



SUBMISSION TO THE
SELECT COMMITTEE ON SECURITY AND JUSTICE
IN THE NATIONAL COUNCIL OF PROVINCES
for the
**PREVENTION AND COMBATING OF
HATE CRIMES AND HATE SPEECH BILL
[B9B-2018]**

24 May 2023

ATTENTION:

HONOURABLE S SHAIKH
Chairperson of the Select Committee of Security and Justice
Email: HateCrimesBill9B-2018@parliament.gov.za
Email: sshaikh@parliament.gov.za

SUBMITTED BY:

THE NATIONAL GENDER DIVERSITY COALITION

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Dear Honourable Shaikh,

**THIS LETTER SERVES AS A SUBMISSION FOR PUBLIC COMMENT
ON THE PREVENTION AND COMBATING OF HATE CRIMES & HATE SPEECH BILL**

Who we are:

The National Gender Diversity Coalition is a coalition of civil society organisations that advocate for the human rights of transgender and gender diverse minorities across South Africa.

Our goal is to provide strategic leadership and direction to ensure the advancement of legal and social recognition, and the advancement and protection of human rights enshrined in the Bill of Rights with a focus on bodily autonomy, self-actualization and self-determination for all citizens under the jurisdiction of the Republic of South Africa.

Our concerns



Transgender, intersex and gender non-conforming individuals are confronted with the daily threats of transphobic, intersex phobic harm, hate crimes and hate speech. These crimes range from harmful hate speech and often escalate to physical abuse, rape, assault, violence and murder. These are crimes based in bias that dehumanises and demonises gender minority groups.

There is a stigma that exists in communities and families, which means that transgender and gender diverse youth and adults are targeted for violence and often they do not have any recourse to the usual avenues of protections from those in authority, be that in schools, or communities, or clinics. Once a hate crime has been committed, transgender or gender diverse people are reluctant to report it due to secondary victimisation at the hands of the police or medical personnel.

There is widespread misinformation and misunderstanding around gender and transgender issues, and this lack of knowledge often leads to bias that can turn to violence. We need protection from these senseless attacks.

Legislation

There is no legislation protecting transgender and gender diverse people from harm. PEPUA and crimen injuria have been civil remedies that have been used to address hate crime and hate speech, but these are insufficient to address the very serious issue of hate crimes and bias in South Africa. We need to take a strong stand against discrimination and violence and ensure the safety and the lives of this minority group.

Costing/Funding

This is a very nuanced issue, which will require the correct training, sensitisation and awareness of how to implement this bill. While current training can address very basic aspects of equality, the underlying bias and misunderstandings remain. Experts in sexual orientation, gender identity and expression, and sex characteristics need to be consulted. We suggest that adequate funding is allocated to effectively implement this bill.

Hate Speech

Freedom of speech does not entitle the speaker to engage in hate speech. Transgender and gender diverse individuals are continually subjected to hate speech before any hate crimes are committed, and during the actual physical attack. Even after hate crimes are committed, perpetrators have been heard to verbalise their hatred without remorse.

The offence of hate speech is an attack against this whole community, who are already marginalised and ostracised. Our constitution protects everyone from discrimination, but transgender and gender diverse individuals continually experience unfair discrimination.

Hate Crimes

Hate crimes are continually committed against transgender and gender diverse individuals, with 21 hate crimes being committed in 2021 alone (details contained in the Advocacy Brief of the Hate Crimes Working Group). Which meant that there was almost one hate crime every second weekend.

Transgender and gender diverse youth are disproportionately being murdered, assaulted and violated. They are being ostracised, bullied and humiliated in schools across the country. This forces many to drop out of school which



impacts their chances of meaningful employment. Every child has a right to education in South Africa. Every child has a right to be safe at school. We need to stop these hate crimes against our youth.

Even though our South African Constitution protects all its citizens from discrimination, this is not realised by these minorities and many other minorities. Their human rights are routinely discarded by a majority who objects to their very existence. We need to make sure that every person's human rights are protected in South Africa.

Minority Rights

Minority rights are vitally important for a healthy, democratic society. If one person's rights are not respected, then no one's rights are protected. As a minority group, we ask for this bill to be passed.

Conclusion

This bill has been in the works for many years, and the murders and assaults have become more frequent and more brutal. Today, as this submission is written, yet another queer man has been found brutally murdered! This must stop! While we acknowledge that this is not a perfect bill, we believe that it is vitally important to have this bill, so that lives can be saved.

We have high hopes for this bill. We hope to see a safer, more inclusive South African society, which will allow all people to live harmoniously in a country that honours its own constitution, and respects the dignity and the equality of others.

Oral Presentation:

The National Gender Diversity Coalition requests the opportunity to make an oral submission to the National Council of Provinces. When queer lives are violently torn apart, the voices of the queer community must be heard. Thank you in advance for this opportunity to speak.



Kim Lithgow

Founder and CEO of Same Love Toti

Member of the Gender Diversity Coalition

Co-Deputy Chair of the Hate Crimes Working Group