



Building International and Regional Consensus

Policy Dialogue Report No. 11:

Building Regional and International Consensus in Southern Africa: Botswana/Zimbabwe/South Africa Refugees, Migrants, Diaspora



30 January 2013
Burgers Park Hotel, Pretoria

SPEAKERS:

First Session:

*Facilitator: **Tara Polzer Ngwato** (Migration and conflict transformation expert, and SALO consultant)*

Thoko Matshe (Africa Regional Coordinator, Olof Palme International Center)

Alice Mogwe (Director of Ditshwanelo, Botswana Centre for Human Rights)

HE Kenny Kinyotiro Kapinga (High Commissioner for the Republic of Botswana to South Africa)

Second Session:

Isabella Matambanadzo (Zimbabwean feminist activist)

Braam Hanekom (Director of PASSOP)

Bongani Masuku (International Relations Secretary, Congress of South African Trade Unions)

David Modiega (Civil society representative: The Botswana Civil Society Solidarity Coalition on Zimbabwe, and Chief Executive Officer of Churches United Against HIV & AIDS)

First Session



Thoko Matshe welcomed everyone to the workshop on refugees, migrants, and people in the diaspora in and from Botswana, Zimbabwe, and South Africa. She stated that for the fourth year in a row, South Africa is amongst countries receiving the highest number of applications for asylum-seekers in the world, and yet, that is not acknowledged in the way policies are being made.

On behalf of the Olof Palme International Center, she thanked SALO and the participating speakers,

“for the space that you provide for the conversations that are necessary in this region of southern Africa ... space that is unique and that is very useful ... I welcome the speakers and hope we will have a dialogue that does not end here, that might change the way we think, the way we support, the way we work, but above all that might bring understanding ...”

Next, **Tara Polzer** introduced the speakers, and suggested three points to add to the background in the discussions to follow.

Firstly, to query how we think about migration, and the assumptions we hold. Is migration a phenomenon that can be controlled, limited, directed, or facilitated, say with policies? Migration is a phenomenon that is more than the sum of individuals, it is a policy object; however it is also about people, each person with their own experiences, motivations, desires, and active decision-making:

“All of the experiences around the world – in South Africa and all other countries – show us that if we attempt to push this thing called migration in a particular direction that does not match what the people involved want and need in their lives, it won’t work. People have a way of getting around barriers whether those are physical walls or documents or economic barriers, they will find a way around if they really need to. So we have to make sure we understand both sides of that migration dynamic: structures and people.”



Secondly, to query what kind of actors we think migrants are. Refugees, migrants, and diaspora are terms that evoke very different discourses and assumptions about what people do, want, and why.

And lastly, noting that the different legal categories, of asylum seeker or refugee, undocumented migrant, skilled migrant, etcetera, are important; though they are not absolute natural categories,

but rather institutional inventions. They are very powerful tools that can bestow, but also constrain or prevent the exercise of rights:

“we need to be clear that decision-makers, particularly states, can change what those legal categories mean, and how they are applied, and that we should not be taking them for granted. And that can go in both directions. The other important thing is that, depending on the institutional choices made by states, the same person in the same circumstances, can either be an undocumented migrant with no rights, can be an asylum seeker, can be a recognized refugee or could be just a citizen of a free movement area ...”



Alice Mogwe began her presentation by noting that Botswana has been host to refugees from the southern Africa region and further afield since the 1960s. As at January 2012, according to UNHCR figures, Botswana was host to 3,558 people with 3,312 recognised as refugees, and 246 as asylum-seekers. Currently there are about 1,000 Zimbabwean refugees in the Dukwi refugee camp. In spite of all this, at its universal periodic review

session before the Human Rights Council in January 2013, the Government of Botswana stated that currently the high number of refugees remains a challenge given its resource constraints.

Zimbabwean refugees and migrants have been described as having come to Botswana in four identifiable phases: one, during the liberation struggle in the 1970s, with the majority of people who came then returning home after Independence in 1980; two, during the reign of terror of the Fifth Brigade and the occurrence of Gukurahundi in the 1980s; three, in the 1990s during the economic effects of the Economic Structural Adjustment Programme, and the high rates of unemployment; and four, after 2000, following the first farm killings, constitutional reform referendum, and subsequent crisis in Zimbabwe.

Ms Mogwe then shared the true and incredible story of “John” (name changed), an activist who became an asylum-seeker, a refugee, a returnee, and then a visitor – all within the space of ten years and all in the same country, Botswana.¹ She stated that the case of John shows, firstly, that for those in the diaspora who left for political reasons, and who seek to return home to Zimbabwe, there appear to be no clear guidelines and procedures to enable their safe return. Secondly, without a tripartite agreement between the UNHCR, and the governments of Zimbabwe and Botswana, there is no option of a go-and-see visit, to assist those who are not sure and help them make an informed decision about returning home. Those who choose to return under the current circumstances can do so with only limited official support of the UNHCR, ultimately at their own risk.

On socio-economic rights of refugees, Botswana is a signatory to the Charter on Fundamental Social Rights in SADC as well as to the African Charter of Human and People’s Rights. It is not a signatory to the International Covenant on Economic, Social and Cultural Rights. However, at the recent second cycle in Geneva, Botswana decided to defer the recommendation that it ratify that

particular covenant as well as the International Convention on the Rights of All Migrant Workers and Members of their Families; and will be providing its position no later than June 2013 when it returns to the Human Rights Council for adoption of the final report. Ms Mogwe reported that, “this is an improvement from 2008 when it underwent its first review when it outright rejected the recommendation that it ratify this covenant.”

Botswana’s Constitution only recognises civil and political rights, and not economic, social and cultural rights. However, according to the International Organization for Migration, an interpretation of its Public Health Act indicates that while the Act does not expressly provide the right of access to health care, it does place an obligation on the Ministry responsible for Health to carry out activities which could contribute to the realisation of the right to health. The Ministry of Health operates a clinic at the Dukwi refugee camp, where approximately 90% of the patients are refugees, with a resident doctor placed there in 2010.

Refugees and migrants are not included in the National HIV and AIDS programme, though they have access to treatment through a US-backed programme. The Botswana Red Cross Society and the Roman Catholic Church provide refugees with medical referrals on a case-by-case basis, and the latter with ARV provision. While Botswana reported it had implemented a recommendation from 2008 that it educate its prison population about HIV/AIDS, it does not provide ARV treatment to non-citizen prisoners.

There are no special national provisions for the education of refugee children though both pre-school and primary education are available at the refugee camp, and the UNHCR often assists in providing scholarships for tertiary education.

To obtain a work permit, a refugee has to obtain a letter from their prospective employer and prove that there was no local person that could have been hired in that position. However, refugees are in a vulnerable position because they are often exploited by unscrupulous consultants who demand high fees for the processing of work permits.

Food is distributed within the refugee camp, however, refugees have expressed concern that it is not in sufficient quantities.

Further to Botswana’s related international obligations and domestic legislation, Botswana is committed to the 1969 Convention governing specific aspects of the refugee issue in Africa, as well as the UN Covenant and the UN Protocol relating to the status of refugees. Botswana’s international instruments are not self-executing; domestication, or making the international obligation into a national law, is required for international obligations to be applicable at the national level. (Though the African Commission has argued that the fact that the state is dualist cannot be used as an excuse for not complying with its treaty obligations.)

Botswana’s 1968 Refugees Recognition and Control Act is based on regulation and control, and is not rights-based. According to the World Bank, Botswana’s domestic refugee legislation is inconsistent with the country’s international obligations as it is focussed on national security concerns, and is silent on social protection issues. By excluding any mention of welfare provision,

it assumes that support for refugees will be the responsibility of the international community. Botswana also has the 2004 Immigration Act, which deals with both documented and undocumented persons.

Of concern is the 2009 encampment policy which makes it difficult for refugees to integrate into society. The Botswana government stated that it finds durable solutions by way of repatriation, reintegration and resettlement of refugees. However, the encampment policy keeps refugees at the Dukwi refugee camp, while prior to this, refugees were able to move around the country relatively freely, and find employment. In 2009 all permits to live and work outside the camp were withdrawn. Many of the refugees live in tents with about 40% living in houses. Exceptions to the policy are made for those with special skills such as engineering. Some women, due to the situation, have ended up in commercial sex work; and there are instances of alcoholism in the refugee population.

In order for Botswana to move forward with these challenges, Ms Mogwe argued firstly, that international human rights standards must be domesticated into national legislation. Secondly, there has been a call for the encampment policy to be changed to facilitate integration, especially for those refugees who will not be settled, or don't stand a chance of being settled, in a third country. Thirdly, there needs to be clarity concerning the difference between asylum-seekers and refugees compared with undocumented migrants. And fourthly, civil society can and must engage directly with issues which are challenges for society such as xenophobia. Public awareness-raising about the causes of Zimbabweans' migration can counter prejudice, which is based on ignorance. Among Ditshwanelo's activities, which are mandate-based (sought from Zimbabwean civil society concerning the most useful activities at a given time), was training Zimbabwean activists in the diaspora in Botswana in voter education. About 700 people returned for elections under a "Lets go home and vote" campaign.

In concluding her talk, Ms Mogwe noted that both the legal framework, looking at international obligations and domestic law, and the political will to respect human rights are necessary to ensure that refugees are able to live their lives with dignity:

"Zimbabweans have complained about the less than positive reception which they have had in Botswana over the years. There have been reports of what the Southern African Migration Programme has referred to as overzealous policing including corporal punishment and summary deportation, as well as systematic discrimination from employers and landlords. Many Zimbabweans have raised concerns about the manner in which they are treated in Botswana including their ability to enjoy their socio-economic rights."

His Excellency Kenny Kinyoti Kapinga, formerly a police officer in Botswana for 28 years, reaching Deputy Commissioner level, and a qualified lawyer, began his presentation by stating that Botswana's migration policy is influenced by four main considerations: traditional African hospitality; Botswana's immigration law, which stipulates that for a foreigner to enter, they have to go through a gazetted point; national as well as public security implications of migration; and the socio-economic benefits or negative implications of receiving migrants.

As Botswana is a country made up of a population of only two million people, a dominant view that greatly influences positions the country adopts in terms of migration is that if there is a laissez-faire approach, the indigenous population could easily be swamped. Such a position



“results in a tough law enforcement approach to dealing with migrants. In Botswana we used to have what were called “clean-up operations” ... the intention was that we should, on a regular basis ... pick from the streets in an intensified manner illegal immigrants, those who had jumped the border. This was not popular. It was seriously disliked by the migrant population, and our friends in NGOs. But, I can assure you, that it was not targeted at any nationality, and it was influenced by national security considerations.”

He stated that alongside this conservative view, there are also progressive ideas which recognise that there are benefits to be derived from immigration. Immigrants provide opportunities, such as productive and affordable labour, as well as specialized and skilled labour. There have also been many inter-marriages, “at community level the bonding is unstoppable no matter what the thinking might be ... at the higher level. Interaction there at community level is ... human-to-human.”

On security and criminal elements among migrant populations:

“with all due respect, the migrant population made a contribution to that exponential increase in our crime situation. Statistics are there to prove it. It’s not a xenophobic statement, it’s a fact that a significant contribution was made by our visitors to our levels of crime. There is nothing much you can do about it. It is a fact of life that when people come, some of them will be law-abiding, and some of them will not be law-abiding.”

One of the recommendations that emerged from the National Crime Prevention Consultative Conference held in 2006 was that the government should make flexible regulations for migrants to gain employment in Botswana. This was an idea borrowed from the United States of America’s approach to migrants from South America employed on farms in the U.S. At the time, this idea was vehemently rejected; however the Botswana government is now considering a proposal which would implement it. This includes ideas to set up recruitment centres in source countries so that when someone arrives in Botswana a record of who they are is in place.

Another debate relates to the granting of citizenship to immigrants, some of whom have lived in Botswana for more than ten, fifteen, or even twenty years without being granted citizenship.

The last speaker for the First Session, **David Modiega**, briefly concurred that the government seems to have “started to relax a bit [in] how they treat Zimbabweans ... But we hope that with

this stance from the government people then will begin ... to become confident that they can be employed.”

Questions & Comments

The floor was then opened for questions and comments by speakers and audience members, which included the following:

- An **audience member** commented that there have been positive attempts in Botswana to ensure that “diasporans just do not lose hope in terms of their potential contribution to developments inside Zimbabwe.” Likewise, similar efforts are made in South Africa to ensure that Zimbabweans in the diaspora contribute not only to the constitutional debate, but also return to register and ultimately cast their vote.
- **Ms Matshe** posited a question about freedom fighters from South Africa and Zimbabwe who had fled to Botswana during their liberation struggles versus Ms Mogwe’s story of “John” today: “when I look at the liberation struggle, it was people running from ... persecution and other things. “John” is exactly that example today and yet some of the reactions, the animosities, and the double traumas are much more than before. So how do we frame that today ... because it’s not new that we are migrants ...”
- The **Chairperson of Global Zimbabwe Forum, South Africa** voiced concerns about the ways and manner in which people are being treated, and then deported. He also commented that UN documents provide that when one is on refugee status for five years, they automatically qualify to become a permanent resident, but in practise this is not happening, and is an issue that needs to be talked about.
- An **audience member** commented that statistical evidence and close links often do not hold between increased migration and levels of criminality.

Ms Mogwe shared her reflection in response to Ms Matshe’s comment that during the liberation struggle there appeared to be a shared political vision, but she is not sure one can say that that exists now at the political level. In addition, the general socio-economic situation of nationals in Botswana may be such that “if you are struggling economically ... whether it’s perception or real ... sharing the little you have with somebody else becomes more difficult ... But I think the political situation plays a very large role in it.”

She shared the Chairperson of Global Zimbabwe Forum’s concerns about the conditions under which people are being held and deported. Before the Centre for Illegal Immigrants was built, Ditshwanelo had objected to its name. Also, “[w]e expressed concern because people were, as the High Commissioner says, detained in prison. Our concern with the Centre is it is an effective prison itself – it’s no different from a prison.”

In 2006 when the Civil Society Coalition was established, one of their major concerns was the fact that the Botswana government was following the “softly/softly approach” with regards to the political situation in Zimbabwe. The Coalition focused on lobbying the Botswana government, trying to ensure they heard the other side, and not just the official Zimbabwean government side. “We saw from 2008 when the current President first came into office, a far more strident,

outspoken position on the Zimbabwe situation, and the concerns of Botswana being clearly articulated. And we agree, it's rather muted at the moment ,and we are concerned."

HE Kapinga responded to the comment made on statistical evidence that while he was still with the police, an analysis was produced that clearly demonstrated the extent of contribution of migrants to Botswana's crime situation.

Second Session

Ms Polzer introduced the speakers for the Second Session, which focused more on the South African, rather than the Botswana, perspective, while trying to draw the broader regional implications, and the connections between countries.

Braam Hanekom expressed the view that we:



"remain in the apartheid days of migration policy ... approach that we had during apartheid within South Africa remains a global phenomenon when looking at immigration control as well as continental approach that we have taken ... the approach taken is not a humane or a human approach ... an approach to defend the interests of minorities globally and to protect the wealthy elite in countries that consider themselves richer than their neighbours."

He argued that it has been shown that the number of migrants coming into South Africa did not substantially increase when people were enabled to enter the country legally, and that for most, entering into a country without documentation is not a first, but a last and only option.

" ... in many occasions, the countries where the people have left the countries have failed to provide for them and the result of that is the migration. We need to acknowledge that the problem, if one wants to call it, of migration, is not a problem of people coming into the country, it's a problem of people leaving another country. If people want to reduce the number of Zimbabweans coming into Botswana, for example, my view is that the investment that is being made in deportation could be better spent in investing in the neighbouring country through humanitarian aid and business opportunities. It is certain that deportation is an endless tap. It will never end ... most governments fail to see that forcing somebody to return to their country of origin is a mindless exercise because certainly those who get deported are the very first to return. I remember speaking to immigration officials in Musina where they would openly say they knew this person's middle name because they deported him twelve times."

As South Africa is a country that has vast experience in deportation, a more viable strategy would be for government to provide assistance in voluntary repatriation. "Instead there seems to be a

popularity attached to violently arresting, detaining and forcibly deporting people ...” The cost of deportations, he pointed out, is astronomic. Deportation is also illogical because it is an approach that merely deals with the symptoms of the problem, not the problem itself. “We shouldn’t be looking to fund refugee camps, we should be looking to fund the economies of the countries that are falling.”

He noted that the South African Department of International Relations has invested money into finding a political solution in Somalia, and that hopefully this kind of approach can be taken up much more, “because if we can deal with the forced migration aspect of migration then we certainly won’t need to deal with the deportation of those who have as a result arrived in the countries in question.”

Mr Hanekom advocated that Botswana, Zimbabwe, and other countries consider doing away with their current policies and move, as the HE Kapinga mentioned, towards a process of enabling regulated documented migration.

Bongani Masuku began his talk with the view that the history of humanity is a history of migration, that we are all products of migration one way or the other, as migration is inbuilt in the development of society and humanity.

“... none of us have exclusive ownership to any particular land. All land, all resources are for the ownership, or the common ownership of humanity. You found it there in your process of migration, you leave it there and migrate to elsewhere. So it’s a continuous process of movement ... there is no longer a continent that can be defined by a particular group, race, tribe or whatever – the world has become a home for everyone. That must be the primary message that we all transmit, that the world is a home for everyone, anywhere.”



The question of migration is critical, because, as history has shown, people will continue to move for different reasons, in search of better conditions, security, livelihood, and scarce resources. However an aspect of migration that is not discussed much is why people are not allowed, or limited, while capital migrates freely all over the world: “the mobility of capital is easier than the mobility of people. And what does that mean about how we prioritise about the essence of human beings?”

In discussing the question of why there are massive migration patterns in the southern African region, Mr Masuku explained that there is a relationship between the structure of the southern African economy and the political situation – owing to the history and legacy of colonialism, artificial boundaries were created that divided people, and borders were used to foment divisions that were part of tribal, racial, and other lines. Post formal colonialism, “we didn’t transform that legacy, we reinforced it. Most countries reinforced that legacy.” So there is a history of division

and tribal contestation for resources with uneven development in the region. As migration also follows patterns of development, “the pole of attraction becomes the centre of capital accumulation”.

Mr Masuku offered questions for consideration by the audience:

“How do we build communities beyond lamenting about xenophobia; integrate and be able to build regional integration from below? ... in fact, migration, presents an opportunity for regional integration, people centred regional integration ... Two is how do we use international conventions to be able to advance the struggle?”

Other points he raised were on how critically important the role of the media is in portraying migrants; the remittance economy; and the importance of unionisation of the police to raise political consciousness and awareness of not only their own rights and responsibilities, but also those of others.

The last speaker for the day’s sessions, **Bella Matambanadzo** framed her input as three components. In the first, she cited UNHCR’s data from the region on the number of asylum-seekers, those “internally displaced”, “returnees”, refugees, and others, and what they suggest about the movement of African people on the continent in the 21st Century. Given the UN figures that also state that eighty percent of the people in movement in the sub-region are women,



“anything we discuss today, if it doesn’t begin to touch on the realities of what women face when they are in movement, be it internally, inside their own countries in times of conflict or disruption, or externally in host countries, then we are going to miss a real strategic opportunity to make an intervention of a meaningful nature.”

The second component relates to the conceptual construction of otherness of being a foreigner in a society. She asked the audience:

“to think in your mother tongue, because we know maternity is certain, paternity is presumed ... How would you call someone an alien? How would you call someone a foreigner? How would you call someone a refugee? How would you name someone a migrant? How do you say diaspora? How do you say asylum seeker? And how do you say returnee? – in your own languages. Because we scratched our heads, Thoko and myself earlier, and we were like, you know what, we don’t have these terms in the languages we speak. So where are these constructs coming from of otherness to other Africans?”

Ms Matambanadzo noted that the notion of criminality and its attachment to foreigners is very problematic. Also, the large scale crimes – drug peddling, trafficking – are being pushed from the global north; these are not necessarily being tracked back to people of a particular race or demographic group.

Another aspect is that at the level of SADC and AU policy, a language of pan-Africanism is being used that is “not being translated onto the template of how we live side-by-side in our societies.”

The third component deals with the issue of foreignness and immigration, and what these mean from a women’s rights and feminist perspective. Today when women who give birth outside their country of citizenship, while they are in transit, try to register their babies in public hospitals to secure birth certificates, the first line of bureaucracy they face is the question of where is the father of the child:

“We are rendering our own children statelessness ... maternity doesn’t give you certain rights in our region ... Bureaucratically, anywhere you go, be it in the corporate sector towards the private capital in the markets, or in the government sector, if you do not have masculine permission, it is very difficult to become official in the systems that we have created on the sub-continent.”

Ms Matambanadzo also noted the exploitation and vulnerability of women in sex work, one of the key industries tied to the movement of women in the sub-region. Women being trafficked for sex work, for example, has become a key component of the challenges in the nexus of immigration, foreigners, refugee-hood, and the crisis of populations in migration, internally and externally.

Ms Polzer emphasised that since about 2005, the question of Zimbabwean migration, even globally compared, has been extraordinary:

“the numbers are incredibly contested - but if we are talking about three million Zimbabweans who have left the country in total to the rest of the world. That’s a quarter of the entire population, and half of the adult population ... And if we are talking about sustainable political change in Zimbabwe and half of the people who should be making decisions about that and what the future looks like, aren’t present in the country, what are those decisions that are currently being made based on if that other half of the voting, supposed to be voting population, aren’t able to contribute or aren’t able to contribute fully because they are outside the country. That’s a really, really big fundamental political question for the region and for Zimbabwe as a country.”

She wondered whether in today’s conversation it was assumed that migration in this regional context is a crisis, and if so, for whom? Is it a crisis for the migrants, the hosting states, the hosting communities? And if there is a crisis, and we know whose crisis, what are the implications of recognising it as a crisis? Does it mean we need to continue doing more of what we are doing already – policing, deportation, welfare assistance, etcetera – or is something completely different necessary? If the latter, is that a temporary, special dispensation or a long term change?

On security as related to migration, she stated that some of the pressure on governments to link the two isn’t simply home-grown or regional, but also comes from northern actors.

Lastly, Ms Polzer remarked that a global phenomenon is that political decisions on migration policy are very often made on the basis of emotional and anecdotal evidence rather than on a calm assessment of available information. Although a lot of data is not very good, even so, the data that is available is not examined carefully.

“I think that even the combination of what we have heard so well presented today, the combination of saying, let’s look at the real data, the aggregate data, and let’s look at the experiences, let’s look at the voices of the people who live through this everyday – those two are not flowing into the actual institutions that actually make decisions. The data is not being used and the voices are not being heard, because the migrants are not voting; they’re not voting in their home countries, because they’re outside quite often, and they’re not voting in their host countries, and so politicians don’t hear their voices as much as they should. So one thing for us all to think about is, where does pressure for political change and institutional reform around migration come from? And is it coming from the right places? And how can we get the right voices into that decision-making process?”

Ms Mogwe replied to Ms Matambanadzo’s questions earlier about linguistic constructs of otherness in mother tongues that,



“In Setswana we do, and you’ll find that – I’ve had lots of arguments with older people who have said grammatically you would use the word “*le*” for the other. For example, the indigenous peoples at home would traditionally be called *masarwa* or *lesarwa*, and yet the Tswana speakers would be called a Motswana or Batswana, so the differentiation is used for the so-called tribes which are not the dominant tribes, and the same “*le*” would be applied to white people, people from India, Chinese people, Xhosas – whoever, is not from that particular group, to differentiate them. But one could argue that even with the k-word, which is no longer used in this country, its origins, we’ve been told were Arabic and the word was used to describe those who were not of the faith. But historically over time, the word then took on other meanings. And we tried to use that argument at home as well, strictly grammatically it may have been correct, but it carries a whole lot of meaning in terms of drawing a distinction between us and the other. So it’s a quick answer to your question. So yes, we do differentiate, even in our own culture.”

On Ms Matambanadzo’s point related to the question of paternity, Ms Mogwe shared Botswana’s experience that until a few years ago, if a woman had a child and she was not married, the father of the child would be referred to on official documents as having been killed or missing, etcetera. After a considerable push by women parliamentarians, all birth certificates now have the names of both parents regardless of whether the parents are married or not. There was huge opposition

to this from traditional leaders, the House of Chiefs, because now men were going to be exposed, usually married men having children outside marriage.

HE Kapinga clarified that when he spoke about crime and migration, he had no intention to give the impression that all crime committed in Botswana is attributable to migrants; only that among those who are migrants, there had been “some significant contribution”.

An **audience member** addressed a question to Mr Masuku on how COSATU as a trade union confederation deals with migration. He stated that at least in the north, migration is problematic as it challenges gains made by the trade union for the national population. “So providing space for migrants to work or increase their participation in the local economy becomes quite problematic because they often work for low wages, as the Commissioner pointed out, and under circumstances that the nationals wouldn’t, which put pressure on the national, both wage environment and also rights for workers in the country.”

Mr Masuku replied that in our orientation and conceptualisation, migration must not be treated as a problem, but as a necessity for the development of the evolution of society. On what COSATU says on this particular issue under its international policy, to quote:

“[i]nternational work does not only refer to work done outside our borders. COSATU recognises widespread migration as a feature of our changing global political economy and commits to defending the rights of migrants and fighting against xenophobia particularly within South Africa ... The intensified competition between workers creates bitter divisions and induces xenophobic sentiments which undermines the unity of workers’ struggle and the potential for their emancipation. Political elites exacerbate this tension to deflect attention away from the failures of service delivery. The media also plays a role in promoting negative images of Africans, but more fundamentally this situation benefits capital which actively promotes xenophobia while enjoying ever-expanding profits as workers fight amongst themselves for the crumbs.”

He gave an example of the experience of the farm workers’ struggle in De Doorns, Western Cape:

“The employer has put them in that way so that the non-locals cannot be able to join forces with the locals in unity in defending better working conditions, but he sets them one against the other. When this one goes on strike he recruits more from non-locals, so in that way the locals begin to see the migrants as a problem. So the xenophobic sentiments are then focussed on these who take away our jobs and they are the ones who are willing to be subjected to any conditions because they are desperate. So the employer makes super normal profits out of not paying medical aid, lack of social security, lack of UIF, provident fund, does not pay all the benefit that the other workers must get.”

He gave other examples of worker exploitation and vulnerabilities in the transport, security, and retail sectors.

“So the point that I am making is that ... there are beneficiaries from the tensions and xenophobia; there are those who benefit, and part of it is capital; those who make super normal profits particularly agriculture and other sectors.”

However there is also a history of interaction between South Africans and non-South Africans in the mining sector particularly. In Lesotho almost close to half of the young adult male population works in South African mines. Through the National Union of Mine Workers, there has developed a “culture of working together and being close to each other”. But at the same time, tribal divisions keep being fomented and tensions do arise.

In response to an audience member’s comments, Mr Masuku emphasised,

“I get the point about the fact that there is ethnicity, but ethnicity must not be equivalent to xenophobia ... all these so-called tribes are not natural. There is no-one who was born a Zimbabwean, there was no-one who was born a Swazi, there was no-one who was born a Xhosa, it was names. They are name tags like Pierre Cardin or Gucci or whatever, name tags. So that’s why I say let’s not allow that narrow outlook to preoccupy. You are a human being first. Your colour, your ethnicity, your whatever-else is secondary to the fact that you are a human being. I think that emancipation is very critical ... Otherwise I am hitting him because I’m hitting a Xhosa, I am not hitting a human being; I’m hitting a Zimbabwean, because I am not hitting a human being. So I think that is where the problem begins to lie, when we allow our tags to overrun our consciousness.”

He furthermore agreed with another comment that there is a leadership crisis in SADC, and not only in SADC, but in Africa, that requires a dramatic change.



Mr Hanekom added that COSATU and PASSOP issued a press statement, calling on the Minister of Home Affairs to give amnesty to the immigrant workers among the farm workers in De Doorns following the strike action. “So COSATU has very much been walking the walk on this issue of integration between the immigrant community and the South African community.” In a previous joint press statement,

COSATU called for the Department of Home Affairs to release undocumented immigrants who had been arrested for participating in the strike, because obviously it creates an environment where immigrant workers are afraid to participate in strike action.

“we are very lucky in South Africa to have a big organisation, the Confederation of South African Trade Unions where there’s 2.4 million members supporting workers from other countries as well, because it certainly would be a huge problem if we had to clash with the local unions.”

On birthright citizenship Mr Hanekom commented that,

“[u]ntil somebody obtains a vote, as we have seen with the black majority of South Africa, every human right is a product of charity. So it’s on that note that I want to say, it’s very disturbing and disappointing that South Africa doesn’t even have birthright citizenship ... meaning that people are born secondary citizens in South Africa, so that means that as a parent, you don’t have any political influence, you don’t have children who will be voters in South Africa.”

Ms Matambanadzo closed the day’s session on an optimistic and forward-facing note,



“I have learnt that when you are in the middle of a problem, the problem can sometimes prevent you from seeing the opportunities for solution, and I think this conversation is contributing to thinking about what are the lasting solutions for the challenges we are collectively facing. That’s how I would like to leave this room – with the knowledge that we’ve had a conversation, and I think we’ve got some very solid ideas to take forward about how we can resolve the dilemmas of being without a country ... for any citizen on African soil.”

The analysis and recommendations included in this Policy Dialogue Report do not necessarily reflect the view of SALO or any of the donors or conference participants, but rather draw upon the major strands of discussion put forward at the event. Participants neither reviewed nor approved this document. The contents of the report are the sole responsibility of SALO, and can under no circumstances be regarded as reflecting the position of the donors who provided financial assistance for this policy dialogue session.

About the Southern African Liaison Office:



The Southern African Liaison Office (SALO) is a non-governmental organisation which promotes informed process and debate about regional conflicts and crises. SALO does this by organising dialogue events and forums for informed discussion amongst key government and civil society actors from South Africa, the SADC region and internationally, as well as through advocacy, documentary media production, and research and analysis.

SALO would like to thank the supporters of our Policy Dialogues including:

The Royal Norwegian Embassy, Pretoria * The European Union * The Danish Embassy, Pretoria * Irish Aid and the Embassy of Ireland, Pretoria * The Open Society Initiative for Southern Africa (OSISA) * The Embassy of Finland, Pretoria* Olof Palme International Centre



ⁱ 'John's' story, from the transcript: "John joined the MDC in 1999 and became one of the leaders responsible for mobilising support in his area through door to door campaigns in the run up to the referendum for constitutional change in February 2000. He was also an election monitor during the referendum. Violence began after the NO vote against constitutional change. During the run up to the parliamentary elections in 2000 John was attacked a number of times while campaigning for the MDC. This included stones being thrown at him as well as verbal abuse. On one occasion, he and his colleagues sought refuge at a police station after they were assaulted while campaigning. They were detained at the police station, beaten, denied food and access to legal assistance for a period of five days. They were later charged with public violence. Following a number of other assaults, which John was convinced were politically motivated, he decided to flee to Botswana in 2002. John was 24 years old.

John reported at the police station in Botswana with the intention of applying for refugee status. He was interrogated, searched and reported poorly treated by the police. He was held for 4 days before being taken to the Dukwi refugee camp and reports that the living conditions were poor and there was a lack of appropriate food. He was frustrated and he felt insecure. He wrote a letter of complaint to the Botswana authorities. In 2003 he was transferred to what is called the Centre for Illegal Immigrants where he reports the living conditions were also poor. A friend of his from Burundi who was staying at that Centre was shot dead when he tried to escape. Following the shooting some Congolese detainees threatened to set alight some gas cylinders as a way of expressing their deep concern about the shooting of their Burundian colleague.

In 2004 John was granted refugee status and he left the Centre for Illegal Immigrants in August that year. UNHCR provided him with a waiver to enable him to obtain legal employment and he began a construction company together with two Botswana citizens. In 2008 John's parents were targeted through the violence surrounding the elections in Zimbabwe. His mother was tortured and his father died in 2010. Following the formation of the unity government and the call from the MDC for the Zimbabwean diaspora to return home to help rebuild the country, John decided to return to Zimbabwe with his Botswana partner.

In 2011 he informed the UNHCR that he wanted to return to Zimbabwe. He was provided with the necessary documentation for repatriation and for the clearing of his personal assets which he's accumulated during his 7 year stay in Botswana. The Botswana authorities he also informed. He was advised that the UNHCR in Zimbabwe would be in a position to assist him with the clearing of his cars for importation into Zimbabwe. He had no official Zimbabwean document and so entered Zimbabwe without it.

He was advised by the UNHCR office in Zimbabwe that the UNHCR office in Botswana, in fact, was the one which was responsible for assisting him. He was faced now with the challenge of getting back to Botswana. He managed to obtain a temporary travel document which he used for his return journey to Botswana. He's failed to clear his vehicle into Zimbabwe due to some missing documents and so he'd sought assistance from UNHCR Botswana and he was advised to seek assistance from the International Organisation for Migration. The IOM was to assist him to clear his vehicle for importation into Zimbabwe.

However, after all this John failed to clear his vehicle as a Zimbabwean official at the border asked him about his motives for returning to Zimbabwe. John explained that his reasons were personal and family related. The official did not believe that John had legitimately accumulated his assets in Botswana as he believed that refugees in Botswana were not permitted to leave the refugee camp to seek employment. He further sought proof of where John had been living over the past two years. He noted that John had entered the country illegally a few months earlier and subsequently refused to stamp John's temporary travel document. This made it impossible for John to return to Zimbabwe. He managed to go back to Botswana together with his partner and he was granted a visitor's permit for a period of fifty-one days.

Upon making enquires John discovered that his legal status had changed. UNHCR, on the one hand, considered him to still be a refugee as his repatriation process had failed. The Government of Botswana on the other hand, considered him to be an immigrant on a visitor's permit because his refugee status had been revoked. He'd left the country under the auspices of the Refugee Act and had re-entered Botswana under the auspices of the Immigration Act. The Zimbabwean authorities assured John that he was free to return to Zimbabwe however, when asked to provide a guarantee that he would be safe, they refused to do so. John therefore continues to live in Botswana relying on the support of civil society organisations. He does not have a work permit so is unable to legitimately find employment in order to support his partner and recently born baby."