Law and challenges to gender equality in South Africa:

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Introduction

• CGE is an independent statutory body created in terms of section 187 of the Constitution of the Republic of South Africa.
• The vision of the CGE is a society free from all forms of gender oppression and inequality.
• The mission of the Commission is to promote, protect, monitor and evaluate gender equality through undertaking research, public education, policy development, legislative initiatives, effective monitoring and litigation.
• Focus areas: Women’s Economic Empowerment; Women’s Substantive Equality; Gender, Education and Health; GBV; Gender, Cultures, Religions and Traditions; NGM
Commitments to gender equality

- Constitution calls for equality, equal protection and benefit before the law; and non-discrimination
- National Policy Framework on Gender Equality developed, establishing National Gender Machinery, to address the social and economic marginalization of South African women
- Several anti-discriminatory laws promulgated - Employment Equity Act; PEPUDA; DVA; Recognition of Customary Marriages Act; Recognition of Customary Law of Succession Act; Sexual Offences Act …., and Equality Courts established
- Key regional and international protocols endorsed – CEDAW; Beijing Platform for Action; SADC Protocol on Gender and Development; Protocol to the ACHPR on the Rights of Women in Africa…
Challenges to gender equality: General

• Access to equality and justice, and freedom from discrimination remain elusive for majority of women - patriarchal attitudes and prejudices rife
• State departments failed to gender mainstream programmes and budgets
• Gender equality reduced from a political vision to “women’s empowerment”, with women viewed as a vulnerable group
• Inadequate targets set to ensure women benefit from measures, state failures to gather and disaggregate adequate data on the basis of gender, and M&E systems weak to determine impact.
• State facing implementation challenges on key legislation, such as SOA and DVA – inadequate policy measures, budget allocation, training and reporting
• Inadequate funding for gender equality structures – CGE and Women’s Ministry
• Attitudes towards gender equality among senior officials remain problematic
Challenges: poverty

• Number of women living in poverty disproportionate to men.
• Primary causes: absence of economic opportunities and autonomy; lack of access to economic resources and education and support services; participation in decision-making
• High levels of income poverty – unemployment; low wages; clustering of women in low-paid jobs; non-recognition of unpaid work
• Gender discrimination in the workplace – inadequate recruitment, promotion, skills training; vulnerabilities of farm and domestic workers; lack of maternity benefits for self-employed workers
• Women majority beneficiaries of housing subsidies, yet men 90% of land reform beneficiaries
• Positive EPWP job opportunity and skills creation for women
• Little evidence of gender mainstreaming in planning, budgeting and implementation of poverty alleviation programmes.
• Lack of sex-disaggregated data to track impact of policies
Education

• Net enrolment in primary education nearly universal. Enrolment vs attendance - higher for girls at this level.
• Need for tailored/better implemented policies and interventions to address primary causes for girls’ drop out.
• Implementation of “No fee” schools and school nutrition programmes significant contribution to retaining learners in school
• GBV at schools inadequately addressed, despite existing policy. Insufficient attention in curriculum, insufficient distribution of resource materials and awareness training for teachers
• Gender disparity – at primary level, marginally more girls than boys; reversed at secondary level; literacy levels lower among women
• Women under-represented in senior management positions
Infant and maternal mortality

- Infant and under-five mortality rate almost four times WHO target – on the increase.
- Infant mortality rates not disaggregated by gender. Predominant in rural areas. HIV leading cause of death of children under 5.
- Leading cause for death in children 5-15: girls – HIV; boys road traffic accidents (death by HIV rate is half that of girls’)
- Immunisation and nutrition programmes require greater access, outreach and awareness in rural areas, and more interventions targeting men
- Maternal mortality – on the increase – and 60% avoidable; predominant in rural areas; caused by health systems failures
- Access to basic health care - 95% access to ANC, 85% births attended – questions around quality of care
- Women’s health issues need to inform budget allocations; and challenges of access in rural areas to be addressed
- More involvement of men in maternal health care

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

• Gender issues need to inform HIV prevention challenge. High rate of infection in rural provinces attributed to gender power relations. Need for more awareness and social norm-changing targeting men.
• Almost all sexually active women and men in 15-19 age group engaging in high risk sex. Correlation between education levels and condom usage. Inadequate female-controlled barrier methods.
• Strategic plan acknowledges women’s vulnerability to HIV.
• Encouraging decline of HIV incidence in women aged 15-24; although levels remain high. Young girls’ particular vulnerability to HIV – gender power inequalities and little support and guidance.
• Women bear brunt of caring for those infected – need to bring men into care.
• Malaria incidence on increase; worrying long-term impact of use of DDT.
• Need to address women’s particular vulnerability to malaria and TB.
Political representation

• 55% of registered voters are women.
• No legislation on 50/50 in party candidate lists, or in decision-making
• Only ANC has voluntarily adopted 50/50 quota system for PR lists - transformed women’s representation in Parliament (45%), Cabinet (41%), provincial legislatures (42%) and local government (39%).
• Worrying trend of women appointees being replaced by men
• More women PR councillors than ward councillors; few women councillors stand for second term, as a result of discrimination.
• Women are under-represented in management positions within departments, municipalities, and the private sector – poor transformation to appointment, recruitment and skills training for women to progress to senior management, and inadequate policies to transform male-dominated environments.
• Judiciary, political parties and trade unions also poor to gender transformation
• Forthcoming WEGE Bill
Sustainable development

• Women’s empowerment and gender equality key ingredients for sustainable development. Yet women largely absent in policy/decision-making in natural resource and environmental management, with experience and skills largely untapped. Positive reports from DWAF interventions involving women.
• Women rarely trained as professional natural resource managers with policy making capacities; and remain underrepresented in policy/decision-making.
• Access to clean, renewable energy is a key gender issue – collection of fuel and impact of use of unclean sources on health.
• Welcome increase in access to basic water services; yet rural women largely dependent on rainfall and groundwater; often with health risks
• Women disproportionately impacted by inadequate sanitation facilities, particularly in rural areas and informal settlements.
GBV

• One in two women might be raped in her lifetime; a woman is raped every 26 seconds; one in four women is in an abusive relationship; and one in four girls has been sexually abused.
• Welcome interventions into introduction of DVA, SOA; SOCA unit in NPA; creation of Thutuzela Care Centres and Sexual Offences Courts; development of Victim Empowerment Plan and Charter. Awaiting Trafficking in Persons legislation. Concerns around uneven and inadequate resources, training and awareness for implementation.
• Poor conviction rate for GBV, and non-implementation of minimum sentencing. Inappropriate responses from police and judges.
• Inadequate and uneven access to counselling and support services, and places of safety.
• Certain harmful cultural practices continue, requiring awareness and enforcement of existing laws to protect rights of girl-child.
• Worrying increase in “corrective rapes” of black lesbians in townships – hate crime
How is the CGE responding?

• Challenges instances of discrimination – chieftancy; inheritance; GBV on gay and lesbian issues; harmful traditional practices – through courts, education and outreach
• Makes submissions on legislation – Traditional Courts Bill; Muslim Marriages Bill; Domestic Partnerships Bill; Gender Equality Bill
• Monitors gender equality in public and private sectors – media; government departments; business;
• Engages political parties on women’s representation in politics; gendered monitoring of elections
• Monitors state compliance with international and regional instruments – CEDAW; Beijing; MDGs – reports to Parliament and at UN
• Partners and engages with sister NGOs and C9s; and the state
• Joint advocacy interventions on gender equality issues: sex work; GBV at tertiary institutions; SOA; maternity benefits; 50/50