



Prevention and Combating of Hate Crimes and Hate Speech Bill

[B9B-2018]

Summary of Submissions

Public Participation Process

The Bill was advertised on all media platforms from 18 April to 25 May 2023.

The Committee received thousands of submissions from individuals via Dear SA. The majority of submissions were opposed to the Bill, mainly because of the view that the Bill seeks to suppress freedom of religion. Several thousands of petitions were received from individuals and faith based organisations online. In addition, the Committee received approximately 10000 individual submissions through FOR-SA that was delivered to Parliament the day of the deadline on the Hate Crimes Bill. The main petition is reflected in the summary under *‘Individuals and Faith Based Organisations’*. In addition, fourty substantive submissions were received, which is reflected in the summary below.

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Preamble	
Association of Christian Media, FOR-SA, Hate Crimes Working Group	The Preamble is unbalanced and references some rights but not all; Suggestions were made that the Preamble should cite, S15 ; S19 and S31 of the Constitution; and the Universal Declaration of Human Rights S16 (Protection of the family) and the inclusion of international human rights instruments.
Clause 1 - Definitions	
Western Cape Government	The use of the words "substantial" and "severe" in the definition of "harm" will pose problems of interpretation. Reconsider the definition of harm in light of the tests laid down in case-law as to the meaning of "harm" within the context of hate speech. In subclause (e) , the term "asylum seekers" is used to denote a ground, but the term is incorrectly used and should be "asylum seeker status", a ground on which the offence of hate speech is based. Correct "asylum seekers" to "asylum seeker status"
Lombard Forensic Accountants	The definition of what is “HATE” is not defined; The risk of “The Prevention and combating of Hate Crimes and Hate Speech Bill” in its current form is that it could be used for political reasons to silence outspoken and critical thinkers in our society. Terms like “social cohesion” is dangerous. Due to the above we reject the proposed legislation.

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FOR-SA	<p>The definition of “harm” fails to meet the Rabat threshold test. The Bill’s types of harm include concepts such as “social detriment” and the definition of social harm, “detriment that undermines the social cohesion amongst the people of South Africa”, does not provide much clarification. This is problematic because social harm is an element of a proposed criminal offence and people need to know when they are committing social harm.</p> <p>The Bill’s definition of ‘harm’ contains elements open to subjective assessments. (Heartlines, International Religious Freedom Roundtable (Africa), Democratic Alliance, Afriforum, CRL Commission, Centre for Social Justice, The Free Speech Union of SA, Islamic Forum Azaadville, Council of Charismatic Churches, Council of Charismatic Churches, Suni Ulama Council Gauteng, Ecumenical Leadership Council, ADF International, Google, Individuals and Faith Based organisations).</p> <p>Define harm as “<u>gross</u> psychological and physical detriment that objectively and severely undermines the human dignity of the targeted group caused by the expression”.</p> <p>Define hatred as “strong and deeply-felt emotions of enmity, ill-will, detestation, malevolence and vilification against members of an identifiable group, that implies that members of that group are to be despised, scorned, denied respect and subjected to ill-treatment based on their group affiliation” in line with the Qwelane judgment. (Association of Christian Media, ACDP, Islamic Forum Azaadville, Individuals and Faith Based organisations, Suni Ulama Council Gauteng, FW de Klerk Foundation, Democratic Alliance, United Ulama Council of South Africa)</p>
SAHRC and Association of Christian media	<p>It is recommended that the prohibited grounds should mirror those of Section 16(2)(c) of the Constitution. The Commission further recommends that the Bill is synergised with PEPUDA to avoid three different sets of grounds relating to prohibited speech. Failing to do so may potentially create confusion and inconsistency in the handling of hate speech matters by respective bodies and brings uncertainty in the body of law governing hate speech.</p>
Hate Crimes Working Group and FOR-SA	<p>“Associates” We suggest the inclusion of the term “associates” in the definitions section, defined as family members, colleagues, friends and other possible connections to a victim. It is important to define the term, given it is used in the section on Victim Impact Statements. We also suggest using the term “associates” in the sections setting out the elements of hate crime and hate speech. It is simpler and easier to read, as a catch-all phrase, in place of listing all possible personal connections to victims in the relevant sections.</p> <p>“Bona fide” While this term is easily understood by legal practitioners, it is not a common term in every-day parlance. We submit that its use in Section 4(2) of the Bill requires that it either be added to the definitions section of the Bill or replaced with the more commonly understood term “good faith”.</p>
Pathsa	<p>We welcome the inclusion of the grounds “gender identity or expression or sex characteristics” as a basis for a hate crime or hate speech, noting that TGDNB people are particularly affected by stigma and discrimination because their gender presentation does not conform to social expectations and norms.</p>

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Association of Christian Media	<p>➤ Media:The list of proposed 10 lines of grounds should be narrower;; the term ‘intersex’ used in previous drafts of the bill is preferred to the confusing term ‘sex characteristics’; ‘social origin’ is a vague term that is not unprotected by S16(2); Social detriment (Proposal to delete or narrow definition); Promote, propagate or advocate (Proposal to add definition); Sexual orientation (Proposal to add definition)</p>
Democratic Alliance FW de Klerk Foundation, The Free Speech Union of SA (FSU), Association of Muslim Advocates and Lawyers, Islamic Forum Azaadville	<p>The definition of harm as contained in the Bill is both vague and broad.</p> <p>“victim” also needs to be properly defined in order to address the broad and vague nature of the Bill. It will have to be carefully considered whether natural and juristic persons should be included in the definition of “victim”. We are strongly of the view that “victim” should be defined in such a way as to include only natural persons in order to prevent the abuse of the legislation to clamp down on criticism aimed at companies, political parties, governments and groups of elected politicians (caucuses). The definition of victim as it currently stands includes juristic persons, which may prove contentious.</p> <p>“Hate” should also be clearly defined in the Bill. It is not good law to leave such a fundamental element to the crime open to interpretation by courts or through legal precedent if it can be clearly defined within the Bill itself.</p>
FW De Klerk Foundation	<p>Concerned over the lack of definitions for the key elements, such as “prejudice” and “intolerance”. Protected characteristics should relate to a natural person’s “unchangeable characteristics” and should not include characteristics such as “political affiliation or conviction” and “occupation or trade”. We recommend that the definition of a “victim” should not include juristic persons, because hate crimes are motivated by aversion to characteristics - such as race, gender, religion or sexual orientation - inherent in natural persons.</p> <p>The provisions in the Bill relating to hate speech are unacceptable for the following reasons. They are unconstitutional. The Bill does not meet the requirements of the rule of law in section 1(c) of the Constitution because there are no clear or adequate definitions for “hate”, “the promotion and propagation of hatred”, “social disruption” and “harm”. Without such definitions the Bill falls far short of the requirement for legal clarity which is an essential element of the rule of law. We recommend that that the current version of the offence of hate speech should be removed, so that hate crimes as a distinct crime can be addressed in terms of our criminal law without further delay.</p>
African Christian Democratic Party (ACDP)	<p>We recommend that the definition of “grounds” should be limited to those mentioned under section 16(2). (Cause for Justice, Suni Ulama Council Gauteng.)</p>
Media Monitoring Africa (MMA), Google and the Catholic Parliamentary Liaison Office	<p>Notably, the Bill does not currently include the following grounds: pregnancy, marital status, conscience, belief, and birth.</p> <p>The MMA supports the inclusion of “sex worker” as a specific category in this provision. If there are other specific groupings of people or communities who face similar risks of being targeted for hate crimes and a similar history of unfair subjugation, the Committee should consider introducing specific terms to protect these groups.</p> <p>The inclusion of “Political affiliation or conviction” as a category could result in powerful political groupings or professional politicians seeking protection against fair criticism under this provision. We reiterate and submit that the Bill should protect those who have been systematically and historically subjugated because of protected characteristics in an ongoing pattern of disadvantage and harm, and not to protect</p>

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	those who are politically, socially, and economically privileged. Accordingly, we recommend that the “Political affiliation or conviction” category be removed.
ADF International	<i>Hate speech’ is not strictly defined and lacks objectively determinable criteria</i> There ‘is no universally accepted definition of the expression hate speech’ - largely because of underlying philosophical, historical, and constitutional differences between global states in relation to freedom of expression. Hate speech is an elusive umbrella term usually referring to speech considered hateful by a group of persons. Similarly, hate speech laws intend to criminalise speech and expression based on subjective criteria such as 'insult' and 'offence'.
The Aurum Institute	There have been numerous incidents of "corrective" rape of lesbians in recent years in South Africa. However, the bill is not clear and does not mention or categorise corrective rape.
COSATU	COSATU supports the definition of harm in the Bill as referred currently, the Federation is however concerned that it omits cultural harm. The Bill does recognise hate speech and hate crimes that impact upon culture. Insert the word “cultural” after “social and before or economic harm” in the definition of harm in Clause 1 of the Bill.
Google	Section 1 defines " <i>Intersex</i> " as " <i>a congenital sexual differentiation which is atypical to whatever degree.</i> " The meaning of intersex is adequately provided for by the inclusion of "<i>gender identity</i>" in section 3(1)(h). (i) The definition of intersex should be deleted in its entirety from the Bill.
Scalabrini Centre Cape Town	In Section 1 under definitions of the grounds point (e) and characteristics point (i) we appreciate the inclusion of asylum seekers. However, it may serve to expand the ground and characteristic to include undocumented people. .
Clause 3 – Offence of Hate Crime	
Google	The hate crime section set out in section 3(1) of the Bill does not include all of the grounds on which unfair discrimination is prohibited in terms of section 9 of the Constitution of South Africa, 1996 (Constitution). In our view, the grounds should be amended to include pregnancy, marital status, conscience and belief as grounds in section 3(1). (i) We recommend that section 3(1) be amended to include as subsections 3(1)(r) to 3(1)(u) the following: <i>"(r) pregnancy; (s) marital status; (t) conscience; or (u) belief."</i>
Hate Crimes Working Group	There should be an express legal obligation on the Director of Public Prosecutions, or their delegate, to provide written reasons to a complainant or their associates within THREE WORKING days when a decision has been taken to decline to prosecute a charge of hate crime. This can be achieved with the addition of a new section 3(4). The proposed section 3(4) can be inserted as follows: <i>(4) Where the Director of Public Prosecutions, or a person delegated by them, declines to prosecute a charge of hate crime, written reasons for this decision must be provided to the complainant or their associate(s) within three working days</i>

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	<p>We further note that the definition of WORKING DAYS would need to be included in Section 1 (Definitions). In this regard we note that working days refers to “any other day than a Saturday, Sunday and/or public holiday”.</p>
Western Cape Government	<p>This clause is poorly drafted. The definition of "hate crime" is convoluted with the elements of the offence set out into subparagraphs in an attempt to simplify the definition, but this serves only to complicate the definition. The reference to "underlying offence" can be defined in the definitions section. This will make the definition of "hate crime" less complex and easier to read and understand. The reference to "characteristics" in clause (i) is not linked to any qualifier or noun, which constitutes an omission in the sentence and affects its meaning. The scope of offences contemplated in the definition should be carefully considered. At present, it covers anything from perjury to murder to environmental offences.</p> <p>Recommendation: Reconsider clause . Define "underlying offence" in the definitions' section. In clause 3(1)(b) (i) link the word "characteristics" to a qualifier or noun which appears to be missing. Reconsider the scope of offences covered under the offence of hate crime.</p> <p>A qualification in relation to the victim is necessary in this clause. The offence must be motivated by the perpetrator's prejudice or intolerance of the characteristics of the victim, a family member of the victim, or the victim's association with or support for a group of persons who share the said characteristics.</p> <p>It appears that the victim's association or support is limited to a "group of persons" rather than the broader category of association with <u>a person</u> or a group exhibiting the characteristics, which are the subject of the prejudice or intolerance. For example, a juristic person, which is covered by the definition of "victim" under the Bill, may render support to a particular person and as a result of such support for or association with that person, may become the victim of a hate crime.</p> <p>Recommendation: To correct the issues described in column 2, the wording must refer to the victim, <u>the victim's family member or the victim 's association with, or support for, a person or a group of persons who share the said characteristics.</u></p>
Suni Ulama Council Gauteng and FW de Klerk foundation	<p>An important element of a hate crime is the understanding of what hatred is. The Bill fails in defining this crucial aspect leaving the ordinary citizen not knowing if he has transgressed a law or not. Furthermore, hate itself has different nuances and this is not catered for explicitly in the bill. The misinterpretation of this Bill through its vagueness not only criminalises irrationally but also suppresses legitimate speech.</p>
Centre for Social Justice	<p>Considering that over the past years xenophobic violence has erupted in South African communities, it should be explicitly listed as an offence under hate crimes. The argument for the non-specific mention on the list could be that it is captured under “ethnic and social origin”. Due to its recurring nature and the prejudices within communities it warrants its explicit inclusion as characteristic of hate crimes.</p>
The Catholic Parliamentary Liaison Office	<p>Words in clause 3(1) that are difficult to define or which could result in uncertainty and vagueness: Does ‘family member’ refer to immediate family or extended family, and if the latter, to what degree? It is not clear why it is only ‘family members’ and not, for example, friends, associates, business or romantic partners, etc., whose characteristics come under consideration.</p>

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	<p>What is meant by ‘association’ and ‘support’ in the phrase “the victim’s association with, or support for, a group of persons...”?</p> <p>It is not clear why a victim’s “association with, or support for” should apply only to a “group of persons who share [certain] characteristics” and not to an individual person who happens to bear such characteristics. Supports that prosecutions should be authorised by DPP.</p>
Clause 4 – Offence of Hate Speech	
<p>CRL International Freedom (Africa) Foundation, Muslim Advocates and Lawyers, Ecumenical Council, Jewish Board of Directors, ACDP, SAHRC</p>	<p>There are already laws, such as PEPUDA which deal with hate speech, all of them have a recourse in civil law, not criminal, and perhaps criminalising some of these acts can achieve the purpose the other laws failed to achieve, as the cases relating to hatred, discrimination and intolerance are increasing in South Africa. The Bill has included bona fide religious expression as an exception. In the event of frivolous charges against the preachers, they have the defence of bona fide, further, the prosecution must prove beyond reasonable doubt, not on balance of probabilities. The preachers therefore can still preach freely, in relation to their principles and teachings, while bearing in mind that other religions have the same protection as theirs and must be respected.</p>
<p>Western Cape Government</p>	<p>In terms of section 10(2) of PEPUDA, however, a court has the discretionary power to refer any case dealing with the publication, advocacy, propagation or communication of hate speech to the Director of Public Prosecutions having jurisdiction for the institution of criminal proceedings.</p> <p>Recommendation:</p> <p>The question of alignment between the Bill and the hate speech prohibition under PEPUDA must be considered, particularly in relation to the grounds forming the basis of hate speech.</p>
<p>Film and Publication Board</p>	<p>Acknowledging that the Films and Publications Act, 1996 (Act No. 65 of 1996), as amended defines hate speech as “...any speech, gesture, conduct, writing, display or publication, made using the internet, which is prohibited in terms of section 16 (2) of the Constitution of the Republic of South Africa, 1996, which propagates, advocates or communicates words against any person or identifiable group, which words could reasonably be construed to demonstrate a clear intention to be harmful, to incite harm and promote or propagate hatred against the said person or identifiable group” one may argue that there is an element of similarity between the two provisions.</p>
<p>Illita labantu</p>	<p>We welcome the definition of hate speech as this has been a problematic issue in this age of technology which presents unique challenges in terms of print and widespread use of the internet and social media platforms. However, we submit that it is challenging to draw a clear line between hateful speech and protected expression given the fact that it is a subjective and context dependant test. South Africa is very diverse in terms of culture, religion, politics, race among others which therefore needs a balance to safeguard the limitations placed under hate speech.</p>

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<p>Islamic Forum Azaadville Suni Ulama Council Gauteng, Religious Roundtable Heartlines</p>	<p>Section (4)(2)(d) is intended to ensure that the religious rights and the associated right of freedom of speech is protected. However, the wording, more so the proviso attached to this right negates the exemption. In order for it to comply with the provisions of the Constitution the proviso to the exemption must be removed. There is a need to establish a causal link, and the need to establish intent. Both of these requirements are standard requirements of the United Nations.</p>
<p>Democratic Alliance</p>	<p>The creation of a new crime of Hate Speech, and the harsh prison penalties attached to it, may result in increased self-regulation of the journalistic profession and the public at large, even when the speech may not fall foul of the provisions of the Bill. Journalists and citizens, weary of the threat which the Bill poses may choose to refrain from making speech they fear will fall foul of the provisions of the Bill, even if this would not in actuality be the case. The mere threat of imprisonment may result in self-censorship, thereby reducing freedom of expression across the country. This will result in a poorer marketplace of ideas, resulting in reduced debate and quality of idea exchanges between persons.</p>
<p>Heartlines</p>	<p>Given that the Bill serves to, amongst other things, criminalise hate speech, a higher standard of proof is required than there would be in a civil case.In some cases, such as xenophobic violence, for example, it is understandable that the need for proof of a causal link may result in an inability to act against insidious behaviour that poses a real threat to societal stability. However, the absence of the need to prove a causal link, combined with the fact that much discretion is afforded to the Director of Public Prosecution regarding prosecution, it is arguable that especially in cases involving so-called “unimportant offenders”, the legislation may give rise to erratic or arbitrary application.</p>
<p>FOR-SA</p>	<p>Only harmful speech is excluded. However, since the Bill’s definition of <i>harm</i> is vague and overbroad, <i>hatred</i> is undefined, and the extended list of persons is wider than the grounds listed in the <i>Constitution</i> and <i>PEPUDA</i>, the exemption clause offers very little (if any) practical protection.</p> <p>In terms of the Bill, it is not only the original author or communicator who could be found guilty of, and punished for, the crime of hate speech, but anyone who distributes the hate speech in such a way that it is accessible to the public or the “victim”.</p> <p>Defining hate speech to expressly excluding private communications as follows: “<i>Any person who intentionally, publicly publishes, propagates or advocates anything or communicates to one or more persons in a manner —(i)to incite harm; and (ii)promote or propagate hatred, based on one or more of the grounds is guilty of the offence of hate speech.</i>”</p> <p>Clarifying and strengthening the religious exemption clause (clause 4(2)(d)), to ensure adequate protection of the constitutional right to religious freedom, including religious expression, of all people – not only ministers of religion. In this regard, we propose the following amendment: Expressly providing protection for the right and freedom to receive or impart information or ideas (section 16(1)(b) of the <i>Constitution</i>), by inserting after clause 4(2)(d), a new clause 4(2)(e):</p> <p><i>“(d) expression of any religious conviction, tenet, belief, teaching, doctrine or writings, by a religious organisation or an individual, in public or in private; or</i></p>

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	<p>... <i>that does not actively stir up enmity, ill-will, detestation, malevolence and vilification against members of an identifiable group, that constitutes incitement to cause gross psychological and physical detriment that objectively and severely undermines the human dignity of the targeted group, based on race, ethnicity, gender, religion or sexual orientation.</i>” <i>“(e) exchange of information or ideas; ... that does not actively stir up enmity, ill-will, detestation, malevolence and vilification against members of an identifiable group, that constitutes incitement to cause gross psychological and physical detriment that objectively and severely undermines the human dignity of the targeted group, based on race, ethnicity, gender, religion or sexual orientation.”</i></p>
Association of Christian Media	<ul style="list-style-type: none"> • In 4(1)(a)(i) the words ‘be harmful’ infer the direct harmful impact of the words themselves, as separate and different from ‘incite harm’ in the second part of the same sentence. This is broader than the unprotected speech in 16(2) of the Bill of Rights and thus would require motivation in terms of the limitations clause S36. Less restrictive means include the common law crime of crimen injuria. (Free Speech Union SA, Media Monitoring Africa, Campaign for Free Expression, ACDP);); • Clause 4(2) purports to protect religious, academic, artistic and media freedom. Nevertheless, the problematic last sentence “that does not advocate hatred that constitutes incitement to cause harm, based on one or more of the grounds.” means it actually only protects against the actual harm of the words spoken, not incitement of others to do harm. • The term ‘bona fide’ narrows protection. The clause already has the qualification of ‘good faith’. The term ‘bona fide’ is often used to describe an accredited professional or member. For example, it may be interpreted to protect only a ‘bona fide’ journalist in fair or accurate reporting and not a citizen journalist blogger. (Google); • A person could be prosecuted for publishing something they wished to point out for purposes of removal. The Canadian hate speech law includes an exemption: “intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group”.
The Catholic Parliamentary Liaison Office	<p>Clause 4(1)(a)(i) refers to communications that have a clear intention to be harmful or to incite harm. In turn, ‘harm’ is defined in clause 1 as “any emotional, psychological, physical, social or economic harm”. The word ‘any’ in this definition indicates that even very minor or trivial degrees of harm would qualify as hate speech.</p> <p>We note that clause 4(2) excludes certain activities from the strict prohibitions contained in clause 4(1). These exclusions include artistic creativity; academic enquiry; reporting and commentary; and religious interpretation and proselytizing. We submit that the only answer to the problem is to subject all speech, regardless of who utters it, to the test set out in Section 16(2) of the Constitution.</p> <p>To do this, clause 4(1)(a) could simply be re-written as follows:</p>

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“4. (1) (a) Any person who intentionally publishes or propagates anything or communicates [anything] to one or more persons in a manner that could reasonably be construed to demonstrate a clear intention to advocate hatred that constitutes incitement to cause harm, based on one or more of the following grounds:

**(aa) age;
.....”**

We note, in passing, that **the characteristics of ‘occupation or trade’ and ‘political affiliation or conviction’, which may be grounds for the offence of hate crime, are not included in the list of characteristics that could be grounds for the offence of hate speech.** We support the idea that political discourse should be as free as possible (in other words, subject only to the implied restrictions of Section 16 of the Constitution), but we again question why only these two categories have been excepted. **In legal terms, the exception seems to be arbitrary.**

Finally, regarding hate speech, if the Bill is to be proceeded with, we support the provision in clause 4(3) to the effect that any prosecution or hate speech must be authorised by the relevant DPP.

Association of Muslim advocates and lawyers United Ulama Council of South Africa

The offence of hate speech

Section 4(1) - When looking at this section if it has already been established that the Islamic faith regards the LGBTQIA+ act as prohibited in the Quran then therefore this cannot be considered as hate speech as the Muslims are merely following the tenets of their religious practices. In this regard if Muslims are not allowed to express their views in writing and by speech this is viewed as limiting their right of religion and the Bill is therefore considered as infringing their fundamental right.

After careful consideration of section 4(1) of the Bill we see that the usage of the word ‘Harm’ is not only layered and patterned, but it is also amplified multiple times in the Bill. Any scholar of Constitutional law however, will be loath to confine the term ‘harm’ to a specific category The following forms of harm are considered; emotional harm, psychological harm, physical harm, social and economic harm

In terms of section 4(2) the Bill the offence of hate speech does not apply if it is done in good faith. The provisions mentioned in subsection 4(2) do not apply to any actions or conduct carried out in good faith during the sincere interpretation, promotion, or endorsement of religious principles, beliefs, teachings, doctrines, or writings. However, this exception does not cover the advocacy of hatred that incites harm, based on the grounds specified in subsection 4(1)(a).

Both section 1 and section 4 lack clarity in defining specific types of conduct that would be considered as "good faith." Since this statute pertains to criminal law, it is crucial to have precise and well-defined crisp concepts within the law. Citizens need to know in advance what actions

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	could potentially be deemed criminal. The uncertainty surrounding the definition of "good faith" (Bona Fide) conduct will lead to self-censorship among Muslims and others.
Google	<p>The hate speech provision in section 4(1)(a) does not include definitions of “publish”,“propagate” and “advocate”. We submit that definitions of these terms be included in the Bill for certainty and clarity.</p> <p>We note that section 4(2)(d) which exempts good faith interpretations of religious texts from being considered as hate speech is overly broad and submit its deletion in its entirety. This broad drafting could potentially enable religious scholars and leaders to advocate for hate speech under the umbrella of such speech made in good faith interpretations. The inclusion of "bona fide" in section 4(2)(a) is therefore more restrictive than the requirement of section 16(1) of the Constitution and is an unjustified lowering of the threshold provided for in the Constitution. The ambit of section 4(2)(d), as currently included in the Bill is overbroad and this wide drafting may easily lend itself to the advocating of hate speech by religious scholars and leaders even where such speech is made in good faith. We submit that section 4(2)(d) be deleted in its entirety</p>
Ecumenical Leadership Council	<p>We contend that the definition of hate speech provided by the Bill is too broad and unjustified, and that the Bill should be substantially amended because the offence of hate speech it contemplates does not comply with the requirements of section 16 of the Constitution. The truth is that if this Bill passes and becomes law, religious leaders, who make up the majority of our affiliates, will have to cross a potentially combustible minefield in order to preach the Gospel. How do religious leaders preach a biblical scripture that says homosexuality is an abomination without being labeled as hate speech and maybe facing criminal charges? The hate speech provisions in the Bill, according to the Ecumenical Leadership Council of South Africa, are manifestly unconstitutional.</p>
Centre for Social Justice	<p>Hate speech: on the list of grounds that are considered as hate speech, there ought to be inclusion of gender in its broad interpretation in order to capture potential victims and grounds that are harmful within the context of gender equality and gender justice . Further to that, as reiterated under the offence of hate crimes, xenophobia should be included as a potential ground of hate speech. Traditional concerns regarding hate speech include religion and freedom of speech.</p>
FW De Klerk	<p>The heading of clause 4 of the Bill, which reads “Offence of hate speech” is fundamentally flawed, as it presupposes that the criminal offence created in terms of clause 4(1)(a) of the Bill relates to hate speech, as understood in terms of section 16(2)(c) of the Constitution. To qualify as hate speech in terms of section 16(2)(c) of the Constitution, the expression prohibited must amount to “advocacy of hatred”, which is based on the prohibited grounds of “race, ethnicity, gender or religion” and that “constitutes incitement to harm”. Legislation regulating hate speech must ensure the prohibition contains all these elements.</p> <p>We found that clause 4(1)(a) unreasonably and unjustifiably limits the right to freedom of expression and we submit that the subsequent clauses - to the extent that they rely on clause 4(1)(a), are also unconstitutional. We submit that the current version of the offence of hate speech should be removed from the Bill, so that the criminalisation of hate crimes as a distinct crime is not further delayed.</p>

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We are tomorrow Global Partnership	<p>Proposed Amendments:</p> <ul style="list-style-type: none"> • Inclusion of Online Hate Speech: The bill should explicitly include provisions for the regulation of hate speech on social media and other online platforms. This can be achieved by expanding the definition of "public space" to include online spaces, and by requiring online platforms to take action against hate speech that is posted on their platforms. • Recognition of Intersectionality: The bill should recognize the intersectionality of different forms of discrimination, and explicitly provide protection against hate crimes and hate speech that are motivated by a combination of factors such as race, gender, and sexuality.
Afriforum	<p>The following definition must replace the current definition in section 4 of the Bill:</p> <p>4. (1) (a) Any person who unlawfully and intentionally, publicly advocates for –</p> <p>(i) the incitement of imminent violence against any person or group of persons for any reason, including reasons based on:</p> <p>(aa) age;</p> <p>(bb) albinism;</p> <p>(cc) birth;</p> <p>(dd) colour;</p> <p>(ee) culture;</p> <p>(ff) disability;</p> <p>(gg) ethnic or social origin;</p> <p>(hh) gender or gender identity;</p> <p>(ii) HIV status;</p> <p>(jj) language;</p> <p>(kk) nationality, migrant or refugee status;</p> <p>(ll) race;</p> <p>(mm) religion;</p> <p>(nn) sex, which includes intersex; or</p> <p>(ii) hatred towards any other person or group of persons based on race, ethnicity, gender, or religion, or sexual orientation, and that constitutes incitement to harm is guilty of the offence of hate speech.</p>
ACDP	<p>The Bill's definition of hate speech is far wider than set out in the Qwelane judgement. It seeks to criminalise speech which is protected under section 16(1) and which the State is obligated to protect. To limit speech protected under section 16(1), the State has to prove the limitation passes section 36 muster, which we believe it has failed to do. The Free Speech Union of South Africa.</p> <p>It is easier to be convicted of the crime of hate speech than the civil offence of hate speech; The Bill creates the untenable situation is easier to go to jail for 8 years for the crime of hate speech than to be ordered to apologise under PEPUDA. We recommend that the wording of section 16(2) should have been followed, where applicable, and that the words "be harmful" be deleted to bring it in line with section 16(2).</p>

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The Free Speech Union of South Africa (FSU)	<p>The Bill’s wider definition of ‘hate speech’ must be replaced by terms contained in section 16(2)(c) of the Constitution, verbatim preferred. These four exemptions would not count as hate speech, provided they do “not advocate hatred that constitutes incitement to cause harm based on one or more of the grounds.” In formulating these four exemptions, another basic constitutional law error has occurred. The Bill has effectively codified three of the four items on the list of freedom of expression found in section 16(1)(a)-(d) of the Constitution. It has also codified the section 15 right to freedom of religion. The error is that section 16(1) refers to a general right to freedom of expression, which simply “includes” the listed types – freedom of the press and other media, freedom of artistic creativity, and academic freedom and freedom of scientific research. These items were not intended to be exhaustive of freedom of expression, so the Bill’s codification of them is misguided. An additional exemption, for sincere political expression – not extending to advocacy or incitement of physical harm – should be added.</p>
ACDP	<p>We are concerned that the religious exemption in section 4(2)(d) does not go far enough, and recommend the insertion of the words, “by a religious organisation or an individual, in public or in private”.</p> <p>We are also concerned that the proviso to section 4(2) which states “does not advocate hatred that constitutes incitement to cause harm based on one or more of the grounds”, results in the exemption being self-defeating. We recommend that this proviso either be deleted, or that the word “physical” be inserted before the word “harm” in the proviso. Individuals and faith based organisations.</p> <p>Hate speech laws have been used internationally against Christians. There are numerous cases in which Christian street preachers have been persecuted in the United Kingdom and elsewhere for alleged “hate crimes” and later acquitted. This illustrates not only the need for the current “religious exemption clause”, but also the need for it to be strengthened.</p>
Media Monitoring Africa (MMA)	<p>We submit that the extension of the prohibition to the private sphere is an excessive limitation on the right to privacy that is incongruent with its purpose. True hate speech presupposes a public dissemination of some sort, or at the very least it cannot be conveyed in mere private communications. We submit that criminalising private communications will unconstitutionally invade the right to privacy. We, therefore, submit that the Bill should include a proviso to section 4(1) which makes clear that the prohibition of hate speech does not apply to private communications</p> <p>We respectfully submit that the Bill should establish hateful intent as a compulsory aggravating factor in sentencing for existing offences, rather than separate offences. This would allow the state to pursue its existing criminal remedies for violent acts while ensuring that the hateful intent at the heart of a hate crime is considered in sentencing an offender..</p>
ADF International	<p>Hate speech as defined in the Bill does not provide any clarity as to what type of speech is limited and what is acceptable. Citizens would not be certain whether certain forms of expressions are within the boundaries protected by law or if they subject themselves to prosecution.</p> <p>As a result of the definitional complexities relating to hate speech, law enforcement agencies will face difficulties in identifying whether there is sufficient evidence to prosecute. Hate speech which aggravates many base crimes such as assault and harassment is often verbally communicated, and therefore the evidence relies on the hearer or receiver being able to accurately recollect the event. The evidence base can therefore be very thin and anecdotal.</p>

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Campaign for Free Expression (CFE)	<p>CFE contends as its main submission that clause 4 should be deleted in its entirety. The offences in clause 4 are not necessary in order to curb hate speech and there are less restrictive means of effectively dealing with hate speech that already exist in our law.</p> <p><i>First</i>, if criminal prohibitions of speech are to be used at all – the threshold for triggering the offence should mirror the higher thresholds set out in section 16(2) of the Constitution; <i>Second</i>, the Bill imposes liability for hate speech without specifying explicitly that the requirement of "could reasonably be construed to demonstrate a clear intention" must be applied objectively (i.e. the offence in clause 4(1)(a) is impermissibly vague); <i>Third</i>, the prosecutorial discretion set out in the Bill is insufficient to cure the constitutional defects; and <i>Fourth</i>, the exceptions sculpted clause 4(2) do not explicitly offer protection to comedic expression including satire and parody. Accordingly, CFE submits that "comedic expression", alternatively "satire and parody", ought to be included expressly in the language of clause 4(2) of the Bill.</p>
SAHRC	<p>Clause 4(3): It is unclear from the current drafting, what the differentiating factors are between a hate speech matter being dealt with through civil remedies, (as provided for in PEPUDA), common law remedies such as <i>crimen injuria</i>, and criminal complaints under the Bill. The Commission therefore recommends that the Bill stipulates that the criminal route would be reserved for serious cases which ought to be proven beyond reasonable doubt. Similarly, less serious cases must be addressed by other means e.g., through the Equality Court, which enables mediation.</p> <p>While the Commission welcomes the introduction of clause 4(3) it recommends that the DPP should be guided in his or her decision whether to approve criminal prosecution in such matters by some guidance and reference to the seriousness of the hate speech offence in question. The Commission therefore recommends that the clause reads as follows:</p> <p><i>“Any prosecution in terms of this section must be authorised by the Director of Public Prosecution having jurisdiction or a person delegated thereto by the DPP concerned, which authorisation should only be granted inter alia in the event that the alleged offence is of a serious nature and has caused material harm.”</i></p>
Media Monitoring Association (MMA)	<p>That Clause 4(2)(d) (the “religious exemption clause”) be strengthened as follows:</p> <p>“expression of any religious conviction, tenet, belief, teaching, doctrine or writings, by a religious organisation or an individual, in public or in private, to the extent that such expression does not actively support, instigate, exhort, or call for extreme detestation, vilification, enmity, ill-will and malevolence that constitutes incitement to cause gross emotional and psychological harm that severely undermines the dignity of the targeted group, based on race, ethnicity, gender, religion or sexual orientation”.</p>
Clause 5 – Victim Impact Statement	
Centre for Social Justice	<p>Victim Impact Statement makes space for sourcing and assessing impact on victims. Community grassroots organisations that work in communities on issues related to violence and its prevention should be recognised as having the ability to assist victims in preparation of statements on crimes of hate including hate speech. Due to the legalistic nature of such statements it is unrealistic to have an expectation that victims will always be in a position to draft such statements on their own. A failure to recognise this gap, has the potential of victims slipping in the cracks of non-redress for offences committed against them.</p>

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Western Cape Government	<p>A victim impact statement is a sworn statement made by a "victim or someone authorised by the victim to make such a statement on behalf of the victim". This does not take into account victims who are unable to authorise the making of a victim statement on their behalf.</p> <p>Recommendation It is suggested that clause 5 be broadened, and that consideration be given to a set of possible circumstances where the victim is unable to authorise the making of a victim impact statement. This ought to be done with a view to creating exceptions to the rule that requires authorisation by a victim so that victim impact statements may still be furnished to the court in circumstances where the victim is unable to make a statement or unable to authorise the making of such a statement.</p> <p>Clause 5 does not make provision for a viva voce victim impact statement to be adduced in court. In criminal matters, it is common practice, where a victim impact statement (sworn statement) is not available for some reason, to allow the actual victim to testify under oath and provide the court with viva voce evidence. Clause 5 does not seem to recognising this practice. The rationale for a (written) victim impact statement needs to be clarified in clause 5.</p> <p>Clause 5(2) (b) requires of the prosecutor to provide reasons for the absence of a victim impact statement. A proactive approach requires the alternative method of calling the victim to testify on the impact of the offence. It is proposed that clause 5 makes provision for the prosecutor to call a victim to as a witness to adduce viva voce evidence on the impact of the offence.</p>
Scalibrini Centre Cape Town	<p>In terms of section 5 of the Bill, we are encouraged by the provision for Victim Impact Statements (VIS) and the requirement for the victim's authorisation when a person other than the victim is making a VIS. However, hate crimes in general and in the context of vulnerable migrants often lead to the death of the victim. As the section currently provides, the deceased migrant would neither be able to give a VIS nor authorise another person to do so on their behalf. The prosecutor should be required by section 5 of the Bill to obtain expert input either from the group to which the victim belonged or from organizations which work directly with the group to which the victim belonged. Furthermore, that the prosecutor should be required to explain the absence of such a statement in the case of the death of the victim. Hate Crimes Working Group.</p>
South African Jewish Board of Directors	<p>Suggests the inclusion of a 'Community Impact Statement' in addition to the Victim Impact Statement. The Crown Prosecution Service in the United Kingdom describes a community impact statement as a short document illustrating the concerns and priorities of a specific community over a set time period.</p>
Hate Crimes Working Group	<p>We submit that section 5(1) should be reworded as provided below:</p> <p><i>5. (1) For purposes of this section, a victim impact statement means a sworn statement or affirmation by one or more of the following persons:</i></p> <ul style="list-style-type: none"> <i>(i) the victim;</i> <i>(ii) someone authorised by the victim to make a such statement on behalf of the victim</i> <i>(ii) in the event of the victim's death, the victim's associate(s);</i> <i>(iii) an organisation or institution with expert knowledge or experience of the group to which the victim belongs, or is perceived to belong; which contains the physical, psychological, social, economic or any other consequences of the offence for the victim and their associate(s).</i> <p><i>Section 5 (2)</i></p>

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	<p>We are encouraged that the Bill creates an obligation on prosecutors to provide written reasons to the court in the absence of a VIS from the victim. However, we are concerned as noted above that the VIS is only limited to that of the victim. In this regard, we submit that the VIS must extend to:</p> <ul style="list-style-type: none"> • someone authorised by the victim to make such a statement on behalf of the victim. • in the event of the victim’s death, the victim’s associate(s). • an organisation or institution with expert knowledge or experience of the group to which the victim belongs or is perceived to belong. <p>Further, we propose the following section 5 (3) be added: <i>(3) Where is not possible to obtain a victim impact statement provided for in subsection (1), the prosecutor must provide the court with written reasons for the absence of such a statement by either the victim, their associate(s), or an organisation or institution with expert knowledge or experience of the group to which the victim belongs or is perceived to belong.</i></p>
Clause 6 – Penalties or Orders	
Ilita Labantu	We welcome the penalties and orders that courts may impose on offenders of hate crime and hate speech because this will discourage potential offenders from engaging in these acts that that are not only harmful to the individual concerned, but also make a mockery of the provisions set in the Bill of Rights and other laws which give effect to the Constitution. The sentences upon conviction provided for in this bill indicate a commitment to ensure that a society envisaged by the Constitution is realisable.
South African Jewish Board of Deputies	The SAJBD supports the provision for perpetrators to be sentenced in accordance with the jurisdiction of the court in which they appear and that hate crimes have now been included in the minimum sentencing framework through amendment of that framework. We also support the separate minimum framework for hate crime.
Ecumenical Leadership Council	The Bill establishes offences for hate crimes and hate speech. By requiring that hatred of people due to shared characteristics should be regarded as an aggravating factor in sentencing and by prescribing minimum sentences for such crimes, despite hatred already being considered an aggravating factor for statutory or common law offences, introduces harsher punishment for crimes motivated by hatred.
Film and Publication Board	Importantly, the Films and Publications Act, 1996 (Act No. 65 of 1996), as amended, imposes criminal sentences for offences and highlights the maximum term of imprisonment. Hereto there appears to be a duplication of offences in instances where the prohibitions are similar. The offences and penalties listed in the Films and Publications Act, 1996 (Act No. 65 of 1996), as amended, appear to be more detailed noting the lack of provision of the maximum fine that may be imposed under the PCHCS.
SAHRC	The Commission notes the change under Clause 6(3) of the Bill and that the penalty for the offence of hate speech has been increased from “paying a fine or imprisonment for a period not exceeding three years” to “paying a fine or imprisonment for a period not exceeding eight years or both.” The Commission is of the view that imprisonment for a period up to 8 years, even as a maximum penalty, may exceed those of other State parties to the ICERD. Furthermore, comparative research has revealed that hate speech laws vary among different countries as well as its related penalties. In the Commission’s view, hate speech should not be treated as a more serious offence than hate crimes it is in fact a lesser crime. The Commission is concerned that the Bill may give the impression that a court may issue a reprimand to a person who commits a hate crime,

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	<p>but this option is unavailable in the case of a person who is convicted of hate speech. The Commission therefore recommends that penalties for hate crimes and hate speech be similarly addressed in the Bill.</p>
<p>FOR-SA Heartlines, Suni Ulama Council Gauteng, Democratic Alliance, Association of Muslim Advocates and Lawyers, Council of Charismatic Churches, ACDP</p>	<p>The current version of the Bill proposes a maximum jail sentence of eight (8) years for a first offence of hate speech. This is a very harsh sentence for a first offence of hate speech. By inserting the following sub-clause as clause 6(3)(b) to include and require the consideration of the six-part UN Rabat Plan of Action threshold test in determining sentencing: “6(3)(b) The following factors need to be considered when determining sentencing –</p> <p><i>(i) The context prevalent at the time the within which the expression was made and the likelihood it would have incited harm against the target group in that context.</i></p> <p><i>(ii) The speaker’s standing in the context of the audience to whom the speech was directed.</i></p> <p><i>(iii) The degree to which the expression was provocative and direct.</i></p> <p><i>(iv) The expression’s reach: the size of its audience, whether the audience had the means to act on the incitement, whether the statement (or work) was circulated in a restricted environment, or widely accessible to the general public.”</i></p>
<p>Google, ACDP</p>	<p>The proposed penalties under the Bill are unlikely to address the vulnerability of groups often subjected to hate crimes and hate speech. We are of the view that section 6 of the Bill includes references to restorative and rehabilitative justice in the form of financial, emotional and community reparations.</p> <p>Recommendations</p> <p>(i) We recommend that section 6 be amended to allow the court to make restorative and rehabilitative orders appropriate to the case at hand. In this regard, we submit that the section be amended as follow:</p> <p><i>“(1) Subject to subsection (2), any person who is convicted of an offence referred to in section 3 is liable, on conviction, to restorative justice in any form considered appropriate by the court, which may include financial, emotional or community reparations, attending educational and informative campaigns on the prohibition of hate speech and hate crimes, attending social context training or to any of the following forms of penalties which the court sentencing the person considers appropriate and which is within that court’s penal jurisdiction:..</i></p> <p>Subsection (2) remains unchanged.</p> <p><i>(3) Any person who is convicted of an offence referred to in section 4 is liable in the case of—</i></p> <p><i>(a) a first conviction, to a fine or to imprisonment for a period not exceeding three years, or to both a fine and such imprisonment; and</i></p> <p><i>(b) any subsequent conviction, to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.</i></p> <p><i>In the alternative to the above penalties , a court is entitled to order any form of restorative justice as it considers to be appropriate, which may include financial, emotional or community</i></p>

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	<i>reparations, attending educational and informative campaigns on the prohibition of hate speech and hate crimes, or attending social context training."</i>
Association of Christian Media	Section 6 of the bill provides for up to eight years in prison for a first offence. Up to eight years is more than the penalty for house breaking . By comparison the maximum penalty in Canada is two years. The maximum penalty does not differentiate between a person inciting violence and a person expressing an opinion someone else disagrees with. Punishment should prioritise life, then property, then emotions. S6 of the bill conflates all three.
Centre for Social Justice	The concern in this section relates to the absence of the recognition of African traditional conflict resolution methods in resolving hate crime and hate speech. There is great emphasis placed on adversarial justice without due regard to non-adversarial processes promoted in African law under Ubuntu. Retributive justice and restorative justice through integration within the justice system could provide plausible avenues of redressing hate crimes and hate speech.
We are tomorrow Global Partnership	The penalties for hate crimes and hate speech in the bill should be strengthened in order to serve as a stronger deterrent. This can be achieved by increasing the maximum sentence for hate crimes and hate speech, and by introducing fines and community service orders as additional penalties.
COSATU	COSATU welcomes the increase in penalties to up to 8 years in prison. COSATU appreciates that such sentences need to be proportional in certain instances, e.g. where the harm is limited to a person's dignity etc.
Afriforum, Democratic Alliance, Association of Muslim Advocates and Lawyers	We argued that the prohibition in the Bill is a severe infringement on the right because of the penalty that it imposes and the perturbing effect it has on freedom of expression. Recommends: 6. (3) When determining the sentence for any person convicted of an offence referred to in section 4, a court may impose one or more of the following penalties by requiring the offender to: (a) be imprisoned for a period not exceeding three years, only in cases where the offender incited harm against a person or group of persons and the person or group of persons suffered actual harm; (b) make an unconditional apology; (c) perform acts of community service; (d) pay to the victim or an organisation that represents the victimised group— (i) an amount not exceeding R100 000 in the case of a first conviction; or (ii) an amount not exceeding R500 000 in the case of any subsequent conviction
Council of Charismatic Churches	It cannot be appropriate for a pure Hate Speech offense to bear the same weight of Hate Crime, if Hate Speech and Hate Crime are differently defined by this proposed Bill. This is why definitions need to be clearly cut between the two, to minimize confusion and subjectivity

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	in courts. It cannot be appropriate for Hate Speech penalty to carry that sentence of up to 8 years when it is not a Hate Crime as proposed in Section 6(3) of the Bill.
Clause 7 – National Instructions and Directives	
Western Cape Government	<p>Clause 7(2)(a)(i) There is a typographical error in this sentence: "(i) The manner in which cases..." The Bill contains certain drafting, grammatical and typographical errors</p> <p>Amend as follows: "(i) <u>the</u> manner in which cases...' To improve the text, it is recommended that the Bill be reviewed using generally accepted Commonwealth legislative drafting practices as well as enlist the support of a language practitioner familiar with these practices.</p>
Google, South African Jewish Board of Directors	In our view, Section 7 of the Bill should be amended to include a time period in which the National Director of Public Prosecutions should issue directives in terms of the Bill. We submit that this section be amended to allow for a period of 90 days in which directives must be issued.
Illita Labantu	We welcome the coordination and collaboration among the SAPS, DOJ and the NPA to align efforts and work together on issuing instructions and directives that will ensure clarity and consistency in the implementation of the hate crime and hate speech laws, policies, and procedures so that there is consistency. We however have to submit that in terms of training that is to be done with SAPS and NPA..
Centre for Social Justice	Prosecutorial Directives are provided for as a possibility by the National Director of Public Prosecutions regarding approaches to prosecuting hate crimes and speech. Special education similar to Equality Court prescriptions is not included.
Clause 8 – Reporting on Implementation of Act	
South African Jewish Board of Deputies	Supports the provisions stating that the Minister of Justice and Correctional Services must liaise with the SAPS and the NPA to decide how to gather and report on hate crimes statistics. However, the SAJBD submits that introducing a time frame for making these regulations is necessary to ensure the effective implementation of the Bill.
Hate Crimes Working Group and Centre for Social Justice	<p>The HCWG and Centre for Social Justice supports the provisions of section 8. However, we submit due to the public interest nature of hate crimes and hate speech in South Africa, section 8 (2) must be equally extended to the public. Therefore, the information contemplated by section 8 (1) must be available to the South African public.</p> <p>In this regard, we submit the following inclusion be made with regards to that provision: (2) <i>The information contemplated in subsection (1) must be made available in the prescribed manner and at the prescribed times to</i> — (a) <i>Parliament;</i> (b) <i>the Chairperson of the South African Human Rights Commission;</i> (c) <i>the Chairperson of the Commission for Gender Equality; and</i> (d) <i>the Chairperson of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.</i></p>

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	<i>e.) Public</i>
Clause 9: Prevention of Hate Crime and Hate Speech	
Clause 9 South African Jewish Board of Deputies and Illita Labantu	The SAJBD welcomes the introduction of a positive duty on the state to prevent and combat hate crimes. However, we note that key departments have not been expressly listed. We also submit that the duty to “cause programmes to be developed” is too vague.
Hate Crimes Working Group	The HCWG supports the provisions of section 9 and suggests that adequate funding is allocated to strengthen the work of the awareness campaigns and trainings of officials. Experts in sexual orientation, gender identity and sex characteristics should be consulted along with civil society organisations with experience in these areas.
Cause for Justice	CFJ is especially concerned regarding “social context training”. The Bill does not provide any definition for this highly ambiguous and controversial concept. We therefore submit that it would be irresponsible to keep any references to social context training in the Bill. All references to “social context training” should be deleted.
Centre for Social Justice	Education on Hate Crimes is mandated as a measure aimed at prevention and appropriate handling of such matters by responsible prosecutorial and other officials, but it is not made mandatory that only appropriately trained officers and officials should handle such matters.
Clause 10 - Regulations	
Association of Christian Media and FOR-SA	The Bill makes provisions for regulations to be deemed approved within 60 days after having been referred to Parliament. This will grant the Executive the power to make regulations without Parliament having the opportunity to consider and approve them. This oversight should be remedied to allow Parliament an adequate opportunity to provide the necessary oversight over regulations. The Act will result in substantial additional costs to SAPS and the NPA. Recommends that prior to approving the Bill, the Cabinet member responsible for finance should be requested to approve a budget for the implementation of the Bill after consulting with SAPS and the NPA.
General	
FW De Klerk, DA, Centre for Social Justice, Pathsa, Film and Publication Board, Same Love Toti and The National Diversity Coalition, Shemah Koleinu, Association of Muslim Professionals, ACDP, Media Monitoring Africa	<ul style="list-style-type: none"> • Recommend that a working group on hate speech should be established to conduct a proper review on current legislative remedies relating to hate speech. • We submit that an urgent reform of the Equality Act is required to ensure it is aligned with section 16(2)(c) of the Constitution and that appropriate remedies are provided in terms of the Equality Act, reflecting the nature of such prohibition. • Effective training programmes be implemented • Meaningful data collection • Restorative and Alternative justice forms part of education and information campaigns

