



Learn respect and put an end to racism

‘ARE we perhaps too soft on racism, and the use of the k-word in particular? My observation is that very serious racial incidents hardly ever trigger a fittingly firm and sustained disapproving response.’

Chief Justice Mogoeng Mogoeng made these comments last week while delivering judgment on whether a Sars employee, JJ Kruger, should have been returned to his position after having twice called one of his subordinates a k****:

His ruling was that Kruger, while he had a right to compensation for having initially been unfairly dismissed, should never have been reinstated, since the seriousness of his misconduct demonstrated “the intolerability of the employment relationship” between him and Sars.

The judgment has important repercussions for the way racism in the workplace is dealt with. Whereas previously a formal warning and an apology might have sufficed, it now appears egregious racist behaviour

should result in dismissal, since the nature of the offence makes a harmonious work relationship between the employee and who he/she has racially maligned unlikely.

While, for understandable reasons, the “k-word” has noxious overtones in South Africa, the expectation has to be that calling a Jewish employee a kike, an Indian a coolie or an Afrikaner a thick Dutchman should have the same consequences.

Likewise, statements by political leaders suggesting that certain racial minorities have no right to call themselves South African and even intimating that a campaign of mass slaughter against them might be on the cards surely cannot be said to fall into the category of robust political debate. Anti-hate speech laws must be applied consistently, or not at all.

Addressing racism in a structured environment is one thing. What is more difficult to deal with is racism in the broader public space, particularly in the vast and ever-growing sphere of online communications.



MY View

David Saks

To date, our legislation has failed to adapt to these new realities. As the press, radio and film are regulated, as a matter of increasing urgency, so must workable, effective controls be devised for cyber communications.

The year kicked off with a nationwide furore sparked by Penny Sparrow’s now notorious Facebook post likening black beachgoers to monkeys. Several others were outed and publicly excoriated for racially offensive communications, among them Judge Mabel Jansen and Gauteng government employee Velaphi Khumalo.

Khumalo was disciplined by the Gauteng Department of Sport, but his was just one of scores of anti-white comments at the time.

South Africa already has a considerable body of legislation through which a victim of racism, or related prejudice, can obtain redress. The long-awaited National Action Plan to combat Racism, Racial Discrimination, Xenophobia and Related Intolerance was finally released in February, while September saw the gazetting of the Prevention and Combating of Hate Crimes and Hate Speech Bill.

According to Deputy Justice Minister John Jeffery, hate speech had initially been excluded from the ambit of the Bill, but the need to include it became clear in the light of the racist remarks made by Sparrow and others.

But is passing yet more anti-racism legislation the answer? Journalist and LGBTI activist Mark Gevisser comments: “We often have these Rolls-Royce policies that are not implemented at grass-roots level.”

Many civil libertarians are further concerned about the dampening effect that criminalising hate speech could have on freedom of expression. In their view, advocacy of hatred listed in the Promotion of Equality and Prevention of Unfair Discrimination Act should be outlawed only if it incites actual harm.

This would inevitably mean that in their view Sparrow’s monkey comments would not fall into the category of prohibited hate speech, since the incitement to cause harm element was missing.

Yet can it not be argued that a racially offensive remark is in and of itself harmful in view of the hurt it causes, even where such incitement is lacking? There are no easy answers.

Ultimately, regardless of what laws are passed, the fight against racism will never be won unless South Africans recognise their obligation to respect and empathise with one another, regardless of differences.

• Saks is associate director of the SA Jewish Board of Deputies.