

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

**CASE: CCT 333/23**

In the application of:

**CORRUPTION WATCH (RF) NPC**

Applicant

and

**SPEAKER OF THE NATIONAL ASSEMBLY**

First Respondent

**THE PRESIDENT OF THE REPUBLIC  
OF SOUTH AFRICA**

Second Respondent

**COMMISSION FOR GENDER EQUALITY**

Third Respondent

**INFORMATION REGULATOR**

Fourth Respondent

**NTHABISENG SEPANYA-MOGALE**

Fifth Respondent

**THANDO GUMEDE**

Sixth Respondent

**BONGANI NGOMANE**

Seventh Respondent

**PRABASHNI SUBRAYAN NAIDOO**

Eighth Respondent

**LEONASHIA LEIGH-ANN VAN DER MERWE**

Ninth Respondent

---

**REPLYING AFFIDAVIT TO THE FIFTH TO NINTH RESPONDENTS**

---

I, the undersigned,

**KARAM SINGH**

declare under oath:

*AN*

1

*KS*

## INTRODUCTION

1. I am the Executive Director of the applicant, Corruption Watch. I have deposed to all the affidavits on behalf of Corruption Watch in this matter.
2. The facts contained in this affidavit are to the best of my knowledge and belief true and correct. Unless otherwise stated or indicated by context, they fall within my personal knowledge. For the statements of law that I make in this affidavit, I rely on the advice of Corruption Watch's legal representatives.
3. This affidavit is made in reply to the answering affidavits of the fifth to ninth respondents (collectively, the "Commissioners"). In this reply, I respond to select averments made by the Commissioners, only to the extent necessary. To the extent that the allegations contained in the Commissioners' affidavits conflict with the contents of this and other affidavits filed by Corruption Watch in these proceedings, they must be taken to be denied.
4. At the outset it is necessary to reiterate that this application is not about the Commissioners. It concerns Parliament's failure to fulfil its constitutional obligation to facilitate reasonable public involvement before recommending persons to be appointed as members of the Commission for Gender Equality.
5. If Parliament's appointment process is found to be inconsistent with the Constitution, the recommendation and subsequent appointment of the Commissioners must therefore be declared invalid.

AN

2

KJ

6. The Commissioners do not oppose the declaratory relief sought by Corruption Watch and contend that there are no grounds to oppose this application.<sup>1</sup>
7. However, the Commissioners do oppose the relief sought by Corruption Watch to suspend the declaration of invalidity for a period of 18 months to enable Parliament to reconduct the appointment process in a manner that is consistent with the Constitution (the “suspension order”).<sup>2</sup> Surprisingly, the Commissioners oppose the relief that is sought to protect their interests and to ensure the effective functioning of the Commission.
8. The Commissioners also ask this court to condone any constitutional invalidity and to retain their appointment as Commissioners as a just and equitable order under section 172 of the Constitution.
9. The Commissioners mischaracterise a court’s powers under section 172 of the Constitution. For the reasons explained below, a court does not have the power to condone conduct that is inconsistent with the Constitution.

---

<sup>1</sup> Fifth respondent’s answering affidavit (“5<sup>th</sup> Respondent AA”), p. 21, para. 47; sixth respondent’s answering affidavit (“6<sup>th</sup> Respondent AA”), p. 11, para. 34; seventh respondent’s answering affidavit (“7<sup>th</sup> Respondent AA”), p. 5, para. 19; eighth respondent’s answering affidavit (“8<sup>th</sup> Respondent AA”), p. 7, para. 24; ninth respondent’s answering affidavit (“9<sup>th</sup> Respondent AA”), p. 8, para. 25.

<sup>2</sup> 5<sup>th</sup> Respondent AA, p. 3, para. 6; 6<sup>th</sup> Respondent AA, p. 3, para. 6; 7<sup>th</sup> Respondent AA, p. 3, para. 6; 8<sup>th</sup> Respondent AA, p. 2-3, para. 6-8; 9<sup>th</sup> Respondent AA, p. 2, para. 4.

AN

KJ

10. In the remainder of this affidavit, I address:

10.1 The relief sought by Corruption Watch, and the Commissioners mischaracterisation of a court's powers under section 172 of the Constitution.

10.2 The impact of the relief sought on the functioning of the Commission.

10.3 That the Commissioners knowledge and experience are irrelevant to these proceedings.

10.4 Condonation and costs.

#### **THE RELIEF SOUGHT AND A COURT'S POWERS UNDER SECTION 172 OF THE CONSTITUTION**

11. The Commissioners request this court to "*condon[e] any constitutional invalidity*"<sup>3</sup> and to grant them relief by "*retaining [their] appointment, notwithstanding a finding that [their] appointment as a Commissioner is constitutionally invalid ... under the just and equitable remedy provision in section 172 of the Constitution*".<sup>4</sup>

12. Fundamentally, the Commissioners have misunderstood section 172 of the Constitution.

---

<sup>3</sup> 5<sup>th</sup> Respondent AA, p. 4, para. 6.5; 6<sup>th</sup> Respondent AA, p. 4, para. 11.2; 7<sup>th</sup> Respondent AA, p. 3-4, para. 9.1; 8<sup>th</sup> Respondent AA, p. 4, para. 10.2; 9<sup>th</sup> Respondent AA, p. 4, para. 10.2.

<sup>4</sup> 5<sup>th</sup> Respondent AA, p. 22; 6<sup>th</sup> Respondent AA, p. 12; 7<sup>th</sup> Respondent AA, p. 7; 8<sup>th</sup> Respondent AA, p. 8-9; 9<sup>th</sup> Respondent AA, p. 9.



13. Section 172(1)(a) of the Constitution provides that a court must declare that any law or conduct that is inconsistent with the Constitution is invalid to the extent of its inconsistency. A court does not have the power to condone conduct that is inconsistent with the Constitution, which conduct ceases to have any legal effect.
14. The default position is that an order of constitutional invalidity has immediate retrospective effect. This default position can be varied by a court exercising the power under section 172(1)(b) of the Constitution provided it is just and equitable to do so.
15. Corruption Watch asks this court to exercise its wide power and to suspend the declaration of invalidity for a period of 18 months. This relief was carefully considered by Corruption Watch, mindful of the need to strike a reasonable balance that would not threaten the stability of the Commission but would ensure that a constitutionally compliant process be conducted and would also provide the Commissioners a reasonable time within which to organise their affairs.
16. The Commissioners do not provide any reasons why the proposed timeframe of 18 months is insufficient for them to organise their affairs, and do not propose any alternative timeframe that would be more appropriate. This, it seems, is because the Commissioners are opposed to Parliament reconducting the appointment process in a manner that is consistent with the Constitution for fear that they will not be reappointed. The Commissioners address the financial, emotional and psychological consequences if they are not appointed in that process and ask this court to condone the constitutional invalidity to allow them to remain in office until the end of their five-year term.

17. That is not relief that this court can grant.
18. The Commissioners, despite delivering notices to abide, also appear to oppose the relief sought in prayer 2 of the notice of motion. By seeking relief to retain their appointment as Commissioners for the full-term even if their appointment is found to be invalid, the Commissioners, in effect, contend that the rule of law should not apply to them.
19. Corruption Watch respectfully submits that the suspension order is just and equitable because:
  - 19.1 The Commissioners can apply to be appointed as members of the Commission in Parliament's reconducted appointment process.
  - 19.2 On the Commissioners' version and based on the qualifications and experience set out in their respective affidavits, they have good prospects to be recommended for appointment. The work undertaken and experience gained by the Commissioners since their appointment in March 2023 will also be a strong factor in favour of their recommendation for appointment.
  - 19.3 The period of 18 months is a reasonable period of time that will allow the Commissioners sufficient opportunity to arrange their affairs and will provide them with the certainty and fixed time to plan ahead that they

AN

KJ

seek,<sup>5</sup> as they previously did in the appointment process that is the subject of these proceedings.<sup>6</sup>

19.4 Even if the Commissioners are not recommended for appointment in the process to be conducted by Parliament, they will not be left destitute.

19.4.1 The fifth, sixth, eighth, and ninth respondents are professionals with extensive experience and established careers prior to being recommended for appointment as Commissioners that they are able to return to, as detailed in their affidavits.<sup>7</sup>

19.4.2 The seventh respondent will not be affected financially as he is not being remunerated for his work at the Commission.<sup>8</sup>

20. I am advised that a suspension order is intended to allow sufficient time to correct constitutional defects, and is a particularly useful remedy when the automatic consequences of such invalidity would otherwise cause unjust and inequitable results.

21. Corruption Watch submits that the proposed suspension order benefits the Commissioners and ensures the protection of their rights and interests whilst ensuring the constitutionality of the process and protecting the rights and

<sup>5</sup> 5<sup>th</sup> Respondent AA, p. 19, para. 41.

<sup>6</sup> 5<sup>th</sup> Respondent AA, p. 7, para. 16; 6<sup>th</sup> Respondent AA, p. 3, para. 7; 7<sup>th</sup> Respondent AA, p. 3, para. 7; 8<sup>th</sup> Respondent AA, p. 4-5, para. 13-15.

<sup>7</sup> 5<sup>th</sup> Respondent AA, p. 4-6, para. 7-11; 6<sup>th</sup> Respondent AA, p. 4-9, para. 12-25; 8<sup>th</sup> Respondent AA, p. 4-5, para. 13-15; 9<sup>th</sup> Respondent AA, p. 4, para. 11-12.

<sup>8</sup> 7<sup>th</sup> Respondent AA, p. 4, para. 14.

AN

188

interests of the public. The order strikes an appropriate balance between constitutionality and practicality, and is just and equitable in the circumstances.

## **THE IMPACT OF THE RELIEF SOUGHT ON THE FUNCTIONING OF THE COMMISSION**

22. The Commissioners appear to be primarily concerned with the impact of the relief sought in these proceedings on their own financial and personal interests. They appear somewhat concerned by the functioning of the Commission, and make no reference to the importance of constitutionally compliant processes.
23. The Commissioners aver that they have “*rebuilt public trust*” in the Commission;<sup>9</sup> improved the Commission’s reputation;<sup>10</sup> “*turned [the Commission] around for the better*”;<sup>11</sup> demonstrated success and effective functioning of the Commission;<sup>12</sup> and that the Commission “*will collapse into oblivion*” without them.<sup>13</sup> While these averments appear to be laudable, they are not supported by any evidence.
24. The Commission’s recent briefing to the Portfolio Committee on 3 September 2024 paints a slightly different picture. It is apparent from the minutes of the briefing and the press release that the Portfolio Committee raised concerns:

<sup>9</sup> 5<sup>th</sup> Respondent AA, p. 8, para. 21.

<sup>10</sup> 9<sup>th</sup> Respondent AA, p. 5, para. 16.

<sup>11</sup> 6<sup>th</sup> Respondent AA, p. 9, para. 27.

<sup>12</sup> 8<sup>th</sup> Respondent AA, p. 6, para. 18.

<sup>13</sup> 6<sup>th</sup> Respondent AA, p. 10, para. 29.

- 24.1 with the Commission's proposed business model that requires a substantial financial contribution;
- 24.2 over discrepancies between the Commission and the Auditor-General on the payment of part-time commissioners;
- 24.3 with the Commission's engagement with rural women and the effectiveness of its outreach programmes; and
- 24.4 about the Commission's budget allocations, particularly the high percentage of funds (76%) directed toward salaries.
25. The Portfolio Committee also expressed a need for clarity on the specific roles and contributions of the Commissioners in implementing the strategic plan and stressed the necessity of a detailed operational plan that outlines accountability measures for each Commissioner in achieving the targets. The Committee also pointed out that there are outstanding targets from the previous financial year that remain unmet. Copies of the minutes and the press release are attached marked "**KS32**" and "**KS33**".
26. Corruption Watch submits that there is no reasonable basis to allege that the Commissioners' work will be undone, that the funding will dry up, and the Commission will "*collapse into oblivion*" as alleged by the Commissioners because:
- 26.1 The Commissioners provide no evidence and no explanation in support of these contentions.

- 26.2 These contentions ignore and undermine the Commission's staff, many of whom are senior and implement the Commission's vision and strategy.
- 26.3 In addition to being unfounded, the contentions are at odds with the legislative framework. The Commission is structured to avoid reliance on individuals by prescribing a staggered appointment process in the Commission Act, which is acknowledged by the current chairperson of the Commission.<sup>14</sup>
- 26.4 On 26 March 2024, Parliament adopted a report recommending eight candidates to be appointed as new members of the Commission by the President. A copy of the media statement issued by Parliament is attached marked "**KS34**". The process is ongoing and the President has not yet appointed the new members. It is highly unlikely that the Commission will be without any Commissioners considering the ongoing process and the 18-month period sought in the suspension order. The President, as a party to these proceedings, is aware of the potential consequences, and will have sufficient opportunity to ensure the appointment of new members to the Commission.
27. Finally, Corruption Watch notes with concern that the Commissioners purport to care deeply about the Commission and its mandate, but fail to recognise the importance of a constitutionally compliant process to the effective functioning of the Commission.

---

<sup>14</sup> 5<sup>th</sup> Respondent AA, p. 18, para. 36.



## THE COMMISSIONERS' EXPERIENCE IS IRRELEVANT

28. The Commissioners detail their experience and commitment to gender issues but provide no evidence in support of these averments.
29. Notwithstanding the lack of evidence, given that this matter is not about the suitability of the Commissioners, these contentions are irrelevant to this application. Consequently, Corruption Watch does not respond to these averments.
30. However, Corruption Watch records that this is the first time that the public is provided with information regarding the Commissioners knowledge and experience with regard to matters connected to the mandate of the Commission, more than two years since we first requested that this information be made publicly available.
31. Corruption Watch respectfully submits that this affirms the constitutional invalidity of the appointment process.

## CONDONATION AND COSTS

32. Corruption Watch does not oppose the Commissioners' request for condonation for the late filing of their answering affidavits.
33. This matter falls within the ambit of the *Biowatch* principle governing costs in constitutional matters. The legal representatives involved have provided free

legal services to Corruption Watch and are entitled to recover their costs, if successful, in terms of section 92 of the Legal Practice Act 28 of 2014.

34. The Commissioners oppose the suspension order sought by Corruption Watch and seek retention of their appointment, and should be ordered to pay a pro rata portion of the costs of this application if successful.

### CONCLUSION

35. Corruption Watch persists in seeking the relief sought in the notice of application.



**KARAM SINGH**

I hereby certify that the deponent stated that he knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at RONDEBOSCH on this the 23 day of **SEPTEMBER 2024**. The Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, have been complied with.




7164283-8  
A. NYANDA SGT

## CGE 2024/25 Annual Performance; CGE Remuneration

13

Women, Youth and Persons with Disabilities

03 September 2024

Chairperson: Ms M Dunjwa (ANC)

### Meeting Summary

Video

Commission for Gender Equality

The Committee met to be briefed by the Commission for Gender Equality (CGE) on the Annual Performance Plan (APP) and Budget for 2024/25.

The Committee's biggest concern was the reports of the department of police and South African Police Service (SAPS) being notorious for losing dockets of the many Gender-Based Violence (GBV) cases, which in turn hindered the cases from proceeding any further. There was an instance in Mpumalanga where the victims were told that their cases were withdrawn. Some Members recalled filing the GBV cases themselves with the CGE but receiving no response nor update from CGE. This would negatively impact the work they were doing in combating GBV. The Committee considered that sexual assault seemed to form part of the culture of the men in Higher Education institutions. The Committee wondered what the CGE was doing to ensure that women in the rural areas specifically had access to owning land and property.

The Committee was concerned that the CGE's business model required about R50 000 000. This was a concern for a unit (CGE) which was functioning with very limited funds, and when budget allocation was done, 76% of it went only to salaries.

The Committee asked why the CGE was excluded in the Legal Practice Act. It wanted an understanding in this regard so that it may intervene, if necessary, with the Department of Justice. Overall, the Committee remained unsatisfied with the responses from the CGE.

The Committee adopted its report on the determination of remuneration of the CGE.

---

### Meeting report

#### Opening comments

The Chairperson greeted everyone and mentioned that she was still experiencing issues with her electronic devices. She asked if she was audible and thereafter outlined the agenda for the meeting. She asked everyone to introduce themselves, especially the members of the public; they should include their full names. She asked Ms N Nobatana, Committee Secretariat, to make note of the attendance of the Members, and flight the meeting agenda.

Ms Nobatana outlined the agenda for the meeting, and thereafter called out the names of the present Members. She also confirmed the names of the present support staff.

The Chairperson asked if anyone from the Ministry was present.

The Secretariat informed the Chairperson that the office of the Deputy Minister had informed her of her unavailability for the meeting, which was also submitted in writing. She received no communication from the Minister.

The Chairperson asked the Commission for Gender Equality (CGE) delegation to introduce themselves. *There was poor network as the CGE attempted to introduce themselves* The Chairperson asked if there was a technical issue, noting no response.

Adv Nthabiseng Sepanya-Mogale, Chairperson, CGE Board, apologised for the technical issues and began to introduce her team members. She informed the Committee that their IT personnel would be present in the meeting to assist with all the technical issues they were having.

The Chairperson said that she was frustrated by those members of the public who attended the meetings and did not introduce themselves. She said that she had a right to remove persons from the meeting. She wanted to know who 'Mado' was. She asked the guests to introduce themselves. She asked the Secretariat for assistance.

Ms Nobatana confirmed that 'Mado' was assisting with sound. She called out more names of guests present on the platform.

The Chairperson apologised for all the fuss, she said that in the past, there were those who refused to introduce themselves and then after attending the meetings, they went out and posted their views about the meeting. Before the move to virtual meetings, people would introduce themselves. This would help her call the person to account for their inaccurate comments. She reminded the attendees of all of the House rules. She handed over to the CGE to begin with the presentation.

AN 

Ms S Rweqana (MK) interjected to introduce herself as a Member of the Committee.

The Chairperson asked her to write her full name and surname. She gave this instruction to the other Members too.

Adv Sepanya-Mogale gave an overview of the presentation and then handed over to Dr Dennis Matotoka, the CGE CEO, who took the Committee through the presentation.

There were some technical issues during the presentation, and the Chairperson suggested that they proceed with the presentation as the Members already had the presentation on their devices.

The Committee agreed and supported this suggestion.

### **CGE Annual Performance Plan and Budget for 2024/25**

Mr Matotoka took Members through the presentation. He said all CGE APP programmes are linked to the strategic outcomes as indicated in the five-year strategic plan. Below are the four outcomes as contained in the Strategic Plan and Annual Performance Plan;

1. An enabling legislative environment for gender equality through submissions, recommendations, investigations, and litigation.
2. Develop and manage information and education programmes to foster public understanding of gender equality and the role of the Commission.
3. Monitoring compliance and research on issues that undermine the attainment of gender equality.
4. A renewed, efficient, and effective organisation that is sustainable

Members were taken through the detailed programme performance indicators and the quarterly performance report – see attached presentation

#### *Budget 2024/25 Medium Term Expenditure Framework (MTEF)*

National Treasury mainly funds CGE programmes through allocations made under a Budget Vote for the National Department of Women, Youth and Persons with Disabilities.

The baseline allocation for the 2024/25 financial year has decreased further to R93.6 million in 2024/25 FY from (R94.1 million (original) of 2023/24 Financial Year (FY), R90,5 million (budget cut: September 2023) & R95.7 million (Adjustment Bill: Feb/May 2024)). This reduction requires efficiency and economical effectiveness, when implementing activities of the CGE.

The CGE is at the beginning of the five-year Strategic Plan (2024 – 2029).

The new business model has been adopted by plenary and is currently being implemented. However, the budget constraints limit the full implementation of the Business Model as R50 million is needed to roll it out in full.

Strategic objectives and the breakdown per programme were costed for the current APP period:

- a. Office accommodation
- b. Costs of employment per programme
- c. Audit outcomes – 2023/24 FY and audit action plan.

The CGE is operating under strained financial conditions with the lowest budget versus a big mandate.

The budget allocation keeps on decreasing annually from R100.7m in 2022/23 to R94.1m; R90.1; R95.3m for 2023/24 and now R93.6m in 2024/25 financial years. A need for an increased budget allocation cannot be over-emphasised for CGE to be able to make a meaningful impact on gender issues affecting all communities in the country.

#### *Audit action plan: 2023/24 financial year findings*

There were 43 audit findings (2023/24 FY) issued for this financial year as compared to 83 of the previous financial year (2022/23).

76% were resolved by the 31 March 2024.

24% are in progress, mainly due to the following:

- Formal engagement at an executive level with National Treasury, regarding the rotation of appointed panel of attorneys' matter causing irregular expenditure;
- The 100-hour matter remains not finalised as the CGE & AG could not find each other during the audit in February to July 2024.
- The Human Resources policies changes on housing allowance.
- Consequences management.

*See attached for full presentation*

### **Discussion**

The Chairperson opened the floor for questions; she noted the raised hands.

Ms L van der Merwe (IFP) welcomed the presentation. She asked about the business model; she felt positive until she learnt that the business model required about R50 000 000. This was a concern for a unit which was functioning with very limited funds. She asked to perhaps get more information about the said business model in writing. She wanted to know what this model would aim to achieve because the cost for it was alarmingly high. She asked what the implication of leases was in the absence of movement.

AN 

Regarding the audit action plan; she was worried about the CGE and the Auditor-General of South Africa (AGSA), who could not agree on the '100 hour's matter'. She recalled that the Audit and Risk Committee (ARC) raised a concern over this as the CGE paid its Commissioners a flat rate for 100 hours, in the absence of time sheets. This was a red flag; what was the challenge in this regard? Could they elaborate on why the AGSA and CGE could not find one another during the February-July audit?

She wanted to re-ask some questions as she did not have clarity on previously. Regarding the slide, which covered general weaknesses, how would the CGE litigate when this matter has not yet been fully addressed? Was it currently running any legal clinics? Other than serving on the Governance Committee, what other contributions had the Commissioners delivered on the 2024/2025 plans? And how were they quantified, measured and evaluated? She recalled asking about this in their previous meeting; this information would assist the Committee with its oversight duties. She acknowledged that the CGE always regarded GBVF as a strategic focus for the last decade; what was it doing regarding monitoring? She recalled that they mentioned monitoring KZN in terms of Pillar 3; she suggested that the CGE play more of an oversight role across all departments regarding combating GBVF. Specifically, what was it doing in monitoring the committee in terms of combating GBVF? And the same for the Department of Social Development? She had previously brought this up. There were unemployed social workers trained by the state - perhaps they could be deployed to assist in such situations. There needed to be a greater emphasis on oversight for all the departments. Two weeks ago, the Department of Police was mentioned as notorious for losing GBV dockets, which hindered the cases from proceeding any further. CGE should oversee many more departments and not just one Pillar. CGE was not doing enough. She would submit her other questions in writing.

Ms E Spies (DA) welcomed the presentation and echoed her colleague's comments. She felt that the presentation lacked in showing how the CGE would conduct the Strategic Plan in the APP. Outstanding targets remained an issue, and this stemmed from the previous financial year. It was important to know how many of said targets had been inherited in the current financial year. What were the financial implications in this regard? On the Commissioners, she requested a more detailed operational plan, which would assist them with monitoring and evaluation.

Regarding the weaknesses; how did the CGE handle such? She believed that indicators and outcomes could accompany the targets. Who were the engagements and meetings with?

She recalled the mention of optimising opportunities for women to participate in the economy at the SONA. What was the plan to make sure that rural women were forming part of the economy? The plan was not yet clear to her. Regarding finance; the APP lacked information for each programme and their finances. She deemed it important to hold the CGE accountable. What was being done around the legal practice counsel matter? This was a key risk. On systemic investigations; she asked for clarity on which ones would be pursued and informed the choices thereof. In the previous investigation conducted, were there follow-ups conducted? How would the CGE ensure that the continuity of its work took place? On identification of the provinces; how did the CGE identify these provinces and which measurement method did they use? What engagement did the CGE have with traditional leaders regarding gender equality matters? She saw no mention of this anywhere; she asked for clarity on this as a lot was happening in this regard. She was worried about the fact that when the budget allocation was done, 76% of it went only to salaries. If this is the case, she expected delivery and results from the work done by CGE.

Ms A Khanyile (DA) welcomed the presentation. She echoed the sentiments expressed by her colleagues. She recalled mention of the presentation being guided by the SONA, she recalled mention of assisting women to have access to communal land. How was the CGE going to achieve this? Would they partner with the Department of Land Reform? How long would it take to achieve this? She noted that the CGE mentioned that in Mpumalanga; the focus would be cases withdrawn by the National Prosecuting Authority (NPA) and SAPS, and going in the North West- there would be land available only to women. She worried about the lack of mention that the land be allocated to women in that area, Mpumalanga was very rigid on issues pertaining to agriculture. People may not be able to participate due to lack of ownership of the land. How long would it take to procure the land? On outreach programmes; could the CGE avail the drafted programmes to the Committee so that they could assist it in reaching its respective constituencies? She was worried that some of their constituencies did not receive certain information. She was hearing about the programmes introduced by the CGE for the first time. She did not hear mention of those programmes when she was residing and working in Mpumalanga municipality. She reiterated that the Committee interlinked with other Committees and she therefore suggested engagement with other Committees on those issues so that they could be more effective in their duties.

Ms R Adams (ANC) welcomed the presentation. She had clarity-seeking questions. On Programme 1 of Legal Services; the number of targets was reduced by seven which led to an increase in budget almost by double. Why were the targets reduced from 100% to 80%? New targets were introduced in 2023.

Ms Adams asked why were the targets relating to 'complaints handling' reduced from 100% to 80%? In 2023/2024, new targets were introduced which saw no reflection in 2024/2025; why was this the case? On programme 2; the number of targets remained the same. How did CGE determine the targets for outcomes for each programme? On Programme 4; the CGE introduced new targets, but it was unclear which were carried over in the new APP, as new targets had been introduced. Please provide clarity on this.

Ms S Khawula (EFF) *giving all commentary in isiZulu* welcomed the presentation. She was looking for a place which had stable network; she asked if everyone could hear her. She said that the CGE was doing good. With the Chairperson's permission, many cases landed up as files/dockets and never reached the courtroom, almost disappearing into thin air. There in Durban they had offices which she bore witness to. There was a case of a white person who was abusing women. These women and children were innocent and even now, they still suffered. There was also an elderly woman of 84 years of age who asked for help. Her case landed up in court, she was represented by a white person and she won her case. The elderly woman was beaten and shot at and was now on crutches/walking aids. She was also sick. Ms Khawula filed the report with CGE but has not heard back from them. Why were these cases neglected? Was it because the victims were black? Even now, families are being evicted from their homes by white people. She reported all these cases. She would move on to another subject.

AN



There were cases that were opened and reported to the CGE but were not being monitored. There was a child of Ngxumalo who a neighbour raped. The mother of the child had an argument with the child. CGE spoke with the child and issued her a parcel voucher, but there was still no update today. Women were very frightened, and they were dying like flies and leaving their assets to their parents in their wills. In Lundi, she heard a similar case to that of Mpumalanga; she knew of a girl; whose name she would never reveal. A boy was molesting this girl; this case was taken to court. Even with the knowledge of human rights and laws, women were still being treated as possessions. A woman could not own land, a woman could not own property. The courts knew that women had rights but this was where it ended. This woman was surely dead; she would not reveal her name.

Now, she would speak about offices. The offices, which were red and yellow and stipulated what their purpose was: what should the people do? There were flats belonging to government left by the white people who fled in 1994; why did government not take these flats and rent them out? Regarding Eastern Cape; there was a gentleman she worked with. The elderly people there were killed on a daily basis due to accusations of witchcraft. She never saw any of them arrested, and the elderly died horrible deaths; being burned alive and bound. They were also being raped in their homes; they should call the boys in the community to order and teach them to leave the women alone and respect their bodies. There were far too many cases of this nature.

Dr T Letlape (Action SA) welcomed the report. Was there any collaboration with other structures such as the Human Rights Commission? When he was in Young Professions Counselling, he heard complaints of sexual harassment which amounted to nothing. The South African Medical Research Council has been doing research on GBV over the last three decades. Was there any partnership with such institutions?

Regarding the Higher Education institutions; sexual assault seemed to form part of the culture of the men of such institutions. There was a pattern in this regard where women would complain, a Commission would be formed, the university would hide the report and the matter would die out, SAPS would be informed and it would not lead anywhere. There was a medical doctor from the Western Cape who wrote to him on allegations of sexual assault against her senior in her university, but nothing was done about this. How could CGE follow up on this matter and ensure it was solved?

He echoed Ms Khawula's comments on dockets disappearing. He asked if they could elaborate on the Cultural Transformation Plan. Many of the challenges faced were driven by culture. There was cultural rape in all sectors. Femicide was driven by a culture of entitlement where men felt that women belonged to them. Please elaborate on this plan.

If it received the R50m, he asked the CGE how it would be utilised. Would this create more staff? Or would this be done on a project-by-project basis? He wanted to know how this would be spent. He noted that all the structures placed before them were gravely underfunded. He hoped the Committee could advocate for more funding for these structures (the Department, the NYDA and the CGE). They had the infrastructure to affect positive change but to achieve this, funds were urgently required. He agreed with his colleagues that they should find R100 000 000 for operations before it becomes a wasteful expenditure.

Ms Rweqana said that she heard about the cases of GBV which were withdrawn in Mpumalanga; what was the reason for this? How many such cases were there? How did they explain this to the victims? Were the victims receiving assistance? She asked for specifications as the wording was vague. Regarding development of gender equality; did the CGE take stock of their actions? They never gave exact numbers; she requested exact numbers and names of places. The report needed to be more detailed as this would confuse the Members. Detail was very pertinent. On the budget of R2 000 000 which was allocated; R4 800 000 was used and services could not proceed due to limited funds. She noted the change; the CGE used a lesser amount than was allocated to them quarterly, and they complained about a limited budget. Why did the CGE always have funds which were returned to National Treasury? She did not understand this.

Ms N Gasa (MK) welcomed the presentation. She recalled the President mentioning the plan to end GBV by mobilising all sectors. Ms Gasa continued by asking about the progress of mobilising all sectors and how this was taken as a priority on the list of tasks for the CGE. Which were the sectors of society and how were they identified? What was the process used to identify the civil societies? Did they have a database? She was seriously worried about the population in the rural areas, especially after learning about the four completed projects. What were these projects entailing? And in which provinces were they completed? How were the provinces selected? She was worried about the communication channels in the rural areas. A presenter mentioned social media; most people in rural areas had no access to the internet. How did they accommodate them in this regard, especially the older people? Did they monitor the impact of the programmes, and how effective were they?

The Chairperson said she had two questions, one of which was earlier raised. She wanted to understand which universities had a high number of sexual harassment cases. She recalled that when she was in Labour, she encountered a doctor who said another doctor sexually harassed her and there was no consequence in this regard. She asked why the CGE was excluded in the Legal Practice Act? She wanted an understanding in this regard so they may intervene with the Department of Justice, if necessary. Please could they share the reasons with the Committee. She had heard this previously and wondered, although not a legal expert, why they were excluded. This was not in the APP, and they could also submit their response in writing if they preferred. This exclusion would hinder their operations in the future. She handed over to the CGE for responses. She gave permission for written responses. She asked two Members to lower their hands.

### Responses from the CGE

Adv Sepanya-Mogale thanked the Members for their questions and comments. She suggested that they take a day for the CGE to fly to Cape Town to physically take the Committee through all the work which they had done thus far. She suggested this because she reckoned that the cause for some of the questions was because of the gap in meeting virtually. Secondly, she wanted to clarify that today, they had prepared the APP rather than the implementation programmes which fell under the APP. Today, they focused on the APP which meant that matters such as the impact would not be covered today, however, they hoped to capture this in the Quarter 1

AN

KJ

report. She wished for a round table to discuss such matters. Another reason for suggesting a physical meeting was because the CGE was a Chapter 9 Institution and not a direct service-providing institution. This meant they were responsible for overseeing that each entity was playing its role accordingly. Wherever necessary, the CGE would intervene. She wished she could meet with the Committee physically. The CGE was not doing what the Department was doing, but rather what the AGSA, Public Protector and IEC were doing.

Out of the 76% delegated to salaries, almost three-quarters of this went towards programme salaries, and the rest went to admin staff, as there was a shortage of admin staff within the CGE. With this shortage, admin staff had to take on more work. Each province had approximately five people who went out physically to do the work. The business model was a very ambitious project. And from this, they identified the need to grow the provinces as five staff members was inadequate. The business model was already being implemented by realigning some of the positions in terms of job content. The business model also identified other positions that were needed to make the CGE's work impactful. There could not be only one education officer across the entire province, and more staff members were needed for the work to proceed. The CGE had a CEO who had approximately 16 direct subordinates, and this included the Heads of Departments (HOD). Here, they had realigned this through the business model so that some subordinates reported to the HOD rather than to the CEO (she gave examples thereof).

She confirmed that indeed the CGE did collaborate with the other Chapter 9 institutions. She would submit the figures in writing as they did not prepare such documents for today's meeting. The CGE had taken over as Chair for the Forum for Institutions Supporting Democracy (FISD), and collaboration was one of the key pillars. When the Public Protector conducted inspections of the care centres, this was done with the knowledge of the CGE's involvement. Right now, the Human Rights Commission (SAHRC) is doing work with the correctional services. The CGE also visited the correctional services centres to assess safety issues, and they all worked together.

All 24 Higher Education institutions were reporting to the CGE on instances of sexual harassment. They would provide full reports on this as they could not prepare this for this meeting which only dealt with the APP. The individual cases would have been reported, investigated, given instructions and recommendations and subsequently followed up on the cases.

Dr Matotoka said that Adv Sepanya-Mogale had already covered most of what he wanted to say on the business model, and they would provide a full report on this. They believed that the business model would address many of the concerns raised by the Committee and the country.

Regarding monitoring and evaluation of other departments, they would be more effective once more resources are obtained. At the moment, they were understaffed, which meant that certain issues would not be adequately addressed, and this was where the business model was very helpful.

Regarding the Legal Practice Council, the legislative process required inputs to be made before submitting them to the Committee. At the time, there was negligence on the part of the CGE in 2015/2016 in making said inputs, and this thus led to the exclusion of the CGE. Adv Sepanya-Mogale had assisted with expediting such discussions, liaising with the Department of Justice. Last week, they received the Judicial Amendment Act which sought to amend the Legal Practice Act, and herein the CGE was included already. They were preparing to make inputs to the Judicial Amendment Act by 14 September 2024. Thereafter, they could expect their inclusion to reflect. This meant that they would not need to procure legal services to act on their behalf; they could do this on their own which would save costs on their side. He was hopeful of the change to come.

Regarding the targets not met in the previous year. This centred on issues of policies, where they were not able to finalise the policies and the vacancy rate. Sometimes, towards the end of the financial year, there was a high number of vacancies due to the high number of resignations. On the concern of outreach programmes not reaching women, they have been engaging on how their programmes affect the communities. They received positive feedback in this regard because their programmes addressed many of the issues faced in society. They did their own preliminary assessments to identify which issues needed urgent attention. Due to the lack of staff capacity, they had not reached every community in the country. However, they did liaise with counsellors and traditional leaders. The CGE required more resources.

The Chairperson said that the Committee was aware that this was a presentation of the APP. She had always taken issue with the reports submitted to the Committee which were always general. And she did not like the excuse of saying this was just an APP. She reminded the CGE that the Committee was the one on the ground representing the country. The APP was very difficult to decipher and this gave a negative impression of the CGE. She noted the suggestion of physically meeting. She asked that the CGE bear with the Committee in their challenges. They may take a detour from the APP at times because of the issues that the Committee wanted to address. The presentation process was not to create conflict but to address issues in a united manner. She was aware that the CGE could not be everywhere, however the Committee had a duty to report any and all issues to the CGE. She said (*in isiXhosa*) that the CGE could not act as the Holy Spirit and be everywhere. She said that they would continue to bring the difficult issues and it was also the responsibility of the CGE to respond in kind. She thanked the CGE for their responses and dismissed them from the meeting. She reminded them to submit some of their responses in writing and thanked them again. She reminded the CGE that the Committee had a right to directly contact the CGE on issues faced by the community, as long as it was not to harass or intimidate. She said they would focus on the Committee's administrative issues. Again, she asked the CGE to bear with the Committee. She noted the three new hands which were raised.

One Member said that the raised hand was for the Chairperson, and she asked to be excused from the meeting.

The Chairperson asked on what grounds, and the Member responded by saying she would privately contact the Chairperson.

The Chairperson said the Member could not leave the meeting.

AN KS

Ms van der Merwe said that the Chairperson adequately raised her concerns, as she remained confused by the responses given by the CGE. She always understood that the APP should be detailed including pictures and plans for programmes. She mentioned that the details of the business model were still not clear to her. She wondered why the staff members of the CGE were doing more work than the Commissioners. She was not satisfied with the responses, and she was glad that the Chairperson made the request to bear with the Committee.

The Chairperson mentioned that they needed to discuss their own issues now.

Ms Khawula interjected (*in isiZulu*) to say that the CGE must not yet leave yet, and the CGE must answer to the hijackings of certain buildings by gangsters. Why did CGE not consult with the Minister of Public Works? She requested a response in this regard.

The Chairperson asked if there was someone to respond to this issue. This was a relevant question as the buildings could help them save on costs. She called on the Advocate.

Noting no response, she said that they would write to CGE to respond to this. She asked the Secretariat if everyone left.

#### CGE Remuneration

The Chairperson moved on to the second item on the agenda. She noted the notice of determination from the office of the Presidency. She said that they had explained the sections of the remuneration of office bearers. She clarified that the CGE was considered as office bearers. She reminded everyone that the Commission had made a determination regarding increased remuneration.

A schedule of the remuneration was sent to the Committee for them to deliberate. This was currently tabled in the House. She trusted that everyone received this notice. She asked Ms van der Merwe if she had previously been part of the Committee, which Ms van der Merwe was able to confirm. She said they were to adopt this notice so that this could escalate to the House for adoption. They would not deliberate on this as this was to be done by another independent structure. Was this correct?

Ms van der Merwe confirmed that this was the process. The Committee was to take note of this and then it would be sent to the House.

The Chairperson called for the adoption of this notice.

Ms van der Merwe interjected to reiterate that they were to consider the report on remuneration. She hoped that the Committee would take seriously the work done by the Commissioners with their responsibilities; visiting police stations and checking on rape kits. She was worried that the Commissioners were not clear about their exact duties. She suggested they emphasise this matter at their next meeting with the CGE.

The Chairperson thanked the Member for this suggestion.

Ms Spies said that although Adv Sepanya-Mogale denied that it was the case, Ms Spies recalled reading from the general overview of the budget that 76% of the budget would be spent on salaries alone. She disagreed with the Advocate on this.

Ms Khanyile asked that the Committee be allowed to ask follow-up questions in future as she noted from the most recent meetings that the CGE and NYDA were not completely answering all the questions. She asked to reserve her opinion regarding the report, for now.

The Chairperson said that what Ms van der Merwe raised was very important. When the Committee does its oversight, it should not be limited; it should have a detailed account of the work done by Commissioners. Secondly, she wondered if the Committee was saying that the CGE was not entitled (*to their salaries being increased*)? The Committee did not fall under the Public Service and Administration which was the public sector. If the Committee said they were not in agreement with the salaries, she was unsure. She wondered if they were getting value for money and if they were servicing the constituencies accordingly. She noted the reservations of the DA. She was glad for Ms van der Merwe's contributions as she was not previously part of this Committee.

The report was thus adopted. This report would be escalated to the House.

See report here <https://pmg.org.za/tailed-committee-report/5917/>

Ms Nobatana said that this was the last item on the agenda.

The Chairperson said she was happy with the discussion and encouraged Members to continue asking questions no matter how difficult they were. This would empower them. She then thanked everyone for their participation and looked forward to seeing them again.

The meeting was adjourned.

AN

KJ

**MEDIA STATEMENT****COMMITTEE MEETS COMMISSION FOR GENDER EQUALITY ON ANNUAL ITS PERFORMANCE PLAN**

**Parliament, Thursday, 5 September 2024** – The Portfolio Committee on Women, Youth and Persons with Disabilities met with the Commission for Gender Equality (CGE) on the Commission's annual performance plan (APP). This was part of the committee's objective to review the CGE's strategic direction, operational challenges, funding requirements, and its essential role in promoting gender equality and combating gender-based violence (GBV).

During the meeting, committee members raised several pertinent issues. A critical concern was the proposed business model, which requires R50 million to implement. The committee expressed that such a substantial financial request warrants careful scrutiny, particularly in light of the CGE's current funding constraints.

Members of the committee requested a more detailed overview of the business model, including its objectives and intended outcomes. The committee stressed the importance of its involvement in fundraising efforts related to this initiative.

The committee also discussed the audit action plan and expressed concern over discrepancies between the CGE and the Auditor-General on the payment of part-time commissioners. The committee also highlighted the absence of timekeeping records for part-time commissioners as a significant issue and sought clarification on the challenges that led to this situation.

The committee questioned the CGE's exclusion from the Legal Practice Council and its implications for the commission's ability to litigate. Committee members questioned whether the CGE is currently providing legal advice or operating legal clinics, given the legal challenges it faces.

The committee noted with concern the CGE's engagement with rural women and the effectiveness of its outreach programmes. It called for a clearer plan to ensure that rural women are included in economic opportunities and that their voices are represented in decision-making processes.

Furthermore, the committee expressed a need for clarity on the specific roles and contributions of the commissioners in implementing the strategic plan. It stressed the necessity of a detailed operational plan that outlines accountability measures for each commissioner in achieving the targets set out in the APP. Members of the committee pointed out that there are outstanding targets from the previous financial year that remain unmet and urged the CGE to clarify how many of these will be carried over and the financial implications of such carry-overs.

Committee Chairperson Ms Lindelwa Dunjwa echoed these sentiments, stressing the importance of monitoring and evaluating the effectiveness of the CGE's initiatives. She raised questions about the commission's engagement with traditional leadership and communities, highlighting the need for a more robust approach to overcoming cultural barriers that hinder gender equality.

Ms Dunjwa also asked about the CGE's collaboration with other institutions, such as the Human Rights Commission, to ensure a comprehensive approach to addressing gender-based violence.

Concerns were also raised about the CGE's budget allocations, particularly the high percentage of funds directed toward salaries. Committee members urged the commission to provide a detailed breakdown of its budget to ensure that financial resources are used effectively to maximise impact. They underscored the importance of transparency and accountability in the CGE's financial management.

In response, the CGE acknowledged the need for greater clarity and transparency in its operations. The commission committed to providing the committee with a comprehensive report outlining the objectives and expected outcomes of its business model, as well as a detailed operational plan for the commissioners. The CGE also expressed its commitment to enhancing its monitoring and evaluation efforts, particularly concerning government departments' compliance with national strategic plans on gender-based violence.

Some committee members stressed the critical role they play in supporting the CGE in fulfilling its mandate, stating that they have a unique opportunity to advocate for the necessary funding and resources that the CGE requires to implement its proposed business model effectively. While the request for R50 million may seem substantial, it is essential to recognise that this investment aims to enhance the CGE's operational capacity to make a meaningful impact in the fight against gender-based violence and discrimination. Committee members felt it is their duty to ensure that the CGE is equipped to carry out its functions effectively, which may involve facilitating discussions with relevant government departments and stakeholders to secure the necessary financial support.

Committee members said the committee must take an active role in monitoring the CGE's progress and holding it accountable for its performance and this includes ensuring that the commission addresses the concerns raised during the audit process and implements the necessary changes to improve its internal operations. The members said that by providing constructive feedback and guidance, they can help the CGE navigate its challenges and enhance its effectiveness.

It is also crucial for the committee to foster collaboration between the CGE and other governmental and non-governmental organisations. By encouraging partnerships and joint initiatives, the committee can amplify the impact of the CGE's work and ensure that gender equality remains a priority across all sectors of society. Engaging with traditional leaders and community organisations will also be vital in addressing cultural barriers to gender equality, and the committee can play a pivotal role in facilitating these engagements, members said.

The committee noted with concern the CGE's approach to addressing gender-based violence, particularly in its monitoring and evaluation mechanisms. The committee urged the commission to provide more information on how it plans to hold government departments accountable for their roles in combating gender-based violence.

Furthermore, the committee reiterated its concerns about the CGE's budget allocations, particularly the high percentage of funds directed towards salaries. The committee called for a detailed breakdown of the budget to ensure that resources are being used effectively and that there is sufficient funding for programmes aimed at promoting gender equality and addressing gender-based violence.

**ISSUED BY THE PARLIAMENTARY COMMUNICATION SERVICES ON BEHALF OF THE  
CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON WOMEN YOUTH AND PERSONS WITH  
DISABILITIES, MS LINDELWA DUNJWA**

For media inquiries or interviews with the Chairperson, please contact the committee's Media Officer:  
Name: Yoliswa Landu (Ms)

*AN*

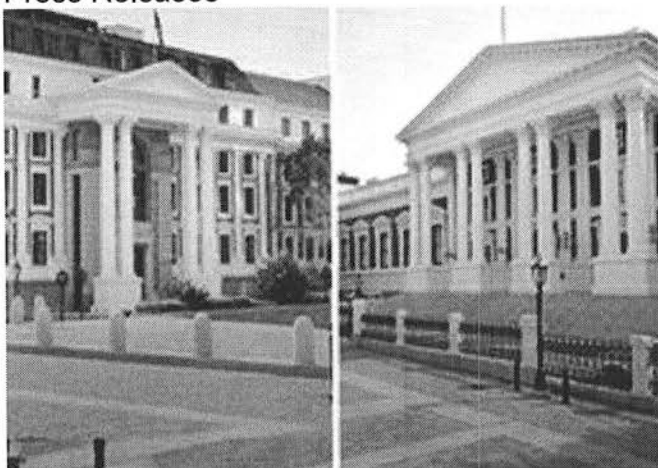
*LD*



# PARLIAMENT

## OF THE REPUBLIC OF SOUTH AFRICA

### Media Statement: Parliament Adopts Report on Recommended New Commissioners to Fill Vacancies in Commission for Gender Equality Press Releases



**Parliament, Tuesday 26 March 2024** – The National Assembly today adopted a report recommending the names of six candidates to fill the vacancies for full-time Commissioners of the Commission for Gender Equality (CGE). The term of the six existing Commissioners will expire in July 2024. In its report, the Portfolio Committee on Women, Youth and Persons with Disabilities recommended the names of:

#### **Ms Seeham Samaai**

Ms Samaai is the Director of the Women's Legal Centre – an organisation that advances women's rights and equality through strategic litigation and advocacy. She holds an LLM (Constitutional Litigation) and BProc from the University of Western Cape and is an admitted attorney with extensive experience in litigation, legal research, alternate dispute resolution, law reform, and advocacy.

#### **Ms Mulalo Grace Nemathaheni**

Ms Nemataheni holds a Postgraduate Diploma in Financial Planning from Milpark Business School and a BCom Financial Accounting Degree from the University of Cape Town. She has experience in Financial Planning and has received various awards, among them the Mail and Guardian Top 200 Young South Africans in 2021.

#### **Mr Mfundo Nomvungu**

Mr Momvungu is employed by the Western Cape government as a monitoring and evaluation officer. He plays an integral part in developing and implementing the

AN KS

monitoring and evaluation framework methodologies and coordinates all internal and external processes.

**Ms Yanga Malotana**

Ms Malotana is currently pursuing a PhD in Political Science. She has multifaceted experience in project management, communications, academic research, and advocacy. She is also passionate about advancing women's rights within the broader framework of human rights and democracy.

**Mr Kamohelo Rodney Teele**

Mr Teele holds a Bachelor of Education Honours from the University of Witwatersrand. He has experience in Inclusive and Special Needs education, policy development in disability rights, strategic leadership, and communications.

**Dr Marion Lynn Stevens**

Dr Stevens holds a PhD in Gender and Politics from Stellenbosch University. Her areas of expertise include sexual and reproductive health and rights, gender diversity, women's health, and sexual and reproductive justice. She also has experience in policy analysis, project management, advocacy, and communications.

The Committee also recommended the names of Her Royal Highness Princess Royale Eurika Mogane (of the Mogane Royal Family and Mogane Traditional Council) and Dr Charnell Ruby Naidu as part-time commissioners.

If a vacancy arises due to a resignation or death, the President will be able to choose from the part-time commissioners to fill the vacancy.

In terms of section 187 of the Constitution, the commission is mandated to promote respect for gender equality and protection. It has powers and functions, as regulated by national legislation, to monitor, investigate, research, educate, lobby, advise, and report on issues concerning gender equality.

The names of the commissioners will now be sent to the President.

On the recommendation of Parliament, the President appoints a member to the Commission for a term of office not exceeding five years.

**ISSUED BY THE PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA**

**ENQUIRIES: Moloto Mothapo**

*AN* *KJ*