



DEAR SOUTH AFRICA.co.za

## Prevention and Combating of Hate Crimes and Hate Speech Bill (NA)

26 August 2021 — 1 October 2021

Public participation

– report with all public comments

<https://dearsouthafrica.co.za/hate-speech/>

DearSouthAfrica.co.za is an online platform designed to facilitate government and encourage the public to participate in unbiased decision-making processes or policy formation at SOE, municipal, provincial and national levels.

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TO: The Portfolio Committee on Justice and Correctional Services

FROM: DearSouthAfrica.co.za

DATE: October 2021

SUBJECT: REPORT ON PUBLIC PARTICIPATION: PREVENTION AND COMBATING OF HATE CRIMES AND HATE SPEECH BILL [B9-2018]

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## 1. Executive Summary

This report details the outcome of a public participation campaign facilitated by DearSouthAfrica.co.za regarding the *Prevention and Combating of Hate Crimes and Hate Speech Bill [B9B-2018]*. The Bill seeks to create the specific offence of hate crimes and hate speech and provides for the prosecution of persons who commit those offences.

The public response was extensive, with **101,004 unique submissions** processed. The data indicates an overwhelming rejection of the Bill, specifically regarding the “Hate Speech” provisions. While the public generally supports harsher sentencing for actual crimes motivated by bias (Hate Crimes), there is deep anxiety that the “Hate Speech” definitions are overly broad, threaten constitutional freedom of expression (particularly religious freedom), and are legally redundant given existing laws like *Crimen Iniuria* and the *Equality Act*.

## 2. Participation Statistics

### 2.1 Volume of Participation

The campaign generated a significant volume of engagement, reflecting the high public interest in the subject matter.

- Total Unique Submissions Analysed: 101,004
- *(Note: This count strictly represents unique comments. De-duplication was performed on the combination of email address and message content to capture every distinct perspective submitted.)*



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## 2.2 Sentiment Breakdown

The sentiment is overwhelmingly opposed to the Bill in its current form.

- Do Not Support (“No I do not”): 72.5% (73,257)
- Other / Custom Objection: 20.2% (20,370)

*Analysis reveals these “Other” submissions are predominantly detailed objections citing specific legal or religious concerns, effectively aligning with the “Do Not Support” category.*

- Support (“Yes I do”): 4.8% (4,847)
- Support “Not Fully”: 2.5% (2,530)

## 2.4 Demographic Profile

- **Employed Individuals:** 46,060 (54.6%)
- **Retired:** 12,083 (14.3%)
- **Business Owners:** 11,068 (13.1%)
- **Religious Communities:** A significant portion of the objections cited concerns regarding the criminalization of religious texts or preaching. Mentions of terms like “Bible,” “sermon,” or “pastor” were frequent in the negative dataset.

## 3. Summary of Public Comments

The qualitative data reveals a clear distinction in the public mind between actions (crimes) and words (speech).

### 3.1 The “Thought Police” and Freedom of Speech

The most prevalent objection is that the Bill infringes on Section 16 of the Constitution. Participants argued that “offensive” speech should not be a criminal offence punishable by jail time.

*Comment: “This is nothing other than undermining the freedom of speech... Just another step closer to total control of your freedom with limited or zero rights.”*

*Comment: “This could easily be used against freedom of speech by the powers that be.”*

*Comment: “Freedom of speech is the bedrock of democracy. If we start arresting people for words that are merely offensive, we become a totalitarian state.”*



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### 3.2 Religious Freedom Concerns (Clause 4)

Thousands of submissions focused on the fear that reading religious texts (which may condemn certain lifestyles or beliefs) could be interpreted as “Hate Speech.”

*Comment: “A priest tells his congregation that according to the bible the only way to heaven is through Jesus Christ... A Muslim hears about the sermon and lodges a claim of discrimination. Totally draconian.”*

*Comment: “In the end parts of the Bible get condemned as hate speech which is ridiculous, this happened in the UK. We have managed for hundreds of years without having to legalize hate speech.”*

### 3.3 Redundancy / Existing Legal Frameworks

Participants frequently noted that South Africa already has the *Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA)* to handle civil cases of hate speech, and common law Crimen Iniuria for criminal dignity violations.

*Comment: “The same government who has proven time and again to be woefully unable to govern with the myriad of existing laws already on the books but they continue to add more... Work with what you already have.”*

*Comment: “Our courts regularly deal with these matters and bring about adequate relief... I urge you to drop this Bill in its entirety and to accept that our existing laws offer sufficient protection of victims of hate speech.”*

### 3.4 Subjectivity of “Harm”

There is significant concern that the definition of “harm” (emotional/psychological) is too subjective and will lead to the weaponization of the law against political opponents.

*Comment: “Hate speech is a subjective concept rather than an objective one. It is determined by how one feels about a statement... this means that we would be creating a slippery slope where anything can be deemed such.”*

*Comment: “What constitutes ‘harm’ to one person is ‘debate’ to another.”*



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#### **4. Views from the “Support” Category**

The minority who supported the Bill emphasized the need to protect human dignity and curb the prevalence of racism and xenophobia.

*Comment: “Hate speech and racism are rife in South Africa... those who want to commit hate speech must suffer the consequences.”*

*Comment: “It is imperative that all South Africans come together to expel all hate crimes, racism and fake news.”*

*Comment: “The law must protect and be equal for everyone.”*

#### **5. Proposed Solutions and Alternatives**

The public offered specific alternatives to the proposed legislation:

- 1. Split the Bill:** Pass the “Hate Crimes” section (aggravating factors for sentencing) but scrap or significantly rework the “Hate Speech” section.
- 2. Use Civil Remedies:** Keep hate speech in the domain of the Equality Court (fines, apologies, community service) rather than criminal law (prison), unless there is imminent incitement to violence.

*Comment: “There is adequate laws to address incitement of violence or harm... There is no need to add a separate definition for what already exists in law.”*

- 3. Strengthen Religious Exemptions:** Broaden the exemptions to explicitly protect the private and public teaching of religious texts, doctrine, and dogma.

#### **6. Media and Civil Society Alignment**

##### **5.1 Consistency of Sentiment**

The public submissions align closely with the concerns raised by major civil society groups and legal experts.

- Freedom of Religion SA (FOR SA):** There were approximately 549 specific mentions of “FOR SA” or “Freedom of Religion SA” in the comments, echoing the organization’s campaign against the narrowness of the religious exemption.
- Free Speech Advocates:** The public’s argument that “offensive speech is not a crime” mirrors the Constitutional Court’s Qwelane judgment, which was mentioned in 434 distinct submissions. Participants feel the Bill creates a lower threshold for criminality than the Constitution allows.



## 6.2 Conclusion on Alignment

There is a consensus among the public, religious organizations, and free speech advocates: The Bill, in its current form, is too broad and poses a threat to civil liberty.

## 7. Conclusion

The public mandate is clear: **Oppose the Hate Speech provisions of the Bill.**

While South Africans support tougher sentences for criminals (Hate Crimes), they reject the criminalization of speech. The electorate views this Bill as a threat to religious freedom and freedom of expression. They urge the NA to rely on the existing Equality Act and *Crimen Iniuria* laws rather than creating a new statutory offence that could jail citizens for “offensive” opinions.

ends.

**Robert Hutchinson**, founder, DearSouthAfrica.co.za

All public comments are included below.

Decision	Count	Percentage
No I do not	73,257	72.50%
Other (Custom Objections)	20,370	20.20%
Yes I do	4,847	4.80%
Not fully	2,530	2.50%

Status	Count	Percentage
Employed individual	46,060	54.60%
Retired	12,083	14.30%
Business owner	11,068	13.10%
Unemployed individual	5,538	6.60%
Student	5,047	6.00%

Top Concern	Count	Percentage
The paper in its entirety	63,992	63.50%
Clause 4; the offence of hate speech	7,844	7.80%
Other	4,994	5.00%
Clause 3; the offence of hate crime	1,933	1.90%
Clause 6; penalties or orders	693	0.70%

Province	Count	Percentage
Western Cape	37,079	36.80%
Gauteng	32,250	32.00%
KwaZulu-Natal	5,765	5.70%
Eastern Cape	5,522	5.50%
Free State	5,062	5.00%
North West	4,986	4.90%
Mpumalanga	3,880	3.80%
Northern Cape	3,426	3.40%
Limpopo	2,289	2.30%
Outside SA	523	0.50%

