



DEAR RITA

For the last couple of weeks, I have pondered over the Zimbabwe Electoral Commission (ZEC) chairperson, Justice Rita Makarau's words while addressing the Parliamentary Portfolio Committee on Women's Affairs, Gender and Community Development. ZEC had been summoned by the Committee to explain how they would ensure equal representation between men and women in the upcoming elections. In commenting on the issue of proof of residence for women, Justice Makarau said *'They can register to vote by getting a letter from their husband confirming they still reside with him. If you are not in good books you can still register by depositing an affidavit yourself. There is confusion between an affidavit and an affirmation, but yes, people can affirm where they reside and this will help homeless women. No one will be denied the right to get registered.'*

There were many problems with her sentiments made on the day but this article will confine itself to her statement on women and proof of residence. I would expect that a Justice who has sat on the bench for over 10 years, would understand the dynamics of property ownership in Zimbabwe and would not tie the destiny of women to men. Why would a member of the judiciary in 2017 say that a woman can 'get a letter from her husband'? The fact that she limits her constitutional right to vote by ensuring that she is 'in good books' with her husband is not only problematic but outrightly unconstitutional.

Zimbabwe is a patriarchal society and for years, women have been fighting for equal rights and continue to do so as we have not yet achieved this. In a patriarchal society a woman is not seen or treated as an equal, which has an impact in property ownership. The Constitution of Zimbabwe in S56 (2) states that 'women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.'

Zimbabwean women, from the rural to urban, all face the same challenge albeit differently, one of them being they do not legally own the property they call their home. There are a number of reasons why this so. For one Zimbabwe does not have uniform laws on marriages.¹ We have multi marriage regimes,² which are covered by the law differently.³ The most common marriage is the unregistered customary law union, which has many disadvantages. In Zimbabwe marriage is also out of community of property and many times

¹ For more on the Zimbabwean marriages look at the RAU report <http://researchandadvocacyunit.org/system/files/Marriage%20In%20Zimbabwe.pdf>

² The three type of marriages, 5:11 commonly known as chapter 37, registered customary union and unregistered customary law union.

³ Ibid

properties are bought in the name of the husband whilst the wife contributes for many years to the buying or upkeep of that house. However many women have suffered in that they have found themselves homeless when a spouse decides to sell a house without their knowledge. Many women do not have the power to negotiate or the means to have their name put on the deed of the house. So it maybe a family home but for legal purposes it is HIS house.

This is the context many Zimbabwean women find themselves in...they own homes but don't really own them! Women spend their entire lives building, nurturing and beautifying a house only to be told they do not own it. They labour in the fields, extend the family home, enlarge the barn only to be told it belongs to the husband or his relatives in the case of his death. The point is property ownership is something women do not have, and there is an urgent need to continue fighting to have that realised. Therefore; connecting this problematic area to voting is very serious. Women already do not own the properties so why ask a man to validate their proof of residence in order for them to exercise their constitutional right?

Voting

The Zimbabwean Constitution in S155 states that 'the state has to ensure that ALL eligible citizens are registered as voters.' The Constitution does not qualify nor does it add any other special measures. What is clear from the Constitution is that women too have a right to vote and that ZEC has a constitutional mandate to ensure that everyone in this country who is of voting age has access to voting without unnecessary restrictions.

The issue of proof of residence in itself is a contentious issue, mainly because it affects the urban people more than the rural. In rural areas one simply needs a letter from the headman. In urban areas however the process is much more complicated, one often needs a sworn affidavit and it is not free. There are costs involved in acquiring the document and getting it certified by a commissioner of oaths. Although some may argue the fee is nominal from 50c up to \$2 depending on where you are, in an economy like ours any amount spent on exercising a right is not justifiable.

How do other countries do it?

According to Independent Electoral and Boundaries Commission of Kenya one does not need any proof of residence to register as a voter in Kenya. One simply presents themselves at a centre of their choice to register and they use the same biometric system which Zimbabwe is set to use in 2018. The Commission also makes it a crime for a person to register more than once and they ensure that there are enough checks and balances in place to prevent individuals from registering more than once.

According to the Zambian Election Commission one needs only a national ID card to register to vote. Upon locating a centre one produces an ID, tells any centre where they will be voting from and get a voter card. Easy as ABC. If a Zambian moves, their voter card is still valid they just go to a centre and have their address changed in the system, simple as that.

This is not to say Kenya and Zambia do not have their own challenges, but one can see from the process that the whole process of voting is simplified to ensure as many citizens are able to exercise their voting rights as possible. Voting is a national duty and it should not be limited by complications that are not necessary. The harder ZEC makes the process the more voter apathy there will have.

It is a wonder why ZEC insists on keeping this draconian requirement that clearly disadvantages predominately women and urban people. It is as if this is a deliberate move to disenfranchise these two groups of voters. ZEC has stated that the proof of registration is to ensure people do not register twice. If a person really wants to register twice how is this going to stop them? Is this not why we have an electronic system that is supposed to pick out duplicates? In any case when one uses a new system isn't it better to look at best practices? Would it not be best for an electoral commission to be looking at a few countries election websites to see how their election system works. Surely ZEC could have asked Kenya for a learning visit to see how they ensure they do not have duplication and how they protect their system. Or they could have called Zambia to find out exactly how they deal with the same problems. I strongly believe ZEC could find a lot of solutions than imposing proof of residence in the myth of purporting to protecting the vote.

Zimbabwe still has a long way to go before the electorate can fully trust an electoral commission. With all the conspiracy theories about ZEC in Zimbabwe, ZEC has to work really hard to show the electorate that they have their best interests at heart. The sentiments of Justice Makarau not only set women's rights many years back but they also show that ZEC has no understanding of the basic issues that voters in Zimbabwe have faced. The hope was that the new Constitution and a biometric voter system would breathe new life in the electoral system in Zimbabwe, but alas, new system, same problems for many women. Perhaps Zimbabwe needs to rethink this process, learn from other countries before making a decision that will discriminate on a huge chunk of the voting population. Going forward ZEC needs to be clear what their stance on women is and engage the people to find strategies to ensure that people's rights to voting are not violated. Such utterances by people in high offices are not only disappointing but set the women's rights agenda years back, women's rights are human rights and perhaps Justice Makarau needs to be reminded of this.