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**SUBMISSION ON THE LEGAL AID BILL MADE BY THE COMMISSION
FOR GENDER EQUALITY TO THE PORTFOLIO COMMITTEE ON
JUSTICE AND CORRECTIONAL SERVICES**

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The Commission for Gender Equality (CGE) is a state institution and in terms of section 187 of the Constitution is tasked with the promotion, protection, development and attainment of gender equality.

Section 11 of the Commission of Gender Equality Act makes provision for the powers and functions of the CGE. The CGE's mandate includes the authority to evaluate any Act of parliament or proposed Act of parliament. Furthermore the CGE is mandated to evaluate and monitor policies and practices of organs of state at any level, public bodies and private businesses.

COMMENTS BY THE COMMISSION FOR GENDER EQUALITY

The role Legal Aid South Africa plays in the legal profession and society cannot be over emphasized. Legal Aid South Africa's role is to provide legal aid to those who cannot afford their own legal representation. This includes poor people and vulnerable groups such as women, children and the rural poor. It does this in an independent and unbiased manner with the intention of enhancing justice and public confidence in the law and administration of justice. It consequently is essential that Legal Aid also empowers women within the legal profession.

Most private law firms have placed both language and economic barriers on law graduates hence more and more graduates turn to state institutions for candidate attorney vacancies and employment in general. Legal Aid ensures that more previously disadvantaged persons are given an opportunity in a profession that is often referred to as a profession for males. The slow pace of gender representation and transformation on the bench is a cause for concern as there is a call upon CGE by stakeholders to investigate and monitor the underrepresentation of female attorneys especially that of black females. Furthermore the state of the legal profession as a whole has resulted in the drafting of the *Legal Practice Bill* which will address the structural issues within the legal profession.

In South Africa it has been found that most women in the work place are in administrative positions and hence have no voice when it comes to decision making. The highest law in the land, namely the Constitution states that equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of



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equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken.¹

Section 172(2) of the Constitution requires the judiciary to reflect broadly the racial and gender composition of South Africa. For this to materialize it is necessary for the legal profession to mirror the geographic representation so that there are suitable candidates being molded to become judges. Furthermore the *Legal Aid bill* must be consistent with the Constitution and work keenly towards healing the divisions of the past.²

Composition of the Board

The CGE recommends that at least 50% of the board members are women, as the board is responsible for making all the executive decisions thus it is essential that women be included in the decision making process of Legal Aid South Africa. Therefore it is recommended that Section 6 of the Legal Aid Bill, should expressly state that the board should broadly reflect the racial and gender composition of South Africa.

Committees of Board

The CGE recommends that at least 50% of the committee members are women. Since the Committee may assist the Board in exercising its powers and performing its functions, it would be necessary to have gender representation in the committee as well.

Employees and Agents

When the chief executive officer makes appointments of senior employees, other employees and agents, the officer and board must consider S172(2) of the constitution.

¹ Section (9)2 of The Constitution of the Republic of South Africa, 1996.

² Section 2, of The Constitution of the Republic of South Africa, 1996.



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Conclusion

The CGE thanks the Portfolio Committee on Justice and Correctional Services for the opportunity on the above mentioned bill.

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