



# NEWSFLASH



A Commission for Gender Equality Newsletter 27 October 2023 EDITION 99

## CGE Scores Maternity Leave Victory in Court



The Commission for Gender Equality (CGE) has welcomed the Johannesburg High Court judgment in the case of van Wyk and others versus the Minister of Employment and Labour. The court found sections 25 and 26 of the Basic Conditions of Employment Act and the Unemployment Insurance Fund Act unconstitutional in that they unfairly discriminate against biological parents, adoptive parents, and surrogate parents when it comes to maternity leave. Judge Sutherland ruled that all parents are entitled to four months "parental leave" and to UIF benefits for those who contribute. The ruling must be confirmed by the Constitutional Court. The matter was brought to court by a Polokwane couple, Werner and Ika van Wyk, Sonke Gender Justice, and the Commission for Gender Equality, with several other organisations acting as amicus curiae. CGE's Acting CEO, Dr Dennis Matotoka said the

ruling will protect the interests of children, "This judgment essentially promotes equal parental leave for all parents irrespective of their gender. Equitable care responsibilities for children in South Africa is critical. Women should not bear most of the unpaid childcare work in the home, to the detriment of their economic interests and education". However, Matotoka said the judgment does not provide a statutory minimum leave for parents who adopt children who are over the age of two years. "There is no rationale or justifiable basis for differentiating between parents who adopt children under the age of two, and those who adopt children above two years old. That remains a discriminatory clause that needs to be canvassed further. We will be challenging this limitation in the courts" he concluded. The Court has given Parliament two years to "cure the defects" in the Basic Conditions of Employment Act.

## Rebuilding Moral Fabric of Society

By Lungelo Mesh

"Gender Based-Violence (GBV) is influenced by the way society is set up, its cultural beliefs, power relations, economic power imbalance and gender stereotypes", said Commission For Gender Equality's (CGE) Legal Officer, Nothemba Sonjica speaking on Gender-Based Violence (GBV) and Collapse of families at the National Campaign on the institutional values and principles hosted by the Public Service Commission (PSC) and The Moral Regeneration Movement in Pretoria on Thursday. The campaign was

aimed to rebuild the moral fabric of society, instill fundamental rights and values of the Constitution, and evoke Ubuntu, patriotism, and a renewed sense of identity amongst South Africans. The South African Human Rights Commission (SAHRC), Department of Justice and Constitutional Development, Public Protector, Auditor General of South Africa, South African Institute for Chartered Accountants and the Department of Women, Youth and Persons with Disabilities also supported the engagement and topics such as moral decay and culture of human

rights, governance and accountability and collapse of families were discussed by the institutions. Ms. Sonjica additionally stated that, "GBV threatens family structures, children suffer emotional damage when exposed to violence, two-parent homes may break, leaving the female head of the household to struggle against increase poverty and negative social repercussions". The delayed speed of prosecution was one of the issues highlighted by Mr. Philip Moleko from the SAHRC when he listed elements that influence Moral Decay. "The slow pace of Prosecution or failure of

criminal justice has emboldened perpetrators of crime, and the possible solutions can be to strengthen the National Prosecution Authority to prosecute crime and impose harsh sentences to those who commit crime, including perpetrators of GBV". Ms. Sonjica concluded and said that the CGE has noted the need for family centered interventions which will be more effective in addressing the scourge of GBV". The PSC and The Moral Regeneration Movement are currently planning to run campaigns that will assist communities on the discussed topics.

## CGE Empowers Municipalities To Create Gender Responsive Working Spaces

The Commission For Gender Equality (CGE) in the North-West has committed to assist municipalities in surrounding areas to have gender-responsive policies, programmes and practices that promote gender equality through conducting gender mainstreaming sessions. The CGE made this statement on Thursday at the stakeholder engagement with the management of Corporate Governance and Traditional Affairs (COGTA) Management, the Department of Social Development, South African Police Services and the Office of the Status of Women, and the Premier's Office. The North-West office of the CGE educated the stakeholders

on the role of the CGE in fighting the scourge of GBVF, the support CGE render to the municipalities to ensure that they have gender-responsive policies and programmes and highlighted what is expected of the department in responding to GBV. "The CGE has been trying to work with the municipalities by conducting Gender mainstreaming sessions. However, there has been no political will or response from them. Therefore, after this engagement, we believe COGTA will ensure that the municipalities are responsive to the requests made by the commission" said CGE's North- West Provincial Manager, Joyce Khutsoane, PM.



Catch CGE's Own TV Talk Show GENDER SPACE on DUMISA TV, Channel 340 on DSTV. Thursdays 18:00.