

THE NATIONAL ACTION PLAN

**TO COMBAT RACISM,
RACIAL DISCRIMINATION, XENOPHOBIA
AND RELATED INTOLERANCE (NAP)**



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA







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INTRODUCTION

The NAP does not belong to government only - it belongs to everyone in the country. The NAP applies to all government departments, chapter 9 institutions, civil society organisations, the private sector, media, labour and other sectors - therefore it is a national instrument owned and to be implemented by all in South Africa.

The NAP is the ideal opportunity for our country and its people to renew our commitment to the fight against racism, racial discrimination, xenophobia and all other forms of prejudice and intolerance.

All government departments are responsible for promoting and implementing the NAP together with other institutions and agencies.





WHAT IS THE NATIONAL ACTION PLAN (NAP)?

The NAP is an important tool to prevent and combat racist, sexist, homophobic, xenophobic and other discriminatory conduct and forms of prejudice that we have been experiencing in our country.

The NAP sets out - in clear and practical ways- what government, civil society, the media, academia, business, labour, sporting and religious bodies, as well as various other sectors, have to do to combat and prevent discrimination and prejudice.



WHAT IS THE PURPOSE OF THE NAP?

As South Africans we should be realistic about the country's problems with racism, racial discrimination, xenophobia and other forms of intolerances and be willing to address it. Through the NAP we can build a non-racial, non-sexist society based on the values of human dignity equality and the advancement of human rights and freedom.

The NAP intends to combat racism, racial discrimination, xenophobia and related intolerance through the provision of a comprehensive policy framework at both a private and public level. The NAP is not intended to replace existing laws and policies but to be complementary to existing legislation, policies and programmes which address inequality, inequity and discrimination.



SIGNIFICANCE OF THE NAP

The NAP provides a clear indication of the State's intentions in its struggle against racism, racial discrimination, xenophobia and related intolerance. It sets out measures and indicators over an initial five (5) year period which will need to be achieved, and reviewed in order to take into account progress made regarding its implementation.



THE NAP AIMS TO:

The main aims of the NAP is specifically to address the issue of racism, racial discrimination, xenophobia and related intolerance in our country. In addition to existing measures, the NAP is also intended to combat

xenophobia and related intolerance and to address the following:

- Promote human dignity through the promotion and protection of human rights;
- Raise awareness of anti-racism, equality and anti-discrimination issues and address the need to prevent, combat and address racism;
- Encourage the collection of data regarding racism, racial discrimination, xenophobia and related intolerance and allow for a more comprehensive assessment of their needs to effectively combat it;
- Ensure that the concerns of individuals and groups encountering racism, racial discrimination, xenophobia and related intolerance are more effectively addressed;
- Build a more equal society and strengthen the rule of law and democracy.



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BENEFITS OF THE NAP

- We will have a decline in racism and xenophobia.
- Asylum seekers and refugees will feel safe in our country.
- The media will be held accountable for inciting racism, racial discrimination, xenophobia and related intolerance or perpetuating misinformation and harmful stereotypes.
- People will recognise their own racist and xenophobic attitudes as discriminatory and unacceptable and will work on changing them.
- People will not express their racist and xenophobic ideas privately or publicly because they will know that it will not be tolerated.
- Workplaces will have a zero tolerance policy against racism, racial discrimination, xenophobia and discrimination based on the mentioned grounds



FREQUENTLY ASKED QUESTIONS

WHAT IS RACIAL DISCRIMINATION: Any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. ¹

WHAT IS RACISM: Means prejudice, discrimination, or antagonism directed against someone of a different race based on the belief that one's own race is superior. ²

WHAT IS XENOPHOBIA: Means an attitudinal orientation of hostility against non-nationals in a given population. ³

¹ CERD, article 1

² Oxford Living Dictionary

³ UNESCO <http://www.unesco.org/new/en/social-and-human-sciences/themes/internationalmigration/glossary/xenophobia/>





WHAT IS DISCRIMINATION: Means any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly--

- (a) imposes burdens, obligations or disadvantage on; or
- (b) withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds.⁴

WHAT IS GENDER-BASED DISCRIMINATION: Means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.⁵

The NAP is based on the collective conviction of all who live in South Africa that, given that the ills of unfair discrimination and inequality are human-made; they can be reversed and be made to disappear completely from our country.

⁴ Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000)

⁵ Convention on the Elimination of All Forms of Discrimination against Women (CE-DAW)

WHY WAS THE NAP DEVELOPED?

South Africa at the Durban Declaration and Programme of Action (DDPA) adopted at the 3rd World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) hosted by SA in Durban, in 2001.

WHO WAS INVOLVED IN THE DEVELOPMENT OF THE NAP?

These are some of the stakeholders that were involved in the development and finalization of the NAP:

- Government Departments,
- Chapter Nine Institutions,
- Civil Society Organizations,
- Business, and
- Organised Labour



HOW WILL THE NAP BE IMPLEMENTED?

A five year Indicative Implementation Plan from 2019 to 2024 was developed. The first year of the Implementation Plan entails intensive planning, including budgeting and costing of measures with stakeholders, and broader consultation. It will also be the set-up phase of the governance structure for the NAP.

WHAT ARE HATE CRIMES?

A hate crime is an offence recognised under any law, the commission of which by a person is motivated by that person's prejudice or intolerance towards the victim of the crime in question because of one or more of the following characteristics

- (a) Age;
- (b) albinism;
- (c) birth;

- (d) colour;
- (e) culture;
- (f) disability;
- (g) ethnic or social origin;
- (h) gender or gender identity;
- (i) HIV status;
- (j) language;
- (k) nationality, migrant or refugee status;
- (l) occupation or trade;
- (m) political affiliation or conviction;
- (n) race;
- (o) religion;
- (p) sex, which includes intersex; or
- (q) sexual orientation.⁶

⁶ The Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018

WHAT IS HATE SPEECH?

The intentional publishing, propagating, advocating or communicating to one or more persons in a manner that could reasonably be construed to demonstrate a clear intention to—

- (i) be harmful or to incite harm; or
- (ii) promote or propagate hatred,

based on one or more of the following grounds:

- (aa) age;
- (bb) albinism;
- (cc) birth;
- (dd) colour;
- (ee) culture;
- (ff) disability;
- (gg) ethnic or social origin;
- (hh) gender or gender identity;

- (ii) HIV status;
- (jj) language;
- (kk) nationality, migrant or refugee status;
- (ll) race;
- (mm) religion;
- (nn) sex, which includes intersex; or
- (oo) sexual orientation.⁷

HOW IS THE NAP ALIGNED TO THE CONSTITUTION?

The Constitution, in section 9(3), states that no-one may unfairly discriminate against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.⁷

⁷ The Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018



WHERE CAN I REPORT UNFAIR DISCRIMINATION, HATE SPEECH, HARASSMENT INCLUDING INCIDENTS OF RACISM, RACISM DISCRIMINATION, / XENOPHOBIA AND RELATED INTOLERANCE?

If you believe that you have been unfairly discriminated against and you are a victim of hate speech or harassment then you can lodge your complaint at any of the designated equality courts

WHAT ARE EQUALITY COURTS?

Equality courts are specialised courts designated to hear matters relating to unfair discrimination, hate speech and harassment.

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ACCESSING YOUR RIGHTS

- **The nearest Magistrate's court in your area**
- **South African Human Rights Commission**
Braampark Forum 3, 33 Hoofd Street, Braamfontein
Tel: 011 877 3600 (Switchboard)
Tollfree number:
Website: www.sahrc.org.za
General information: info@sahrc.org.za
Complaints: complaints@sahrc.org.za
- **Commission for Gender Equality**
Head Office (Johannesburg) 2 Kotze Street, Women's Jail,
East Wing, Constitutional Hill, Braamfontein 2017,
South Africa.
Tel: 011 403 7182
Toll Free: 0800 007 709
Website: www.cge.org.za
Email: cgeinfo@cge.org.za





The Constitution says



no one may be unfairly discriminated against directly, or indirectly on the basis of

race	gender	sex	pregnancy
marital status	ethnic origin	social origin	colour
sexual orientation	age	disability	religion
conscience	belief	culture	language and birth



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