



Dear Colleagues, Allies and Supporters,

19 February 2017

Stand in solidarity against hate speech: Johannesburg High Court, 6-17 March 2017

Over eight years ago the high-profile journalist, Jon Qwelane, published an article in the Sunday Sun titled “Call me names, gay is not ok”. In reaction to the article’s hateful and prejudicial content the South African Human Rights Commission (SAHRC) received a flood of complaints. The SAHRC launched an application in the Equality Court seeking an apology and damages from Qwelane on the grounds that the contents of the article constitute prohibited hate speech in terms of section 10(1) of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (“the Equality Act”). Qwelane has launched a constitutional challenge against the hate speech provisions of the Equality Act.

The Psychological Society of South Africa (PsySSA) was admitted as *amicus curiae* (‘friend of the court’), and will lead evidence on:

- The nature and extent of the material harm caused by homophobic hate speech and its impact on LGBTI people and society at large.
- The importance of the hate speech provision of the Equality Act to stem systemic verbal and physical violence, noting that although it limits the right to freedom of expression, it does so in a manner which satisfies the requirements of the Constitution.

People Opposing Women Abuse (POWA) will present evidence in the case:

- In 2008 POWA lodged a complaint with the SAHRC against the article and is expected to be on the witness stand, based on this complaint.
- As a women’s rights organisation, POWA will be supporting a black lesbian woman who will also take the stand and share her personal experience of violence that is perpetuated by homophobic words.
- POWA will be offering support to community members who would like to picket outside of court during the hearing. There will be a presence of people at court from the areas where POWA has branches, namely Soweto, Evaton, Katlehong, Vosloorus and Tembisa.

The case was set down to be heard in August last year, however in the eleventh hour Qwelane applied for a postponement, which was granted. The postponement was appealed, and in December 2016 the Constitutional Court handed down a unanimous judgment stating that in granting the postponement, the High Court had undertaken a “miscarriage of justice”. The case is now set down in the South Gauteng High Court from 6-17 March 2017.

We call on allies to show their support at the court hearing. A strong civil society presence at court will highlight the demand that powerful individuals be held accountable for hate speech, particularly in light of high levels of prejudice and hate crimes against LGBTI people.

What your organisation can do:

- Write a media statement to express public support for Qwelane to be held accountable by a court of law for his homophobic hate speech.
- Show solidarity against all forms of hate speech by being present at the South Gauteng High Court, in Johannesburg (6-17 March).

Please contact the following people for more information:

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