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Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

## **MEDIA RELEASE: Prevention and Combating of Hate Crimes and Hate Speech Bill approved by Cabinet**

As our country saw the launch of Anti-Racism Week yesterday, it is important to provide an update to the public on progress made on the Prevention and Combating of Hate Crimes and Hate Speech Bill.

The Department is pleased to announce that the revised Bill was approved by Cabinet yesterday (14 March 2018).

Deputy Minister John Jeffery has said that: *“There is no question that incidents of racism and racial discrimination are all too frequent in our society and we are confident that the Bill, once passed, will contribute to eradicating not only racism, but all forms of discrimination, in our country.”*

The Department also wishes to respond to allegations made by, amongst others, the Hate Crimes Working Group, that the Bill was being delayed.

The Bill was not delayed. There can be no dispute that the Bill is complex and sensitive in nature, requiring careful consideration which, in turn, takes time. After the Bill was published in the Gazette for comments, some **75 854 submissions** were received from institutions and individuals.

Many submissions were received after the deadline for the submission of comments. The views and concerns expressed in the comments, even those that were submitted late, have been considered by the Department and have, in many instances, been addressed in the revised Bill.

While the submission of the Bill to Cabinet might not have happened within the timelines expected by civil society, it should be borne in mind that the dialogue arising from the public discourse on the Bill had implications of its own. Further research was required following the extensive comments received. This research was undertaken and there were further engagements with certain stakeholders.

The overwhelming public response to the Bill, as well as the revised Bill, which now addresses most of the concerns raised, is proof of a participatory democracy at work.

Government does take the views and opinions of the public and civil society very seriously as we prepare new legislation.

The Bill, as is the case with any Bill being submitted to Parliament, had to undergo various internal processes, one which is the Socio-economic Impact Assessment. A copy of this assessment, which

is a public document and available for scrutiny, indicates the circumspection with which the Department dealt with the various aspects of this piece of draft legislation – all the more so as the subject matter of the Bill is sensitive and contentious in nature.

It must be noted, that most of the concerns around the previous draft of the Bill have indeed been addressed and thus the revised Bill which was approved by Cabinet yesterday is considerably different from the earlier Bill that was made available for public comments.

The provisions dealing with, in particular hate speech, have been significantly changed.

The qualifying criteria for hate speech is a **clear intention to be harmful or to incite harm or promote or propagate hatred** on the basis of age, albinism, birth, colour, culture, disability, ethnic or social origin, gender or gender identity, HIV status, language, nationality, migrant or refugee status, race, religion, or sex, which includes intersex or sexual orientation.

Lastly, the revised Bill specifically **excludes** anything done in good faith in the course of engagement in any bona fide artistic creativity, performance or other form of expression, academic or scientific inquiry or fair and accurate reporting or commentary in the public interest, in so far as it does not advocate hatred that constitutes incitement to cause harm, from the ambit of hate speech.

It also **excludes** the bona fide interpretation and proselytising or espousing of any religious tenet, belief, teaching, doctrine or writings, to the extent that such interpretation and proselytisation does not advocate hatred that constitutes incitement to cause harm, from the ambit of hate speech.

These exclusions also find resonance with section 16 of the Constitution.

The Bill, which criminalises both hate crimes and hate speech, will be introduced into Parliament shortly, where after it will go through the normal parliamentary legislative process.

The Department wishes to thank civil society, members of the public and various institutions across our country for the comments received on the earlier draft of the Bill and we are confident that the revised Bill will, once passed, send a clear message that there is no place for hate crimes or hate speech in our society.

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