

Press Release

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A Cuban model for South Africa's Hate Speech Bill?

Under the hate speech provisions in the Bill, any new equivalent of the Penny Sparrow comment comparing black beachgoers to monkeys could see its author jailed for up to three years. But a cartoon insulting President Jacob Zuma by drawing him with a showerhead fixed to his forehead could also see its author jailed for up to three years.

In addition, anyone who 'intentionally distributes' the Sparrow-type comment by e-mailing it to others could likewise be jailed for up to three years. So too could a journalist who reproduces the Sparrow-type comment in an article posted on the Internet.

For any second 'offence' of this kind, a jail term of up to ten years could be imposed. That the journalist was not the author of the comment and aimed simply to inform would not be a defence.

The same prison terms will apply to any journalist or other commentator who e-mails the cartoon insulting the president to others, or who includes the cartoon in an article posted on the Internet or sent on through social media.

The deputy minister of justice and constitutional development, John Jeffery, nevertheless claims that the hate speech provisions in the Bill are modelled on equivalent laws in Australia, Canada, and Kenya.

This is not so. Australia does not put people in jail for hate speech, and has a raft of free speech defences to protect journalists, academics, artists, cartoonists, and other commentators from civil liability.

Canada allows jail terms only for speech that incites genocide or public violence. It also includes a range of free speech defences to protect journalists, satirists, and others.

Kenya's aim, against the background of the ethnic violence in 2007/08 that cost 1 300 lives, is primarily to prohibit speech that intends to stir up similar ethnic conflict or is likely to do so. Its prohibitions are thus much narrower than those in the Bill.

The closest equivalent to the Bill's provisions making it a criminal offence to insult Mr Zuma – or simply to distribute such an insult – seems to be found in communist Cuba. Under 'insult' laws there, people can be jailed for up to three years for criticisms of this kind that are directed at the president or his government.

A law curtailing free speech in this way has no place in South Africa's democracy.

The IRR's submission on the Hate Speech and Hate Crimes Bill will be sent to the Department of Justice and Constitutional Development today. Download a synopsis of the Bill [here](#).

Media Briefing: The media are invited to an IRR Media Briefing at the IRR offices (2 Clamart Road, Richmond, Johannesburg, 2092) at **10 am on Wednesday, 1 February 2017**. We will discuss further stages in the legislative process (the lifecycle of the Bill), spell out its dangers and show how the Bill could impact the media.

Ends.
