



Commission for Gender Equality
A society free from gender oppression and inequality



Presentation on 26 August 2014 Portfolio Committee on Justice and Corrections



Constitutional Mandate

- ❖ S187 (1)
The Commission for gender equality must promote respect for gender equality and the protection, development and attainment of gender equality.

Additional Powers and Functions prescribed by National legislation

- ❖ S11 (1) of the CGE Act 39 of 1996
 - Monitor
 - Investigate
 - Research
 - Educate
 - Lobby
 - Advise Parliament and report on issues concerning gender equality



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CGE MANDATE

Monitor compliance of Regional & International Conventions

Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA)

The CGE is obligated to assist complainants in instituting proceedings in the Equality Court

Conduct investigations and make recommendations regarding persistent contraventions of relevant provisions of PEPUDA





International Obligations

CEDAW

ARTICLE 15 : STATES AS FOLLOWS

State Parties shall accord to women in civil matters the same opportunities to that of men.

- Means women should have the same opportunities to defend divorce actions, challenge unfair maintenance orders.





Continued

SADC Protocol on Gender and Development

Article 6

1. State Parties shall review, amend and repeal all laws that discriminate on the ground of sex or gender by 2015.
2. State Parties shall enact and enforce legislation to :





SADC PROTOCOL

- (i) ensure equal access/protection to justice
- (ii) abolish the minority status of women-2015
- (iii) eliminate practices which are detrimental to the achievement of the rights of women.
- (iv) Eliminate gender based violence.

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The Constitution

SECTION 9

Equality includes the full and equal enjoyment of all rights and freedoms. To promote equality legislative and other measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination may be taken.

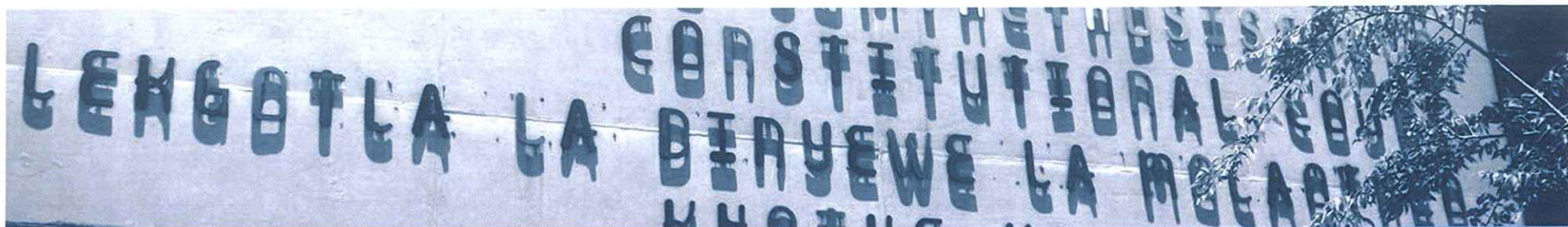




Gender Mainstreaming the Legal Aid Bill

1. The CGE welcomes the Legal Aid Bill and supports its intentions.
2. Clause 4(f) is supported but when pitched against the obligations outlined herein one observes that this expectation is not being realised because emphasis is placed on criminal cases. In the last financial year the LASA (Legal Aid South Africa) dealt with





Mainstreaming Legislation

438 844 new criminal matters as opposed to 55 277 new civil matters which include maintenance matters and divorces.

Recommendation

- (i) An express undertaking that divorce, domestic violence and related matters will be targeted.
- (ii) Legal Aid South Africa should in terms of Clause 4(f) also expressly provide for legal representation in the Equality Courts to support this initiative as we all know that these courts are under utilized.
- (iii) Finally in an attempt to realise the intentions of clause 4(f)





Gender Mainstreaming the Bill

The Bill should expressly provide for legal representation aimed at protecting women against gender based violence in matters such as *State v Jezile* in the Cape High Court where the issue relates to Ukuthwala and in *Modjagi v Mayelani* in the CC last year where the issue related to the validity of customary marriages in instances where the husband did not seek consent from the existing spouse.





Gender Mainstreaming the Bill

3. Clause 6

3.1 The CGE recommends that this clause be revised to ensure that the Board of Directors is representative in terms of gender.

4. Clause 7

4.1 The CGE is encouraged by the current form of Clause 7(c) which seeks to promote diversity.





Gender Mainstreaming the Bill

5. Clause to Allocate Judicare matters in such a manner that historically disadvantaged and women legal practitioners are able to benefit from such initiatives.



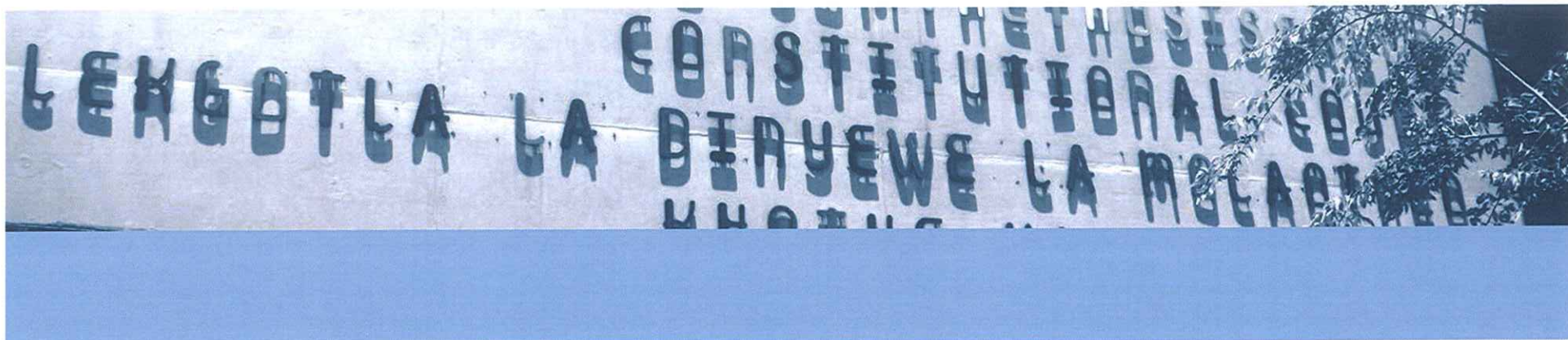
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Conclusion

1. The CGE is please to observe that Legal Aid South Africa has 50,6 % employees who are women.
2. We thank this Committee for the opportunity to make our submissions.





THANK YOU

ADV K ANIRUDHRA

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