



BELA Bill Procedural Flaws

Procedural flaws in the development and processing of the BELA Bill are important, as the Bill can be struck down as a whole or the whole of Clause 35, and the Bill will then be referred back to the DBE and/or parliament for reconsideration.

The following are some of the potential procedural flaws in the BELA Bill process.

1. DBE/Ministry fails to honour the agreement to allow home schoolers to present to the Task Team. The Ministry of Basic Education promised to create an opportunity in 2018/2019 for home schoolers to address the National Task Team that was considering home school submissions. This agreement was not honoured and this has led to a number of constitutional, legal and practical flaws in the bill as well as leading to much confusion in the drafting of regulations.

2. Socio-Economic Impact Assessment (SEIA)

Some of the largest procedural flaws relate to the SEIA. Three major flaws have been:

- a. The SEIA was not shared when Bill was published for public comment in 2017.
- b. The SEIA is not based on research.
- c. It does not include any accurate costing of the impact of the Bill on home schooling, and what costings were included were not shared with parliament or the public.

3. Irregularities in Parliament.

The Trust and LearnFree were the only NGOs present during the clause by clause deliberations of the Bill. This close observation has highlighted the following procedural problems with the Bill:

- a. The lack of a matrix (i.e. document that summarises all submissions) or other tool to ensure members were aware of the content of especially written submissions.
- b. The minutes of the clause-by-clause deliberations did not reflect all decisions, and not all changes recorded in the minutes were reflected in the list of A and B lists (i.e. the changed versions of the Bill).
- c. It is an open question whether parliament has taken the public's views into account. The alcohol section has been removed but the clause on home schooling remained largely unchanged, despite home schoolers rejecting it. Where the public puts forward a constitutionally sound proposals these proposals need to be taken into account.

These procedural flaws are very technical and if you would like to write about procedural flaws make sure to attend the Pestalozzi Trust sessions on writing a submission.

BELA Bill Prosedurele Foute

Prosedurele foute in die verloop van die BELA Bill is belangrik: sulke foute kan daartoe lei dat die Bill in sy geheel verwerp word, of dan Klousule 35 op sy eie. Dan moet die Bill na die DBO en/of die Parlement terugverwys word vir heroorweging.

Hier volg sommige van die moontlike prosedurele foute in die BELA Bill-proses:

1. ***Die DBO/Ministerie doen nie sy onderneming gestand dat tuisskolers voorleggings mag doen aan die Taakspan nie.***

Die Ministerie van Basiese Onderwys het belowe om in 2018/2019 'n geleentheid te skep vir tuisskolers om die Nasionale Taakspan toe te spreek wat besig was om die tuisskoolvoorleggings te oorweeg. Hierdie onderneming is nie gestand gedoen nie, en dit het gelei tot 'n aantal grondwetlike, regs- en praktiese foute in die Bill, asook tot groot verwarring in die opstel van die regulasies.

2. ***Sosio-Ekonomiese Impak-Assessering (SEIA)***

Sommige van die grootste prosedurele foute hou met die SEIA verband. Drie groot flaters was die volgende:

- a. Die SEIA is nie vrygestel toe die BELA Bill in 2017 vir kommentaar gepubliseer is nie.
- b. Die SEIA is nie op navorsing gebaseer nie.
- c. Dit sluit nie enige korrekte kosteberamings in van die impak wat die BELA Bill op tuisonderwys sal hê nie. Verder is die kostes wat wel ingesluit is, nie aan die parlement of die publiek vrygestel nie.

3. ***Onreëlmatighede in die Parlement.***

Die Trust en LearnFree was die enigste NGO's teenwoordig tydens die klousule-per-klousule beraadslagings oor die Bill. Uit noukeurige waarneming is die volgende prosedurele probleme met die Bill geïdentifiseer:

- a. Die gebrek aan 'n matriks (dws 'n dokument wat al die voorleggings opsom) of 'n ander instrument wat sou kon verseker het dat die lede bewus was van veral die geskrewe voorleggings.
- b. Die notule van die klousule-per-klousule beraadslagings het nie al die besluite bevat nie, en nie alle wysigings wat wel in die notule aangeteken is, is ingesluit in die A- en B-lyste (dws die veranderde weergawes van die Bill) nie.
- c. Dis 'n ope vraag of die parlement die publiek se sienings in aanmerking geneem het. Die alkohol-klousule is verwyder, maar daarenteen die tuisonderwys-klousule het grotendeels onveranderd gebly, ten spyte daarvan dat tuisskolers dit verwerp het. Waar die publiek grondwetlik gesonde voorstelle maak, moet hierdie voorstelle in ag geneem word.

Hierdie prosedurele foute is baie tegniese van aard, en as jy graag oor prosedurele foute wil skryf, moet jy beslis die werkwinkel van die Pestalozzi Trust bywoon oor hoe om 'n voorlegging te skryf.
