

- a. propaganda for war;
- b. incitement of imminent violence; or
- c. advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

Equality Act Section 10 on Hate Speech (also problematic)

The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (PEPUDA or the Equality Act, Act No. 4 of 2000)

10 Prohibition of hate speech

“(1) Subject to the proviso in section 12, no person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to-

- (a) be hurtful;
- (b) be harmful or to incite harm;
- (c) promote or propagate hatred.

(2) Without prejudice to any remedies of a civil nature under this Act, the court may, in accordance with section 21 (2) (n) and where appropriate, refer any case dealing with the publication, advocacy, propagation or communication of hate speech as contemplated in subsection (1), to the Director of Public Prosecutions having jurisdiction for the institution of criminal proceedings in terms of the common law or relevant legislation.”

12 Prohibition of dissemination and publication of information that unfairly discriminates

“No person may-

- (a) disseminate or broadcast any information;
- (b) publish or display any advertisement or notice, that could reasonably be construed or reasonably be understood to demonstrate a clear intention to unfairly discriminate against any person:

Provided that bona fide engagement in artistic creativity, academic and scientific inquiry, fair and accurate reporting in the public interest or publication of any information, advertisement or notice in accordance with section 16 of the Constitution, is not precluded by this section.”

References

The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (PEPUDA or the Equality Act, Act No. 4 of 2000)

<http://www.justice.gov.za/legislation/acts/2000-004.pdf>

Association of Christian Media (ACM) Comments on the “Hate Speech and Hate Crimes Bill (Notice 698 of 2016)” January 2017