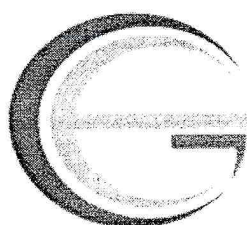


CGE Presentation

20 October 2009



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

Our mandate

SECTION 187 of the Constitution of South Africa, Act 108 of 1996

- Must promote for gender equality and the protection, development and attainment of gender equality.

How should we execute this mandate?

- Monitor
- Investigate
- Research
- Educate
- Lobby
- Advise and report issues concerning gender equality

PROPOSED AMENDMENTS

- THE CGE IS WILLING TO OFFER ITS FULL CO-OPERATION IN REALISING THE PROPOSED AMENDMENTS.
- NOTWITHSTANDING OUR COMMITMENT THE PROPOSED AMENDMENTS ARE ASSOCIATED WITH NUMEROUS FINANCIAL, LEGAL AND JURISDICTIONAL HURDLES.
- FURTHERMORE ALL STATES ARE INDEPENDENT AND SOVEREIGN.
- THE LAWS OF SOVEREIGN STATES ARE BINDING ON SOUTH AFRICAN CITIZENS IN SUCH STATES.
- THERE ARE NO AGREEMENTS IN PLACE BETWEEN RSA AND OTHER COUNTRIES AUTHORISING THE CGE TO FUNCTION IN THEIR TERRITORY.

1. AMENDMENT 1: SECTION 11(3) (F)

- * EXISTING PROVISION PLACES AN OBLIGATION ON THE CGE TO MAINTAIN LIAISON WITH LIKE-MINDED INSTITUTIONS.
- WHEN DEALING WITH COMPLAINTS AND WHERE THE CGE IS FACED WITH NUMEROUS ISSUES REQUIRING INTERVENTION BY OTHER INSTITUTIONS THEN THE CGE DOES WORK IN COLLABORATION WITH OTHER INSTITUTIONS AND AUTHORITIES IN ORDER TO RESOLVE THE ISSUES.
- THE PROPOSED AMENDMENT OBLIGES THE CGE TO DEAL WITH COMPLAINTS IN THE INTERNATIONAL DOMAIN AS WELL. IN THIS REGARD THE FOLLOWING DIFFICULTIES ARISE:
 - (i) South Africa does not have agreements in place to function in other states/countries.
 - (ii) It is unclear when the CGE will be obliged to offer such assistance.
 - (iii) The role and function of other stakeholders such as international relations, foreign legal practitioners involvement is also unclear.
 - (iv) The CGE is not recognised by any foreign tribunal or enforcement agency which will enable it to handle complaints in another state.

2. AMENDMENT : SECTION 11(3)(G)

- THE EXISTING PROVISIONS MANDATE THE CGE TO MAINTAIN WORKING RELATIONSHIPS WITH LIKE MINDED CIVIL SOCIETY ORGANISATIONS.
- NUMEROUS CIVIL SOCIETY ORGANISATIONS SUCH AS GAP (Gender Advocacy Project), LRC (Legal Resources Centre), WLC AND MYM (Muslim Youth Movement) INTERACT WITH THE CGE.
- THE CGE RELATIONSHIP WITH CIVIL SOCIETY ORGANISATIONS HAS RESULTED IN NUMEROUS SUCCESSES (EG) HASSAM / SHILUBANA/BHE MATTERS TAKEN TO THE CONSTITUTIONAL COURT WITH ASSISTANCE FROM LRC. THE CGE IS WORKING WITH MYM TO IMPLEMENT THE MUSLIM MARRIAGES LEGISLATION WHICH HAS BEEN IN THE PIPELINE FOR ABOUT 10 YEARS.
- THE PROPOSED AMENDMENTS IMPOSE AN OBLIGATION ON THE CGE TO MAINTAIN THE SAME KIND OF RELATIONSHIP IN THE INTERNATIONAL DOMAIN.
- IN THIS REGARD THE CGE ALREADY HAS A STRONG RELATIONSHIP WITH INTERNATIONAL NGOS'S AND ORGANISATIONS SUCH AS -UNIFEM, UNICEF, EU AND IOM.
- ACCORDINGLY, THE CGE SUPPORTS THE PROPOSED AMENDMENT TO THIS SECTION.

Cont.

3. AMENDMENT : SECTION 11(3) (h)

- THE EXISTING PROVISION MANDATES THE CGE TO MONITOR COMPLIANCE WITH INTERNATIONAL INSTRUMENTS RELEVANT TO HUMAN RIGHTS AT THE DOMESTIC LEVEL.
- IN GIVING EFFECT TO THIS OBLIGATION THE CGE MONITORS COMPLIANCE AND REPORTING IN TERMS OF CEDAW, THE RATIFICATION OF SADC PROTOCOL AND THE SOLEMN DECLARATION AMONGST OTHERS.
- IN ADDITION THE CGE HAS LAUNCHED A GENDER BAROMETER WHICH IS A CROSS-CUTTING PRODUCT THAT MEASURES COMPLAINEE WITH INTERNATIONAL AND REGIONAL CONVENTIONS RATIFIED BY SOUTH AFRICA.
- THE PROPOSED AMENDMENT SEEKS TO GIVE POWERS TO THE CGE TO MONITOR AND ENSURE COMPLIANCE BY OTHER STATES. THIS HAS NUMEROUS DIFFICULTIES WHICH INCLUDE THE FOLLOWING:
 - (i) SOVEREIGN STATES HAVE EXCLUSIVE DISCRETION ON WHICH INSTRUMENTS THEY WISH TO ADOPT.
 - (ii) THERE IS NO LEGAL POWERS WHICH THE CGE MAY RELY ON IN ORDER TO REQUEST / ENFORCE COMPLAINEE BY OTHER STATES.
 - (iii) WHERE THE CGE IN AN ABSENCE OF ANY FORMAL AGREEMENT PURSUES ACTION IN A FOREIGN TERRITORY THIS MAY EVOKE SHARP REACTION FROM SUCH COUNTRIES. THIS HAS A POTENTIAL TO CAUSE DIPLOMATIC TENSIONS.