CALL FOR EXPRESSION OF INTEREST

ASSESSMENT OF THE EXTENT OF SOUTH AFRICA’S DOMESTICATION AND IMPLEMENTATION OF THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLE’S RIGHTS ON THE RIGHTS OF THE WOMEN IN AFRICA (MAPUTO PROTOCOL)

Contract Type: Consultancy
Duty Station: Home
Project duration: 4 months

1. PURPOSE OF THE ASSIGNMENT

Tshwaranang Legal Advocacy Centre seeks to procure the services of a Legal Researcher to conduct an assessment of laws that South Africa has enacted to domesticate and implement the Maputo Protocol since ratifying it in 2004. In addition, the Legal Researcher is expected to identify gaps, and areas that require strengthening in the existing laws and provide recommendations.

2. BACKGROUND

The Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (the Maputo Protocol) remains a largely unknown and under-utilised human rights instrument that has enormous potential to improve the lives of women and girls in Africa. Currently within Southern Africa, most of the states have ratified the Maputo Protocol with the exception of Botswana and Madagascar. However implementation of the Maputo Protocol remains a huge challenge at national levels. While South Africa has domesticated the Maputo Protocol piecemeal through law reform in some areas, there is limited reference to the Maputo protocol within the courts and little use of the Protocol by civil society organisations to advocate and champion the rights of women. South Africa also ratified the Maputo Protocol with reservations and fifteen (15) years later these reservations remain and there is arguably no concerted effort to remove them.

South Africa ratified the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Protocol) on 17 December 2004 and deposited its Instrument of Ratification with the Chairperson of the Commission of the African Union on 14 January 2005 as required by Article 28 of the Protocol. At the time of ratification South Africa made three reservations and two interpretative declarations to the Protocol. It made a reservation to Article 4(2)(j) which deals with the imposition of the death penalty on pregnant and nursing mothers; Article 6(d) which deals with the registration of customary marriages; and Article 6(h) on the nationality or citizenship of children born of alien parents. South Africa made interpretative declarations to Article 1(f) which defines ‘discrimination against women’ and Article 31 that deals with the question of whether the South African Constitution (the Constitution) offers more favourable human rights protection than the Protocol.
3. PURPOSE AND OBJECTIVE OF THE STUDY

The study will specifically focus on an assessment of South Africa’s compliance with the Maputo Protocol following its ratification of same in 2004 for purposes of assessing its level of domestication and implementation. The findings of such an audit will be a useful exercise in determining the country’s domestication and implementation of the Maputo Protocol. It will serve as an effective tool to lobby for the full domestication and lifting of reservations on the Maputo Protocol.

The specific objectives are:

To promote state accountability towards fulfilment of its obligations under the Maputo Protocol through its full domestication. This will be done through an audit and review of South Africa’s VAW (Civil and Criminal) laws. The said laws will be assessed in relation to compliance and/or deviation from the provisions of the Maputo Protocol whilst also identifying discriminatory laws and policies that may create general obstacles or obstacles for specific vulnerable and marginalized groups of persons from seeking protection or remedy for VAW.

4. DURATION AND WORKING SCHEDULE

The assignment is estimated to commence in August 2020 and to be completed by the end of November 2020.

5. DELIVERY DATES

The delivery dates for specific deliverables will be agreed upon contract signature. Work is expected to be delivered electronically by email, through virtual meetings and depending on the situation, in face to face meetings.

6. MONITORING AND PROGRESS CONTROL

The consultant is expected to regularly report to TLAC on implementation of the contract. The regularity of the reporting will be agreed upon contract signature.

7. EXPECTED TRAVEL

There will be no travel required for this assignment.

8. QUALIFICATIONS AND EXPERIENCE

- An advanced university degree (masters or equivalent) in human rights, international development, gender studies or a related field.
● A proven record of research and publications in gender, human rights and related fields.
● Strong analytical skills.
● Experience in engagement with wide range of stakeholders including government officials, national human rights institutions, law professionals, civil society organisations including women’s organisations, etc.
● Very good interpersonal skills; ability to work in a team in a consultative and collaborative manner.

9. COMPENSATION

Compensation will be based on responsibilities of the consultant and deliverables in the TORs and will form part of the contract. Payments in relation to this work will be made in several instalments, upon satisfactory delivery of intermediary products, to be agreed as part of the contract.

10. APPLICATION PROCEDURE

The application is to contain the following:

- Letter of interest
- Technical proposal including the following:
  - Proposed methodology.
  - A proposed timeframe detailing activities and a schedule/work plan.
  - Listing experience of relevant prior assignments (minimum 3 examples).
  - Names and contact information of at least two references who can be contacted regarding relevant experience.
  - A detailed CV.
  - A short sample (unpublished article or research paper).

The application should be submitted via email to TLAC at: tshwaranang@tlac.org.za with the heading “Assessment of South Africa’s extent of domestication and implementation of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol)”. The deadline for submission is 2 August 2020 at 5pm Johannesburg time.