

## **The role of the magistrates' courts in promoting gender equality: A case study of the Eastern Cape**

Despite the legislative advances made since the transition to democracy in 1994, discrimination and violence against women are still embedded in social structures, institutions, practices and attitudes in South Africa. The magistrates' courts are in many ways at the centre of this phenomenon, both because much of the new legislation promoting gender equality is enforceable in the first instance in these courts, and because the culture and composition of the magistracy is itself undergoing a process of transformation. This dissertation focuses on the Eastern Cape and examines the extent to which the magistrates' courts in this area have been able to protect and promote the fundamental rights of women. The role of the magistrates' courts in applying three pieces of national legislation in particular will be examined: the Domestic Violence Act,<sup>1</sup> the Maintenance Act,<sup>2</sup> and the Promotion of Equality and Prevention of Unfair Discrimination Act.<sup>3</sup> In addition, the dissertation will examine the role of magistrates' courts in administering deceased estates in accordance with the Constitutional Court's decision in *Bhe v Magistrate, Khayelitsha; Shibi v Sithole; SA Human Rights Commission v President of the RSA & Another* 2005 (1) SA 580 (CC). The pre-proposal stage of this dissertation will be devoted to gathering relevant socio-legal literature to guide the research methodology, and identifying appropriate magistrates' courts in the Eastern Cape for detailed examination.

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<sup>1</sup> 116 of 1998.

<sup>2</sup> 99 of 1998.

<sup>3</sup> 4 of 2000.