

**PEPUDA 2021 Amendment Bill - How concerned should South Africans be?  
FW de Klerk Foundation**

The Department of Justice and Constitutional Development recently published the Promotion of Equality and Prevention of Unfair Discrimination Act (4 of 2000 and known as PEPUDA) amendment Bill for public comment.

The deadline for submissions was originally 12 May 2021 - although a number of organizations (including the FW de Klerk Foundation) have received an extension until 30 June 2021 to deliver comment on the proposed amendments which present, collectively, a sharp and highly concerning departure from the current PEPUDA.

The Foundation will be submitting comments on the proposed amendments before the above deadline.

Join adv Jacques du Preez (CEO, FW de Klerk Foundation) and adv Mark Oppenheimer (an expert in discrimination and hate speech law in South Africa and a practicing member of the Johannesburg Bar) for a zoom discussion on the potential effects of the Bill, should it be implemented.

According to adv Oppenheimer:

*The Bill will have five major consequences. First, redefining the terms “equality” and “discrimination”. Second, departing from the fault requirement found throughout our law by creating liability for unintentional acts or omissions which cause prejudice to or undermine the dignity of a person. Third, making persons vicariously liable for contraventions of the Act performed by their workers, employees, or agents. This would include discrimination, hate speech and harassment. Fourth, a series of hefty obligations will be placed on Non-Governmental Organisations, traditional leaders and institutions, community organisations, and those contracting with the State, and the executive will be empowered to create codes to regulate these sectors. Government Ministers will be empowered to discriminate between people, companies, and organisations depending on their size, resources, and influence. Finally, it requires the State to overhaul all laws, policies, codes, practices, and structures which do not conform to the newly proposed definitions of equality and discrimination.”*

The Foundation shares these concerns about the Bill and is of the view that the strenuous obligations imposed by the Bill, if implemented, will be virtually impossible to fulfil - it will also be very costly and burdensome because the ‘equality’ suggested by the Bill cannot be quantified.

The video can be accessed here:

[FW de Klerk Foundation - 2021 PEPUDA Amendment Bill - YouTube](#)

South Africans are urged to present their enquiries, comments and submissions on the amendments to the following address:

Attn: The Director-General: Justice and Constitutional Development  
E-mail: [fbhayat@justice.gov.za](mailto:fbhayat@justice.gov.za)