in-depth interviews and document analysis. The interviews will be conducted with relevant stakeholders, including government officials from the Ministry responsible for gender affairs, members of the Gender Equity and Equality Commission, and representatives from civil society organizations that focus on gender issues. These individuals are directly involved in the implementation and monitoring of gender equality policies and can provide valuable insights into the challenges and successes of enforcement.

In addition to interviews, the study will also review existing documents, such as reports from the Gender Equity and Equality Commission, government publications, and studies by NGOs on the impact of the Act. These documents will help to provide a broader understanding of the issues surrounding gender equality enforcement and offer evidence of the practical challenges faced by implementing bodies.

1.8.2 Limitations

One potential limitation of this study is that it relies on interviews with a limited number of individuals, which may not fully represent the experiences of all stakeholders involved in gender equality enforcement in Zambia. However, the study will aim to include a diverse range of participants from both government and civil society to ensure that different perspectives are captured.

1.9 ETHICAL CONSIDERATIONS

The research will ensure that all participants are fully informed about the study and give their consent before participating in interviews. Participants will also be assured of their privacy and that their responses will be kept confidential. This is important to maintain trust and to ensure that the data collected is accurate and reliable. No personal

information will be disclosed in any part of the study, and the findings will be presented in a way that respects the anonymity of the participants.

1.10 SCOPE OF STUDY

This study focuses on the implementation and enforcement of the Gender Equity and Equality Act No. 22 of 2015 in Zambia, particularly examining the effectiveness of Ministerial directives and compliance notices in promoting gender equality in both public and private sectors. It will assess the challenges faced by the Ministry and the Commission in enforcing gender equity policies, while also drawing comparative lessons from gender equity frameworks in Uganda, South Africa, and Kenya. The study will critically evaluate the institutional mechanisms provided under the Act, including the powers of the Minister and the Commission, as well as the impact of penalties for non-compliance.

CHAPTER TWO

THE INTERNATIONAL LEGAL FRAMEWORK OF GENDER EQUITY

2.0 INTRODUCTION

This chapter is based on examining the international and regional legal frameworks that promote gender equity and protect women's rights. It looks at key instruments such as CEDAW, the Maputo Protocol, and SADC policies, showing how these laws guide states in eliminating discrimination, empowering women, and ensuring equality in political, economic, social, and cultural spheres. The chapter also highlights how these frameworks influence national legislation, judicial decisions, and regional cooperation, emphasizing that gender equality is essential not only for fairness but also for sustainable development, peace, and social progress.

2.1 THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

The **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**, adopted by the United Nations General Assembly in 1979, is often referred to as the international bill of rights for women. It comprises a preamble and 30 articles that define what constitutes discrimination against women and set an agenda for national action to end such discrimination. CEDAW defines discrimination against women as:

“Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”²⁶

This definition encompasses both direct and indirect discrimination, whether intentional or unintentional, in all aspects of public and private life.

Article 2 of CEDAW ²⁷*requires states to actively eliminate discrimination through legislation, policies, and administrative measures. States must ensure equality between*

²⁶ Convention on Elimination of all forms of discrimination against women 1979

²⁷ Convention on Elimination of all forms of discrimination against women 1979

*men and women in their constitutions, establish legal protection for women, and take steps to remove discriminatory laws, customs, or practices. Zambia's **Gender Equity and Equality Act No. 22 of 2015** aligns with these obligations by empowering the Minister of Gender to issue directives and compliance notices to enforce gender equality. The Convention also sets a foundation for other instruments, including UN Security Council Resolutions 1325 and 1820, which emphasize women's participation in peacebuilding and the protection of women during armed conflict.*

2.1.1 Key Provisions and State Obligations

CEDAW contains several provisions that require states to ensure women's equality in all aspects of life. **Article 3**²⁸ obliges states to take all appropriate measures in political, social, economic, and cultural fields to guarantee the full development and advancement of women. **Article 4** allows temporary special measures to accelerate equality but makes clear that these measures should end once equality is achieved. **Article 5** emphasizes changing social and cultural patterns, eliminating stereotypes, and ensuring shared family responsibilities. **Article 6** requires states to suppress human trafficking and the exploitation of women.²⁹

Part II of the Convention focuses on political and public life. **Articles 7 and 8** mandate equal participation in elections, public office, policy formulation, and representation in international organizations. **Article 9** guarantees women equal rights regarding nationality, including the nationality of their children.³⁰

Part III addresses education, employment, and health. **Article 10** requires equal access to all forms of education, career guidance, vocational training, scholarships, and sports. It also mandates the elimination of gender stereotypes in curricula and teaching methods. **Article 11** focuses on employment, requiring equal rights to work, remuneration, promotions, social security, and maternity protection. **Article 12** obliges states to ensure access to healthcare, including maternal and family planning services. **Article 13** requires equal rights in economic and social life, such as access to financial services and

²⁸ Ibid

²⁹ Ibid

³⁰ Ibid

participation in cultural and recreational activities. **Article 14** highlights the specific challenges faced by rural women, mandating equal access to development, education, health, social security, credit, and housing.³¹

Part IV, covering legal and family matters, includes **Articles 15 and 16**.³² Article 15 ensures equality before the law and equal legal capacity in contracts and property rights. Article 16 addresses marriage and family relations, including equal rights to enter marriage, choose a spouse, decide on children, and share parental responsibilities. It also prohibits child marriage and requires official registration of marriages.

2.1.2 Implementation and Enforcement Mechanisms

CEDAW emphasizes the importance of effective implementation and monitoring. **Article 2**³³ shows the need for competent tribunals and public institutions to protect women against discrimination. States must refrain from discriminatory acts, take measures against discrimination by private entities, and modify laws and practices that disadvantage women. To accelerate equality, temporary special measures may be adopted, such as quotas for women in leadership positions, but these must end once equality is achieved.

CEDAW's provisions establish a strong link between international obligations and national measures. Zambia, through its Gender Equity and Equality Act,³⁴ seeks to implement these obligations using ministerial directives and compliance notices. These tools are designed to enforce equality policies, promote women's participation in all sectors, and ensure compliance by public and private bodies. The Convention's detailed provisions on education, employment, health, family life, and political participation guide the content and enforcement of these directives. However, effectiveness depends on political will, adequate resources, and institutional capacity, especially for monitoring and enforcement.

³¹ Convention on Elimination of all forms of discrimination against women 1979

³² Ibid

³³ Ibid

³⁴ Gender Equity and Equality Act No. 22 of 2015

CEDAW provides a comprehensive framework for promoting gender equality and eliminating discrimination. Its provisions guide Zambia in adopting national legislation, policies, and enforcement mechanisms, including ministerial directives and compliance notices, to protect women's rights and advance gender equity across all sectors.

2.2 THE AFRICAN UNION ON GENDER EQUALITY

The **African Union (AU)** is a continental organization founded in 2002 to replace the Organization of African Unity. Its main purpose, as outlined in the Constitutive Act and the Protocol on the Amendment of the Constitutive Act, is to promote international cooperation while respecting human rights, as set out in the **Charter of the United Nations** and the **Universal Declaration of Human Rights**. The AU specifically mandates the promotion and protection of human and people's rights, as well as the effective participation of women in decision-making, especially in political, economic, and socio-cultural areas. Africa is on a path of development, with rising growth rates, but women remain among the most marginalized groups. They often face social and economic inequalities, limited opportunities, and systemic barriers because of gender. The AU emphasizes that achieving equality for women is not just a matter of fairness but a key requirement for sustainable development and good governance.³⁵

2.3 THE MAPUTO PROTOCOL

The **Maputo Protocol**³⁶, officially called the **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa**, was adopted in 2003 and came into force in 2005. It is widely recognized as one of the most progressive legal instruments for the protection and promotion of women's rights in Africa. The Protocol sets out a comprehensive framework to eliminate discrimination, ensure equality, and protect the dignity and well-being of women across the continent. Out of the 55 African

³⁵ OAUDoc. CAB/LEG/23.15, entered into force May 26, 2001.

³⁶ African Union. (2005). *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)*. <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

Union (AU) member states, 49 have signed the protocol, and 42 have ratified it, showing broad support for its principles.³⁷

The Protocol requires states to take appropriate legislative, institutional, and other measures to eliminate all forms of discrimination against women. **Article 2** specifically obliges state parties to combat discrimination in law and practice, ensuring that women enjoy equal opportunities in political, social, and economic life. **Article 11** guarantees women the right to life, integrity, and security, emphasizing the protection of women from all forms of violence, including domestic and public violence. The Protocol also addresses harmful cultural practices that affect women's health and well-being. For example, **Article 5**³⁸ prohibits practices such as female genital mutilation, which threaten the physical and psychological health of women and girls. **Article 17** encourages women to participate actively in cultural life, including the shaping and evaluation of cultural practices, ensuring that these practices respect women's rights and dignity.³⁹

The Maputo Protocol has had a direct impact on national laws and court decisions across Africa. In **Bhe and Others v Magistrate; Shibi v Sithole and Others [2004] ZACC18**, the Constitutional Court of South Africa examined a discriminatory inheritance law under the Black Administration Act. The law prevented daughters from inheriting the property of their deceased brothers because local custom only allowed male succession. The court ruled that this provision was discriminatory and violated the principles of equality and dignity guaranteed under the Maputo Protocol, as well as South Africa's constitution. This case shows how the Protocol can influence courts to protect women's inheritance rights and challenge discriminatory practices.

In **Rabeca Z Gyumi v Attorney General**,⁴⁰ the court considered the issue of unequal marriage age requirements for boys and girls. The Tanzanian Marriage Act set the

³⁷ African Union. (2003). *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)*. Maputo: African Union. Retrieved from <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

³⁸ African Union. (2003). *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)*. Maputo: African Union. Retrieved from <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

³⁹ Ibid

⁴⁰ Rebeca Z Gyumi Vs Attorney General (Misc Civil Cause 5 of 2016) 2016 TZHC 2023 (3 March 2016)

minimum age for girls at 15 and for boys at 18, and also allowed fathers, but not mothers, to consent to the marriage of minor children, except when the father was deceased. The court held that these provisions were discriminatory and violated the principle of equality guaranteed in the Constitution of Tanzania. The decision explicitly referenced **Article 6 of the Maputo Protocol**,⁴¹ which calls for equality between men and women in marriage, recognizing them as equal partners. This case illustrates how the Maputo Protocol guides judicial reasoning to eliminate gender-based legal disparities.

Beyond legal decisions, the Maputo Protocol has influenced policy and legislative reforms in several African countries. States that ratify the protocol are required to review their laws and policies to align them with its provisions. This includes enacting legislation to eliminate gender discrimination, criminalize violence against women, and promote women's participation in political, economic, and social life. Countries have also incorporated the protocol's standards into national constitutions and court processes, ensuring that women can access justice and equality before the law.

The Protocol also addresses emerging and complex issues in African communities. For instance, **Article 12**⁴² guarantees women's rights to education and training, while **Article 14**⁴³ addresses health and reproductive rights, including access to family planning and maternal healthcare. By including these provisions, the Maputo Protocol acknowledges that gender equality is not limited to political representation but also includes access to essential services, personal development, and protection of health.

Furthermore, the Protocol promotes international cooperation to advance women's rights. By ratifying the protocol, AU member states commit to reporting on their progress, ensuring accountability, and collaborating with other states to share best practices. This regional framework strengthens national efforts to achieve gender equality, as

⁴¹ African Union. (2003). *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)*. Maputo: African Union. Retrieved from <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

⁴² African Union. (2003). *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)*. Maputo: African Union. Retrieved from <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

⁴³ Ibid

governments are encouraged to harmonize their domestic laws with the Protocol's principles, in line with international human rights standards.

2.4 THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) ON GENDER EQUALITY

The Southern African Development Community (SADC) is a regional intergovernmental organization that seeks to promote economic, social, and political cooperation among its member states. One of SADC's priorities has been the advancement of gender equality and women's empowerment, recognizing that sustainable regional development cannot be achieved without the full participation of women.⁴⁴ In 1996, SADC established a dedicated Gender Unit to mainstream gender perspectives into all structures, programs, and policies of the organization. This unit supports member states in planning and implementing initiatives that consider the specific needs of women and men, ensuring that development programs are inclusive and equitable.⁴⁵

SADC developed the Gender Policy in 2007 to provide guidance on promoting gender equality across the region. The policy outlines strategies to eliminate discrimination against women and ensure equal opportunities in all sectors of society.⁴⁶ Building on this, the SADC Protocol on Gender and Development, adopted in 2008, provides a legally binding framework for member states to implement gender-responsive policies. **Article 2**⁴⁷ of the protocol requires member states to harmonize their national laws, policies, and programs with international instruments related to women's rights. These instruments include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Declaration,⁴⁸ and the Maputo Protocol,⁴⁹ which set standards for

⁴⁴ Southern African Development Community (SADC). (1996). *Establishment of the SADC Gender Unit*. <https://www.sadc.int/pillars/gender-mainstreaming>

⁴⁵ Ibid

⁴⁶ Southern African Development Community (SADC). (2007). SADC Gender Policy. <https://www.sadc.int/pillars/gender-equality-women-empowerment>

⁴⁷ Ibid

⁴⁸ United Nations. (1995). *Beijing Declaration and Platform for Action*. <https://www.un.org/womenwatch/daw/beijing/platform/>

⁴⁹ African Union. (2005). Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol). <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

gender equality and protection of women's rights across political, economic, and social spheres.

The objectives of the SADC Protocol, outlined in **Article 3**⁵⁰, are focused on empowering women, eliminating all forms of discrimination, and promoting the adoption and implementation of gender-responsive policies. The protocol encourages member states to take affirmative action to remove barriers that limit women's participation in governance, education, economic activities, and social development. **Article 4**⁵¹ emphasizes the principles of human rights, democracy, and the rule of law, ensuring that gender equality is treated as a fundamental aspect of governance. **Article 6** explicitly prohibits discrimination based on sex or gender, requiring that all laws, policies, and practices support equal treatment and opportunities for women and men.

The SADC Protocol also places a strong emphasis on the role of legal and constitutional reforms in achieving gender equality. Member states are required to ensure that national constitutions and legislation protect women's rights and remove any provisions that discriminate against women. Additionally, the protocol mandates measures that increase women's representation in political and decision-making positions, recognizing that participation in governance is critical for shaping inclusive policies. By promoting legal, policy, and institutional reforms, SADC seeks to create an enabling environment where women can participate fully and effectively in all spheres of life.⁵²

In 2016, SADC revised the Protocol on Gender and Development to align its provisions with the Sustainable Development Goals (SDGs) and the African Union's Agenda 2063. This revision strengthened the commitment of member states to gender equality and women's empowerment, emphasizing the need to integrate gender considerations into regional and national development strategies. The revised protocol encourages countries

⁵⁰ Southern African Development Community (SADC). (2007). *SADC Gender Policy*.
<https://www.sadc.int/pillars/gender-equality-women-empowerment>

⁵¹ Southern African Development Community (SADC). (2007). *SADC Gender Policy*.
<https://www.sadc.int/pillars/gender-equality-women-empowerment>

⁵² Ibid

to establish monitoring and evaluation mechanisms to track progress in gender equality, ensuring accountability and effective implementation of gender policies.⁵³

Through these instruments, SADC promotes a comprehensive approach to gender equality, combining legal, policy, and programmatic measures. By requiring member states to adopt gender-responsive legislation, remove discriminatory practices, and ensure women's full participation in governance, economic activities, education, and social development, SADC aims to foster inclusive growth across the region. The Gender Policy and Protocol serve as essential tools for member states to harmonize national initiatives with international standards, demonstrating that regional cooperation can play a significant role in advancing women's rights and creating sustainable development in Southern Africa.

2.5 CONCLUSION

international and regional legal frameworks play a crucial role in advancing gender equality in Africa. Instruments like CEDAW, the Maputo Protocol, and the SADC Protocol provide clear guidance for states to eliminate discrimination, protect women's rights, and promote equal opportunities in all aspects of life. By aligning national laws and policies with these frameworks, countries can ensure that women participate fully in governance, education, economic activities, and social development. The chapter demonstrates that achieving gender equality requires coordinated efforts at international, regional, and national levels, and it is key to building inclusive, fair, and sustainable societies.

⁵³ Southern African Development Community (SADC). (2016). *Revised SADC Protocol on Gender and Development*. <https://www.sadc.int/pillars/gender-equality-women-empowerment>

CHAPTER THREE

THE EFFECTIVENESS OF THE MINISTERIAL DIRECTIVES AND COMPLIANCE NOTICES IN PROMOTING GENDER EQUITY WITHIN PUBLIC AND PRIVATE BODIES AS OUTLINED IN THE GENDER EQUITY AND EQUALITY ACT NO. 22 OF 2015

3.0 INTRODUCTION

This chapter looks at how effective ministerial directives and compliance notices are in promoting gender equity under the Gender Equity and Equality Act No. 22 of 2015, and how these provisions connect with the Constitution of Zambia (Amendment) 2016. The Constitution is the highest law in the country, and it clearly upholds equality and non-discrimination as fundamental rights. The Gender Equity and Equality Act was passed to give practical effect to these constitutional principles and to align Zambia with international standards on gender rights. Ministerial directives and compliance notices were designed to ensure that both public and private institutions take active steps to eliminate discrimination, empower women, and promote fair participation in all areas of life. However, while the law appears strong on paper, the real test lies in whether these measures are enforced effectively and whether they are able to challenge deep-rooted practices, including discriminatory customs, outdated procedures, and weak institutional frameworks. This chapter therefore examines the strengths and weaknesses of these enforcement tools, showing how they are meant to work, the challenges they face, and their overall impact on achieving gender equality in Zambia.

3.1 THE CONSTITUTION (AMENDMENT) 2016 AND GENDER EQUALITY IN ZAMBIA

The Constitution of Zambia, under **Article 1(1)** ⁵⁴“provides that the constitution is the supreme law of the land and any other written law, customary law and customary practice that is inconsistent with its provisions is void to the extent of the inconsistency.”⁵⁵ That the Constitution is the supreme law of Zambia entails that the existence and validity of other laws in the country depends on the extent to which such other laws are consistent with the provisions of the constitution. This relationship between the constitution and other

⁵⁴ The Constitution of Zambia, Act No. 2 of 2016.

⁵⁵ The Constitution of Zambia, Act No. 2 of 2016.

laws was ably explained in the case of *Thomas Mumba v The People*⁵⁶ in which Mr. Justice DK Chirwa had this to say:

“..In countries like Zambia where there is a written constitution, the Constitution is the supreme law, any other laws are made because the Constitution provides for their being made; and are therefore subject to it. It follows therefore that unless the Constitution is specifically amended, any Act that is in contravention of the Constitution is null and void.”⁵⁷

This case confirms the position that the validity of all other laws depends on the extent to which such laws are consistent with the provisions of the constitution.

The **Constitution of Zambia (Amendment) Act**⁵⁸ provides the foundation for gender equality and the protection of human rights. In its Preamble, the Constitution confirms “the equal worth of women and men and their right to freely participate in determining and building a sustainable political, legal, economic and social order.” This principle of equality is reinforced by **Article 8**,⁵⁹ which sets out the **national values and principles**, including morality, human dignity, equity, social justice, equality, and non-discrimination. This framework establishes that equality of citizens is not just a policy choice but a constitutional right, and other laws and policies, such as the **Gender Equity and Equality Act**⁶⁰, must be consistent with it.

Part III of the Constitution, commonly referred to as the **Bill of Rights**, further strengthens this foundation. **Article 11**⁶¹ states that every person is entitled to fundamental rights and freedoms regardless of their sex or marital status. These rights include the right to equality before the law and protection from discrimination. **Article 23**⁶² then specifically provides that no law shall contain discriminatory provisions, and no person shall be treated in a discriminatory manner. This makes discrimination unlawful and unconstitutional.

⁵⁶ (1984) ZR, 38

⁵⁷ (1984) ZR, 38

⁵⁸ Act No. 2 of 2016

⁵⁹ Chapter 1 of the laws of the laws of Zambia

⁶⁰ Act No. 22 of 2015

⁶¹ Chapter 1 of the laws of the laws of Zambia

⁶² Ibid

To avoid ambiguity, **Article 266**⁶³ defines discrimination in broad terms. It states that discrimination means directly or indirectly treating a person differently on the basis of birth, race, sex, origin, colour, age, disability, religion, belief, culture, language, tribe, pregnancy, health, marital status, or social and economic status. This wide definition is important because it captures many ways people could face unfair treatment, particularly women who are often disadvantaged because of their sex, marital status, or pregnancy.

Despite these strong constitutional protections, practical application remains a challenge. A clear example is the case of **Edith Nawakwi v. The Attorney General**.⁶⁴ Nawakwi, a single mother of two, faced difficulties obtaining a passport for her younger son because the passport application form required the father's consent. The court held that this requirement unfairly discriminated against her on the ground of sex and marital status. The judge noted that a mother or father should equally be able to obtain a passport for their child and that single-parent families, whether male- or female-headed, are recognised in Zambian society. While the judgment recognised the discriminatory nature of the practice, the outdated requirement in passport procedures still lingers in practice, showing the gap between constitutional guarantees and everyday enforcement.

Another setback to achieving gender equality in Zambia is the **duality of laws**. Zambia applies both statutory law (written law such as the Constitution and Acts of Parliament) and customary law. The Constitution clearly states that any customary law or practice that is inconsistent with constitutional provisions or written law shall be void. However, in reality, many discriminatory customary practices continue to exist and influence people's lives, especially in rural areas. For example, Zambia faces a major challenge with **child marriage**. According to UNICEF, Zambia is home to about 1.7 million child brides, with 400,000 married before the age of 15. This practice undermines girls' rights to education, health, and personal development, directly contradicting both constitutional principles of equality and the Gender Equity and Equality Act's goals.⁶⁵

⁶³ Act No. 2 of 2016

⁶⁴ 1991S.J(H.C)

⁶⁵ Charity Muuma Gender Gaps in Administrative Positions: The Case of Educational Institutions In Lusaka District, Zambia 2020

The persistence of such practices shows that while the Constitution provides a strong legal framework, enforcement is still weak. The courts, through cases like ***Nawakwi v. Attorney General***,⁶⁶ play an important role in upholding constitutional rights, but systemic challenges such as outdated administrative procedures, weak enforcement of statutory laws, and entrenched customary practices remain barriers.

3.2 THE GENDER EQUITY AND EQUALITY ACT NO. 22 OF 2015

The **Gender Equity and Equality Act No. 22 of 2015** is the main legislation that governs gender equality in Zambia. It was assented to on 23rd December 2015 and seeks to promote gender equity in all sectors of life. The Act establishes the **Gender Equity and Equality Commission** and sets out principles such as gender mainstreaming, elimination of stereotypes, women's empowerment, and observance of women's rights under **Section 4**⁶⁷. It also seeks to give effect to international instruments like **CEDAW**, the **African Charter on the Rights of Women**, and the **SADC Protocol on Gender and Development**.

The Act empowers the **Minister of Gender** to take measures to advance equality, including modifying discriminatory customs, ensuring gender-responsive budgeting, and adopting affirmative action under **Section 5**⁶⁸. Two key enforcement mechanisms are the **directives under Section 47** and **compliance notices under Section 48**⁶⁹, which are meant to hold both public and private institutions accountable for promoting gender equality. However, despite these strong legal provisions, gender disparities continue to exist in leadership, employment, and access to opportunities.

3.3 MINISTERIAL DIRECTIVES

The **Gender Equity and Equality Act Section 47 of the Act**⁷⁰ gives the Minister the power to issue directives to both public and private institutions that are not meeting their obligations under the law. These directives are meant to push institutions to take action on important issues such as eliminating discrimination, promoting gender equality, and

⁶⁶ 1991S.J(H.C)

⁶⁷ Gender Equity and Equality Act No. 22 of 2015

⁶⁸ Ibid

⁶⁹ Ibid

⁷⁰ Ibid

ensuring that women are represented in decision-making positions. The Minister can also demand reports that show progress in these areas. These reports must include clear data, often disaggregated by gender, and must be submitted within a set time frame. By placing responsibility on the executive head of the institution, the law makes sure that accountability rests with top leadership and not just with lower-level officers.

One of the main strengths of this provision is that it does not wait for complaints to be made before action is taken. Instead, it gives the Minister a proactive role to monitor compliance. This allows the government to step in and guide institutions toward achieving gender equality goals, rather than leaving progress to chance. The requirement for disaggregated data and specific goals also ensures that reports are not vague but instead provide useful information that can be used to measure progress. In this way, the provision creates a system where institutions are expected to take gender issues seriously and show results in a measurable way.⁷¹

Despite these strengths, the actual impact of ministerial directives has been limited. Many institutions either delay submitting reports or fail to provide the level of detail that is required. Even when reports are submitted, they are sometimes incomplete or inconsistent, making it difficult to track real progress. In some cases, the data is scattered across different reports and not properly harmonized, which weakens its usefulness. Another major problem is that there are very few consequences for institutions that ignore the directives. Without strong sanctions or regular follow-ups, many institutions do not feel pressured to comply fully. This makes the directives appear more like guidelines rather than binding instructions.⁷²

The gap between the law and practice raises an important question: are directives alone strong enough to bring about meaningful change? While the law gives the Minister a clear role, the lack of strong enforcement mechanisms undermines the effectiveness of this tool. For example, even if a directive orders an institution to increase women's representation in leadership, there is little assurance that it will be implemented if no penalties are attached to non-compliance. This weakness shows that directives, while

⁷¹ Chisala, C. (2021). "Challenges in Enforcing Gender Equality Laws in Zambia." *Zambia Law Journal*, 53(2), 45–67.

⁷² Ibid

important, cannot stand alone. They need to be backed by stronger institutional frameworks, such as clear sanctions, independent monitoring bodies, and regular public reporting.⁷³

3.3.1 Compliance Notices

Section 48 of the Gender Equity and Equality Act ⁷⁴empowers the Minister to issue compliance notices to any public or private body that fails to respond to a directive or is found not to be complying with the provisions of the Act. A compliance notice is more formal and demanding than a directive because it does not merely request information; it clearly sets out the actions that must be taken, the time frame for completing those actions, and the consequences of failing to comply. In this way, the compliance notice is intended to ensure that institutions take gender equality seriously and implement measures to address gaps in representation, participation, or empowerment of women.

The Act specifically places responsibility on the **executive head** of the public or private body receiving the notice. This is a crucial feature because it prevents organizations from avoiding accountability by claiming ignorance or shifting responsibility to others. In theory, this ensures that decisions and actions to promote gender equity are made at the highest level and are not left to lower-level staff who may lack authority.⁷⁵

A compliance notice must include several elements to make its requirements clear. It must reference the original directive, specify the provisions of the Act or other laws that have not been followed, and outline the corrective actions required. The notice also sets the period within which these measures must be taken, provides the form and method for submitting progress reports, and details the enforcement measures the Minister may take if the notice is ignored. This level of detail is meant to leave no room for misunderstanding or excuse, making compliance legally binding and not optional.⁷⁶

⁷³ Ibid

⁷⁴ Act No. 22 of 2015

⁷⁵ Chisala, C. (2021). "Challenges in Enforcing Gender Equality Laws in Zambia." *Zambia Law Journal*, 53(2), 45–67.

⁷⁶ Charity Muuma, *Gender Gaps in Administrative Positions: The Case of Educational Institutions in Lusaka District*, Zambia 2020.

The penalties for failing to comply with a compliance notice are significant on paper. A person who willfully ignores a compliance notice may face a fine of up to **3,000 penalty units** or imprisonment for up to **three years**, or both. These are serious consequences intended to act as a strong deterrent against inaction or deliberate non-compliance. By linking liability directly to the executive head, the law aims to ensure that decision-makers understand the gravity of ignoring gender equality obligations.⁷⁷

Despite the clear structure of compliance notices and the strict penalties attached, the practical enforcement of **Section 48**⁷⁸ has been weak. Since the Act came into force, there are few, if any, publicly reported cases of fines or imprisonment for non-compliance. This lack of enforcement reduces the perceived seriousness of compliance notices, making some organizations treat them as advisory rather than mandatory. When penalties are rarely applied, the deterrent effect is undermined, and non-compliant institutions may feel little pressure to act.⁷⁹

Several factors contribute to this weak enforcement. First, the **Gender Equity and Equality Commission**, which is responsible for monitoring compliance, has faced challenges in establishing offices and staffing them across provinces. Without a fully operational Commission, there are limited resources and personnel to track compliance, verify reports, or follow up on breaches. Second, the process of monitoring and enforcing compliance requires collaboration with other government agencies, and such coordination has often been inconsistent.⁸⁰ Many institutions continue to operate without fear of penalty because there is no consistent oversight mechanism in place.

Moreover, the **ambiguity in some definitions and procedures** in the Act also weakens enforcement. For example, the Act⁸¹ does not always clearly define what constitutes sufficient corrective action or the exact steps the Commission should take when compliance is not met. This leaves room for delays and discretionary interpretations,

⁷⁷ Ibid

⁷⁸ Act No. 22 of 2015

⁷⁹ Act No. 22 of 2015

⁸⁰ Chinambu, K. K. (2023). Gender Based Violence in Zambia: The Ineffective Enforcement of the Anti-Gender Based Violence Act of 2011. *Journal of Legal Studies & Research*, 9(2), 127-133.

⁸¹ Act No. 22 of 2015

which non-compliant bodies can exploit to avoid taking immediate action. Additionally, the requirement for reports to be submitted within specified timelines is often ignored, and there are few mechanisms to ensure that these timelines are strictly followed.

The practical effect is that while compliance notices are designed to be a strong enforcement tool, they often fail to produce meaningful results in real life. Institutions may acknowledge receipt of a notice and provide partial or incomplete reports, but without active monitoring, verification, and follow-up, the goals of the Act⁸² such as increased women's representation in leadership, elimination of discrimination, and gender mainstreaming are not fully realized. The law sets out high expectations, but without active enforcement, the compliance notices risk being symbolic rather than transformative.

3.4 ENFORCEMENT AND INVESTIGATIVE POWERS

The **Gender Equity and Equality Act**⁸³ gives the Gender Equity and Equality Commission, as well as authorized officers, important powers to investigate cases of non-compliance with the Act. Under **Sections 49 and 50**⁸⁴, these powers include entering public or private premises, examining documents, removing records if necessary, and requesting information to verify whether institutions are following the law. In situations where immediate action is needed or where a person may be hiding evidence, the Commission can even apply for a search warrant from a judge or magistrate to ensure access to documents or other evidence.

These powers are critical because they allow the State to confirm whether public or private bodies are implementing gender equity measures effectively. Instead of relying solely on reports submitted voluntarily, the Commission can directly investigate institutions, check records, and take action if there is evidence of non-compliance. This theoretically strengthens the enforcement of **ministerial directives** and **compliance**

⁸² Ibid

⁸³ Act No. 22 of 2015

⁸⁴ Ibid

notices, because it provides a way to hold institutions accountable even if they ignore reporting requirements.⁸⁵

Despite the clarity of these provisions, the practical application of investigative powers has been very limited. One major issue is the **lack of full establishment of the Commission**. While the Act requires the Commission to have offices in every province, in reality, many offices are either not operational or lack sufficient staff and resources. This means that the Commission cannot carry out investigations consistently across the country, and many public or private bodies can avoid scrutiny simply because the Commission is not present to monitor them.⁸⁶

Institutional capacity is another significant challenge. The Commission is intended to have trained officers who can handle investigations, including understanding legal procedures for search and seizure.⁸⁷ However, there is a shortage of qualified personnel, which limits the ability to carry out investigations effectively. In some cases, officers may not have the expertise or legal support to obtain search warrants, collect evidence properly, or ensure that reports and documents are accurate. This makes the investigative powers under **Sections 49–50** ⁸⁸difficult to use in practice.

Independence of the Commission also affects enforcement. While the law gives the Commission authority, it still relies heavily on government funding and administrative support. This dependence can reduce its ability to act impartially, particularly when investigating public bodies or influential institutions. Without sufficient independence, the Commission may hesitate to take strong action against non-compliant bodies, further weakening the enforcement of directives and compliance notices.⁸⁹

⁸⁵ Report of the Committee on National Guidance and Gender Matters on the Performance Audit Report of the Auditor General on the Management and Disposal of Gender Based Violence Cases in Zambia from 2017 to 2022

⁸⁶ Ibid

⁸⁷ Chinambu, K. K. (2023). Gender Based Violence in Zambia: The Ineffective Enforcement of the Anti-Gender Based Violence Act of 2011. *Journal of Legal Studies & Research*, 9(2), 127-133.

⁸⁸ Act No. 22 of 2015

⁸⁹ Mwila, P. (2014). Effectiveness of the National Gender Policy in Ensuring Women's Participation in Decision Making Among Tertiary Learning Institutions in Zambia: The Case of the National Institute of Public Administration and Evelyn Hone College. University of Zambia.

Another challenge lies in public awareness and cooperation. For investigations to succeed, institutions and individuals must respond to inquiries and provide access to records. In many cases, officials may not be aware of their obligations under the Act, or they may deliberately delay or avoid providing documents. While **Sections 49 and 50**⁹⁰ provide legal authority to compel cooperation, the lack of active follow-up and monitoring means many investigations never happen, and non-compliance goes unpunished.

The gaps in enforcement create a clear **discrepancy between the law and practice**. On paper, the Commission has strong powers to investigate, access information, and ensure compliance.⁹¹ In practice, however, the combination of limited resources, under establishment, lack of independence, and insufficient public cooperation prevents these powers from being fully effective. As a result, ministerial directives and compliance notices are not always supported by concrete investigative action, which reduces their impact in promoting gender equity.

This situation is concerning because it allows persistent gender disparities to continue. Public and private bodies may issue reports or statements claiming compliance, yet there is often no verification to check the accuracy of these claims. Women may remain underrepresented in leadership positions, and discriminatory practices may continue unchallenged, even though the law provides mechanisms to prevent them.⁹²

3.5 CONCLUSION

ministerial directives and compliance notices under the Gender Equity and Equality Act were introduced as powerful tools to hold institutions accountable and to ensure that gender equality is not left to chance. In theory, they place responsibility on top decision-makers, set clear timelines, and even attach penalties for non-compliance. However, in practice their impact has been limited because of weak enforcement, lack of strong sanctions, underfunded institutions, and the persistence of discriminatory customs and outdated practices. The Constitution and the Act provide a strong legal framework, but without proper monitoring, active investigations, and real consequences for failure to

⁹⁰ Act No. 22 of 2015

⁹¹ Report of the Committee on National Guidance and Gender Matters on the Performance Audit Report of the Auditor General on the Management and Disposal of Gender Based Violence Cases in Zambia from 2017 to 2022

⁹² Act No. 22 of 2015

comply, these measures risk becoming symbolic rather than effective. For Zambia to make meaningful progress on gender equality, directives and compliance notices must be backed by stronger institutional capacity, consistent enforcement, and greater public awareness. Only then can the promises of equality in the Constitution and the Act be translated into everyday reality for both women and men.

CHAPTER FOUR

LESSONS FROM THE IMPLEMENTATION OF SIMILAR GENDER EQUITY LAWS IN THE UGANDA, SOUTH AFRICA AND KENYA

4.0 INTRODUCTION

This chapter examines lessons that Zambia can draw from the implementation of gender equity laws in Uganda, South Africa, and Kenya. These three countries have taken practical and legally grounded steps to promote gender equality in ways that Zambia can learn from. Uganda has developed strong institutional and financial mechanisms such as the Equal Opportunities Commission and gender-responsive budgeting, ensuring that equality is not only a principle but a legal requirement tied to national budgets. South Africa, through the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA), has established Equality Courts and clear procedures that make justice more accessible to victims of discrimination, while also holding both public and private institutions accountable. Kenya's Constitution of 2010 has gone even further by making gender balance a constitutional duty through the two-thirds gender rule, giving courts the power to enforce compliance and Parliament the responsibility to enact supporting laws. In comparison, Zambia's Gender Equity and Equality Act of 2015 lacks such strong constitutional and enforcement mechanisms, which limits its effectiveness. Therefore, this chapter focuses on understanding how these countries have turned gender equity from a policy aspiration into a working system, and what Zambia can adopt to make its framework stronger, more accountable, and more inclusive.

4.1 IMPLEMENTATION OF SIMILAR GENDER EQUITY LAWS IN UGANDA

Uganda's Equal Opportunities Commission (EOC) was created under the **Equal Opportunities Commission Act, 2007**, which gives effect to **Article 32(1)** of the **Constitution of the Republic of Uganda, 1995**.⁹³ This constitutional article requires the State to take affirmative action to correct historical imbalances that have affected marginalized groups.

4.1.1 The Equal Opportunities Commission and Its Mandate

⁹³ The Constitution of the Republic of Uganda 1995

Uganda's Equal Opportunities Commission (EOC) was established under **Section 3(1)** of the **Equal Opportunities Commission Act**⁹⁴. The Commission's main duty under **Section 14(1)**⁹⁵ is to eliminate discrimination and take affirmative action in favour of marginalised groups, including women, to ensure equality of opportunity. This provision gives the EOC a clear and independent mandate to enforce equality laws across both public and private sectors. The Commission has the power to investigate, monitor, and take corrective measures where discrimination is found.

One of the major strengths of Uganda's EOC is its strong statutory authority and visibility. Under **Section 14(2) of the Act**,⁹⁶ the Commission can hear and determine complaints of discrimination, make recommendations, and even order institutions to take corrective steps. This is a stronger mechanism than Zambia's Gender Equity and Equality Commission under **Section 10 of the Gender Equity and Equality Act**,⁹⁷ which has similar powers on paper but lacks strong implementation support and visibility. In Uganda, the EOC is required by **Section 23(1)**⁹⁸ to prepare and publish annual reports on the state of equal opportunities in the country. These reports are tabled before Parliament and made public, ensuring accountability and transparency.⁹⁹ Zambia, by contrast, has limited public reporting on institutional compliance with the Gender Equity and Equality Act.

The EOC's visibility has also been strengthened by its independence. Under **Section 5(1)** of the Act,¹⁰⁰ the Commission is a corporate body with perpetual succession and a common seal, meaning it can sue or be sued in its own name. This independence helps it act without direct political interference. Zambia's Commission, while legally established, still depends heavily on ministerial oversight and government funding, which weakens its autonomy.

4.1.2 Gender and Equity Budgeting Mechanism

⁹⁴ Act No.2 of 2007

⁹⁵ Act No.2 of 2007

⁹⁶ Ibid

⁹⁷ Act No.2 of 2007

⁹⁸ Act No.2 of 2007

⁹⁹ The Monitor (2021). EOC assesses ministries and local governments on gender and equity compliance. Kampala: Daily Monitor Publications. Retrieved from <https://www.monitor.co.ug>

¹⁰⁰ Ibid

Uganda has integrated gender and equity budgeting into its national planning and budgeting process, guided by the **Public Finance Management Act, 2015**, specifically **Section 13(15)**, which requires every Ministry, Department, and Agency (MDA) to include a certificate of gender and equity compliance before the national budget is approved. This provision ensures that public funds are not released unless the spending agency demonstrates that its budget addresses the needs of both men and women fairly.

The **Equal Opportunities Commission Act**, under **Section 14(2)(d)**,¹⁰¹ mandates the Commission to monitor and evaluate the compliance of MDAs with this gender and equity budgeting requirement. The EOC uses compliance tools, checklists, and assessment forms developed in partnership with the Ministry of Finance and **UN Women**. Every year, MDAs are scored based on their gender responsiveness, and those that fail to meet a minimum threshold risk losing budget approval. This practical mechanism ensures that gender equality is not just a policy statement but a measurable part of financial decision-making.

This budgeting requirement is something Zambia's Gender Equity and Equality Act lacks. While **Section 5(2)(e)** of Zambia's Act¹⁰² empowers the Minister of Gender to take measures such as gender-responsive budgeting, the law does not make compliance with such budgeting a legal condition for the approval of institutional budgets. Uganda's model shows that legal enforcement through the budget process can be an effective tool to promote equality and accountability. If Zambia were to adopt a similar mechanism, the Gender Equity and Equality Commission could play a stronger role in assessing institutional compliance and ensuring that gender considerations are reflected in actual spending decisions.

4.2 LOCAL GOVERNMENT ENGAGEMENT AND ENFORCEMENT

Another key area where Uganda has made progress is through the inclusion of local government in gender equality monitoring. Under **Section 14(2)(a) of the Equal Opportunities Commission Act**,¹⁰³ the EOC is required to monitor and evaluate

¹⁰¹ Act No.2 of 2007

¹⁰² Gender Equity and Equality Act No. 22 of 2015

¹⁰³ Ibid

policies, laws, plans, and activities of both government and private sector institutions to ensure they are compliant with equal opportunity principles. This responsibility extends to local governments, which must prepare gender and equity compliance reports as part of their planning and budgeting processes.

The EOC regularly conducts compliance assessments at district level and publishes findings showing which districts meet or fail to meet gender and equity requirements. For example, local councils are required to ensure that development plans reflect the needs of both women and men, and their compliance is measured and reported publicly. This close engagement ensures that gender equity implementation reaches grassroots institutions, rather than being limited to national offices in the capital.¹⁰⁴

In Zambia, enforcement under the **Gender Equity and Equality Act**¹⁰⁵ is mostly centralized. While **Section 12(1) of the Act**¹⁰⁶ provides for the establishment of provincial offices for the Commission, many of these have not been set up due to lack of resources. As a result, rural and local institutions often go unmonitored, and gender compliance remains low outside Lusaka. Uganda's experience shows that decentralisation is vital for real enforcement, as it brings accountability closer to the people and institutions being monitored.

4.3 THE IMPLEMENTATION OF SIMILAR GENDER EQUITY LAWS IN SOUTH AFRICA

South Africa's Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000 (commonly known as PEPUDA) is one of the strongest gender equality laws in Africa. It was enacted to give effect to **Section 9 of the Constitution of the Republic of South Africa**,¹⁰⁷ which guarantees the right to equality and prohibits unfair discrimination on grounds such as gender, sex, race, disability, religion, and others. Section 2 of PEPUDA states that the purpose of the Act is to "prevent and prohibit unfair discrimination and harassment" and to "promote equality" by providing practical measures for

¹⁰⁴ Equal Opportunities Commission (EOC) Compliance Assessment Reports (2020–2024). Kampala: Government Printer. Retrieved from <https://www.eoc.go.ug>

¹⁰⁵ Act No. 22 of 2015

¹⁰⁶ Ibid

¹⁰⁷ Constitution of the Republic of South Africa, 1996

enforcement. This law goes beyond general statements of principle and provides detailed steps for implementation, something Zambia's Gender Equity and Equality Act No. 22 of 2015 still struggles to achieve in practice.

4.3.1 Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000

Equality Courts

A key feature of PEPUDA is the creation of Equality Courts under **Section 16**.¹⁰⁸ These courts are designed to make justice accessible to ordinary people who face discrimination, including women who are denied opportunities or treated unfairly in employment, education, or public services. Unlike ordinary courts, Equality Courts are meant to be simple, inexpensive, and user-friendly. Section 21¹⁰⁹ gives these courts the power to make wide-ranging orders, including ordering compensation, apologies, affirmative action measures, or even changes to policies that perpetuate discrimination. These provisions make enforcement practical and immediate. In Zambia, while the Gender Equity and Equality Act empowers the Minister to issue directives and compliance notices under **Sections 47 and 48**¹¹⁰, it does not provide for specialized courts or an easy complaint system. This limits how citizens can directly seek justice when discrimination occurs.

Equality Courts are also supported by "Equality Clerks," who are officials assigned to help complainants prepare their cases and understand procedures, as provided under **Section 20 of the Act**¹¹¹. This ensures that even people without lawyers can pursue justice. In Zambia, by contrast, most gender-related complaints are handled through administrative reports to the Gender Equity and Equality Commission or the Ministry of Gender. The process is often bureaucratic and slow, and citizens lack direct access to an independent forum like South Africa's Equality Courts. Creating a similar system in Zambia would make enforcement of gender rights more effective and more accessible to the public.

¹⁰⁸ Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000

¹⁰⁹ Act No. 4 of 2000

¹¹⁰ Act No. 22 of 2015

¹¹¹ Act No. 4 of 2000

4.3.2 Special Measures and Affirmative Action

Another major lesson from South Africa is how PEPUDA recognizes affirmative action and special measures as lawful and necessary tools for achieving real equality. **Section 14(1) of PEPUDA**¹¹² states that “it is not unfair discrimination to take measures designed to protect or advance persons disadvantaged by unfair discrimination.” This means that actions such as reserving leadership positions for women, giving preference to women in promotions, or providing scholarships to encourage girls’ education are legally supported. Zambia’s Gender Equity and Equality Act also allows affirmative action under **Section 5**,¹¹³ but it lacks detailed procedures or guidelines on how such measures should be implemented and monitored. In South Africa, these measures are clearly protected by law, which removes fear of backlash or legal uncertainty when institutions take deliberate steps to promote women’s representation.

Section 24 of PEPUDA¹¹⁴ requires public bodies to prepare equality plans and codes of practice. These plans must show how each institution intends to eliminate discrimination and promote equality. For example, a government department must report what programs it has to promote women’s leadership or to eliminate gender bias in recruitment. The Equality Review Committee, established under **Section 32**,¹¹⁵ monitors these reports and advises the Minister of Justice on whether the country is achieving progress toward equality. In Zambia, although institutions are expected to submit gender reports when responding to ministerial directives under Section 47 of the GEEA, there is no formalized national equality plan or central monitoring committee to assess compliance. This makes Zambia’s enforcement more fragmented and less accountable.

Furthermore, South Africa’s system allows for the adoption of regulations and codes of practice under **Section 30 of PEPUDA**.¹¹⁶ These codes are developed by the Minister in consultation with relevant sectors to guide compliance in specific areas like education, employment, and service delivery. For instance, the Department of Justice and

¹¹² Ibid

¹¹³ Act No. 22 of 2015

¹¹⁴ Act No. 4 of 2000

¹¹⁵ Ibid

¹¹⁶ Ibid

Constitutional Development has issued specific equality guidelines for both public and private employers. Zambia could borrow this idea by developing mandatory gender equity codes for various sectors such as education, finance, and public service, ensuring that each sector has clear and measurable targets for promoting women's equality.

4.3.3 Legal Standing and Accountability in Both Public and Private Sectors

One of the strongest aspects of South Africa's law is that it applies to both public and private actors. Section 6(1) of PEPUDA explicitly provides that "no person may unfairly discriminate against any other person." This means that individuals, companies, non-governmental organizations, and even churches can be held accountable if they engage in discrimination. This broad coverage closes the gap that often exists in other legal systems where only government institutions are regulated. For example, in the case of ***Strydom v Nederduitse Gereformeerde Gemeente Moreleta Park***¹¹⁷, an Equality Court found that a church had unfairly discriminated against a music teacher because of his sexual orientation. The court ordered the church to compensate the teacher and apologize. Although this case dealt with sexual orientation, it demonstrated that private institutions can be held accountable under PEPUDA. In Zambia, the Gender Equity and Equality Act mainly focuses on public institutions and does not expressly extend strong enforcement powers to address discrimination in the private sector unless a directive or compliance notice is issued.

Section 13 (1) of PEPUDA¹¹⁸ sets out factors to determine whether discrimination is fair or unfair. It looks at the purpose of the conduct, its impact on the complainant, and whether less restrictive means could have been used. This approach ensures that every case is assessed on its facts, balancing fairness and accountability. Zambia's GEEA does not include such detailed criteria, which makes enforcement less consistent and gives room for institutions to justify discrimination more easily. Introducing a clear test for fairness and unfairness could make enforcement more objective and predictable.¹¹⁹

¹¹⁷ *Strydom v Nederduitse Gereformeerde Gemeente Moreleta Park* [2009] ZASCA 56.

¹¹⁸ Act No. 4 of 2000

¹¹⁹ Western Cape Association for Persons with Disabilities (WCAPD). (2023). Gender Equality and Inclusion in South Africa: Policy Review Report.

PEPUDA also allows anyone acting in the public interest, including non-governmental organizations, to bring cases before Equality Courts, according to **Section 20(1)(d)**.¹²⁰ This provision expands legal standing beyond individual victims, ensuring that systemic discrimination can be challenged. In Zambia, the GEEA does not expressly grant standing to NGOs or public interest groups to take legal action on behalf of others. As a result, many women or vulnerable individuals who cannot afford legal representation remain unprotected. By giving NGOs standing to file cases, Zambia could ensure stronger accountability and broader protection of gender rights.

4.4 THE IMPLEMENTATION OF SIMILAR GENDER EQUITY LAWS IN KENYA

Kenya's Constitution of 2010 gives gender equality a firm legal foundation that goes beyond ordinary legislation. **Article 27(1)**¹²¹ guarantees equality before the law and freedom from discrimination, while Article 27(3) specifically provides that *"women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres."* Most importantly, Article 27(8) directs the State to *"take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender."*

This "two-thirds gender rule" is reinforced by **Article 81(b)**,¹²² which lists the same requirement as one of the principles of Kenya's electoral system. Together, these constitutional provisions create a binding duty on Parliament and other public bodies to ensure gender balance. This constitutional status gives the rule more force than an ordinary Act of Parliament. It cannot be easily ignored or postponed because it forms part of Kenya's supreme law. Zambia's Gender Equity and Equality Act does not have a similar constitutional anchor. Although **Section 4 of the Zambian Act**¹²³ promotes gender mainstreaming and empowerment, it is only statutory and therefore lacks the supremacy and enforceability that Kenya's constitutional rule enjoys.

¹²⁰ Act No. 4 of 2000

¹²¹ Kenya's Constitution of 2010

¹²² Ibid

¹²³ Act No. 22 of 2015

4.4.1 judicial Enforcement and Legal Sanctions

Another strong feature of Kenya's system is the active role of the courts in enforcing gender equality. When public bodies fail to comply with the two-thirds rule, the courts can step in. In ***National Gender and Equality Commission & Another v Judicial Service Commission & Another***,¹²⁴ the High Court ruled that appointments that violate the two-thirds rule are unconstitutional. The court held that both public and private institutions exercising public functions must respect the equality provisions of the Constitution.

In addition, in, the High Court directed Parliament to enact legislation to implement the two-thirds gender rule within sixty days, failing which it could face dissolution under **Article 261(7). The Constitution**¹²⁵ gives the courts power to declare that a state organ or officer has failed to perform a constitutional duty and to order corrective measures. This judicial power creates real consequences for non-compliance, making gender equality a legally enforceable obligation rather than a mere policy goal.

Zambia, by contrast, has no constitutional deadlines or court-enforced sanctions to compel the implementation of gender balance in public bodies. **The Gender Equity and Equality Act under Sections 47 and 48**¹²⁶ allows the Minister to issue directives and compliance notices, but the enforcement depends largely on administrative discretion. There are no provisions allowing courts to dissolve or penalize bodies that fail to meet gender balance targets. Kenya's model therefore shows how constitutional backing and judicial activism can close the gap between policy and action.

4.4.2 Institutional Mechanisms and Implementation Frameworks

To make the constitutional principle work in practice, Kenya established supporting institutions. The National Gender and Equality Commission (NGEC) was created under the **National Gender and Equality Commission Act No. 15 of 2011. Section 8 of this Act**¹²⁷ gives the Commission the mandate to promote gender equality, monitor compliance, and advise public and private bodies on gender issues. The Commission can

¹²⁴ [2017] eKLR

¹²⁵ The Constitution of Kenya (2010)

¹²⁶ Act No. 22 of 2015

¹²⁷ Act No. 15 of 2011

also investigate violations, prepare reports, and make recommendations to Parliament and other authorities.

In 2017, the government also formed a Multi-Sectoral Working Group (MSWG) under the Ministry of Gender, Culture, Arts and Heritage to develop a clear roadmap for implementing the two-thirds rule. The group's tasks included drafting legislative proposals, setting timelines, and defining roles for government agencies, political parties, and independent commissions. This coordinated approach ensures that enforcement does not depend on one office alone.¹²⁸

Zambia's Gender Equity and Equality Commission established under the 2015 Act has a similar mandate but lacks the same level of operational independence and institutional support. The Kenyan Commission reports directly to Parliament and has constitutional backing under **Article 59 of the Constitution**,¹²⁹ which establishes independent commissions on human rights and equality. Zambia's Commission, however, still depends heavily on the Ministry of Gender for funding and direction, which reduces its independence and ability to act decisively.

4.5 CONCLUSION

Uganda, South Africa, and Kenya show that strong gender equality systems require more than just legislation they need enforcement mechanisms, institutional independence, and constitutional support. Uganda demonstrates how integrating gender and equity budgeting into national finance laws can create real accountability and link equality to resource allocation. South Africa's PEPUDA provides a clear model for Zambia on how to make justice accessible through Equality Courts and how to extend legal protection to both public and private actors. Kenya offers perhaps the most powerful lesson through its Constitution, which makes gender balance a constitutional right and empowers courts to act where Parliament fails. Unlike Zambia, where the Gender Equity and Equality Commission relies mainly on ministerial authority and lacks enforcement strength, these countries have shown that independence, judicial power, and budget-linked

¹²⁸ Ministry of Gender, Culture, the Arts and Heritage (Kenya) (2022). Report of the Multi-Sectoral Working Group on the Implementation of the Two-Thirds Gender Principle. Government of Kenya, Nairobi.

¹²⁹ The Constitution of Kenya (2010)

accountability are key to real progress. If Zambia were to constitutionalize gender equity, strengthen its Commission's independence, and introduce measurable enforcement tools such as gender budgeting and equality plans it could move from mere policy promises to actual transformation in gender equality.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.0 INTRODUCTION

This chapter was based on the analysis of Zambia's Gender Equity and Equality Act No. 22 of 2015 and lessons from Uganda, South Africa, and Kenya on implementing gender equality laws. It presents the key findings from chapters one to four, highlighting gaps in enforcement, institutional capacity, and accountability under Sections 47–50 of the Act. The chapter also draws conclusions on how Zambia's legal framework aligns with international and regional standards, showing that without strong enforcement, independent institutions, and measurable compliance tools, gender equality remains largely symbolic. Finally, the chapter provides practical recommendations aimed at strengthening the Act, improving oversight, and ensuring that gender equity becomes a tangible reality for all Zambians.

5.1 FINDINGS AND CONCLUSIONS

5.1.1 CHAPTER ONE

Chapter one gave a general overview of the topic and set the foundation on assessing the effectiveness of ministerial directives and compliance mechanisms in promoting gender equality in Zambia: a critical analysis of The Gender Equity and Equality Act No. 22 of 2015. It gave a brief background to the study; further, it looked at the statement of the problem, objectives of the study, research questions and significance. Then, a literature review was given stating how the study differs from other authors and finally the methodology of the study.

5.1.2 CHAPTER TWO

This chapter was based on examining the international and regional legal frameworks that promote gender equity and protect women's rights. The findings show that instruments like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Maputo Protocol, and the SADC Protocol provide comprehensive guidance for states to eliminate discrimination and ensure equality for women in political,

economic, social, and cultural life. CEDAW, through **Articles 2, 3, 5, 6, 10–16**¹³⁰, obliges states to adopt laws and measures that protect women, promote their participation, and remove stereotypes and harmful practices. The Maputo Protocol emphasizes protection against violence, harmful cultural practices, and unequal access to education, health, and economic opportunities, while also influencing national courts and legislation, as seen in cases like **Bhe v Magistrate** ¹³¹and **Rabeca Z Gyumi v Attorney General**¹³². SADC, through its Gender Policy and revised Protocol on Gender and Development, supports member states to harmonize national laws with international standards, enhance women's representation, and monitor progress in gender equality. The chapter also shows that effective implementation depends on political will, resources, and institutional capacity.

Therefore, international and regional frameworks play a vital role in advancing gender equity in Africa. By guiding states to align national laws, policies, and practices with standards set in CEDAW, the Maputo Protocol, and SADC instruments, these frameworks help ensure women's full participation in governance, education, economic activities, and social development. The findings demonstrate that eliminating gender discrimination requires coordinated action across international, regional, and national levels, and that such efforts are essential for creating inclusive, fair, and sustainable societies. Compliance with these provisions, including Zambia's Gender Equity and Equality Act No. 22 of 2015, shows that legal frameworks can effectively protect women's rights and promote equality when properly enforced.

5.1.3 CHAPTER THREE

This chapter was based on examining how international, regional, and national legal frameworks influence gender equity in Zambia, particularly in relation to the practical implementation of the Gender Equity and Equality Act No. 22 of 2015. The findings show that while Zambia has strong laws and international commitments to promote gender equality, significant gaps exist in enforcement. CEDAW, the Maputo Protocol, and the

¹³⁰ Convention on Elimination of all forms of discrimination against women 1979

¹³¹ [2004] ZACC18

¹³² Rebeca Z Gyumi Vs Attorney General (Misc Civil Cause 5 of 2016) 2016 TZHC 2023 (3 March 2016)

SADC Protocol provide clear guidance on eliminating discrimination, empowering women, and ensuring equal opportunities in political, social, and economic life. Zambia's Gender Equity and Equality Act,¹³³ through Sections 47 and 48, empowers the Minister to issue directives and compliance notices to public and private bodies, while Sections 49–50 give the Commission investigative powers. However, despite these provisions, gender disparities persist in leadership, employment, and decision-making. Weak enforcement, limited institutional capacity, inadequate funding, and persistent discriminatory customs prevent directives and compliance notices from having their intended impact. Cases such as **Edith Nawakwi v Attorney General**¹³⁴ illustrate that constitutional and statutory protections exist but are not always reflected in everyday practices, especially in areas influenced by outdated administrative procedures and customary norms. Furthermore, the lack of reported penalties for non-compliance reduces the effectiveness of these enforcement tools, undermining accountability and progress toward gender equality.

The chapter demonstrates that Zambia has a strong legal framework aligned with international and regional standards to promote gender equity. Instruments like CEDAW, the Maputo Protocol, and the SADC Protocol, along with national laws such as the Gender Equity and Equality Act and the Constitution, provide a solid foundation for eliminating discrimination and empowering women. However, the effectiveness of ministerial directives, compliance notices, and investigative powers is constrained by weak enforcement, insufficient institutional capacity, and continued influence of discriminatory practices. For meaningful progress, Zambia must strengthen enforcement mechanisms, ensure active monitoring, adequately resource the Gender Equity and Equality Commission, and increase public awareness of gender rights. Only through these measures can the legal provisions translate into tangible improvements in women's representation, participation, and empowerment across all sectors.

¹³³ The Gender Equity and Equality Act No. 22 of 2015.

¹³⁴(1991S.J(H.C)

5.1.4 CHAPTER FOUR

This chapter was based on lessons from Uganda, South Africa, and Kenya on implementing gender equity laws and strictly aligns with the study's aim of identifying ways Zambia can strengthen its Gender Equity and Equality Act No. 22 of 2015. The findings show that Uganda's Equal Opportunities Commission has strong statutory authority, independence, and visibility, with gender and equity budgeting making compliance measurable and linking equality to public resource allocation under Sections 14(1) and 23(1) of the Equal Opportunities Commission Act. South Africa's PEPUA establishes Equality Courts, clear enforcement procedures, and legal protection for both public and private actors, as seen under Sections 16, 21, and 24, making justice accessible and practical. Kenya's Constitution of 2010 goes further by making gender balance a constitutional duty through the two-thirds gender rule, backed by judicial enforcement and institutional frameworks like the National Gender and Equality Commission under Section 8 of the NGECA Act No. 15 of 2011. In comparison, Zambia's framework lacks constitutional backing, strong enforcement mechanisms, operational independence, and measurable accountability tools, which limits the Gender Equity and Equality Commission's effectiveness. Centralized monitoring, weak sanctions, and dependence on ministerial authority have left gender equality largely symbolic rather than transformative, particularly in rural and private sector contexts.

Therefore, the experiences of Uganda, South Africa, and Kenya demonstrate that legal provisions alone are insufficient for meaningful gender equality. Effective systems require constitutional support, independent enforcement institutions, accessible justice mechanisms, and accountability tools such as gender budgeting and equality plans. For Zambia to achieve real progress, the Gender Equity and Equality Act must be strengthened through enhanced independence of the Commission, stronger enforcement powers, and the introduction of measurable compliance and monitoring mechanisms. By learning from these regional examples, Zambia can bridge the gap between law and practice and translate gender equity from policy promises into everyday reality for women and men.

5.2 RECOMMENDATIONS

This research has revealed that Zambia's Gender Equity and Equality Act No. 22 of 2015 faces several challenges, particularly in enforcement, institutional capacity, and accountability. This is in contrast to countries like Uganda, South Africa, and Kenya, where independent commissions, accessible courts, and measurable compliance tools ensure stronger implementation and practical gender equality. The author therefore recommends the following:

1. Strengthen Enforcement and Accountability

Zambia should ensure that non-compliance penalties under Section 48(4) are consistently applied. This includes actively imposing fines or imprisonment on public and private bodies that ignore directives or compliance notices. Clear and consistent enforcement will create a strong deterrent, making institutions take gender equality obligations seriously and reducing persistent disparities in leadership, employment, and decision-making.

2. Enhance Institutional Capacity of the Gender Equity and Equality Commission

The government should fully establish and adequately resource the Commission across all provinces, providing sufficient staff, training, and logistical support to carry out investigations under Sections 49–50. This will enable the Commission to monitor compliance effectively, verify reports, and take prompt action against non-compliant institutions. Strong institutional capacity will close gaps in enforcement and ensure that directives and compliance notices are backed by practical oversight.

3. Increase Public Awareness and Reporting Mechanisms

Zambia should implement public education campaigns to inform institutions and citizens about gender equality rights and obligations under the Act. In addition, accessible and transparent reporting mechanisms should be established to allow employees, civil society, and the public to report non-compliance. Greater awareness and community involvement will complement official enforcement efforts, increase accountability, and

ensure that gender equity measures are implemented in practice rather than remaining symbolic.

4. Strengthen the Independence and Capacity of the Commission

Zambia should make the Gender Equity and Equality Commission more independent from ministerial control, similar to Uganda's Equal Opportunities Commission under Sections 5(1) and 14(1) of the Equal Opportunities Commission Act. This includes providing dedicated funding, corporate status, and operational autonomy so that the Commission can investigate, monitor, and enforce compliance without political interference. Strengthening independence will allow the Commission to act decisively and improve accountability across public and private institutions.

5. Introduce Accessible and Specialized Gender Courts or Complaint Mechanisms

Zambia should create user-friendly courts or administrative mechanisms, like South Africa's Equality Courts under Sections 16 and 21 of PEPUA, where individuals or groups can directly challenge gender discrimination. These courts should provide clear procedures, allow public interest cases, and ensure timely enforcement of remedies, making justice accessible to ordinary citizens. This would address the current problem where enforcement under Sections 47-50 depends largely on ministerial discretion and is slow or inaccessible.

6. Implement Measurable Enforcement and Accountability Tools

Zambia should introduce mechanisms such as gender and equity budgeting and mandatory equality plans, similar to Uganda's Section 23(1) reporting and South Africa's Section 24 requirements. These tools would make compliance measurable, linking gender equality to resource allocation and institutional performance. Public reporting of compliance would promote transparency and allow monitoring by civil society, ensuring that non-compliance is detected early and remedial actions are taken, strengthening Sections 47-48 enforcement under the Act.

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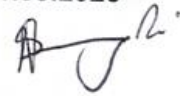
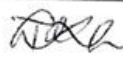
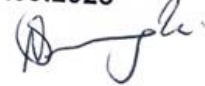
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