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Marti Will

## **Up to five years in prison for peaceful expression: South African parliament passes ‘hate speech’ bill**

***До п'яти років в'язниці за мирне вираження думок: парламент ПАР ухвалив закон про «розпалювання ненависті»***

*Незважаючи на міжнародні попередження, парламент Південної Африки ухвалив новий закон, який встановлює широку кримінальну відповідальність за «розпалювання ненависті». Він передбачає кримінальну відповідальність за широкі категорії вираження думок без чіткого визначення предмета, що веде до потенційного судового переслідування та покарання за мирне вираження думки. Південноафриканський національний експерт та експерт з прав людини д-р Джорджія Дю Плессі, юрист Міжнародного альянсу захисту свободи (ADF), сказала, що це величезний крок назад для свободи слова та демократії у Південній Африці. Законопроект ще має бути підписаний президентом Сирілом Рамафосою. Після цього він стане обов'язковим для всіх жителів Південної Африки і каратиметься тюремним ув'язненням на строк до п'яти років.*

<https://www.news24.com/news24/community-newspaper/vista/up-to-five-years-in-prison-for-peaceful-expression-south-african-parliament-passes-hate-speech-bill-20231207>

Despite international warnings, the South African parliament has passed new legislation broadly criminalizing “hate speech.”

It imposes criminal penalties on broad categories of expression without clear definition of the subject matter, leading to potential prosecution and penalties for peaceful expression.

Furthermore, any person who communicates with the intention to “be harmful or to incite harm” and to “promote or propagate hatred” is guilty of “hate speech”. Both “harm” and “hatred” are defined with vague and subjective criteria. The penalty for the offense is a fine and/or up to five years’ imprisonment.

South African national and human rights expert Dr. Georgia Du Plessis, legal officer with Alliance Defending Freedom (ADF) International, said that this is an enormous step back for free speech, and for democracy in South Africa.

“It is not hard to imagine a scenario where one peacefully voices their views, only to find themselves guilty of so-called ‘hatred’ under the dangerously ill-defined parameters of the new law.”

“Heavy restrictions on free speech in South Africa”

She said the law imposes heavy restrictions on free speech in South Africa.

“Our country has a complex and hard-won history of human rights protections, having endured vast and all-encompassing censorship efforts in our recent past under apartheid. This legislation violates international legal protections for free speech, and likely will lead to innumerable human rights abuses by censoring free speech, including peaceful expression, with criminal penalties.”

In September 2023, ADF International’s lawyers addressed the South African Parliament’s Committee on Security and Justice regarding the plans to criminalise speech. Thousands of

individuals and organisations had addressed their criticism of the draft law to the body. Daniela Ellerbeck of the human rights group Freedom of Religion South Africa (Forsa) had noted that the law is not criminalising “hate speech”, but rather criminalising speech that people “hate”.

#### Global censorship trend

South Africa’s new law comports with an evident global trend to prosecute and punish peaceful expression under the law. In Finland, Päivi Räsänen, parliamentarian and former interior minister, stood trial twice for peaceful expression, including the tweeting of bible verses.

She was charged with “hate speech” and only acquitted after more than four years of legal ordeal.

In Mexico, current congressman Gabriel Quadri and civil society leader Rodrigo Iván Cortés were charged and convicted for peaceful expression on social media. As evidenced by the case of Yahaya Sharif Aminu in Nigeria, extreme speech restrictions laws can result in penalty of death.

ADF International conducts international legal advocacy in these cases to champion the right of every person to peacefully express their convictions. Meanwhile, new proposed legislation in Ireland would not only criminalise speech, but also the possession of material “likely to incite hatred”.

The bill still has to be signed into law by the president. It will then be binding for all residents in South Africa, with penalties of up to five years in prison.