



SUBMISSION ON GENDER BASED VIOLENCE BILLS

By

ECONOMIC FREEDOM FIGHTERS

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LED BY THE

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23 OCTOBER 2020

Introduction

- We would like to first thank parliament and the portfolio committee on justice for inviting us to make this presentation here.
- Even though we are the third largest party in this country, with representatives here in parliament, we thought it prudent to come make this presentation here, to emphasize just how important this work is for us.
- The work to nip at the bud the pervasive nature of gender based violence is critical for the survival of women in this country, and therefore, the survival of the nation as a whole.

Conceptualisation of Gender Based Violence

- The scourge of violence against women, children and lesbians, gays, bisexual, queer, transgender, intersex, disabled and elderly people in this country is out of control.
- These violent practices may have received media attention in recent times, but have been perpetuated for generations, and are deeply rooted in this country's history.
- The vicious circle of triple oppression, based on race, class and gender, has not been broken for black women in particular.
- As a consequence of pervasive patriarchy and sexism in our society, it is black women in the main who suffer the most from gender-based violence.

Conceptualisation of GBV: Cont

- The high levels of GBV that women face also reflect violence against sexual and gender minorities and people with non-normative bodies.
- In particular, “corrective rape” results in significant harm to lesbian, gay and transgender people as it is not just a sex crime but a hate crime as well. It is estimated that 21% of women over the age of 18 years have experienced violence by a partner.
- In the South African and African context, GBV is widely used to refer to the violence waged against women in particular because they are women.
- These violations range from verbal insults hurled at women in the streets, to actual physical assault, rape and the murder of women.

Our position on Gender Based Violence

- In our Founding Manifesto, our position against gender based violence is strongly made. The Founding Manifesto says:
 - “The EFF is against the oppression of anyone based on their gender, gender expression, or sexual orientation, meaning that we are against patriarchy, sexism, and homophobia in all of its manifestations. We are also against tribalism and religious and cultural intolerance. We oppose any cultural or religious practices that promote the oppression of anyone, especially groups that have been historically oppressed by such practices.
 - The EFF will emphasise transforming the lives of our people in the ghettos from one of generalised structural violence as a mechanism to end all violence, including violence against women.”

Our Submissions: CRIMINAL LAW(SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT BILL

- We welcome the inclusion of the national register for sex offenders, and the prohibition of having these sex offenders working anywhere they would be in contact with vulnerable people.
- We feel that this could be more explicit however Section 2 of the Act should be tightened to make it explicitly clear that the National Register for Sex Offenders is for anyone who has committed sexual offences, and that these offenders must be barred from working with women and children, not just vulnerable groups. The definition of vulnerable groups may leave space for mistakes to be made.
- We submit that there must be an additional subsection which states that there will be an alternative register for people who are accused of sexual offences, whose cases are still active.

CRIMINAL LAW(SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT BILL: Cont

- We welcome the expansion of the definition of incest, to include cases where a child is sexually violated, even if there was consent. But we submit that people found guilty of this offence must be found guilty of rape too because a child cannot give consent.
- The definition of "a person who is vulnerable" in amended Section 40 (c) of the Bill is very limited. From the list in the Bill, women over the age of 25 are not considered vulnerable. Our submission is that all women, regardless of age and class, are vulnerable to sexual offences.
- The provisions for removal from the register of sex offenders provided by Section 51 is not supported. We submit that people must only be removed from the register if a court exonerates them. Offenders must stay in that register for life.

CRIMINAL LAW(SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT BILL: Cont

- The amendments to Section 54 are very progressive, but we feel that they should be expanded further to include an obligation to report sexual crimes against women generally, not just children and people who are mentally disabled.
- Lastly, we submit that there must be an addition to the list of sexual offences in the Act. These include sexual coercion by a partner, forced marriage (*ukuthwala*), also where a widow is forced to marry a husband's relative after his death (*ukungenwa*), stealthing, refusal to pay sex workers for services rendered, and sex for jobs.

SUBMISSION ON CRIMINAL AND RELATED MATTERS AMENDMENT BILL

- We welcome the amendment to both the Magistrates Act and the Superior Courts Act, to allow for intermediaries to enable younger witnesses, suffer from a range of conditions that make it inconvenient for them to testify and be cross-examined. This will be a crucial intervention in the quest for justice.
- We note the stringent conditions the amendments to Sections 59, 59A and 60 of the Criminal Procedure Act, concerning the granting of bail for those accused of sexual offences.
- These amendments however do not go far enough. It still leaves loopholes that offenders can use to get out of jail, and it discounts the toxic nature of society and families in particular, who may coerce victims of these crimes to testify that they have no problems with having perpetrators granted bail.

SUBMISSION ON CRIMINAL AND RELATED MATTERS AMENDMENT BILL: Cont.

- Our submission is that there must be no bail at all for those accused of these crimes and sexual offences accused should be categorised as Schedule 5 and 6. They must only be released by the court at the end of the trial if found not guilty.
- The amendment of Section 299 of the Criminal Procedure Act must not include provisions for parole for those convicted of sexual offences and murder of women during the commission of a sexual offence.
- This is important, we submit, anyone found guilty of sexual offences should be sentenced to life in prison without the possibility of parole.
- The presidential pardon should not include those convicted of sexual offences

Submission on Domestic Violence Amendment Bill

- We generally welcome the expanded definitions to domestic relationship and domestic violence. We are particularly happy that the definition of domestic violence now includes coercive behaviour and forced entry into places of residence and places of work without approval.
- The obligations created by amendments to Sections 2A and 2B are comprehensive and will establish a societal pact to report cases of domestic violence to the police.
- We are also happy with the amendments to Section 3 and 3A of the Act, which allows peace officers to effect arrest without a warrant, and to enter premises without a search warrant if there is a reasonable belief that a crime of domestic violence is being committed.
- The sections dealing with protection orders are also comprehensive enough, and we are in support of these amendments.

Conclusion

- We acknowledge that various interventions must be made to uproot patriarchy, sexism and reaffirm women's position in society, however, matters of Gender-Based Violence are prevalent and need to be addressed immediately. These legislative propositions will go a long way in curbing the violence meted out against women.
- But these must be accompanied by other commitments by both the executive and the legislature. There must be a way of holding those responsible for operationalising these laws accountable. Parliament must be an activist parliament against gender-based violence, and take proactive decisions to hold the executive to account on the implementation of these laws.
- In principle, we support these Bills, provided the amendments we propose are taken to account.