



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

CONSTITUTION OF THE WESTERN CAPE AMENDMENT BILL 2023

Commission for Gender Equality Comments

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A society free from gender oppression and inequality

Table of Contents

1. Introduction.....	3
2. The CGE's Submission on aspects of the Bill	4
3. Conclusion	7



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A society free from gender oppression and inequality

1. Introduction

The Commission for Gender Equality (CGE) wishes to express its gratitude for the opportunity to make written submissions on the publication of the Constitution of the Western Cape Amendment Bill, 2023.

The CGE, as an independent statutory body created in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996 (the Constitution), is mandated to promote and protect gender equality in government, civil society, and the private sector.

The Commission for Gender Equality Act 39 of 1996, as amended (the CGE Act), gives the Commission the power to:

- Monitor and evaluate policies and practices of organs of State at any level.
- Monitor and evaluate statutory bodies and functionaries.
- Monitor public bodies and authorities and private businesses, enterprises, and institutions to promote gender equality.
- Make any recommendations that the CGE deems necessary.

The CGE welcomes the opportunity to make inputs into the Bill and shall reiterate the proposed sections under review in the Bill and respond thereto.



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

2. The CGE's Submission on aspects of the Bill

In light of the amendments made to the Electoral Act on 27 August 2021, as amended by the Electoral Laws Amendment Act, 2021. In which Articles 2 and 3 of Schedule 3 of the Electoral Act were amended to provide for:

“2. Formula for determining number of members of provincial legislatures.—

By taking into account available scientifically based data and representations by interested parties, the number of seats of a provincial legislature must be determined by awarding one seat for every 100 000 of the population whose ordinary place of residence is within that province, with a minimum of 30 and a maximum of 80 seats.”

Therefore, the Standing Committee on Premier and Constitutional Matters of the Provincial Parliament's adopted recommendations that section 13 of the Western Cape Constitution of 1997 be amended in order to increase the number of members of the Provincial Parliament, as follows:

*“To provide for the number of members of the Provincial Parliament.
BE IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—*

Substitution of section 13 of the Constitution of the Western Cape, 1997

1. The following section is substituted for section 13 of the Constitution of the

Western Cape, 1997:

*“[Composition] Number of members of the Provincial Parliament 13. (1)
The Provincial Parliament consists of [42 elected members] one seat for*



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

every 100 000 of the population whose ordinary place of residence is within the Province but may not exceed 80 seats. (2) The number of seats of the Provincial Parliament must be determined in the manner provided for in its rules and orders.''.¹

Accordingly, the CGE supports the increase of seats; however, it notes that this may provide the province with an opportunity to increase the proportion of women in its legislature through the increase of seats. The underrepresentation of women in decision-making is a common problem worldwide, and achieving gender parity in the political sphere is still a long way off. A number of international normative frameworks recognize the right of women to equal political participation at all levels of government¹, as emphasized in the Beijing Declaration and Platform for Action², and endorsed by the 2030 Agenda for Sustainable Development Goals (SDGs) decades later.

As part of achieving the SDG, it is imperative to ensure equal political participation at all levels of government as well as equal opportunities for women to lead at all levels of decision-making in political, economic, and public affairs. It is imperative that women have equal opportunities for leadership at all levels of decision-making in public, economic, and political life in order to achieve the Sustainable Development Goals.

¹ The Convention on the Political Rights of Women (1953), Art. II and III (United Nations General Assembly. 31 March 1953. Treaty Series, vol. 193, p. 135); the International Covenant on Civil and Political Rights (1966), Art. 2 and Art. 25 (United Nations General Assembly. 16 December 1966. Treaty Series, vol. 999, p. 171); and the Convention on the Elimination of All Forms of Discrimination against Women (1979), Art. 3 and Art. 7 (United Nations General Assembly. 18 December 1979. Treaty Series, vol. 1249, p. 13).

² Beijing Platform for Action, Paras 1, 44, 181 and 190(a) (United Nations. Report of the Fourth World Conference on Women. Beijing. 4–15 September 1995).



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

As a result of the addition of indicator 5.5.1b to the global SDG monitoring framework, the importance of a whole-of-government approach as well as the role women play at the local level is recognized. This target is measured according to the percentage of women in national parliaments and local governments, as well as the percentage of women in managerial positions. The Sustainable Development Goal 5.5 is directly related to the Sustainable Development Goal 16.7, which is an expression of the commitment of all signatories to ensure responsive, inclusive, participatory and representative decision making at all levels. On both targets, progress has been slow to date.

The purpose of local government is to improve local governance by decentralizing legislative, executive, and administrative powers from national levels to local levels, thereby enabling a more direct and inclusive participation of different population groups in local decision-making processes.

A functioning and effective democracy, however, requires equal representation. The decision-making process is always improved when diverse perspectives are present. In addition to gender diversity, the representatives should reflect the whole society - whether this is as a result of race, culture, religion, disability, or socio-economic status.

As shown by the Convention on the Elimination of all forms of Discrimination against Women, the Beijing Declaration and Platform for Action, and UN Resolution 1325, among others, the international community has long recognized the importance of female representation.



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

3. Conclusion

Consequently, the CGE welcomes the amendment, however, the CGE recommends that the legislature address adequate gender representation with any increase in seats.