



**DEPUTY MINISTER IN THE PRESIDENCY FOR WOMEN, YOUTH
AND PERSONS WITH DISABILITIES**

REPUBLIC OF SOUTH AFRICA

DRAFT REMARKS

BY

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AT THE

**PGA–SALC REGIONAL PARLIAMENTARY WEBINAR ON
DEMOCRATIC DISCOURSE**

***“PEER-TO-PEER KNOWLEDGE SHARING AMONG MPS ON
PREVENTING HATE SPEECH AND PROMOTING INCLUSIVE, DEMOCRATIC
DISCOURSE IN SOUTHERN AFRICA.”***

ON

22 MAY 2026 | VIRTUAL | 11:00



women, youth &
persons with disabilities
Department:
Women, Youth and Persons with Disabilities
REPUBLIC OF SOUTH AFRICA



[CHECK AGAINST DELIVERY]

Greetings to the Honourable Speaker of the National Assembly of Botswana, Honourable Dithapelo Keorapetse;
Honourable Bernard Georges from the Seychelles;
Commissioner Tshepo Madlingozi of the South African Human Rights Commission;
Our hosts, the Southern Africa Litigation Centre and Parliamentarians for Global Action;
Distinguished Members of Parliament; colleagues from civil society; and all participants gathered in this important regional conversation.

I bring warm greetings from the Republic of South Africa.

I speak today not only as a Member of Parliament and Deputy Minister in the Presidency responsible for Women, Youth and Persons with Disabilities in the Republic of South Africa, but also as someone whose life and work have been shaped by the long struggle to make human rights real for those who are often pushed to the margins of society.

I speak as a black African woman, a human rights activist and a parliamentarian. I also speak as someone who knows that the dignity of one person cannot be separated from the dignity of another, and that a democracy that protects only the powerful, the familiar, the acceptable and the comfortable is not yet a democracy in the fullest meaning of the word.

This conversation comes at a very important moment for South Africa. We are now reflecting on 32 years since the birth of our constitutional

democracy, and we mark 30 years since the adoption of the Constitution of the Republic of South Africa in 1996.

For us, the Constitution was not born in a seminar room. It was born from pain, from Sharpeville, from Soweto, from forced removals, from apartheid prisons, from the pass laws, from women's resistance, from the voices of workers, students, religious leaders, traditional leaders, activists, communities and ordinary people who insisted that never again should the state be used as a weapon against the dignity of its own people.

This is why, in South Africa, we do not treat hate speech as a minor discomfort in democratic life. We understand that before people are excluded, they are first described as less than human. Before violence becomes physical, it is often prepared through language. Before a group is attacked in the street, it is usually attacked in the imagination of society. Hate speech is therefore not merely offensive speech. It is speech that organises society against the humanity of another.

The apartheid regime was built on a language of hate. It voiced that black people were inferior. It told women that they were secondary. It reinforced the idea that people with disabilities were invisible. It positioned queer people that they were abnormal. It told poor people that their suffering was natural. That is why our constitutional order responds to hate speech not as censorship, but as a defence of the equal worth of every person.

Our Constitution protects freedom of expression, and it must. A democracy without freedom of expression is a democracy without lungs. Hence, our legal framework enshrines parliamentary privilege to ensure

that Parliament must be a place of contestation, disagreement, discomfort and vigorous debate.

But our Constitution is also clear that freedom of expression does not include propaganda for war, incitement of imminent violence, or advocacy of hatred based on race, ethnicity, gender, sexuality or religion that constitutes incitement to cause harm.

This is the balance South Africa has had to learn: we must protect speech, but we must never romanticise speech that destroys the humanity of others.

Section 9 of our Constitution prohibits direct and indirect unfair discrimination on a wide range of grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

This list matters as it tells us that the Constitution understands human beings in their fullness.

It recognises that people do not experience oppression in neatly packed categories. A poor lesbian woman with a disability in a rural village does not experience homophobia separately from poverty, ableism, patriarchy and geographic exclusion.

These systems meet in her body. They meet in her clinic. They meet in her school. They meet in the police station when she tries to report violence. They meet in the labour market when she looks for work. They

meet in Parliament when lawmakers speak about her as though she is a problem to be managed rather than a citizen to be protected.

This is why intersectionality must be central to our discussion. There is no single-issue struggle because we do not live single-issue lives. Hate speech against the LGBTI community matters deeply, but we must not limit the conversation only to homophobia and transphobia. We must also confront racism, misogyny, xenophobia, ableism, ageism, religious intolerance, class contempt and all harmful ideologies that tell one group of people that another group is disposable.

If Parliament allows hateful language against one group, it teaches society that some people are legitimate targets. And once that door is opened, history teaches us that hatred does not stay in one room, it takes over the whole house.

South Africa has built a legal architecture to respond to this.

The Promotion of Equality and Prevention of Unfair Discrimination Act, commonly known as the Equality Act or PEPUA, gives practical effect to the constitutional right to equality. Section 10 of PEPUA prohibits hate speech and provides civil remedies through the Equality Courts. These courts have become important spaces where ordinary people, communities and civil society organisations can challenge words and conduct that violate dignity.

One of the most important cases in our constitutional journey is the Qwelane case. In 2008, Mr Jon Qwelane wrote a deeply homophobic article attacking gay and lesbian people. The article led to more than 350

complaints to the South African Human Rights Commission. The matter eventually reached the Constitutional Court in *Qwelane v South African Human Rights Commission*.

The Court found that the article constituted hate speech. It recognised that speech which vilifies the LGBTI community, which compares people to animals, which delegitimises their existence and their right to be treated as equals, is not merely hurtful. It is harmful to the constitutional project and democracy as we know it.

That case taught us that hate speech law must be precise, but it must also be alive to social context. The Court did not say that every offensive statement is hate speech. It clarified that the law must focus on expression that is based on prohibited grounds, that demonstrates a clear intention to be harmful or to incite harm, and that promotes or propagates hatred. This is important because a democracy must distinguish between discomfort and dehumanisation. It must mark a clear distinction between criticism and incitement. It must be clear to name the difference between debate and the organised denial of another person's dignity.

More recently, South Africa adopted the Prevention and Combating of Hate Crimes and Hate Speech Act 16 of 2023, which was assented to in 2024. This Act is significant because it moves South Africa from a mainly civil framework to a clearer criminal framework for hate crimes and hate speech. It defines a hate crime as an offence motivated by prejudice or intolerance based on real or perceived characteristics of the victim. These characteristics include race, gender, sex, sexual orientation, age, disability, religion, culture, language and other protected grounds. It also

recognises that a person may be targeted because of their association with a group.

This matters for South Africa because hate does not always ask for an identity document. Sometimes a person is attacked because they are perceived to be foreign. Sometimes a woman is attacked because she is perceived to be lesbian. Sometimes a person with albinism is attacked because of dangerous myths. Sometimes an older woman is accused of witchcraft because patriarchy and ageism conspire against her. Sometimes a person with a disability is mocked because society has not yet learned to see disability as part of human diversity. The law must be capable of seeing all these nuances.

South Africa's Hate Crimes and Hate Speech Act also recognises the need for education, public awareness, training of officials and the recording of data. That is a very important lesson. We cannot fight what we do not measure. We cannot dismantle what we refuse to name. And we cannot build accountability if state institutions do not collect reliable data on the nature, scale and location of hate crimes and hate speech.

The South African Human Rights Commission continues to remind us that racism and hate speech remain persistent in our society.

Its State of Human Rights work has indicated that racism remains one of the most reported forms of discrimination. The Commission has also warned about rising xenophobia, particularly during election cycles, when political actors may be tempted to scapegoat migrants for failures that are often structural and economic.

The same human rights reporting has shown that only about 0.4 percent of complaints come from rural areas. This is a sobering statistic because it does not mean rural communities are free from hate. It means many people are too far from institutions of justice, too poor to pursue complaints, too afraid to speak, or too excluded to even know where to go.

This is why civil society matters.

In South Africa, many of the gains we celebrate today were not gifts from the state. They were forced into being by communities, activists, lawyers, Chapter 9 institutions, social movements, feminist organisations, LGBTI formations, disability rights activists, faith leaders and ordinary citizens who refused to be silent. Civil society has used the Equality Courts. It has lodged complaints with the SAHRC. It has challenged political leaders. It has educated communities. It has defended victims. It has made the Constitution walk in the streets.

The lesson for our region is clear: law must be accessible to the people.

A hate speech law that exists only in the Government Gazette is not enough. Communities must know their rights. Civil society must know how to trigger accountability mechanisms. Parliament must open its doors to complaints and petitions. Human rights institutions must be funded to investigate. Courts must be accessible. Media must report responsibly. And political parties must discipline their own members when they cross the line from democratic contestation into dehumanisation.

Within Parliament itself, rules matter.

Presiding officers have a difficult but essential responsibility. They must protect the dignity of the House without appearing partisan. They must allow robust debate without allowing the chamber to become a theatre of cruelty. In South Africa, unparliamentary language may be ruled out of order, members may be instructed to withdraw offensive remarks, and serious misconduct may be referred to ethics and disciplinary processes. The Joint Committee on Ethics and Members' Interests, the rules of the National Assembly, and the Code of Ethical Conduct are all part of the institutional architecture that must ensure that Members of Parliament do not use parliamentary privilege as a shield for hate.

Parliamentary privilege exists to protect democracy, not to protect abuse. It exists so that Members can speak truth to power, not so that they can punch down at vulnerable communities.

We have also seen how equality law can hold even powerful political actors accountable. In recent years, South African courts and institutions have dealt with cases involving racist, xenophobic and inflammatory statements by public figures. The message must be consistent: no one is above the Constitution. Not a minister. Not a party leader. Not a Member of Parliament. Not a celebrity. Not a religious leader. Not a social media influencer or podcaster. In a constitutional democracy, public power must come with public responsibility.

But we must also be honest. South Africa's legal framework is progressive, but our lived reality remains unequal.

The law recognises same-sex marriage through the Civil Union Act of 2006. It recognises gender marker changes through the Alteration of Sex Description and Sex Status Act of 2003. It recognises the parental rights of same-sex couples through the Children's Act. These are important gains. South Africa became the first African country to constitutionally prohibit discrimination based on sexual orientation and the first African country to recognise same-sex marriage.

Yet law alone does not end hate. A transgender person may have rights on paper and still be humiliated at Home Affairs or at a health facility. A lesbian woman may be protected by the Constitution and still fear walking home at night. A person with a disability may have equality in law and still find Parliament, courts, clinics and public meetings inaccessible.

That is why the struggle against hate speech is also a struggle against the social conditions that make hate believable.

We must speak directly about the anti-gender, anti-democratic and anti-human rights agenda that is growing across the world. It is organised. It is funded. It is strategic. It enters parliaments, courts, schools, religious spaces, digital platforms and policy processes. It often speaks in the language of “family values” while attacking women’s autonomy. It speaks in the language of “protecting children” while denying comprehensive sexuality education. It speaks in the language of “religious freedom” while promoting discrimination and hate preached at the altar. It speaks in the language of “tradition” while silencing the many African traditions of coexistence, dignity and communal care.

We must be vigilant because hate today does not always arrive wearing the uniform of fascism. Sometimes it arrives in a suit. Sometimes it arrives in a parliamentary motion. Sometimes it arrives as a social media campaign. Sometimes it arrives as a donor-funded policy brief. Sometimes it arrives as a sermon that turns the pulpit into a weapon. Sometimes it arrives as a joke. Sometimes it arrives as a “concerned parent” campaign. But wherever it arrives, its destination is the same: to narrow the circle of who counts as fully human.

Parliamentarians must hold the line.

We must insist that democracy is not the right of the majority to humiliate the minority or those who are different. Democracy is the discipline of ensuring that the majority governs within the limits of dignity, equality and freedom.

In this work, positive masculinity must become a battleground against patriarchy.

We cannot end misogyny, homophobia, transphobia and gender-based violence if we do not transform the ideas of manhood that produce violence and domination. We need men and boys who understand that strength is not violence, that leadership is not control, that culture is not oppression, that faith is not hatred, and that masculinity does not require the humiliation of women, queer people, children or persons with disabilities.

Positive masculinity must move from slogans into schools, sports clubs, initiation spaces, churches, mosques, temples, workplaces, political

parties, trade unions and community structures. It must be part of civic education. It must be part of GBVF prevention. It must be part of parliamentary ethics. It must be part of how we build a new democratic culture.

Internationally, there are important lessons.

Germany has introduced measures requiring social media platforms to act against unlawful hate speech online. New Zealand's Christchurch Call has shown how states, civil society and technology companies can cooperate against violent extremist content. The Inter-Parliamentary Union has developed guidance on sexism, harassment and violence against women in parliament. Albania's experience with the Ombudsman influencing a parliamentary code of conduct on hate speech and ethics also provides a useful example of how independent oversight institutions can shape parliamentary behaviour without becoming partisan actors.

For South Africa, one of the most important international recognitions is that our South African Human Rights Commission has retained "A-status" accreditation through the Global Alliance of National Human Rights Institutions. This speaks to its independence and credibility. But credibility must be matched with resources. If we want human rights institutions to protect vulnerable communities, we must fund them to reach the village, the informal settlement, the school, the police station and the digital space.

Honourable colleagues, the practical lessons from South Africa are therefore clear.

First, anchor everything in the Constitution. Hate speech regulation must never be a tool to silence dissent; it must be a tool to protect dignity and equality.

Second, define hate speech carefully. The law must be precise enough to protect freedom of expression, but strong enough to protect vulnerable communities from harm.

Third, create accessible remedies. People must be able to lodge complaints without needing wealth, proximity or legal sophistication.

Fourth, empower independent institutions. Human rights commissions, gender commissions, ombuds institutions and courts are essential to democracy.

Fifth, ensure Parliament disciplines itself. The rules of the House must not only protect order; they must protect dignity.

Sixth, invest in education. Laws punish harm after the fact, but education prevents harm before it becomes normal.

Seventh, confront the anti-gender and anti-rights agenda as a democratic threat, not a side issue.

And finally, build a whole-of-society movement for dignity, because hate is not defeated only in courtrooms. It is defeated in homes, schools, taxi ranks, workplaces, religious spaces, online platforms, community meetings and parliaments.

As I conclude, I want to return to the Constitution.

Our Constitution is not a cold legal document. It is a living memory of what happens when a society allows hatred to become policy. It is also a living promise that South Africa will never again permit any person to be treated as less than human.

Our Constitution is itself an intersectional document, born at the meeting point of race, gender, class, geography and culture. It promises not only formal equality but substantive equality that takes account of context, of history, of the deep wounds of apartheid and patriarchy. Intersectional justice is simply the living application of that constitutional promise.

So let us build parliaments where disagreement is fierce but never dehumanising. Let us engender democracies where freedom of expression is protected but never weaponised against the vulnerable. Let us fashion political cultures where leaders understand that words can either build a nation or burn it.

And let us say clearly, across Southern Africa and across the world: there can be no democracy for some of us while others are spoken of as if they do not belong. There can be no freedom for some of us while others live under the shadow of hate. There can be no human rights for some of us without human dignity for all of us.

I thank you.