

A BILL

FOR

AN ACT TO MAKE PROVISION ABOUT OFFENCES INVOLVING STIRRING UP
HATRED AGAINST PERSONS ON ETHNIC OR RELIGIOUS GROUNDS

Sponsored by Senator Dino Melaye

[] Commencement

ENACTED by the National Assembly of the Federal Republic of
Nigeria, as follows:

1 1.-(1) Any person who uses threatening words or behaviour, or
2 displays any written material which is threatening, is guilty of an offence if
3 he intends thereby to stir up ethnic or religious hatred.

Use of words
behaviour display
or written materials

4 (2) An offence under this section may be committed in a public or a
5 private place except that no offence is committed where the words or
6 behaviour are used, or written materials is displayed, by a person inside a
7 dwelling and are not heard or seen except by other persons in that or another
8 dwelling.

9 (3) A police officer may arrest without anyone he reasonably
10 suspects is committing an offence under this section.

11 (4) In proceedings for an offence under this section it is a defence
12 for the accused to prove that he was inside a dwelling and no reason to
13 believe that the words or behaviour used, or the written materials displayed,
14 would be heard or seen by a person outside that or any other dwelling.

15 (5) This section does not apply to words or behaviour used, or
16 written materials displayed, solely for the purpose of being included in a
17 programme service.

18 2.-(1) Any person who publishes or distributes written materials
19 which is threatening, is guilty of an offence if he intends to stir up religious
20 or ethnic hatred.

Publishing or
distributing
written materials

21 (2) References in this section to the publication or distribution of

Public
performance
of play

1 written materials are to its publication or distribution to the public or a section
2 of the public.

3 3.-(1) If a public performance of a play is given which involves the
4 use of threatening words or behaviour, any person who presents or directs the
5 performance is guilty of an offence if he intends thereby to stir up religious or
6 ethnic hatred.

7 (2) This section does not apply to a performance given solely or
8 primarily for one or more of the following purposes:

9 (a) rehearsal,

10 (b) making a recording of the performance, or

11 (c) enabling the performance to be included in a programme service;

12 but if it is proved that the performance was attended by persons other than those
13 directly connected with the giving of the performance or the doing in relation to
14 it of the things mentioned in paragraph (b) or (c), the performance shall, unless
15 the contrary is shown, be taken not to have been given solely or primarily for
16 the purpose mentioned above.

17 (3) For the purposes of this section:

18 (a) a person shall not be treated as presenting a performance of a play
19 by reason only of his taking part in it as a performer,

20 (b) a person taking part as a performer in a performance directed by
21 another shall be treated as a person who directed the performance if without
22 reasonable excuse he performs otherwise than in accordance with that person's
23 direction, and

24 (c) a person shall be taken to have directed a performance of a play
25 given under his direction notwithstanding that he was not present during the
26 performance; and a person shall not be treated as aiding or abetting the
27 commission of an offence under this section by reason only of his taking part in
28 a performance as a performer.

Distributing,
showing or
playing a
recording

29 4.-(1) A person who distributes, or shows or plays, a recording of
30 visual images or sounds which are threatening is guilty of an offence if he

1 intends thereby to stir up religious or ethnic hatred.

2 (2) In this Part "recording" means any record from which visual
3 images or sounds may, "by any means, be reproduced; and references to the
4 distribution, showing or playing of a recording are to its distribution,
5 showing or playing to the public or a section of the public.

6 (3) This section does not apply to the showing or playing of a
7 recording solely for the purpose of enabling the recording to be included in a
8 programme service.

9 5.-(1) If a programme involving threatening visual images or
10 sounds is included in a programme service, each of the persons mentioned in
11 subsection (2) is guilty of an offence if he intends thereby to stir up religious
12 hatred.

Broadcasting or
including
programme in
programme
service

13 (2) The persons are:

14 (a) the person providing the programme service,

15 (b) any person by whom the programme is produced or directed,

16 and

17 (c) any person by whom offending words or behaviour are used.

18 *Inflammatory material*

19 6.-(1) A person who has in his possession written material which is
20 threatening, or a recording of visual images or sounds which are threatening,
21 with a view to:

Possession of
inflammatory
material

22 (a) in the case of written material, its being displayed, published,
23 distributed, or included in a programme service whether by himself or
24 another, or

25 (b) in the case of a recording, its being distributed, shown, played,
26 or included in a programme service, whether by himself or another, is guilty
27 of an offence if he intends religious or ethnic hatred to be stirred up thereby.

28 (2) For this purpose regard shall be had to such display,
29 publication, distribution, showing, playing, or inclusion in a programme
30 service as he has, or it may reasonably be inferred that he has, in view.

Powers of entry
and search

1 7.-(1) If the court is satisfied by information on oath laid by a police
2 officer that there are reasonable grounds for suspecting that a person has
3 possession of written material or a recording in contravention of section 6, the
4 judge may issue a warrant under his hand authorising any police officer to enter
5 and search the premises where it is suspected the material or recording is
6 situated.

7 (2) If satisfied by evidence on oath that there are reasonable grounds
8 for suspecting that a person has possession of written material or a recording in
9 contravention of section 6, the justice may issue a warrant authorising any
10 police officer to enter and search the premises where it is suspected the material
11 or recording is situated.

12 (3) A constable entering or searching premises in pursuance of a
13 warrant issued under this section may use reasonable force if necessary.

14 (4) In this section "premises" means any place and, in particular,
15 includes:

16 (a) any vehicle, vessel, aircraft or hovercraft,

17 (b) any offshore installation and

18 (c) any tent or movable structure.

Power to order
forfeiture

19 8. -(1) A court by or before which a person is convicted of:

20 (a) an offence under section 1 relating to the display of written
21 material, or

22 (b) an offence under section 2, 4 or 6, shall order to be forfeited any
23 written material or recording produced to the court and shown to its satisfaction
24 to be written material or a recording to which the offence relates.

25 (2) An order made under this section shall not take effect:

26 (a) in the case of an order made in proceedings until the expiry of the
27 ordinary time within which an appeal may be instituted or, where an appeal is
28 duly instituted, until it is finally decided or abandoned;

29 (b) in the case of an order made in proceedings in until the expiration
30 of the time within which, by virtue of any statute, an appeal may be instituted

1 or, where such an appeal is duly instituted, until the appeal is finally decided
2 or abandoned.

3 (3) For the purposes of subsection (2) (a):

4 (a) an application for a case stated or for leave to appeal shall be
5 treated as the institution of an appeal, and

6 (b) where a decision on appeal is subject to a further appeal, the
7 appeal is not finally determined until the expiry of the ordinary time within
8 which a further appeal may be instituted or, where a further appeal is duly
9 instituted, until the further appeal is finally decided or abandoned.

10 (4) For the purposes of subsection (2)(b) the lodging of an
11 application for a stated case or note of appeal against sentence shall be
12 treated as the institution of an appeal.

13 9.-(1) Nothing in this section shall be read or given effect in a way
14 which prohibits or restricts discussion, criticism or expressions of
15 antipathy, dislike, ridicule, insult or abuse of particular religions or the
16 beliefs or practices of their adherents, or of any other belief system or the
17 beliefs or practices of its adherents, or proselytising or urging adherents of a
18 different religion or belief system to cease practising their religion or belief
19 system.

Protection of
freedom expression

20 10.-(1) No proceedings for an offence under this Part may be
21 instituted except by or with the consent of the Attorney General.

Procedure and
punishment

22 (2) A person guilty of an offence under this Part is liable:

23 (a) on conviction on indictment to imprisonment for a term not
24 exceeding seven years or a fine or both;

25 (b) on summary conviction to imprisonment for a term not
26 exceeding six months or a fine not exceeding the statutory maximum or
27 both.

28 11.-(1) Where a body corporate is guilty of an offence under this
29 section and it is shown that the offence was committed with the consent or
30 connivance of a director, manager, secretary or other similar officer of the

Offences by
Corporate bodies

1 body, or a person purporting to act in any such capacity, he as well as the body
2 corporate is guilty of the offence and liable to be proceeded against and
3 punished accordingly.

4 (2) Where the affairs of a body corporate are managed by its members,
5 subsection (1) applies in relation to the acts and defaults of a member in
6 connection with his functions of management as it applies to a director.

Interpretation

7 12.-(1) In this Act unless the Context otherwise requires:

8 "distribute", and related expressions, shall be construed in accordance with
9 section 2 (2) (written material) and section 4(2) (recordings);

10 "dwelling" means any structure or part of a structure occupied as a person's
11 home or other living accommodation (whether the occupation is separate or
12 shared with others) but does not include any part not so occupied, and for this
13 purpose;

14 "structure" includes a tent, caravan, vehicle, vessel or other temporary or
15 movable structure;

16 "programme" means any item which is included in a programme service;

17 "programme service" has the same meaning as in the Broadcasting Act;

18 "publish", and related expressions, in relation to written material, shall be
19 construed in accordance with section 2(2);

20 "religious hatred" means hatred against a group of persons define by reference
21 to a religious belief or lack of religious belief;

22 "written material" includes any sign or other visible representation.

Citation

23 13. This Bill may be cited as Ethnic and Religious Hatred Bill, 2017.

EXPLANATORY MEMORANDUM

This Bill seeks to make provisions for the prevention and punishment for offences involving stirring up hatred against persons on ethnic and religious grounds in Nigeria to forestall religious harmony in the country.