

REPORT OF THE SELECT COMMITTEES ON QUALITY OF LIFE, STATUS OF WOMEN, CHILDREN, YOUTH AND PEOPLE WITH DISABILITIES ON WOMEN EMPOWERMENT AND GENDER EQUALITY BILL [B50B-2013]

1. INTRODUCTION

The Women Empowerment and Gender Equality Bill [B50B-2013] ("the Bill") was referred to the Mpumalanga Provincial Legislature by the Chairperson of National Council of Province (NCOP) on 04 March 2014. The Honourable Speaker of the Mpumalanga Provincial Legislature whom, then referred the bill to the Select Committee on Quality of Life Status of Women, Children, Youth and People with Disabilities (the Committee) for consideration and with a responsibility to report back to the House in accordance with Rule 185.

The committee was requested to provide a negotiating mandate to the NCOP by 19 March 2014.

2. OBJECTIVES OF THE BILL

The Committee was briefed that the objectives of the bill are:—

- To give effect to sections 1 and 9 of the Constitution,
- To provide for compliance with international agreements,
- To align laws and implementation of laws with this proposed Act,
- To provide for the development and implementation of plans by designated Public bodies and designated private bodies to promote women empowerment and gender equality and,
- To provide for implementation of measures to facilitate the progressive realisation of a minimum of 50% representation of women in decision making positions and structures.

3. METHOD OF WORK

- a. The Speaker referred the Bill to the Select Committee on Improvement of Quality of Life and Status of Women, Youth, Children, and People with Disabilities on 05 March 2014 for consideration and report back to the House.
- b. The Committee was briefed by the NCOP permanent delegate with the assistance of the Department of Women, Children, and People with Disabilities on 12 March 2014.
- c. The Committee conducted public hearings in terms of Section 118 (1) of the Constitution in the three districts of the Province on 13-15 March 2014.
- d. Invitation to attend public hearing was issued to stakeholders as follows:
 - Advertisements were placed on Daily Sun (13 of March 2014),
 - Advert placed on Sowetan was not published and SCM was informed to cancel the issued order,
 - All stakeholders on Legislature and Gender Commission database were invited through email and fax,
 - All stakeholders requested to submit written submissions to the committee by 17 March 2014,
 - The advert was also posted on legislature official twitter account (@MPLegislature) and official Facebook account,
 - The Bill was also posted on the legislature website, (www.mpuleg.gov.za) for downloads.

The Committee mobilised 600 people per public hearing and transported them to venues. Attendance registers were signed by 1007 people. Each public hearing was attended by a reasonable representation of communities from each municipality within each district. The official estimate of attendance justified by

transported participants and additional chairs that had to be provided is at 1500 people who attended the public hearings.

DATE	DISTRICT	VENUE	ATTENDANCE
13/03/2014	Nkangala Region	Ogies (Phola) Multipurpose Centre; Emalahleni Municipality	305
14/03/2014	Gert Sibande Region	Ermelo, Wesselton Community Hall; Msukaligwa Municipality	283
15/03/2014	Ehlanzeni Region	Langelooop, Mlumatl Library ;Nkomazi Municipality	419

The Committee received and considered written inputs/comments from the following stakeholders, some of whom attended the public hearings:

- (a) Commission for Gender Equality,
- (b) The Community Law Centre,
- (c) Centre for Law and Society,
- (d) Civil society comments,
- (e) Cause for justice,
- (f) Sex Workers Education and Advocacy Task Force.

The Committee met on the 18 March 2014 to consider the Report on the public hearings and considered the negotiating mandate.

4. BRIEFING BY THE NCOP

The Committee was briefed by Hon MP Themba, permanent delegate from NCOP who was supported by senior officials from the Department of Woman, Children and People with Disabilities namely; Mr. Khethani Hlongwa and Ms Thandeka Mxenge. The officials made a presentation to the committee on the proposed Bill on Women Empowerment and Gender Equality Bill [B50B-2013].

4.1 INTERACTION DURING THE BRIEFING

The committee welcome the presentation, and the following issues were raised by the committee:

- (a) The definition of 'gender mainstreaming' in chapter 1 excludes the term 'legislations' which is not in line with United Nations practice,
- (b) The Committee noted with serious concern that an erroneous version of the bill was referred by NCOP to provinces. The version was marked as 'presented' was referred to Provinces instead of the version 'agreed' upon by the National Assembly.
- (c) The committee questioned whether the legislation will be implementable and enforceable. It raised that consequences for non-compliance contained in legislations like PFMA section 86 are not implemented and there is no willingness in the executive to enforce such consequences.
- (d) The committee also raised whether Section 11 (d) of the bill meant the new legislation will supersede any legislations that are not listed as part of the applicable legislations for example Municipal Finance Management Act.

- (e) The Committee noted that terms such as 'accounting officer', 'Director', 'Chief Executive Officer' were not defined on chapter 1 of the bill and where used they did not cover public bodies.
- (f) The Committee questioned why certain legislations like PFMA are referenced whereas others like MFMA are not referenced despite that they are all applicable.
- (g) The Committee further noted that the reparations for noncompliance contained on section 17 of the bill set deferent standards for private and public bodies and are laid-back for the public bodies.
- (h) The Committee noted that the bill had a direct effect to Local government and traditional leaders but there was no indication that organised local government (SALGA) and House of Traditional Leaders were consulted at any stage by the executive.

5. INTERACTION WITH THE PUBLIC

The Chairperson of the Committee, Honourable AF Mahlalela presented the Bill to the three (3) public hearings respectively in their Languages. He explained the definitions, objectives and took each meeting through all the chapters of the bill.

The law making process was also explained to the attendants and they were invited to make inputs on the proposed law.

The following comments were made by those present:

5.1. OGIES, (PHOLA) MULTIPURPOSE CENTRE

- The Community raised that gender equity laws is not monitored and those suppose to implement it are , breaking the same laws .

- Public Education on rights of women, children and people with disabilities must be provided to people on rural areas.
- The implementation of this law must be enforced as we have passed a lot of laws that protect women, but they are still suffering.
- Chapter 5 on Review by Minister did not state when the review will be conducted, the timeline must be specified so that it can assist in planning.
- The 50/50 representation in private sector is not clear on which position level should be placed, given that the Bill specify the Level/s in the public sector. The level/s in the Bill For the public sector are not equivalent to the private sector.

5.2. ERMELO, WESSELTON COMMUNITY HALL

- Chapter 3 of the bill affect municipality and traditional Council.
- There is a need for Women to be capacitated so that they can be in a position to take senior position. She further raised that women must support each other.
- The bill is good and welcomed it respectively.,
- Men must be educated on this bill because they are the one that perpetuate woman abuse and discrimination.
- a women desk must be established in all municipalities (gender focal point).

5.3. LANGELOOP, MLUMATI LIBRARY

- The people present at the public hearing were favourable towards the bill and expressed their support of the Bill. They understood the Bill as explained by the Members of the Committee deployed there.
- Commission for Gender Equality presented their written submissions furthermore GRIP follow suit indicating that the bill discriminate Gay and

Lesbian. In response the committee indicate that the definition of 'gender' does include them.

- It was questioned if the bill does not contradict the Traditional customs and practices with regard to Gender Equality because most of cultural practice perpetuate that men are superior to woman.
- It was raised that women are abused and when reporting to the police they don't get any help and if the perpetrator is released they persist the abuse.
- It was raised that compliance auditing must be done annually and a report be made available to the public published indicating how many woman benefited.

The Committee noted that all the three public hearings accepted the bill and agreed that the Province vote in favour of the bill.

6. WRITTEN COMMENTS/INPUTS

The Committee received and considered written comments and inputs from the following stakeholders;

- (a) Commission for Gender Equality (annexure 1)
- (b) The Community Law Centre (annexure 2)
- (c) Centre for Law and Society (annexure 3)
- (d) Civil society comments (annexure 4)
- (e) Cause for justice (annexure 5)
- (f) Sex Workers Education and Advocacy Task Force (annexure 6)

All written submissions were duly considered by the Committee and are annexured to the report.

7. FINDINGS

The Committee would like to elevate the following issues for consideration by the NCOP;

- (a) The Chairperson of the NCOP referred an erroneous version of the bill, tagged as the version 'presented' to the National Assembly and not the version 'agreed upon' although the bill numbering is correct (B50B-2013)
- (b) The bill has direct impact on Local Government and Traditional Leaders which create a need to thoroughly consult organised local government (SALGA) and House of Traditional Leaders,
- (c) There is a number of terms used in the body of the bill which are not defined on chapter 1 i.e. Director, Chief Executive Officer
- (d) The Bill seeks to amplify the right to equality by adopting Section 9(2) as the main thrust of empowerment. The Committee is of the view that these will lead to a narrow application of empowerment. There is a need to insert a broader definition of empowerment,
- (e) There is ambiguity whether constitutional institution such as CGE will be designated by the Minister. In terms of Section 181 (5) of the Constitution this is not contemplated and is also not envisaged by CGE Act. Any authority exercised over the CGE by the Minister in terms of any law would be unconstitutional because it will undermine the independence of the CGE.
- (f) The bill does not set timeframes in key instances i.e. clause 15.
- (g) There are no check and balance provided to protect entities which may be faced with legitimate constraints such as a shortage of skills and operational requirements. The Committee is of the view that the Minister the Minister may promulgate appropriate guidelines in the regulations in terms of Clause 19.

- (h) The spirit of the bill is not mandatory in the manner that it has been drafted. The use of 'may' instead of 'must' will cause implementation challenges as those expected to implement will use their own discretion.
- (i) The fines contemplated on clause 17(3) must be ring fenced for programmes relating to women empowerment by National Treasury as per our proposed amendments.

8. RECOMMENDATIONS

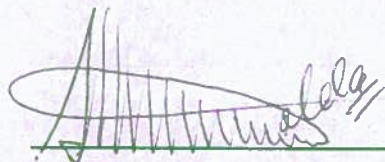
The Committee examined the Bill [B50B-2013] and recommend that;

- (a) Mpumalanga Province must support the Bill with the proposed amendments.
- (b) The Delegates representing the Province of Mpumalanga in the National Council of Provinces (NCOP), be conferred with authority and a mandate to vote in favour of the Bill.

9. ACKNOWLEDGEMENT

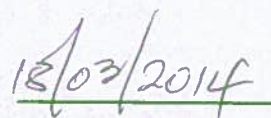
The Chairperson would like to thank the Honourable Members of the Committee, all stakeholders, my office support, committees support, public participation and petitions, communications for making our work meaningful under all circumstances.

Your commitment to serve the people of Mpumalanga is appreciated.



Hon. AF Mahlalela

**Chairperson: Select Committee
on Quality of Life Status of Woman, Children,
Youth and People with Disabilities**



DATE