

# Deputy Justice Minister admits 'Hate Speech Bill' too broad



Religious leaders at a FOR SA roadshow meeting in Johannesburg this week. FOR SA has been briefing leaders in different centres regarding pressing religious freedom issues which require a united response.

## Redraft of proposed legislation good news for religious freedom

Deputy Minister of Justice John Jeffrey this week conceded that the controversial Hate Speech Bill was 'overbroad' and should be reconsidered taking into account concerns raised by the religious sector.

He was addressing religious leaders at a meeting in Cape Town this week convened by Freedom of Religion SA (FOR SA).

Over 400 senior religious leaders attended a series of meetings in five cities across South Africa this week organised by FOR SA to discuss the potential threats to religious freedom posed by the 'Hate Speech Bill' and the CRL Rights Commission's proposal to regulate religion. The meetings took place in Port Elizabeth, Durban, Cape Town, Johannesburg and Bloemfontein.

"We fully support the government's view that genuine hate crimes should be severely sanctioned", said Michael Swain, Executive Director of FOR SA. "However, the Bill's current hate speech provisions have the potential to shut down important dialogue and to entrench a polarisation of viewpoints."

The meeting in Cape Town was attended by Deputy Minister of Justice, John Jeffery, who addressed delegates and acknowledged that the hate speech provisions in the Bill are "over-broad". Jeffery affirmed the constitutional right to religious freedom and assured delegates that their right to express their convictions freely will be protected, as long as this does not amount to an incitement to violence.

He said that his Department had received over 76 000 submissions and these would inform the re-drafting process, which would take into account the concerns raised by the religious community. The Bill will then be sent back to cabinet and introduced to parliament (probably) in the second half of the year, when there will be further opportunity for public comment.

Religious leaders also expressed concern about the proposal by the CRL Rights Commission to comprehensively regulate religion in South Africa. This would entail the compulsory registration and licensing of all religious practitioners and places of worship by State-sanctioned regulatory bodies.

"We recognise that the commission has identified legitimate

concerns regarding unlawful practices and harmful behaviour, but there are existing laws in place to deal with these problems”, said FOR SA Advocate Nadene Badenhorst, who pointed out that the Department of Health had recently obtained an interdict to curtail the activities of the so-called ‘Prophet of Doom’.

The invasive registration process proposed by the Commission is therefore arguably unconstitutional, unworkable and unnecessary.”

FOR SA, who represents over five million people from the faith community, is proposing that the Commission sets up an ombudsman to ensure a rapid response to complaints of religious abuse. They further recommend that the commission facilitates a broad based consultation process to produce a code of ethics, which would lead to greater self-regulation and to which all religious leaders and bodies would be encouraged to subscribe. This would strike a balance between the need to protect religious freedom, and an increase in the desired level of peer-to-peer accountability.

The deadline for comments on the CRL Rights Commission’s report is February 28, after consideration of which the report will be referred to parliament.

Meanwhile, in Parliament on Wednesday, ACDP president Rev Kenneth Meshoe said members of the party met with the CRL to raise its concerns about its recommendations that the ACDP perceives to be government’s attempt to control and regulate the Church.

Speaking during the ACDP reply to the 2016 State of the Nation Address he said the ACDP had met the chairperson of the CRL Commission, Thoko Mkhwanazi-Xaluva, her deputy Professor David Mosoma] and five other commissioners at their offices in Braamfontein, Johannesburg.

The ACDP told the commission their recommendations resulted

from their attempt to solve a problem caused by occultists masquerading as prophets who have been abusing their vulnerable church members in the name of Christianity, Meshoe said.

“Gratefully, at the end of about two hours of deliberation, the CRL chairperson assured us that they would address our concerns and revise the disputed interim report,” he said.

Meshoe also told the house there was an outcry and strong objections from churches all across South Africa about the Prevention and Combating of Hate Crimes and Hate Speech Bill.

“While supporting the concept of ‘hate crimes’, the ACDP remains concerned that the provisions relating to “hate speech” are presently defined so broadly that they will violate other constitutional rights, including freedom of religion, belief and opinion, freedom of speech and expression, which includes freedom of the press and media.

“The ACDP submits that should the ‘hate speech’ provisions in the Bill remain so broadly defined, it will be both appropriate and necessary to insert a ‘religious exemption clause’ in order to protect these rights,” he said.