



Wes-Kaapse Provinsiale Parlement Western Cape Provincial Parliament IPalamente yePhondo leNtshona Koloni

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Committee Report

(Negotiating Mandate Stage) Report of the Standing Committee on Community Safety, Cultural Affairs and Sport on the Customary Initiation Bill [B 7B–2018] (NCOP) dated 30 September 2020, as follows:

The Standing Committee on Community Safety, Cultural Affairs and Sport, having considered the subject of the Customary Initiation Bill [B 7B–2018] (NCOP) referred to the Committee in accordance with Standing Rule 217, confers on the Western Cape's delegation in the NCOP the authority to support the Bill with the following proposed amendments.

1. Definitions

The Bill should sufficiently define what is considered to be surgical equipment. The Bill should provide a sufficient definition to include that of all types of female genital mutilation.

2. Accessibility for EMS

The Bill should sufficiently address the obstacles for the accessibility of Emergency Medical Services to initiation sites in remote areas.

3. Recognition of statutory Khoi-San leaders

The Bill should refer to the recognition of statutory Khoi-San leaders and communities within the context of the Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003) being repealed.

4. Norms and Standards

The Bill should reference the National Environmental Health Norms and Standards for Premises and Acceptable Monitoring Standards for Environmental Health Practitioners to acknowledge the powers and responsibilities given to the Minister of Health regarding conditions of circumcisions.

5. Age

The age specific references in the Bill must be rechecked by taking into account the various cultural practices. There are references to children, 16-18 year olds, and references to persons who completed secondary education.

6. Confidentiality

The Bill should state that all relevant tests are to be concluded before a medical certificate will be issued, prior to the initiation process. The Bill should also address the confidentiality measures to be in place to safeguard the information contained in a medical certificate.

7. Cooperation across Provinces

The Bill should address clear guidelines for interprovincial cooperation and collaboration and detail the effects of medical certificates being issued in a province different to where the one where an initiate is entered into an initiation school.

8. Virginity testing

The Bill should contain a definition for virginity testing and include substantive provisions dealing with virginity testing. Also, the Bill should state that "No child or any other person may be forced or coerced to undergo virginity testing as part of an initiation process".

9. Abuse and discrimination

The Bill should include other types of abuse and not just reference to mental and physical abuse. Or, use the term abuse to refer to all types of abuse. The Bill should set out measures at initiation schools to prevent harmful practices such as those that equate sexual and gender-based violence. The objectives of the Bill should therefore also purposively aim to prevent sexual abuse, and all other forms of abuse.

10. Timeframes

The Bill should set out timeframes for the Minister to consider and approve any reports submitted to the Minister by the National Initiation Oversight Committee (NIOC). The Bill should also indicate the processes to be followed if the Minister does not approve reports from the NIOC.

11. Community based structures

The Bill should make provision for the establishment and support of community based initiation structures.

12. Gender Equality

The Bill should strike a balance regarding the intersection between LGBTIQ+ persons and tradition, culture, religion and other subcultures.

13. Disqualifying criteria

The Bill refers to exclusion of persons imprisoned for sexual offences for more than 12 months. This poses a grave concern as all persons convicted for sexual offences should be disqualified from being on the NIOC irrespective of the duration of their imprisonment.

14. Duties of NIOC

The duties should include facilitating awareness of sexual orientation, gender identity and sexual offences. Also, only female health care practitioners must perform rituals or practices to female initiates in order to promote and protect gender rights of all initiates.



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