

**IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, PRETORIA)**

**CASE NO: 48656/22**

**In the matter between:**

**THE EMBRACE PROJECT NPC**

**1<sup>ST</sup> APPLICANT**

**INGE HOLZTRAGER**

**2<sup>ND</sup> APPLICANT**

And

**MINISTER OF JUSTICE AND CORRECTIONAL  
SERVICES**

**1<sup>ST</sup> RESPONDENT**

**MINISTER IN PRESIDENCY FOR WOMAN, YOUTH  
AND PERSONS WITH DISABILITY**

**2<sup>ND</sup> RESPONDENT**

**PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA**

**3<sup>RD</sup> RESPONDENT**

**FILING NOTICE**

**DOCUMENT FILED:** FIRST RESPONDENT'S SUPPLEMENTARY ANSWERING AFFIDAVIT

DATED AT SIGNED AT **PRETORIA** ON THIS **20<sup>th</sup>** DAY OF **APRIL 2023**



**1<sup>ST</sup> RESPONDENT'S ATTORNEYS  
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**TO:** THE REGISTRAR OF THE ABOVE HONOURABLE COURT  
**PRETORIA**

**AND TO: POWER SINGH INC**  
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**GILFILLAN DU PLESSIS INC**  
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**REF: COR/LOU/W48**

**IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, PRETORIA)**

**CASE NUMBER: 46856/2022**

In the matter between:

**THE EMBRACE PROJECT NPC**

First Applicant

**INGE HOLZTRAGER**

Second Applicant

And

**THE MINISTER OF JUSTICE AND  
CORRECTIONAL SERVICES**

First Respondent

**MINISTER IN THE PRESIDENCY FOR WOMEN,  
YOUTH AND PERSONS WITH DISABILITIES**

Second Respondent

**PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA**

Third Respondent

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**FIRST RESPONDENT'S SUPPLEMENTARY ANSWERING AFFIDAVIT**

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I, the undersigned

**LEONARD TSIETSI SEBELEMETJA**


Do hereby declare under oath as follows:

LS  
B.m

1. I am an adult male, in the employ of the First Respondent as a Chief Director: Legislative Development.
2. I deposed to the answering affidavit previously filed in this matter on behalf of the First Respondent. I remain authorised to represent the First Respondent in these proceedings.
3. The facts contained in this affidavit are true and correct unless the contrary is stated or appears from the context, they are within my personal knowledge.

**LEAVE TO FILE THIS SUPPLEMENTARY ANSWERING AFFIDAVIT**

4. The purpose of this affidavit is to file a supplementary affidavit which serves a dual purpose:
  - 4.1. Firstly, to remove paragraphs 231 to 238 of the First Respondent's answering affidavit deposed to on 16 March 2023 ("the answering affidavit");
  - 4.2. Secondly, to add to the content of paragraphs 106 and 149 of the answering affidavit.
5. It came to the attention of the First Respondent that paragraphs: 231, 233, 234 and 236 insensitively depicted the stance of the Applicants' case and should never have been part of the final answering affidavit.
6. The Applicants will not be prejudiced by the filing of this affidavit, as they have not filed their replying affidavit yet and will have sufficient time to do so upon receipt of this supplementary answering affidavit. By contrast, the First

  
Bm

Respondent will be prejudiced if this affidavit is not admitted as the matter will then be adjudicated with these assertions which is contrary to the stance of the First Respondent in light of high levels of gender -based violence in our society.

7. I sincerely regret and apologise to the Applicants for having depicted their case in the manner conveyed in the First Respondent's answering affidavit. Further, matters of law and constitutionality should not be depicted in a manner that shows disrespect to the persons challenging the law, but is to be welcomed as a possibility to develop laws in line with the Constitution. The excising of the offending remarks in the answering affidavit should not foreshadow the legal and constitutional issues that must be ventilated in court.
8. In the premises, the First Respondent respectfully requests that it be granted leave to file this supplementary answering affidavit.

**ADDITION TO RESPONSES TO PARAGRAPHS 106 AND 149**

**AD PARAGRAPH 36 THEREOF:**

9. The South African Law Reform Commission ("the Law Reform Commission") as established in terms of Act 19 of 1973 is mandated to *inter alia* study and investigate all such branches of the law in order to make recommendations for the development, improvement, modernisation or reform thereof.
10. I submit that the Law Reform Commission is ideally placed to conduct an investigation into the impugned provisions.

CSG  
D. 10

11. Moreover, the First Respondent prefers to avoid litigation and engage with interest groups including NGO's such as the First Applicant, instead of litigation.

**AD PARAGRAPH 70 THEREOF:**

12. The foreign jurisdictions which have adopted the objective test are not similar to South Africa as the societies are homogenous in nature.

**AD PARAGRAPHS 138-144 THEREOF:**

13. For the reasons stated above, I deny that the Applicants are entitled to the relief sought. I further deny that the impugned provisions are unconstitutional and aver that the Applicants have not proved grounds for a just and equitable order in terms of section 172(1) of the Constitution.
14. In the event that the Applicants' claim is successful, I aver that suspension of the order of invalidity for 12 months will be insufficient for the completion of the legislative process. Next year, 2024 is an election year and experience has shown that there is a vast reduction in the number of Bills being promoted by the executive overall, as Parliament will not be able to process Bills before the end of term for the current administration.
15. The order as prayed for by the Applicant is not assailable for the reasons set out in the First Respondent's answering affidavit and the Court is therefore requested to dismiss the Applicants' case and any further order as the Court deems necessary.

  
B.m

**WHEREFORE** I pray that the Applicants' application be dismissed.



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**DEPONENT**

I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me at SILVERTON on the 19 day of **APRIL 2023**, the Regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, having been complied with.

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| <b>SUID-AFRIKAANSE POLISIEDIENS</b>           |
| CLIENT SERVICE CENTRE                         |
| <b>2023 -04- 19</b>                           |
| PRIVAATSAK/PRIVATE BAG X537<br>SILVERTON 0127 |
| <b>SOUTH AFRICAN POLICE SERVICE</b>           |



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**COMMISSIONER OF OATHS**