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Ansie van der Westhuizen

Non-Commercial Digital Developer
Collection Development Division
Unisa Library
Email: vdwesapj@unisa.ac.za
Phone: +27 12 4293426

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WIKUS VAN ZYL
PUBLISHING MANAGER

T: 021 201 0071

wikus@africansunmedia.co.za

14 SIGN LANGUAGE AND HATE SPEECH

The potential pitfalls of iconic signs

Terrence R. Carney

Introduction

The naming of things is a powerful act. The one who names objects exercises a certain amount of influence. Bosmajian (1974) reminds his readers that to receive a name elevates an individual to the status of being human; to be without a name leaves one's identity questionable. Having a *good* name is so important to the individual that society has called for defamation laws to protect a person from name-calling. The power of naming is related to the defining of others. In following Edward Sapir, Bosmajian (1974) recalls that people's thoughts affect their language and their language affects their thoughts. There is a link between the way people see (and speak of) themselves and the way they view others. As Bosmajian (1974:5) puts it: "Our identities, who and what we are, how others see us, are greatly affected by the names we are called and the words with which we are labelled". Name-calling is not simply about giving someone a bad reputation; it relates directly to othering. The sender reminds the receiver that he or she is not like the sender and, as a result, inferior (see also Wolfson, 1997). It is here that a distinction can be made between affecting one's reputation and professional character on the one hand and demeaning one's self-worth and self-image on the other. The former deals with slander and libel and the latter addresses hate speech.

Though the term is considered by some to be imprecise and difficult to define (McGonagle, 2011; Parekh 2012), "hate speech" can be described as derogatory language directed mostly at minority groups (Bhatia, 2016; Wolfson, 1997). It includes a wide range of negative discourse (McGonagle, 2011) that ultimately leads to a break in peace (Trager & Dickerson, 1999) and damages core values like inclusiveness and dignity (Bhatia, 2016; Wolfson, 1997). Hate speech has historic ties with freedom of speech, freedom of religion and immigration (Walker, 1994). Contact between different peoples created a need to protect religious beliefs, cultural practices and linguistic rights and has led to the existence of in-groups and out-groups and, with it, a vocabulary. Parekh (2016:40) says hate speech "expresses, encourages, stirs up, or incites *hatred* against a group of individuals distinguished by a particular feature or set of features such as race, ethnicity, gender, religion, nationality,

and sexual orientation”. Parekh (2016:40-41) continues by identifying three features of hate speech:

- (1) it is directed at an individual or group based on arbitrary and irrelevant features;
- (2) it stigmatises the target group by ascribing undesirable qualities to that group; and
- (3) due to its negative qualities, the target group is considered unwelcome and consequently a threat to the stability of society.

Ultimately, hate speech is communication that is offensive, hurtful and wounding (Trager & Dickerson, 1999), it causes emotional distress and leaves victims “threatened, humiliated and diminished” (Wolfson, 1997:47). It furthermore perpetuates stereotypes and mistrust.

The presence of social media has proven to be an ideal platform for the survival of hate speech. A case in point was when, much to her surprise, an estate agent from Durban became a household name in South Africa after she referred to black beachgoers as “monkeys” on Facebook (Evans, 2016). Penny Sparrow’s Facebook post spread like wildfire. She made things worse when she tried to defend herself by saying that she was merely stating the facts (Wicks, 2016). Though not an isolated incident, it would become the archetype of hate speech on social media in South Africa. The public became increasingly aware of individuals spewing hatred through social media, affecting all cultures: a black man claiming he wanted to kill white and Indian people and rape their children (Pijoos, 2017); a white man who was unhappy with the Ministry of Sport and reverted to calling officials “a bunch of k*****s” (Davis, 2017); a Christian who was tired of “Muslim bastards” and their call to prayer (*News24*, 2017); a straight woman who called a gay editor a “faggot with a mouth” (*Mamba Online*, 2018); and a variety of people writing hateful things about the Chinese after illegal trade in donkey skins became public knowledge (Raborife, 2017). Matters got worse when individuals in more respected professions made themselves guilty of hate speech through social media: government officials (Velaphi Khumalo), university lecturers (Benny Morota), parliamentarians (Dianne Kohler Barnard) and even city mayors (Herman Mashaba) incited racial and xenophobic hatred (Davis, 2017; Etheridge, 2016).

Since 1994, many incidents like the examples mentioned have led to Parliament first promulgating the Promotion of Equality and Prevention of Unfair Discrimination Act in 2000 (the Equality Act), followed recently by the tabling by Cabinet of the Prevention and Combating of Hate Crimes and Hate Speech Bill (the Hate Speech Bill). The much-awaited Bill was first published for public comment in October 2016 and soon came under attack as being somewhat vague, containing broad definitions that might pose a threat to freedom in general and lead to the unreasonable incarceration of well-intentioned individuals (Griffin, 2017; Free Market Foundation, 2017; Wasserman, 2017). Furthermore, the Bill seems rather redundant in light of the Equality Act and the Constitution, which already deal with discriminatory concerns like hate speech (Dube, 2017; Griffin, 2017;

Wasserman, 2017). The Bill was subsequently revised and a second version was published in the *Government Gazette* of 29 March 2018.

When studying the social media examples cited above, as well as case law dealing with hate speech, it appears that identity signifiers lie at the heart of it. The following, amongst others, are mostly at the core of transgressions:

- race (*Donaldo v Haripersad; M v Ferreira; Khoza v Saeed; Magubane v Smith; ANC v Sparrow; Smith v Mgoqi; Herselman v Geleba*);
- religion (*Jamiat-Ul-Ulama of Transvaal v Johncom Media Investments Ltd; Islamic Unity Convention v Independent Broadcasting Authority*);
- gender (*Sonke Gender Justice Network v Malema*); and
- sexual orientation (*South African Human Rights Commission v Qwulane*).

Having legislation in place to prevent and act upon instances of hate speech (and other means of discrimination) is a necessity in each country, especially within nations that have suffered under an oppressive government where identity politics now remains an important issue. However, to what extent does legislation like the Equality Act and the Hate Speech Bill succeed in being a successful tool in combating these transgressions? Hate speech is often only considered in its verbal form. It is usually something that is said, sung or written down. But what about other forms of hate speech? For instance, how would courts deal with the use of symbols or accusations of discrimination in visual-spatial languages?

In an introductory sign language course, I became aware of lexis that I – as a hearing, nonsigning person – immediately thought of as politically incorrect (un-PC). Though the instructor insisted that these terms were acceptable within the specified Deaf community, it did make me wonder how many signs could be understood as offensive or even hateful. Initially, I looked up a number of these signs in the *Dictionary of South African Signs* (Penn, Ogilvy-Foreman, Simmons & Anderson-Forbes, 1992-1994) to confirm whether they were listed and whether the dictionary mentioned anything about them being derogatory. They were indeed lemmatised¹ and contained no warning labels. Considering the seriousness of hate speech and the qualifying criteria provided for in legislation, what would a signing Deaf person's position be if accused? Three related questions come to mind:

- To what extent do iconic signs qualify as hate speech?
- In what way do iconic signs qualify as hate speech when observed by hearing nonsigners?
- How sufficient are the definitions and criteria in the Equality Act and the Hate Speech Bill to address hate speech transgressions in sign language?

For the following discussion, this chapter is divided into three main sections. To start, the focus will fall on gestures, iconicity and socially unacceptable signs. Subsequently, an overview will be provided of what the Equality Act and the Hate Speech Bill say about hate

¹ A 'lemma' being the headword/main entry in a dictionary.

speech. The chapter will then proceed to discuss the questions previously mentioned in relation to the legislation.

Lexis in sign language

Gesturing

Most hearing people use silent or co-speech gestures that have been conventionalised by their culture at some time (Baker, Van den Bogaerde, Pfau & Schermer, 2016:10; Perniss, Özyürek & Morgan, 2015). It is generally a visual adumbration in the communication process, which may happen unwittingly (Perniss et al., 2015:6), for example, using your index finger to point at something when saying “Look over there”. In South Africa, when you want the bill at a restaurant, you can catch your waiter’s eye and gesture as if you are either writing in the air or writing on the palm of your hand. When indicating to someone at a distance from you that you will phone them, you place your hand next to your ear, with thumb and little finger extended to mimic the receiver of a phone. One of the universal signs for “good” is a clenched fist with a thumb raised upwards, whereas drinking is usually a hand in the shape of a vessel brought towards the mouth and then tipped (sometimes repetitively). In addition, when quoting someone while talking, people tend to draw inverted commas in the air (sometimes only with one hand).

Of course, as with spoken language, gestures are present in sign language, but they do not necessarily qualify as signs. For a gesture to qualify as a sign, it has to adhere to the four parameters of sign language – and always in relation to the signing space (see Fourie Blair, 2013:116-119; Mesthrie, Swann, Deumert & Leap, 2000:408-409):

- handshape
- location
- movement, and
- orientation

Handshape is used to give form to a sign. There are many different handshapes, like a Flat Hand, a B Hand, a Bent Flat Hand, and so on. Location is measured against the hand or position of the hands in relation to the body: hands are close to or far from the body, or they are kept in the middle, or on the periphery of the signing space. The third parameter is the type of movement for which the hand is used to articulate meaning. Orientation determines the position of the hand palm: when signing, the palm faces different directions, either away from the signer, or up and down, or facing the signer. All signs obey the four parameters, though gestures do not. For example, the South African Sign Language (SASL)

verb “know” (Figure 14.1)² is a bent flat hand (handshape) with the palm facing downward (orientation), fingers touching (movement) the side of the head (location), repetitively (Baker et al., 2016:70).



FIGURE 14.1 *Know* in South African Sign Language
(Reproduced with permission)

Gesturing to someone that you will phone him or her (as described) does not have to adhere to movement or location in the same way a sign does. The speaker usually determines how far away he or she wants to place the hand from the ear and there is no fixed rule as to the orientation of the palm. Gesturing is often about the message conveyed and not so much the syntax that governs it. The signing space, however, consists of the area starting above the head and reaching the middle of the body; signs are made on, or close to, the body and seldom outside this space (Baker et al., 2016:2-3).

Arbitrary and iconic signs

In the same way as in spoken languages, sign language distinguishes between arbitrary and iconic signs. Arbitrary signs show no obvious relation between the sign and its meaning. The noun in SASL representing the gloss “name” (Figure 14.2) bears no clear resemblance to the concept of naming.

² All the illustrations of signs published in this chapter are used with the permission of Mr G. Maluleka of the Unisa Sound, Video and Photography Unit.



FIGURE 14.2 *Name* in South African Sign Language

(Reproduced with permission)

Iconic signs, on the other hand, show an apparent relation between form and meaning (Baker et al., 2016:37; Meir, 2010:874; Russo, 2004:167). A good example of iconicity in spoken language are the features onomatopoeia, phonesthesia and ideophone (Meir, 2010:866; Ortega, Sümer & Özyürek, 2014:1114; Perniss, Thompson & Vigliocco, 2010:2-3; Russo, 2004:165-166, 168). Words ranging from “meow” to “knock” and “buzz” are all examples of sound having a bearing on meaning. In addition to depicting the characteristics of an entity or action, Ortega et al. (2014:1114) point out that iconic signs may also indicate the motion patterns and the spatial relations between objects, and they can represent either the entity or action in part or entirely. Perniss et al. (2010:8) argue that both spoken and sign language users are aware of iconicity and make use of it deliberately. However, the occurrence of iconicity is much more prevalent in sign language than in spoken languages, mostly because they convey concepts through a spatial-visual modality (Meir, 2010:866, 871; Ortega et al., 2014:1115; Perniss et al., 2010:4). Tolar, Lederberg, Gokhale and Tomasello (2007:225) state that iconic signs are so prevalent because “individuals can interpret them without requiring a prior explicit connection between them and their referents”. Some signs are only partially iconic, which means that not all of the components of form correspond with the components of meaning (Meir, 2010:873-874). Iconic signs are therefore either transparent or non-transparent.

Transparent iconic signs represent the visual aspects of an entity or action in such a way that its meaning becomes easily deducible, even for hearing nonsigners (Baker et al., 2016:37; Lieberth & Gamble, 1991:89; Tolar et al., 2007:226). An experiment by Lieberth and Gamble (1991) found that not only do sign-naive people understand and remember

many transparent iconic signs, they also have success in identifying them. Examples in SASL include the glosses “baby” (holding it in your arms, Figure 14.3a), “hot” (wiping sweat from your forehead, Figure 14.3b) and “sleep” (Figure 14.3c).

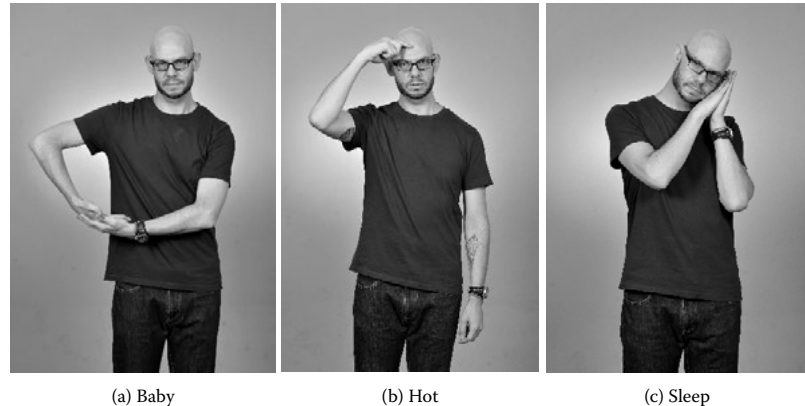


FIGURE 14.3 Transparent iconic signs in South African Sign Language

(Reproduced with permission)

Even though some signs may have been quite transparent when they were first introduced, they have become less transparent over time and therefore the relation between the sign and the feature of the action or entity is no longer that clear (Meir, 2010:866; Perniss et al., 2010:5). Examples in SASL include “washing” (of clothes, Figure 14.4a), which mimics the rubbing of cloth between two hands; and “coffee”, which mimics the grinding of coffee beans (Figure 14.4b).

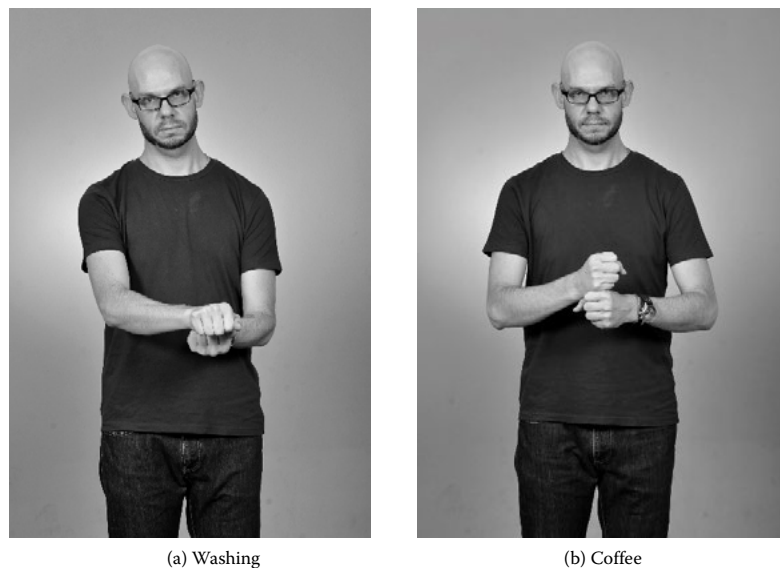


FIGURE 14.4 Non-transparent iconic signs in South African Sign Language

(Reproduced with permission)

Just as signs are influenced by a variety of demographic factors like race, ethnicity, age, region and schooling, iconic signs are also determined by culture (Lieberth & Gamble, 1991; McKee & McKee, 2011). Similar to spoken language, differences in culture and subculture lead to sign variety (Aarons & Akach, 1998; Penn, Lewis & Greenstein, 1984:7-8; Woll & Ladd, 2003:160). Even if someone knows the form of a certain sign, that is no guarantee that he or she will understand its meaning (Russo, 2004:171-172). The sign for “cat” in American Sign Language (ASL) is indicated by using one hand to pull at a single whisker, whereas British Sign Language (BSL) uses both hands to indicate all the cat’s whiskers (see Perniss et al., 2010:5).

Researchers have proven that Deaf children who speak sign language as their mother tongue do not find iconic signs easier to acquire than arbitrary signs (Lieberth & Gamble, 1991:90; Meir, 2010:867; Ortega et al., 2014:1115-1116; Tolar et al., 2007:226). They follow the same process for most signs when learning vocabulary. That being said, both Deaf and hearing older children and adults learn iconic signs much more quickly and are able to retain them in long term memory because they can relate the sign to the visual characteristics of the original referent (Lieberth & Gamble, 1991:90; Tolar et al., 2007:234). Many of these iconic signs are related to what Padden, Hwang, Lepic and Seegers (2015) call instrument and handling strategies. They found that iconic signs for objects are often connected to the way an instrument is shaped and used. The handling strategy involves the grasping of an imaginary tool and moving the hand(s) in a manner similar to how they would move when the object is used; whereas the instrument strategy usually shows the shape and dimension of the object in a motion typical of that tool in use (Padden et al., 2015:82-83). Identity signifiers are indicated by both action- and feature-based iconicity. Some identities relate to dynamic physical attributes (e.g. certain jobs, handicaps), whereas others depend on static physical features (wearing a Roman collar, or a bindi on the forehead).

Politically incorrect signs

Sign language is no different to spoken language when it comes to socially unacceptable or politically incorrect language. As Sutton-Spence and Woll (1999:242) point out, a younger generation may take offence to older signs, though the older generation may find no fault in the words they use. An example of this is the un-PC gloss “persons with disability” in BSL (Figure 14.5), which focuses on walking impairment.



FIGURE 14.5 *Person(s) with disability* in British Sign Language

(Reproduced with permission)

This is not to be confused with coarse or taboo language or even insults. Taboo language may include references to sex or religion and may leave conversational partners uncomfortable or embarrassed. Coarse language includes words like “bitch” or “fucker” and is used as an interjection to express emotional states. Insults are meant to degrade someone, usually by pointing at certain physical features and making fun of them, for instance, calling someone “four eyes” when they wear glasses. Though all of these may be socially unacceptable and may no doubt form part of hate speech, politically incorrect language is most relevant here. The *Oxford English Dictionary* (2018) defines political incorrectness as “discriminatory” and the opposite of social appropriateness. Sutton-Spence and Woll (1999:249) describe politically correct (PC) signs as “those that have been changed especially because it is feared that the [former] sign will offend someone”, causing insult without meaning to. Due to pejorative connotations, sign language communities have started to change signs that may be viewed as un-PC. This may be related to increasing social contact on linguistic and cultural levels, as well as changes taking place due to socio-economic and socio-political needs of a younger generation (see Aarons & Akach, 1998; McKee & McKee, 2011). Examples in BSL include new signs for the glosses “Jew” and “India.” Instead of using the iconic sign depicting a hooked nose or beard to gloss “Jew”, the menorah is used instead (Sutton-Spence & Woll, 1999:250-251). For India, an arbitrary sign replaces the imagined bindi (red dot on the forehead) (Mickelburgh & Syal, 2004). Reasons for these changes came about in different ways. Explicit changes in BSL, for instance, include interventions applied by a television programme for the Deaf (Mickelburgh & Syal, 2004). Several older signs were dropped by the TV station because they were deemed inappropriate (Mickleburgh & Syal, 2004).

The proposed changes were initially met with resistance by some members in the Deaf community as interference in Deaf language and culture (*Sydney Morning Herald*, 2004). However, the results of a survey across the United Kingdom in 2012 has since confirmed that users of BSL have replaced several signs (like “China”, “gay”, “Jew” and “India”) to reflect social changes and attitudes within British society (*Guardian*, 2012; Silverman, 2012).

Many signs that are potentially un-PC are still customary in sign languages across the world and in some varieties of SASL (Mickelburgh & Syal, 2004). Dutch (NGT), Flemish (VGT), ASL and Afrikaans sign language (AGT) use a depiction of a bindi on the forehead to gloss “Hindu”/“India”.³ ASL uses eye shape to gloss “Chinese” and “Japanese”. NGT, ASL, VGT and Austrian Sign Language (ÖGS) use an iconic depiction of a beard to gloss “Jew”.⁴ Dutch sign language previously glossed “Jew” by referring to a hooked nose, but now uses a beard depiction as well (Baker et al., 2016:295). Along with an iconic representation of side curls (the payot), the beard depiction is considered less awkward. Nevertheless, these signs remain exclusively masculine and therefore continue to be problematic. AGT and VGT still refer to Jewishness through the stereotypical hooked nose (Figure 14.6).



FIGURE 14.6 *Jew* in Afrikaans and Flemish Sign Language

(Reproduced with permission)

Other contentious signs include iconic depictions of the hijab to gloss “Morocco” (NGT); iconic hand-over-mouth ululating to gloss “Native American” (VGT) (Figure 14.7); non-transparent iconic references to the African nose to gloss “Africa” (ASL); and an iconic flick of the wrist to denote gay people (“homo” – NGT). To gloss “walking frame”, speakers of NGT use both hands to place the imagined instrument in front of them to denote walking, while bobbing their heads to indicate old age. Some users of SASL articulate “persons with

³ Dutch examples are taken from the *Basiswoordenboek Nederlandse Gebarentaal* (Schermer & Koolhof, 2009); Flemish examples from *Vlaamse Gebarentaal Woordenboek* (Van Herreweghe, Slembrouck & Vermeerbergen, 2004); ASL examples from *Signing Savvy's Sign Language Dictionary* (2018); and the SASL examples from the *Dictionary of Southern African Signs* (Penn et al., 1993;1994).

⁴ Austrian examples are taken from Zentrum für Gebärdensprache und Hörbehindertenkommunikation's *Leda Sila* (2017).

disability” by contracting the arms into crooked positions, recalling a disabled person’s mangled body.



FIGURE 14.7 *Native American* in Flemish Sign Sign Language
(Reproduced with permission)

These and other iconic identity signifiers that correspond with prohibited grounds of South African legislation could be experienced by others as hateful or harmful.

The Equality Act and Hate Speech Bill

Most countries have laws prohibiting hate speech in one way or another (Trager & Dickerson, 1999; Walker, 1994). South Africa is no exception. Legislation addressing hate speech in South Africa should be read together with Section 16 of the Constitution, which provides for the freedom of speech. However, freedom of expression is not extended to propaganda for war, incitement of imminent violence, or the advocacy of hatred based on race, ethnicity, gender or religion, which would cause harm. In addition, the Equality Act is meant to give effect to the spirit of the South African Constitution, to promote equality, and to correct what the apartheid regime has damaged through its discriminatory policies (Section 4(2)). The Act (Section 6) is also very clear in that neither the state nor any person may discriminate unfairly against any other person. Section 10 of the Act declares in no uncertain terms what South African citizens should refrain from doing if they want to steer clear of hate speech. Subject to a proviso in Section 12, no person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds listed in the Act against any person that could reasonably be construed to demonstrate a clear intention to be hurtful, harmful or incite harm, and promote or propagate hatred.

A court furthermore has the authority to refer a case to the Director of Public Prosecutions to institute criminal proceedings against an individual. Guilty parties have had to pay penalties or do community service as penance for their crime (Geldenhuys, 2017:25; Sethusa, 2014; SAPA, 2014).⁵

In their critique of the Act's hate speech provisions, Marais and Pretorius (2015:907) argue that the term "words" in Section 10(1) ("advocate or communicate words") should be replaced by the term "expression" and should, by extension, include the concept "symbolic expression" to cover more examples of hate speech. In their view, "expression" must then include vandalism of state symbols like the national flag (Marais & Pretorius, 2015:907).⁶ However, the shortcomings of the Act do not stop here. The Act does not define what it signifies by the terms "publish", "propagate", "advocate" or "communicate". This means that these terms could be understood to include all manner of language output, regardless of the medium or channel of communication – public or private; signs produced through sign language are then no exception.

The prohibited grounds, mentioned in Section 1(xxii) of the Act, are quite exhaustive and include the following:

- (a) race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth; or
- (b) any other ground where discrimination based on that other ground –
 - (i) causes or perpetuates systemic disadvantage;
 - (ii) undermines human dignity; or
 - (iii) adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on a ground in paragraph (a).

Of equal importance is Section 13, which deals with the burden of proof. It is the respondent's duty to prove that unfair discrimination did not take place as alleged. In other words, the respondent has to prove that his or her words did not contravene any of the prohibited grounds and that there was no clear intention to be either hurtful or harmful. If, however, it can be proved that discrimination did take place, then the respondent needs to demonstrate that the discrimination was fair. The responsibility clearly lies with the speaker/signer and not the listener/looker. Another important aspect is the fact that hurt or harm does not need to be present for speech to be seen as hate speech, as long as the potential to be hurtful or harmful is present.

⁵ Vicki Momberg became the first person in South Africa to receive a prison sentence for hate speech. However, the fairness and harshness of the sentence and her treatment by the presiding officer has been criticised (Saunderson-Meyer, 2018).

⁶ In a similar vein, the Nelson Mandela Foundation (2018) has approached the Equality Court with a request to have the public display of the old South African flag declared as a form of hate speech.

For instance, this means that if someone takes offence to the use of an iconic sign that glosses “Jew”, it becomes the signer’s responsibility to argue that he or she was not being intentionally hurtful or harmful and that the sign is the only one to denote Jewishness within that particular sign language dialect. However, this could be a tough argument to sell, seeing as this is not only a matter of *intention*, but also of the *potential* to be hurtful and or harmful (see also Botha and Govindjee, 2014:149-150; Teichner, 2003:354). Add to this any effect the iconic sign might have on the accuser’s human dignity, and it becomes increasingly difficult for a signer to prove his or her innocence. There is also the issue of perpetuating a stereotype, which might cause trouble further down the line.

Unfortunately, the fact that a word or sign should only be proven to be potentially damaging creates enough space for individuals to pursue personal vendettas, leaving the accused parties with the burden of proving their innocence. “Potential” as a criterion of hate speech also undermines the spirit and goal of the Act.

The goals of the Hate Speech Bill are similar to those of the Equality Act and mention human dignity, equality and, especially, non-racialism. The second version of the Bill defines “communication” as any “display; written, illustrated, visual or other descriptive matter; oral statement; representation or reference; or an electronic communication.”⁷ Almost identical to the Equality Act’s description, “Hate speech” is defined by the Bill in Section 4(1) as follows:

- (a) Any person who intentionally publishes, propagates or advocates anything or communicates to one or more persons in a manner that could reasonably be construed to demonstrate a clear intention to –
 - (i) be harmful or incite harm; or
 - (ii) promote or propagate hatred.

To qualify as an offence of hate speech, the intended communication has to be based on one or more of the following grounds: age; albinism; birth; colour; culture; disability; ethnicity or social origin; gender or gender identity; HIV status; language; nationality, migrant or refugee status; race; religion; and sex, which includes intersex or sexual orientation. Subsections (b) and (c) extend the definition of hate speech to explicitly include electronic forms of communication and the display and distribution of any material that corresponds with its definition in Subsection (a). Interestingly, Section 4(1) of the Bill makes it clear that hate speech is not something that only occurs between a sender and an intended receiver: it also applies to a communication that is accessible by any member of the public. Potentially, this means that person A can direct his or her message at person B, but the reaction of anyone else who decodes this message will also be considered valid. This is

⁷ Interestingly, the first version of the Bill also included the word “gesture” in its definition of “communication”, which could have been used to address visual-spatial transgressions.

already visible in *Rustenburg Platinum Mine v SAEWA obo Bester and Others*, in which the Constitutional Court not only considered the reaction of the intended receiver of the contested message, but also the reactions of the people who were present where the verbal exchange took place.

At first, the Bill's definition of "communication" seems inclusive and broad enough to include every possible type of communication. However, the definition fails to explain precisely what communication is; instead it lists types of communication without elaborating on what each type means. For instance, where would the use or abuse of a state symbol like a flag be categorised? Visual communication? Display? Representation? What about sign language? Should a court classify it under "visual communication", "representation", "demonstration" (which is not included in the list) or "descriptive matter"? What exactly is meant by "electronic communication"? Does it simply refer to the channel of communication, or would it include language elements like emojis? Maybe emojis would be classified under "illustrated", "display", "descriptive matter" or "representation". What about braille? Does it qualify as "written communication"? The same level of vagueness is present in the use, in Subsection 4(1)(c), of the words "any material". How is "any material" different to the list of items included in the definition of "communication"?

Criticism is not restricted to the Bill; the Equality Act has not been spared either. The Act has been criticised for similar reasons – being too vague and too broad (see Marais, 2015:471; Marais & Pretorius, 2015; Teichner, 2003). Even its complex legalese has been analysed and found challenging (Nienaber, 2002). However, the Act too provides enough to include sign language in what qualifies as a communication exchange. In the end, it all comes down to a signifier and its signified; the use of a sign (in the semiotic sense) to communicate a concept. This incorporates both aural-oral and visual-spatial language.

Discussion

This section will briefly consider how each of the questions posed at the start of the chapter engage with the criteria in the cited legislation:

*To what extent do iconic signs qualify as hate speech?*⁸

Considering that sign language is a legitimate language like any other, there should be no exceptions. If a hearing speaker could be guilty of hate speech based on the words he or she uses, then a signing Deaf person could be, too. Considering also the criteria in both the Act and the Bill that clearly provide for visual communication, signs that communicate

⁸ A search on the Juta Law Online Publications database for reported cases dealing with sign language related to hate speech delivered no results.

meaning could get a signer into trouble. Like words, signs are the containers for conceptual meaning. If that meaning is construed as being hateful, harmful, or aids in propagating (and perpetuating) hatred amongst people, then that specific sign and the context in which it was used should be scrutinised. If a signer is aware that a specific sign could be offensive to others, and he or she knows there are other signs to communicate the same concept and yet he or she continues to use this sign, then the user's sign choice creates the potential to propagate and perpetuate hatred.

In the first instance of the *Afriforum v Malema* case, Justice Bertelsmann said (par. 10, and further), that the true yardstick of hate speech is neither the historical significance nor the context of a phrase like "kill the boer", but rather "the effect of the words, objectively considered upon those directly affected and targeted thereby". This also means that a group of speakers cannot claim that a certain word or sign is acceptable just because they use it. Claiming that an iconic sign (like hand-over-mouth ululation to gloss "Native American") is suitable due to a lack of a more appropriate sign or due to token frequency, would be a weak argument. The *Herselman v Geleba* case is proof that the Equality Court is unsympathetic to references of culture and linguistic expression (as defence strategy), even when these are nuanced enough to make a difference in the verdict. When the appellant tried to argue that his use of the word *bobbejaan* was not meant in a racist manner, but rather used within a common Afrikaans expression indicating that someone was being silly, the court dismissed this view and sided with the original plaintiff.

Logically, this is not restricted to iconic signs only. Arbitrary signs that have developed a politically incorrect denotation or reference may cause the same damage. However, iconic identity signifiers are easier for Deaf and hearing people to infer, especially when they are based on physical attributes. Dehumanising someone or making that person feel inferior is what the Act and the Bill are trying to combat, regardless of the medium of communication (see also Teichner, 2003:355, 357).

Iconic signs as observed by hearing nonsigners

In what way do iconic signs qualify as hate speech when observed by hearing nonsigners? This depends primarily on whether the nonsigning person is able to interpret the contested transparent iconic sign. As the literature review has shown, hearing individuals can identify and understand certain transparent signs even if they do not understand sign language. However, this situation could also create many misunderstandings. An onlooker may think he or she understands the sign language observed, but unless they ask to confirm what the signer meant by a specific sign, a hearing nonsigning person might never really know. It is somewhat unlikely for unrelated nonsigning hearing people to observe signing

Deaf people so attentively that they will notice any un-PC language used by the signers in their conversation.

Yet, imagine two signing Deaf people, Johann and Thabo, sitting in a park. They are not used to seeing members of the Jewish community in their neighbourhood. When an Orthodox Jewish family walks by, Johann points to them and uses the hooked nose sign to say: “Look! Jews!” The very iconic nature of this sign and the fact that Johann pointed to the family to draw Thabo’s attention, makes the sign reasonably obvious to both the family and any onlookers whose attention was caught by Johann’s signing. If the hearing nonsigner is able to infer the meaning of the iconic sign, then a case could be made against Johann and it will be his responsibility to prove that his intentions were not discriminatory.

Of course, it is a different case entirely when one signing Deaf person uses an un-PC sign in conversation with another Deaf person. If the receiver experiences the sign as hateful (either an arbitrary or iconic sign), then a less complicated hate speech case may present itself.

Effectiveness of the Equality Act and the Hate Speech Bill

How sufficient are the definitions and criteria in the Equality Act and the Hate Speech Bill to address hate speech transgressions in sign language? As pointed out earlier, important words in the Act are either not defined, or they are defined in the Bill through words that need further explanation. As a result, both pieces of legislation are vague and broad, and consequently might provide many loopholes. Nevertheless, words and phrases in both the Act and the Bill that stand out and may be of concern here, are: causing hurt, promotion of hatred, undermining human dignity, perpetuating disadvantages and ridiculing a person or groups of persons. This speaks to the reason for the hate speech legislation. Hate speech goes beyond mere insult and concerns three main factors:

- (1) it identifies and targets a traditionally oppressed group of people;⁹
- (2) it attributes inferiority to that group; and
- (3) the verbal (or visual) exchange employs hateful and degrading content directed at the target group (Janse van Rensburg, 2013:1, 3).

This corresponds with what Justice Lamont said during the *Afriforum v Malema* case of 2011 (par. 102), that the contested words “dehumanised” the group at which they were aimed. Whether or not intentions are deliberate, some language outputs may debase the addressee, or be potentially damaging to him or her (Teichner, 2003:354).

When one objectively summarises the Act and the Bill, it becomes clear that both pieces of legislation try to prevent the above from happening. In doing so, the Act and the Bill

⁹ Of course, hate speech is by no means exclusive. Members of the in-group are also victims of hate speech and other forms of discrimination.

provide criteria and a list of qualifying grounds that must be used by a presiding officer in a test to determine if hate speech is applicable. Though not perfect, it is safe to say that the current and suggested legislation provide enough substance to gauge the contested output, verbal and visual alike. The real question should be whether an individual has truly been debased by another's communication. The present criteria (being hurtful or harmful, for instance) and the prohibited grounds (gender, religion, refugee status, etc.) are clear enough to include different forms of human communication, like spoken and signed language, and writing systems such as braille.

Conclusion

Both McGonagle (2011) and Parekh (2012) argue that antidiscrimination legislation seldom succeeds in changing the deep-rooted cause(s) of hate speech. Though the intention of these laws is to combat discrimination and to encourage citizens to take part actively in public life, legislation can easily become a blunt instrument or a means to suppress ideas and freedom. The ideal would be to address the causes that lead to hate speech, preferably through education. An approach would be for official institutions like religious congregations, the media, government, and so on to change their vocabulary deliberately and to involve the community in doing so. This is already visible in the world of mental health in which words with negative connotations (such as "crazy" and "asylum") are actively replaced with positive synonyms. Another example is the "Find New Words" campaign in which rural communities contribute new LGBTI+ identifying words to replace pejoratives like *isitabane* and *moffie* (Ntsabo, 2018).

Sign language is not new to changing vocabularies. Because sign language is seldom written down, there is a greater fluidity in adapting its vocabulary (Aarons & Akach, 1998:2, 24). This means that sign language can adapt and change more readily than spoken language. Signs are amended to fit both socio-political changes and the needs that arise because of them (McKee & McKee, 2011:511-512). When it comes to identity signifiers, the latest rule of thumb is to borrow the appropriate signs from the cultures that are being depicted. For instance, the official sign used in South African Sign Language for "Africa" has been adopted by other countries to refer to the continent and its people and features. It is not the purpose of this chapter to prescribe to the Deaf community; nevertheless, it would make sense for current standardisation and dictionary projects in South Africa to include initiatives that address older identity signifiers and explore why they are problematic.

As for the current legislation, more could be done to address its vagueness. The Equality Act should be revised to include clear definitions for "publish", "propagate", "advocate" and "communicate". Although the Hate Speech Bill does much better to define what types of communication qualify as hate speech, each of the types could do with examples or a brief

elaboration. The Bill could also improve its definition of “communication” by saying what communication is. Both the Act and the Bill try to cover a wide spectrum of communication and its means of dissemination, but the true nature of its vagueness will only become known once courts start to deal with non-standard issues, like the use of sign language, braille, national symbols like flags, and audio files that do not qualify as oral statements. More thought should also be given to the way presiding officers interpret these statutes. Courts should consider a semiotic approach, in which the disputed communication is viewed from the perspective of a signifier–signified relationship. Alternatively, a contested communication can be scrutinised through cognitive semantics, in which the contested visual or lexical item(s) are viewed as a container of conceptual meaning. These approaches may save presiding officers from becoming entangled in wordy definitions of “hate speech” and “communication”.

That being said, a reasonable person’s understanding of what constitutes hate speech, depending upon the given criteria (like the prohibited grounds), makes it reasonably clear: using discriminatory language, regardless of its spoken or visual form, is unacceptable. Of course, if pragmatics has taught us anything, we should know that speakers do not keep to the rules and guidelines of language, be they grammar- or convention-based. Directing unacceptable identity signifiers (words or signs) at someone else, knowingly or ignorantly, will immediately place a legal burden squarely on the transgressor’s shoulders. Hopefully, the context of the exchange may count in his or her favour.

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References

- Aarons, D. & Akach, P. 1998. South African sign language – one language or many? A sociolinguistic question. *Stellenbosch Papers in Linguistics*, 31:1-28.
- Baker, A.; Van den Bogaerde, B.; Pfau, R. & Schermer, T. 2016. *The linguistics of sign language*. Amsterdam: John Benjamins Publishing Company.
- Bhatia, G. 2016. *Offend, shock, or disturb: Free speech under the Indian Constitution*. New Delhi: Oxford University Press.
- Bosmajian, H. 1974. *The language of oppression*. Washington DC: Public Affairs Press.
- Botha, J. & Govindjee, A. 2014. Regulating cases of “extreme hate speech” in South Africa: A suggested framework for a legislated criminal sanction. *South African Journal of Criminal Justice*, 27(2):117-155.
- Davis, R. 2017. Pandora’s box: South Africa and the (mis)use of social media. *Daily Maverick*. <https://www.dailymaverick.co.za/article/2017-04-05-pandoras-box-south-africa-and-the-misuse-of-social-media> [Retrieved 6 April 2017].

- Dube, P. 2017. Rescuing the “hate speech bill”. *News24*. <https://www.news24.com/Columnists/GuestColumn/rescuing-the-hate-speech-bill-20170307> [Retrieved 17 January 2018].
- Etheridge, J. 2016. Dianne Kohler Barnard absent as lawyers arrive in court for hate speech case. *Mail & Guardian*. <https://mg.co.za/article/2016-09-13-dianne-kohler-barnard-absent-as-lawyers-arrive-in-court-for-hate-speech-case> [Retrieved 6 April 2017].
- Evans, J. 2016. Penny Sparrow back in court on criminal charges for racist comments. *City Press*. <https://city-press.news24.com/News/penny-sparrow-back-in-court-on-criminal-charges-for-racist-comments-20160912> [Retrieved 6 April 2016].
- Fourie Blair, H. 2013. Woordeboeke en Dowe gebruikers: Huidige probleme en die behoefte aan beter oplossings. *Lexikos*, 23:113-134.
- Free Market Foundation. 2017. *Media release: New hate speech bill turns petty insults into a crime with 3 years in jail*. <http://www.freemarketfoundation.com/article-view/media-release-new-hate-speech-bill-turns-petty-insults-into-a-crime-with-3-years-in-jail> [Retrieved 17 January 2018].
- Geldenhuys, K. 2017. Hate speech – a tricky toffee. *Servamus*, 1:23-27. <https://journals.co.za/content/servamus/110/1/EJC199509>
- Griffin, R. 2017. *Why the Hate Speech Bill should be withdrawn*. Helen Suzman Foundation. <http://hsf.org.za/resource-centre/hsf-briefs/why-the-hate-speech-bill-should-be-withdrawn> [Retrieved 17 January 2018].
- Guardian*. 2012. Signs of the times: Deaf community minds its language. <https://www.theguardian.com/society/2012/oct/07/british-sign-language-changing> [Retrieved 16 October 2018].
- Janse van Rensburg, L. 2013. *The violence of language: Contemporary hate speech and the suitability of legal measures regulating hate speech in South Africa*. LLM thesis, Rhodes University, Grahamstown.
- Lieberth, A.K. & Gamble, M.E.B. 1991. The role of iconicity in sign language learning by hearing adults. *Journal of Communication Disorders*, 24(2):89-99. <https://www.ncbi.nlm.nih.gov/pubmed/2066475>
- Mamba Online*. 2018. Taking action against anti-LGBT online hate speech. <https://www.mambaonline.com/2018/04/10/taking-action-lgbt-hate-speech> [Retrieved 18 May 2018].
- Marais M. 2015. Does the Constitution call for the criminalisation of hate speech? *Southern African Public Law*, 30(2):456-483.
- Marais M.E. & Pretorius J.L. 2015. A contextual analysis of the hate speech provisions of the Equality Act. *Potchefstroom Electronic Law Journal*, 18(4):902-942. <http://dx.doi.org/10.4314/pelj.v18i4.05>
- McGonagle, T. 2011. *Minority rights, freedom of expression and of the media: Dynamics and dilemmas*. Cambridge: Intersentia.
- McKee, R. & McKee, D. 2011. Old signs, new signs, whose signs? Sociolinguistic variation in the NZSL lexicon. *Sign Language Studies*, 11(4):485-527. <https://eric.ed.gov/?id=EJ940517>
- Meir, I. 2010. Iconicity and metaphor: Constraints on metaphorical extension of iconic forms. *Language*, 86(4):865-896. <https://doi.org/10.1353/lan.2010.0044>
- Mesthrie, R.; Swann, J.; Deumert, A. & Leap, W.L. 2000. *Introducing sociolinguistics*. Edinburgh: Edinburgh University Press.
- Mickelburgh, R. & Syal, R. 2004. Limp wrists and slant eyes must go as political correctness demands new signs for the deaf. *The Telegraph*, 21 March. <https://www.telegraph.co.uk/news/uknews/1457400/Limp-wrists-and-slant-eyes-must-go-as-political-correctness-demands-new-signs-for-the-deaf.html> [Retrieved 16 October 2018].

- Nelson Mandela Foundation. 2018. *Media statement: The Nelson Mandela Foundation approaches the Equality Court to declare gratuitous displays of old South African flag as hate speech*, 28 February. <https://www.nelsonmandela.org/news/entry/media-statement-nelson-mandela-foundation-approaches-the-equality-court-to-declare-gratuitous-displays-of-old-south-africa-flag-as-hate-speech> [Retrieved 14 March 2018].
- News24. 2017. "Am I famous yet?" asks Langebaan man who called for mosque to "burn". <https://www.news24.com/SouthAfrica/News/am-i-famous-yet-asks-langebaan-man-who-called-for-mosque-to-burn-20170103> [Retrieved 6 April 2017].
- Nienaber, A.G. 2002. Two cheers for equality: A critical appraisal of Act 4 of 2000 from a plain language viewpoint. *Journal for Juridical Science*, 27(1):1-13. <http://dx.doi.org/10.4314/jjs.v27i1.27101>
- Ntsabo, M. 2018. Finding new affirming LGBTIQ+ words in indigenous languages. *Mamba Online*. <https://www.mambaonline.com/2018/06/29/finding-new-lgbt-words-in-indigenous-languages> [Retrieved 18 October 2018].
- Ortega, G.; Sümer, B. & Özyürek, A. 2014. Type of iconicity matters: Bias for action-based signs in sign language acquisition. In: P. Bello, M. Guarini, M. McShane & B. Scassellati (eds.), *Proceedings of the 36th annual meeting of the Cognitive Science Society, Austin, TX*. Austin TX: Cognitive Science Society. pp. 1114-1119.
- Oxford English Dictionary*. 2018. "Politically incorrect". Oxford: Oxford University Press. <http://www.oed.com/view/Entry/146889> [Retrieved 12 January 2018].
- Padden, C.; Hwang, S.; Lopic, R. & Seegers, S. 2015. Tools for language: Patterned iconicity in sign language nouns and verbs. *Topics in Cognitive Science*, 7:81-94.
- Parekh, B. 2012. Is there a case for banning hate speech? In: M. Herz & P. Molnar (eds.), *The content and context of hate speech: Rethinking regulation and responses*. Cambridge: Cambridge University Press. pp. 37-56.
- Penn, C.; Lewis, R. & Greenstein, A. 1984. Sign language in South Africa: Some research and clinical issues. *The South African Journal of Communication Disorders*, 31:6-11. https://hdl.handle.net/10520/AJA03798046_539
- Penn, C.; Ogilvy-Foreman, D.; Simmons, D. & Anderson-Forbes, M. 1992-1994. *Dictionary of Southern African Signs for Communicating with the Deaf*. Pretoria: Human Sciences Research Council with the South African National Council for the Deaf.
- Perniss, P.; Özyürek, A. & Morgan, G. 2015. The influence of the visual modality on language structure and conventionalization: Insights from sign language and gesture. *Topics in Cognitive Science*, 7(1):2-11.
- Perniss, P.; Thompson, R.L. & Vigliocco, G. 2010. Iconicity as a general property of language: Evidence from spoken and signed languages. *Frontiers in Psychology*, 1:227. <https://doi.org/10.3389/fpsyg.2010.00227>
- Pijoo, I. 2017. Charge man who claims to use "gun to rob and kill Indians and whites". *News24*. <https://www.news24.com/SouthAfrica/News/charge-man-who-claims-to-use-gun-to-rob-and-kill-indians-and-whites-20170311> [Retrieved 6 April 2017].
- Raborife, M. 2017. Chinese Association lays charges over xenophobic Facebook comments. *News24*. <https://www.news24.com/SouthAfrica/News/chinese-association-lays-charges-over-xenophobic-facebook-comments-20170207> [Retrieved 6 April 2017].
- Russo, T. 2004. Iconicity and productivity in sign language discourse: An analysis of three LIS discourse registers. *Sign Language Studies*, 4(2):164-197.
- SAPA (South African Press Association). 2014. Sentencing due in Van Deventer case. *IOL*. <https://www.iol.co.za/news/crime-courts/sentencing-due-in-van-deventer-case-1794504> [Retrieved 17 January 2018].
- Saunderson-Meyer, W. 2018. Vicki Momberg case was about vengeance, not justice. *IOL*. <https://www.iol.co.za/ios/opinion/vicki-momberg-case-was-about-vengeance-not-justice-14164476> [Retrieved 18 May 2018].

- Schermer, T. & Koolhof, C. 2009. *Van Dale Basiswoordenboek Nederlandse Gebarentaal*. Utrecht: Van Dale Uitgevers.
- Sethusa, P. 2014. Racist sentenced to 720 hours mortuary time. *The Citizen*. <https://citizen.co.za/news/south-africa/162079/sentenced-to-720-hours-mortuary-time> [Retrieved 17 January 2018].
- Signing Savvy. 2018. *Sign language dictionary*. <https://www.signingsavvy.com/search> [Retrieved 24 January 2018].
- Silverman, R. 2012. Sign language users drop politically incorrect signs. *The Telegraph*. <https://www.telegraph.co.uk/news/uknews/9594543/Sign-language-users-drop-politically-incorrect-signs.html> [Retrieved 16 October 2018].
- South Africa. 2016. Prevention and Combating of Hate Crimes and Hate Speech Bill, 2016. *Government Gazette*, Vol. 6 No. 40367 of 24 October 2016.
- South Africa. 2018. Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018. *Government Gazette*, No. 41543 of 29 March 2018.
- Sutton-Spence, R. & Woll, B. 1999. *The linguistics of British sign language*. Cambridge: Cambridge University Press.
- Sydney Morning Herald*. 2004. Deaf signs ruled offensive. <https://www.smh.com.au/world/deaf-signs-ruled-offensive-20040324-gdilmi.html> [Retrieved 16 October 2018].
- Teichner, S. 2003. The hate speech provisions of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000: The good, the bad and the ugly. *South African Journal on Human Rights*, 19(3):349-381. <https://hdl.handle.net/10520/EJC53107>
- Tolar, T.D.; Lederberg, A.R.; Gokhale, S. & Tomasello, M. 2007. The development of the ability to recognise the meaning of iconic signs. *Journal of Deaf Studies and Deaf Education*, 13(2):225-240. <https://doi.org/10.1093/deafed/enm045>
- Trager, R. & Dickerson, D.L. 1999. *Freedom of expression in the 21st Century*. Thousand Oaks CA: Pine Forge Press.
- Van Herreweghe, M.; Slembrouck, S. & Vermeerbergen, M. 2004. *Digitaal Vlaamse Gebarentaal Vertaalwoordenboek*. <http://gebaren.ugent.be> [Retrieved 24 January 2018].
- Walker, S. 1994. *Hate speech: The history of an American controversy*. Lincoln NE: University of Nebraska Press.
- Wasserman, Z. 2017. Hate crimes and hate speech bill: The good, the bad – and the unspeakable. *Sonke Gender Justice*. <http://genderjustice.org.za/article/hate-crimes-hate-speech-bill-good-bad-unspeakable> [Retrieved 17 January 2018].
- Wicks, J. 2016. "It's just the facts" – Penny Sparrow breaks her silence. *News24*. <https://www.news24.com/SouthAfrica/News/its-just-the-facts-penny-sparrow-breaks-her-silence-20160104> [Retrieved 6 April 2017].
- Wolfson, N. 1997. *Hate speech, sex speech, free speech*. Westport CT: Praeger Publishers.
- Woll, B. & Ladd, P. 2003. Deaf communities. In: M. Marschark & P.E. Spencer (eds.), *Oxford Handbook of Deaf studies, language, and education*. New York: Oxford University Press. pp. 151-163.
- Zentrum für Gebärdensprache und Hörbehindertenkommunikation. 2018. *Leda Sila*. <http://ledasila.aau.at> [Retrieved 24 January 2018].

Legislation

Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 of 2000.

Cases

Afriforum v Malema (18172/2010) [2010] ZAGPPHC 39.

Afriforum v Malema (20968/2010) [2011] ZAEQC 2.

- ANC v Sparrow* (01/16) [2016] ZAEQC 1.
Donaldo v Haripersad (29/05) [2007] ZAEQC 3.
Herselman v Geleba (231/2009) [2011] ZAEQC 1.
Islamic Unity Convention v Independent Broadcasting Authority (CCT36/01) [2002] ZACC 3; 2002 (4) SA 294; 2002 (5) BCLR 433.
Jamiat-Ul-Ulama of Transvaal v Johncom Media Investments Ltd 1127/06 [2006] ZAGPHC 12.
Khoza v Saeed (07/05) [2006] ZAEQC 2.
M v Ferreira (01/03) [2004] ZAEQC 1.
Magubane v Smith (01/2006) [2006] ZAEQC 5.
Rustenburg Platinum Mine v SAWEA obo Bester and Others (CCT127/17) [2018] ZACC 13.
Smith v Mgoqi (60/2007) [2007] ZAEQC 2.
Sonke Gender Justice Network v Malema 2010 (7) BCLR 729 (EqC) [2010] ZAEQC 2; 02/2009.
South African Human Rights Commission v Qwulane (EQ44/2009; EQ13/2012) [2017] ZAGPJHC 2018.