

Public Interest Law Gathering – Women’s Legal Centre Side Event

Join us at the Public Interest Law Gathering 2017 at a Women’s Legal Centre side event that will explore the inconsistency of the law regarding domestic partnerships. The aim is to discuss the recognition of de facto co-habiting relationships using legal tools and evaluate what inroads have been made through the courts and investigating what must further be done to comply with constitutional principles.

Date
Monday, 24 July 2017

Time:
11:45-13:10

Venue:
School of Public Health, University of the Western Cape

THE DOMESTIC PARTNERSHIP BILL?

striving towards the recognition of de facto co-habiting relationships

Discussion

Millions of South Africans live in co-habiting relationships with no legislative protections. The Domestic Partnership Bill was drafted in 2008 to give legal protections to parties in a domestic relationship or partnership, which is permanent and stable relationship between two persons who choose not to marry but share the same responsibilities and obligations of a married couple. The Bill has been shelved for almost 8 years and it is unclear whether the Bill will ever see the light of day without some serious government lobbying by family law practitioners, progressive legal professional groups, gender activists, legal advocacy groups etc.

The Courts have come to the aid of same sex partnerships in the matter of Laubscher N.O. v Duplan and Another (CCT234/15) [2016] ZACC 44; 2017 (2) SA 264 the Court confirmed the position of the right of unmarried permanent same-sex partners (in which the partners had undertaken reciprocal duties of support) to inherit from one another. In the case under discussion the majority declined to revisit the sexist reasoning in the Volks v Robinson judgment, where the CC declined to give the same protections to all de facto relationships.

In the minority judgment by Judge Froneman took the matter of Volks head on and concluded by stating “Unshackled from Volks, section 13(2)(b) of CUA must be interpreted in a manner that best conforms and least infringes the fundamental right to equality in the Bill of Rights. Apart from those who chose to accept its benefits by marriage formalisation, there remains a residual category of unmarried same-sex and heterosexual partners with reciprocal support duties that are not excluded on a literal reading of the section. They remain entitled to inherit from the intestate estate”

We need to move towards a system which recognises all forms of domestic permanent relationships and the reciprocal duty of support, propriety rights and accord-

ed to civil marriages (relating to children, etc.). The fragmented and piece-meal nature of our legal reforms impacts on the propriety rights of women in relationships and their rights to equality.

Facilitator: Seehaam Samaai

Seehaam Samaai holds an LLM degree in constitutional litigation and joins us from the Foundation for Human Rights where she provided programmatic support in the Strengthening of Civil Society Programme. Previously she was the Director of Legal Administration at the Western Cape Regional Office of the Department of Justice and Constitutional Development (DoJ&CD) and prior to that she was a practicing attorney and Director of the UWC Legal Aid Clinic. Seehaam serves on various national, provincial and community structures providing either strategic leadership, legal, programmatic or organisational support including for the National Association of Democratic Lawyers (NADEL), the South African Women Lawyers Association (SAWLA), the Association of University Legal Aid Institutions (AULAI), Lawyers for Human Rights and the Rural Legal Trust.

Panelists

- **Hannah Massyn** – Currently works for Pro Bono.org and UCT.
- **Keketso Maema** – Is the CEO for the Commission for Gender Equality (CEG)
- **Charlene May** – May is an attorney at the Legal Resources Centre’s Cape Town office.

The panel is convened by the Women’s Legal Centre and you can follow this discussion on [#PILG2017](#) and [#WLCCapeTown](#)



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