

Any learner or parent of a learner who has been refused admission to a public school may appeal against the decision of the ...within 14 days of receiving notification of the refusal or admission to the public school...

4. Section 4(f) and (g) of the *Bill* contemplates a *decision*.
5. The *decision* is a *administrative act* as defined in Act 3 of 2000. Such a decision must be reviewed in terms of Act 3 of 2000 or in terms of the *principle of legality*.
6. Promulgation into law of Section 4(f) and (g) page 9 of the Bill will cause chaos. The reason for this is:

- i. It restricts an admission to a *public school* ... The same is not prescribed for *independent schools*. This is discriminatory and in violation of the provisions of Section 9 of Chapter 2 of the Bill of Rights contained in Act 108 of 1996 i.e. the *South Africa Constitution*.

7. Section 4(f) on page 9 of the Bill contemplates the *member of the Executive Council* refusing admission to a learner without giving reasons for such a decision. This provision violates the common law principle of *audi alteram partem*. This provision also contravenes Section 33(2) of Act 108 of 1996 (the South African Constitution). This section provides:

Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons...

8. *Administrative Law* in South Africa is a very complex area of the law. The proceeding prescribed/used is Rule 53 of the High Court Rules. We have Act 3 of 2000 *PAJA* sitting side by side with the principle of legality. Review relying on the *principle of legality* is at a very immature stage and must still be developed by our courts.

9. Section 4(g) page 9 of the *Bill* contemplates:

A decision by the member to be appealed to the...member of the Executive Council.

10. There is no provision requiring the *member of the Executive Council* to at least do a minimum course in *basic administrative law*.

11. *Review* in South African cannot be adjudicated in lower courts. A review in South Africa can only be adjudicated in the *High Court*. Not only do High Court trials take many years before they are heard but the legal costs to litigate in the High Court are privileged to a very few, very wealthy South Africans. The vast majority of the South African population, who may be numbering 50 million as compared to 1 million cannot afford High Court litigation.
12. Government officials frequently make reference to *The Legal Aid Board* which offer legal services free of charge. These government officials will never approach *The Legal Aid Board* because:
- i. The lawyers attached to the Legal Aid Board are lawyers who are drop outs in the private sphere;
 - ii. The said lawyers can barely draft a letter in English;
 - iii. The level of inefficiency by the lawyers attached to The Legal Aid Board is huge.
13. The threshold required of a person to be entitled to legal aid help is extremely low.
14. The Legal Aid Board does not have the infrastructure or the personnel to do a review in the High Court.
15. A proceeding contemplated in Section 4(g) page 9 of the Bill will result in a substantial amount of time having to be endured until the matter is finally decided upon. During this period the *learner* will, without doubt lose years of study.
16. Ad Section 8 page 12 of the Bill
- This section provides inter alia:
- i. *The head of department may, upon application from the governing body to supplement the resources of the school, permit the possession, consumption or sale of liquor during any school activity whether it is held on or away from the school premises.*

- ii. *the governing body may upon receipt of an application permit the possession, consumption or sale of liquor during any private or religious functions held on the school's premises.*
- iii. *Whether the school will be able to provide a staff member delegated by the principal, or a person delegated by a governing body, to monitor the function so as to ensure the liquor is not consumed irresponsibly and is not served to already intoxicated persons!*
- iv. *If children will be present, whether the organisers are willing to give written undertakings to ensure that liquor will not be available to children.*
- v. *The principal or his delegate may at time, search a learner or any group of learners or the property of a learner or group of learners for any liquor, dangerous objects or illegal drugs...*

17. The aforesaid provisions are discriminatory, in violation of Section 9 of Act 108 of 1996 i.e. the South African Constitution. The reason for this is that allowing liquor to be consumed and sold during a school function at which Muslim parents and children are present disregards respecting the beliefs of Muslim parents and children. The consumption of liquor and the encouraging of the sale and/or possession of liquor is *haram* (forbidden) by Islamic Law.

18. In addition to the foregoing Section 8(c)(i) page 12 of the *Bill* contravenes Section 15(1) of Act 108 of 1996 i.e. the South African Constitution. Section 15(1) provides:

Everyone has the right to freedom of conscience, religion, thought, belief and opinion.

19. Selling liquor, encouraging the consumption of liquor and promoting liquor at a State institution i.e. public school disregards the rights of Muslims who are forbidden to consume, look at and sell liquor. Section 8(b)(i) compels a *head of department* and a *governing body* of a public school to sell, drink, possess

liquor at a public school with the aim of raising funds for the school. A Muslim *head of department* or a Muslim(s) who are members of a governing body of a public school will be compelled to commit haram i.e. do that which is in violation of their conscience and belief.

20. Section 8(e)(i) of page 13 of the Bill contemplates children at a school function interacting with *already intoxicated persons*. This section also expressly allows for *already intoxicated persons* to be at the function. Such intoxication invariably leads to a host of different crimes which include assault, sexual molestation, abuse of children and the likes with respect, a very twisted satanic mind would even suggest that appearing in Section 8(e)(i) page 13 of the Bill.

21. It is submitted that dismantling of *apartheid* was only allowed on condition that the majority of South Africans abandon their religion/beliefs and culture in favour of a constitution that is *lewd, brazenly twisted and filthy*.

22. The aforesaid section also contravenes Section 34(1)(a) of the Liquor Act 59 of 2003.

23. The *search and seizure* provided for in Section 8(a)(d) of the Bill contravenes the Provisions of Section 14 of Act 108 of 1996 i.e. the South African Constitution.

24. The principal referred to in Section 8(b) page 13 of the Bill is given no *legal training* and will not know about the nuances of a *lawful search and seizure* operation.

25. Conclusion

The *Bela Bill* is unlawful.

Yours faithfully

ZEHIR OMAR ATTORNEYS

