

BELA BILL

Al Jama-ah's Concerns and Position

31 January 2024

0. Introduction

South Africa's status as a Constitutional Democracy has been vibrant over the years; the nation at large and the various communities across country have relished in the fact that they could exercise their rights. From socio-ethnic to religio-cultural communities have demonstrated their support and have identified with the government and its policies since the country became a democracy.

While we all express our joy with our country's socio-legal position that is governed by a fairly liberal constitution, many have also witnessed to what degree the rights of the people have been curtailed and diminished; despite the constitution granting everyone their rights, it seems that a handful of parliamentarians, especially the portfolio committee, have not really bothered to take into account the feelings of the masses against the legislation or rather amendments that have been made to the current Basic Education Bill.

Indeed, this committee and the Minister of Basic Education, Mrs. Angie Motshega, who has overstayed in her position as the country's Minister, have forgotten their respective positions as public officers; they should view themselves as representatives that work in the interest of the nation and not against them. Unfortunately, the current BELA Bill is a document that works against the nation's interest and this is our party's concern.

Instead of them consulting and engaging widely before putting the amended Bill through for adoption and implementation, they chose to accept what their drafters have inserted without seriously thinking about these amendments' impact and consequences. The attitude that they have taken and their wish to approve of a document that has so far raised critical communal concerns remains an issue of debate.

Our party's members have expressed their dissatisfaction with it and opine that the Bill will have to be returned and be radically revised so that civil society can be properly consulted and so that all of us can be on the same page as regards the new legislation is concerned.

1. Party's Concerns

As indicated in the introduction, the party is very concerned about several clauses; and it is also very worried about the effects and impact these would have on the generations to come; in other words, the Minister and many of us would have been long gone while the forthcoming generation will be encountering and grappling with the legislation's effects that we – the current generation - have put in place.

What we seem to be oblivious of is the fact that some of the clauses are not just psychologically harmful but they are sociologically damaging; they are so to such an extent that these will take the coming generation a long while to overcome and the negative outcomes will even take longer to resolve. Now, these are the party's main concerns. We all know that apartheid system has been abandoned, It has affected us deeply and still with us in one form or the other.

We can thus imagine how long the legislation that has been devised will take root and how long it will take to uproot and get rid of. It is ok for us – our generation of legislators - to chart out legal pathways for the generations to come but we – as a collective – have not seriously thought of the detrimental and injurious consequences of some of these.

Nay, we do not seem to have the future society's conditions on our minds when we – in this case the portfolio committee and whoever has been involved in making these amendments – worked on these clauses; we have not applied our minds and weigh the negative impact not only in the educational area but in others as well.

In fact, we need to carefully reflect on the impact that these would have of our children and grandchildren and the communities of the future; these groups are the ones who will be experiencing the undesirable effects of this revised BELA Bill and we will be the generation that they will not only spew venom on but perpetually curse! That being the case, our party do not want anything to do with this Bill and thus reject it.

2. Party's Position

At this juncture, allow us to point out those issues that is of concern and express our party's position; since we do not wish to tackle all the issue or rather explain and expand on each in detail, we want to itemize them and provide brief input. But before we briefly list these and comment on them, let it be stated that our party believes firmly in the perpetuation of universal values and these should be kept in mind as changes are made; our party rejects any system that nurtures immoral acts or that opens the door for unethical practices. Keeping these in mind, let us list a few:

2.1 The School's Governing Bodies

Looking at the Bela Bill one is perturbed by the fact that the powers of the governing body is being taken away. The question that one wishes to pose is: How democratic is this move? And another is: why has such an approach been adopted when we need input from the school's stakeholders of which the governing body is a critical one? It seems that our democratic rights as parents and others within the schools have been weakened and slowly eroded. The concern raises two interconnected questions: for what and for whom?

So, if these bodies have been side-lined because of these new legal amendments, we can only imagine that they might exist but as lapdogs within an ineffective educational system. This is not what we bargained for and this is not what we thought the future would look like. This is indeed unacceptable in the democratic circumstances.

The portfolio committee should have looked beyond the box by placing the body at the heart of the educational process; instead of these being pushed out of the centre, it should have been granted more powers to govern, to control, and to run the schools' affairs. Unfortunately, this appears to be the opposite and this implies that when powers are weakened and taken away, these bodies' presence within the schools will be meaningless.

2.2 Sex Education

One of our party's major concerns is with this issue. Since our party's roots are within the house of Islam, it wants to make certain that the teachings within our educational system nurtures a healthy attitude towards good living; in other words, it does not agree or support any system that undermines teachings that nurture positive behaviour and values.

Let us explain this in another way: In Muslim society, there is a course/module that is taught that focuses on Akhlaq (Moral [teachings]) and this course includes the teaching of 'sex.' It does not identify with the non-religious approach or the secular approach as happens in our society that has been heavily influenced by the Western value system that cuts off our ideas and practices from God who has created us and who has set out a way of life that is wholesome and healthy.

In and outside the Muslim society, sex education is a sensitive matter; this being the case, it should be tackled in a careful and sensitive manner. As far as the understanding goes, this revised system expects us to teach children – who has no inkling about 'sex' and its value – from the age of five about it. Our questions: Is this not ludicrous? Is this not nonsensical? Is this not a destructive approach to the lives of these young immature kids?

Well, it seems that this portfolio committee and the Minister, who will not be around to see the destruction that these policies will cause, have no sense of the future and the future of these young minds; from their viewpoint, they have overhauled the system and done wonders not realising that they have messed up the system with these deplorable policies and legislation!

2.3 Alcohol at School

When turning to this clause, we want to ask the question: who in his/her right mind inserted this into this Bill? This is one of the most preposterous suggestions and why has this portfolio committee accepted it? Do they take us for clowns or people who cannot think? Have they not read reports of how alcohol has affected our society over the decades/centuries? Why still waste time to include this in such a critical document?

We are ashamed to be associated with it and the Minister should have highlighted the negative effects of the tot system that have destroyed many in our communities. We tarnishing our image as a democratic nation if we approve this clause. It is totally unacceptable that this idea has been table and inserted!

It is by time that we in civil society air our voices against this type of thinking; it goes against the spirit of democracy and it goes against our beliefs and practices. The mere fact that it has been included places us as a democratic society in a very disconcerting position. Some of these pen pushers might think that they doing us a favour with their thoughts and suggestions; nay, they doing the opposite and these policies contribute towards our destruction and annihilation. We can only imagine what our schools will look like in the future: full of school-going drunkards!!! For the portfolio committee to even consider it is an embarrassment to say the least.

3. Towards a Conclusion and a Few Additional Points

As we conclude our position, permit us to restate a few points: Al Jama-ah unequivocally rejects the BELA Bill in its current form. While we note the urgent need for wholesale educational reform and in particular educational law reform.

Unfortunately, not only does the BELA Bill fail to enact such reform, but its provisions are rife with vague formulations as well last-minute changes. These will have unintended consequences that will hamper, rather than advance, the provision of equal and quality education in South Africa. We know that the DBE has been working on this Bill since 2013 and that the BELA Bill was published for public comment nearly five years ago; despite this, the Bill, as it stands, is clearly not ready to be adopted into law. These long delays by the DBE impeded the ability of parliament and parliamentary staff in submitting a comprehensive user-friendly Bill.

That said, Al Jama-ah has numerous reservations and these are on the following grounds:

3.1 An “Administrative” Bill

THE DBE has admitted throughout that the BELA Bill is an “administrative bill” seeking to address “administrative” issues. We believe that the bill needs to be more focused around the learner and put the best interest of the child first.

We call for a fundamental reform of educational law to make it child and family centric, and to empower parents, thus will give rise to a system which will instill morals and morality within our education system.

We believe firmly that the best interest of the child is served through their parents and families, as is clear from the preamble of the Children’s Act.

We believe that religious studies should also form part of the curriculum.

3.2 ECD

While making grade R compulsory, we believe that focus should start through ECD centers.

Each ward must have these centers funded through the DBE or SSD.

3.3 Punishing parents

Section 3 makes mentions of a learner who may be admitted if the learner turns 5 years of age before June 30 (of that year); and that he/she must be admitted if the learner turns 6 during the year.

The bill further makes provision that a learner must be in school till the age of 15 or have reached Grade 9.

In these instances, we must object to the learner being in school only. The act must allow for learners to be excused from school to attend religious school (*hifz* [memorization of the Quran] or *alim* [one who pursues theological studies]) at the sole discretion of the parent or both parents.

We totally reject the idea that the parents be penalized for failing to ensure their children are registered in a school; this is not only anti-progressive but anti-poor too; the latter group’s status have not even been thought about and yet this committee wants to impose stringent rules and regulations.

3.4 School Governing Bodies

The SGB has always played an integral role in the functioning of the school. By removing their authority, we believe it would be counterproductive and undemocratic.

3.5 Language Policies

While admission and language policies are important these, are by no means the only or even the main crisis issues facing our School Governing Bodies.

The DBE should have engaged with the South African public and other sectors as a whole, and this Bill should have proposed a complete reform of School Governing Bodies that would address all challenges especially those of capacity.

Similar to hospital boards, the school governing bodies should be appointed by the MEC in charge of education together with a compulsory 30% parent component

3.6 Home Education

The fundamental point made by the vast majority of home schoolers was that they felt that there was lack of meaningful engagement with the DBE; in fact, there has been and continue to be a lack of research in this sector and an absence of proper consultation.

Until this was attended to it was difficult to comment on the Bill as it did not reflect the reality of home schooling in South Africa.

The DBE also claimed before the Committee that extensive engagement took place. Yet it was evident that the vast majority of engagements referred to were either limited to engagement on the Policy on Home Education, or were meetings of a task team convened to write the regulations that will flow from BELA Bill. These did not concern the Bill itself.

It appears that the majority of the Committee approached the home education clauses with a closed mind, and did not give fair consideration to the public's submissions.

3.7 Additional comments

We wish to place on record our objection to Clause 27, which discriminates against primary schools with under 135 learners, and secondary schools with less than 200 learners.

We also object on moral and religious grounds to Clause 41, in particular (aA) and (aB).

3.8 Final Points

Al Jama-ah calls on all members of parliament to reject this bill and not to be mere rubber stamps for the department of education. Further we call for more public participation on the Bill.

Al jam-ah calls for the bill to protect the morality of our children and the generations to come; if we fault on these, we would have left a legacy that our future generations would curse. The question is: would we want this to be the case?