

Ms C Ndaba

Chairperson, Committee on Women, Youth, and Persons with Disabilities

C/o: N Nobatana, Committee Secretary, by email: nnobatana@parliament.gov.za

And c/o: Y Sili, Secretary to the Chairperson, by email: ysili@parliament.gov.za

CC: Ms N Mapisa-Nqakula

Speaker of the National Assembly

C/o: Z Ngoma, Personal Assistant to the Speaker, by email: zngoma@parliament.gov.za

CC: Office on Institutions Supporting Democracy

Mr K Zweni: OISD Head, by email: hmaxham@parliament.gov.za / kzweni@parliament.gov.za

Mr A Mphunga: Senior Manager, ISD Oversight Support, by email: amphunga@parliament.gov.za / agova@parliament.gov.za

Tuesday, 6 September 2022

Dear Honourable Chair

OBJECTION TO PUBLIC PARTICIPATION PROCESS: CANDIDATES FOR APPOINTMENT TO THE COMMISSION FOR GENDER EQUALITY

The under-signed individuals, organisations, and networks are writing to register our strong objection to the form and extent of the public participation process in relation to the imminent appointment of new commissioners to the Commission for Gender Equality (CGE).

We are aware that the Committee on Women, Youth, and Persons with Disabilities (the Committee) recently met to discuss the criteria for appointment as a commissioner (on 23 August 2022) and to assess and shortlist candidates (on 24 August 2022). We have been anticipating the opportunity to

participate meaningfully in the appointments process by making written comments on the shortlisted candidates.

However, we believe the Committee's call on 2 September 2022 for comment on the suitability of shortlisted candidates, which can be found on the PMG website,¹ falls short of an appropriate and meaningful public participation process:

1. First, the time for comments is a mere 10 working days. This time allocation is entirely inadequate for fact-finding, discussion, and consideration by civil society, and sends the very unfortunate message that the appointment of CGE commissioners does not warrant careful consideration or proper background research. Organisations will not be able to canvas their constituents and build consensus in such a short time, which will impact very negatively on the awareness and participation of many marginalised groups.
2. Secondly, the spreadsheet purporting to profile each candidate contains nothing other than at most five "qualifications". We remind the Committee that the paramount, legislated criterion in assessing the suitability of a candidate for appointment as a commissioner of the CGE, is "a record of commitment to the promotion of gender equality".² An emphasis on qualifications disadvantages community candidates who may have an extensive history of commitment to gender equality but few or no formal qualifications. The spreadsheet provided also makes it impossible to assess whether the shortlisted candidates have such a record, as there is no description of their work or activism in this context, or even their own motivation for applying.³ The spreadsheet also does not contain the shortlisted candidates' resumes, despite an undertaking by the Committee to make these resumes public in the initial call for applications.
3. Thirdly, the Google form that must be used to comment on individual candidates only permits 2 000 characters, which translates to roughly between 285 words and 500 words. This is an arbitrary limitation and is likely to prove inadequate for the public to provide the Committee with critical information that may come to light during fact-finding and deliberations, or to make well-reasoned arguments for or against any candidate. While we sympathise with the

¹ https://pmg.org.za/call-for-comment/1194/?utm_source=transactional&utm_medium=email&utm_campaign=request-for-comment-from-parliament

² Section 3(1)(a) of the Commission on Gender Equality Act, 1996

³ This year, candidates were required to personally complete an online Google form that served as their "application": <https://pmg.org.za/call-for-comment/1171/>

Committee in its mammoth task of considering potentially long submissions, it is inappropriate for the Committee to limit the right of the public to make them.

The CGE has a critical mandate as a Chapter 9 institution, charged with promoting respect for gender equality and its protection, development, and attainment; and to monitor, investigate, research, educate, lobby, advise, and report on issues of gender equality.⁴

In the current South African context gender based violence wreaks unabated destruction; women continue to bear the brunt of inequality, poverty, and unemployment (where women are employed, they continue to earn on average 30% less than what men earn for work of equal value);⁵ and hate crime, hate speech, and discrimination against LGBTIQ+ communities goes unchecked, often with deadly consequences.⁶ It cannot be disputed that the mandate of the CGE and the experience, expertise, and temperament of its commissioners is ever more important.

It is also no secret that the CGE has lately been mired in scandal, has failed to carry out its mandate diligently and impactfully, and is plagued by governance woes, accusations of in-fighting and bullying, and disturbingly high staff turnover.⁷ The Committee's own engagement with the CGE in the course of its oversight has brought many of these issues to light – even assessing current Commissioners' performance as "poor".⁸ The appointment of several new commissioners this year is an unmissable opportunity to inject the CGE with fresh talent and skills. As civil society, we cannot allow the CGE to continue on its current trajectory and must, therefore, be provided with a meaningful opportunity to engage with and assess the quality of the presently shortlisted candidates.

For these reasons, we request the Committee to:

1. Extend the timeframe for public comments on the suitability of candidates to at least 30 days;

⁴ Section 11 of the Commission on Gender Equality Act, 1996

⁵ <https://www.weforum.org/reports/global-gender-gap-report-2022/>

⁶ <https://www.isolezwelesixhosa.co.za/iindaba/uzibulele-umfundi-ona14-obethukelwa-ukuba-gay-1ff5d7aa-09a7-4394-aece-ef1ba1eef65f/>; <https://twitter.com/Mambaonline/status/1561769652589629441>; <https://www.mambaonline.com/2022/06/10/bullied-gay-14-year-old-takes-his-own-life/>; *The State of Hate In South Africa in 2021: Advocacy Brief*, Hate Crimes Working Group, (2022) available at <https://hwcg.org.za/resources/>

⁷ <https://www.dailymaverick.co.za/article/2022-06-30-commission-for-gender-equality-crisis-bodes-ill-public-must-pay-attention/>; <https://www.dailymaverick.co.za/article/2022-01-23-the-sa-gender-commissions-statement-against-mandatory-vaccinations-is-irresponsible-and-misleading/>; <https://www.iol.co.za/capeargus/news/cape-sex-work-groups-march-to-the-commission-for-gender-equality-demanding-answers-85d03e21-41a9-4fbc-98a0-173a6cff5992>; <https://www.timeslive.co.za/news/south-africa/2021-08-04-alleged-infighting-in-gender-commission-exposed-mbuyiselo-botha-apologises-after-leaked-attack-on-colleagues/>; <https://www.news24.com/citypress/news/commission-for-gender-equality-suspends-its-ceo-20220730?fbclid=IwAR3EFAK4yAjwP1VmPSrOozSLXOhR6bd0IWvWdhp1CjCMfjpSbrlkaKMcNGo>

⁸ <https://pmg.org.za/committee-meeting/35344/>

2. Make public the resumes of shortlisted candidates, with the necessary redaction of any personal information (such as ID numbers and physical addresses); and
3. Refrain from placing a word/character limit on public submissions, and to permit written submissions in the usual manner.

We hope you will consider our requests in the spirit of enabling meaningful public participation in a critical process on which the future health of an important Chapter 9 institution may well depend.

Yours faithfully,

Organisations

1. Asijiki Coalition



2. Be True 2 Me



3. Callas Foundation



4. Child Witness Institute



5. Corruption Watch



6. Creighton Sunflower Help



7. Durban Lesbian & Gay Community & Health Centre



8. Equal Education Law Centre



9. Gender Dynamix



10. Gender Health and Justice Research Unit



11. Hate Crimes Working Group



12. Helen Suzman Foundation



13. Heinrich Böll Stiftung



14. Human Rights Institute of South Africa



HURISA

15. Iranti



iranti

Dignity, Equality and Freedom

16. Kerr House



17. Lawyers Against Abuse (LVA)



18. Lawyers for Human Rights



19. Legal Resources Centre



20. Lifeline Vaal Triangle



21. Lower South Coast LGBTI Community Projects Rural



22. Mosaic Training Services and Healing Centre for Women



23. Northern Cape Civil Society Coalition



24. Open Secrets



25. Optimystic Bikers Against Abuse



26. OUTA



27. OUT LGBT Well-being



28. Port Elizabeth Rape Crisis Centre



29. Public Service Accountability Monitor



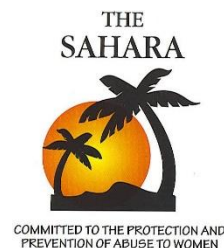
30. Rape Crisis Cape Town Trust



31. Saartjie Baartman Centre for Women and Children



32. Sahara Shelter



33. Same Love Toti



34. Sisters Incorporated



35. Sonke Gender Justice



36. SWEAT



37. The Maureen Thela Foundation



38. The Sexual and Reproductive Justice Coalition



39. The Teddy Bear Foundation for Abused Children



40. Trans Hope



41. Trans Wellness Project



42. Triangle Project



43. Uthingo Network



44. Women's Legal Centre



45. Womxn and Democracy Initiative,
Dullah Omar Institute – University of
the Western Cape



Individuals, in their personal capacity:

46. Caroline Peters – Community GBV Activist & Human Rights Defender

47. Cherith Sanger – Attorney, Academic & Gender Equality Activist

48. Dr Kelley Moulton – Director of the Centre for Law and Society and is an Associate Professor in the Department of Public Law (UCT)
49. Dr Sheena Swemmer – Gender Based Violence Specialist
50. Harsha Gihwala – Senior Research Officer, Gender Health & Justice Research Unit (UCT)
51. Jennifer Smout – Gender Analyst, Researcher & Writer
52. Kerryn Rehse – GBV Advocacy, Policy and Research Specialist
53. Keshnee Dass – Survivor of GBV
54. Kestell Serfontein – Parent to a transgender learner (who experienced significant discrimination) and ally to the LGBTIQ+ community
55. Lisa Vetten – Researcher specialising in governance and gendered forms of violence
56. Marion Stevens – Sexual and Reproductive Justice Policy Specialist & Health Worker
57. Nasreen Solomons – Research Officer, Gender Health & Justice Research Unit (UCT)
58. Prof Amanda Gouws – Distinguished Professor and SA Research Chair in Gender Politics
59. Prof Cathi Albertyn – Professor of Law and SA Research Chair in Equality, Law, and Social Justice
60. Prof Elsje Bonthuys – Professor of Law (WITS)
61. Prof Lillian Artz – Director of the Gender, Health, and Justice Research Unit (UCT)
62. Sanja Bornman – Gender Law & Policy Specialist