



**THE APOSTOLIC FAITH MISSION OF SOUTH AFRICA
DIE APOSTOLIESE GELOOF SENDING VAN SUID-AFRIKA**

(PBO no/WO nr: 930004069)

NATIONAL OFFICE – NASIONALE KANTOOR

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6 June 2021

The Department of Justice and Constitutional Development (DOJ)

Ms Fathima Bhayat

fbhayat@justice.gov.za

Dear Ms Bhayat

INVITATION FOR COMMENTS ON THE PROMOTION OF EQUALITY AND THE PREVENTION OF UNFAIR DISCRIMINATION AMENDMENT BILL. (The Bill)

The Apostolic Faith Mission of South Africa (AFM), founded in 1908 is one of the oldest Classical Pentecostal Denomination in South Africa. The AFM united into one multi-racial, multicultural, and multi-linguistic church in 1996 and has 1.4 million members, 1728 congregations and 2498 pastors in the country. To a large extent, it is a microcosm of the South African society. The AFM is operative in 28 countries globally, with national churches in most of them, of which the majority are on the African Continent. The Head Office is situated at 257 Jean Avenue, Building 14, Central Office Park, Centurion.

While the AFM is against unfair discrimination and believe that all people are created equal, the definitions of equality in the proposed Bill have the potential of undermining other constitutional rights. As a faith-based institution, we have concerns about the way in which the proposed Bill might override the constitutional rights to freedom of religion, as well as the autonomy of religious organisations to determine their own doctrine and beliefs, and to regulate their own internal affairs, free from interference by the State.

If the Bill is adopted in its current form, it might lead to a situation in which the State can effectively tell people and institutions of faith what they may and may not say and may and may not do as an expression of their beliefs, and how to run their internal affairs. This would fly in the face of the rights and freedoms guaranteed by our Constitution and would amount to State regulation of religion.

If the Bill is adopted in its current form, it might also lead to people and institutions of faith being dragged before Court simply because somebody else does not like, does not agree with, or is offended by that person's or institution's religious convictions and beliefs – and the person or institution will have little or no defence in law.

We are also concerned about the following:

1. South African law generally requires that there must be fault in the form of intention before someone can be found guilty or held liable in law for something they did or did not do. The proposed Bill seems to imply that it is not necessary for a person to act with intention before they can be found guilty of discrimination. The “no fault” liability proposed by the Bill is at odds with the rest of our law and might punish people for saying or doing things that they did not know to be wrong and where they had no intention to break the law.
2. In its current form, the proposed Bill fails to distinguish between discrimination (i.e. treating different people differently for a fair reason in law, which is legal) and unfair discrimination (for which there is no justification in law). The proposed Bill seemingly seeks to impose liability for discrimination, rather than for unfair discrimination.

For the above reasons, we oppose the proposed Bill in its current form which we believe to be unconstitutional and unnecessary and a threat to our Constitutionally guaranteed freedoms.

Yours faithfully

A handwritten signature in black ink, appearing to read 'H. Weideman', written over a circular stamp or seal.

Dr Henri Weideman
GENERAL SECRETARY