



Written by [Anthea Pollock](#) on June 22, 2021

New Bill Poses Unprecedented Threat to Religious and Other Freedoms in South Africa

The latest manifestation of what some might call an evil plot on the part of the South African government has taken the form of the “Promotion of Equality and Prevention of Unfair Discrimination Amendment Bill (X-2021)” — which, according to SA News, was approved by the Cabinet in February 2021. Under the guise of promoting equality, this bill does more to violate constitutional freedoms than promote justice — and is likely to have disastrous consequences. The bill was released for public comment until 12 May 2021, and although the organization Freedom of Religion in South Africa (FOR SA) was initially granted an extension to comment until June 30, it received subsequent communication from the Department of Justice to state that the government “did not agree to the general extension.”



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FOR SA Executive Director Michael Swain released a call to public action on April 14, assuring the public,

FOR SA is currently in the process of conducting a detailed evaluation of this Amendment Bill, consulting local and international legal experts and academics for their views. Over the next two weeks we will collate, distill and summarize these inputs, whereupon we will present our concerns in detail on why we believe this Amendment Bill is such a threat, particularly regarding its implications for religious organizations and people of faith.

Swain was by no means exaggerating. If the bill is adopted in its current form, the state will effectively tell all people and institutions of faith how to express their beliefs — what they may and may not say or do — as if state regulation of religion isn’t a direct contravention of the rights and freedoms guaranteed by the South African constitution. In addition, a flood of litigation and chaos is quite foreseeable, as institutions of faith are likely to be dragged into court by all who do not agree with or are offended by their religious beliefs.

What’s more, in broadening the definition of equality to encompass “equal rights and access to resources, opportunities, benefits and advantages,” the bill pushes the globally accepted concept that every person is to be treated equally by the law to a new level.

There’s the modification of the term “discrimination” in the bill to include “prejudice or undermining someone’s dignity, even where a person did not do so intentionally.” So not only is “discrimination”



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rendered completely subjective, but the bill deems it unnecessary for a person to act with intention before they can be found guilty of unfair discrimination. This could lead to punishing people for saying or doing things they did not know to be wrong, when they had no intention of breaking the law.

The bill also fails to distinguish between legitimate discrimination (treating people differently for a fair reason) and unfair discrimination — thereby seeking to impose liability for mere discrimination rather than targeting unfair discrimination. There is also a provision for employers to be jointly and severally liable for any discrimination, harassment, or “hate speech” by their employees — even though the test for “discrimination” is completely subjective and said employees may not have known they were undermining someone’s dignity. Not to mention the ridiculous notion of equal liability of anyone who causes, encourages, or requests another person to commit this subjective act of discrimination. It is also worth noting that while redefining “discrimination,” the bill fails to effectively define “retaliation” while prohibiting a person from retaliating or threatening to retaliate against a person who objects to a “discriminatory” act.

To top it all, the South African government is calling for the entire legal system to align with these ideological objectives and this revised understanding of “equality” — placing hefty obligations to comply with the state’s agenda or face sanctions. Yet arguably more concerning for many South Africans is the enabling of government ministers to discriminate between people, companies, and organizations, which leads to the abuse of power, bribery, and corruption. Case point: Businesses, NGO’s, community-based organizations, and traditional institutions will be required by the bill to make money available in their budgets to “implement measures” to eliminate “discrimination.” Loosely translated, such “measures” will include paying off corrupt government officials.



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