

The Practical Implementation of the BELA Bill

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INTRODUCTION

The educational system of our country is currently governed by two main statutes namely, South African Schools Act 84 of 1996 and South African Council for Educators Act 31 of 2000. These two Acts set out the conduct that is acceptable in all South African Schools and grants powers to the School Governing Bodies (“**SGB**”) on certain elements. The South African government has introduced a new Bill, the Basic Education Laws Amendment Bill (“**the Bela Bill**” or “**the Bill**”).

The Bela Bill has received many controversial responses to its implementation. The few points that have been criticized with the Bela Bill are the following:

1. The Bela Bill makes Grade R compulsory for all children as the school starting age/grade. The Bill states in Section 2(a) that should a parent or guardian fail to enrol a child in school in the year in which the child is meant to turn 6 (Six) years old without just cause, such person is guilty of an offence and may be imprisoned for up to 12 months.

Whilst this may seem like a positive provision as children are afforded the opportunity to get educated from a young age, this provision, on its own, fails to take into account that most households in South Africa are currently living below the poverty line and cannot all afford to send their children to school. Furthermore, this provision in imposing a fine or imprisonment, criminalizes such conduct which would mean that if parents/guardians fail to enrol their children in a school then they are committing a criminal act, irrespective of their circumstances.

2. The second point of contention is the corporal punishment issue. It has been reinforced that corporal punishment is not allowed in schools and those who commit such an offence shall be penalised. Furthermore, any other form of punishment that could belittle the learner is prohibited.

It is indeed a positive provision; in that we do not need children being abused by educators under the notion of discipline. However, this provision can be viewed as vague due to the word “belittle” - it is not clearly defined what constitutes belittling a child. There is a fine line between reprimanding and being rude or mean. It ought to be clearly defined what would be regarded as words that belittle a child. Thus, the Implementation of this provision will prove to be difficult due to the vagueness of the clause and furthermore, it will be impossible to know of such unless a child complains.

3. The third issue that arises is with regards to homeschooling. It is stated in the BELA Bill that should the parents/guardians wish to homeschool their child(ren), such parents/guardians are required to obtain permission from the Head of the Department of Basic Education. This has created a problem for most parents as they need to report all that they teach their children to the Department. Parents also do not have the liberty to teach their children what they may deem as important for their child.
4. In relation to cultural beliefs and religious practices, the BELA Bill states that schools are required to include provisions for students to ask to be excused from certain requirements in terms of the code of conduct.

The potential problem to be caused by this is that since special considerations will be made for cultural and religious beliefs some people may feel that their beliefs are not accommodated. Practically speaking it is impossible to make provisions for all beliefs and thus certain people may not be accommodated fully.

It is important to note that as much as there is critique on certain provisions of the Bill, there is some light at the end of the tunnel. The Bill has clarified many issues that were previously debatable in our law. One issue is that sign language has been included and is regarded as an official language in the educational space.

The Bill has also enforced the ban on corporal punishment of children, which is important to ensure that children are not abused in their schools.

CONCLUSION

The intentions of the legislature appear to have been to ensure that the educational system is improved by creating an educational space that accommodates all children and provides them with the same level of education. However, this attempt has been met with a lot of controversy in that some people do not regard certain amendments as an attempt to ensure inclusivity but rather as a tool to cause division and even to a certain extent disruption in the schools.



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