



Liaison, Dialogue and Research

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Policy Dialogue Report No: 47

Development Dialogue Series – Ensuring Inclusive Implementation of the Post-2015 Development Agenda: Focusing on Women, LGBTI, Migrants and people with Disabilities.

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Executive Summary

On the 30th of September 2015, the southern African liaison office (SALO) hosted a dialogue titled '*Ensuring Inclusive Implementation of the Post-2015 Development Agenda: Focusing on Women, LGBTI, Migrants and people with Disabilities*' as part of its dialogue series on the Post-2015 Development Agenda. This dialogue sought to look at the implementation process, and the current dynamics that must be considered so as to truly '*Leave No One Behind*' in the Sustainable Development Goals (SDGs). This dialogue aimed at paying special attention to those who are often marginalised, including women, the LGBTI community, migrants and people with disabilities.

The speakers included, the Honourable John Jeffery, Deputy Minister of Justice and Constitutional Development; Ms Ndileka Buwa the disabled rights activist at Africa Sinakho Arts; Ms Litlhare Rabele, Gender, Peace and Security Coordinator at SALO; Mr Jay Judah Matlou a Trainer and Health Officer at LGBTI advocacy NGO, OUT; Mr Braam Hanekom a Migrant and Refugee Rights activist at People Against Suffering, Oppression and Poverty (PASSOP); Mr Eduardo Kapapelo of the Centre for Human Rights; and Ms Nomasonto Mazibuko, the Commissioner at the Commission for Gender Equality. The key themes that emerged from these presentations covered people with disabilities, women's rights, LGBTI rights in Africa.

In her opening remarks, Ms Tamara Naidoo of SALO stressed the fact that whether we look at the Post-2015 Development Agenda, the AU Agenda 2063, or even South Africa's National Development Plan (NDP), when it comes to the implementation side of these development policies, the interests of marginalised groups often have to interact with each other. Yet, conflict, governance and competition for resources have created conditions where this important aspect is difficult to achieve during the implementation process of development policies. Therefore, it is critical to understand both the issues that create disagreements among leaders and the ones that make them arrive at a common understanding. She argued therefore, that the dialogue aimed at using SALO's consensus building model to interrogate what inclusive development means for South Africa (SA) and the region, and to shed light on the barriers to inclusivity. Specifically, the dialogue aimed at looking closely at the barriers of access to justice, and to look into opportunities, some already available and some still to come, in order to move this conversation forward.

Summary of Presentations

Ndileka Buwa, Disabled Rights Activist: AFRICAN Sinakho Arts – People with Disabilities



Sharing her knowledge on issues faced by people with disabilities on a regular basis, Ms Buwa pointed out that while the South African government in 2015 declared that it has achieved UN Millennium Development Goal (MDG) on education, the reality on the ground is contradictory. She argued that multitudes of people with disabilities are still falling out of the net, especially those that are staying in rural areas. Indeed, the White Paper policy document on education for children with disabilities was established, however it has not translated into equal opportunities or the promotion of access to quality and inclusive education for all.

According to Ms Buwa, people with disabilities continue to face discrimination and obstacles regarding access to education. These forms of discrimination include among others; lack of accessible accommodation or classrooms in schools; high expenses for learners; lack of quality education; violence, abuse, and neglect in institutions for people with disabilities. Furthermore, there continues to be a lack of training for care givers and lack of preparation for life after basic education. Issues such as these therefore should remind us of the need to deal with challenges faced by the disabled community within our societies. As such therefore, education as a key towards achieving both government and civil society's goals, as Ms. Buwa pointed out that a lot still needs to be done with regards to education and training for people with disabilities.

In her concluding remarks, Ms Buwa reminded the audience that it is vital that people with disabilities are included in policy development initiatives, because they experience these issues, they live with them and are faced with attitudinal barriers and challenges on a daily basis. She called on everyone to consider the theme of the UN that says, 'leave no one behind' and work towards leaving no one behind, because everyone needs to be part of what is going on.

Litlhare Rabele, Gender, Peace and Security coordinator: SALO

Ms Rabele gave insight to some of the international and regional protocols that South Africa has signed and ratified, that deal with women's rights, and in particular women with disabilities. These include the following:

- The UN Convention on the Rights of Persons with Disability, talks about all the rights of persons with disabilities, including Article 29, which talks about the right to participate in policy and decision-making; that disabled people have a right to vote and to be voted for, to take part in all areas of decision-making.
- The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), which highlights all the issues that member states have to ensure so that the rights of women are protected and respected.
- The AU Charter on Human and Peoples' Rights, which states the rights of all people on the continent, including people with disabilities.



In terms of the AU, Ms Rabele indicated the fact that the year 2015 has been pointed out as the year of empowerment of women towards Agenda 2063. As such therefore, this shows how the AU is moving towards expanding its focus on the continent in terms of including women in its agenda. It is essential therefore that this expanded focus includes vulnerable groups. Highlighting some of the steps that need to be taken by the AU in its efforts, Ms Rabele argued that it is vital to mainstream these vulnerable group's needs in economic activities, in terms of access to land and all productive resources. Access to quality education for people who have disabilities has to be ensured at all levels, indeed this is key in terms of the AU's instruments on human rights, in particular the rights of people with disabilities. She urged civil society and development partners to assist with technical and financial resources in lobbying for the respect of the rights of women with disabilities and women with albinism and concluded her presentation by pointing out that the media needs to be engaged on these issues, because if the media is not informed on issues around disability, it will continue to have uninformed reports on disability issues.

Mr Jay Matlou, Trainer and Health Officer: OUT – LGBTI Rights



Mr Matlou highlighted that South Africa still faces a lot of challenges when it comes to the LGBTI community, and key to this is how the society perceives the LGBTI community. This in part is informed by a lot of misunderstanding around sexual orientation. While SA continues to work on its laws and policies towards LGBTI community with great efforts, the challenge is that these do not yet resonate on the ground. Mr Matlou argued that there are still stories of lesbian women being hunted down and being sexually molested, abused and violated, because there is still a gap in education of the law of the country at the grassroots level. He argued that at OUT organisation, their focus is towards building a healthier society and

empowering the LGBTI community to not only empower themselves, but to also find a way to live healthily in a society that constantly rejects them. OUT's objective therefore is to get to a point where a hate crime carries its own weight and is seen as discrimination on an evaluation based of your perceived sexual orientation or your gender identity. Concluding his presentation, Mr Matlou expressed that South Africa has come a long way in terms of LGBTI rights and that great progress has been made, however there is still a long way to go.

Bram Hanekom, Migrant and Refugee Rights activist: PASSOP

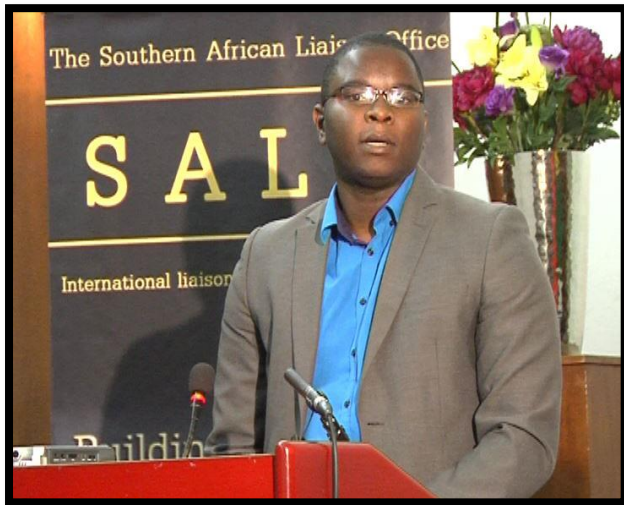
Mr Hanekom discussed the role of government and civil society in relation to migrants and refugees in light of the newly adopted SDGs. He stated that unless there is consensus around the common humanity and dignity of all peoples, the likelihood of the implementation of the newly identified 17 Sustainable Development Goals (SDGs) is impossible if left to the devices of various states.

Mr Hanekom argued that the current definition of what is classified as a refugee is not all encompassing and therefore the definition itself needs to be revisited. He noted that countries take issue with revisiting the definition of refugee, therefore platforms like the UN should be vital in convincing member states to conduct a proper look at the implications of how refugees are defined and understood. In his conclusion, Mr Hanekom urged civil society



to work towards forcing the global leaders in the UN to come to a consensus around issues of human rights and to not allow a situation where decision taken are not implemented.

Mr Eduardo Kapapelo, Centre for Human Rights



Mr Kapapelo lamented that it is unfortunate that approximately 80 million people in Africa currently live with some form of disability, and that these individuals are the poorest of the poor within this African context. He stated that it is vital for society to understand the complexities faced by the disabled community. He raised the issue of psychosocial disorders as the main area that more needs to be done in, especially regarding education. Unfortunately, we are faced with a challenge where many governments still apply a one-size-fits-all mechanism to tackle the issues of people with disabilities, especially suffering from psychosocial disorders. As such, the Centre for Human Rights has taken an initiative to play an integral role in educating

government, civil society and all stake holders on challenges faced by people with psychosocial disorders.

Mr Kapapelo concluded by highlighting that even though individuals may have the right to education, the governments might not necessarily provide particular instances in which they can properly access that education; the same goes for health, political participation, and of course the right to vote in itself.

Deputy Minister John Jeffery, Deputy Minister of Justice and Constitutional Development

The Deputy Minister spoke about the inclusive implementation of the post-2015 Development Agenda, with a focus on LGBTI in particular. Deputy Minister John Jeffery argued that it is important to look at the work done over the past three years in the run-up to the SDGs. Highlighting the work that the UN System Task Team on the Post-2015 UN Development Agenda did, Deputy Minister Jeffrey pointed out that in its first report to the UN Secretary General titled ‘*The Future We Want for All*,’ in May 2012 the Task Teams focused on three fundamental principles. These included, human rights, equality, and sustainability and as such LGBTI persons are missing from the list. It is imperative to note that after the adoption of the 17 SDGs the phrase, ‘*leave no-one behind*’, became the clarion call of the new SDGs. According to Deputy Minister Jeffery:



The new SDGs and the broader sustainability agenda aims to address the root causes of poverty and the universal need for development that works for all people. But does it really include all people?

He cited the example that Goal 5 of the SDGs is gender equality. Target 5.1 aims to ‘end all forms of discrimination against women and girls everywhere’; and Target 5.2, aims to ‘eliminate all forms of violence against women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation’. In both of those there is no mention of LGBTI persons. He therefore proposed that for the post-

2015 agenda to be truly inclusive it should specifically mention sexual orientation, gender identity and gender expression as grounds upon which discrimination will not be tolerated, and it should specifically call for data on the experiences of LGBTI people. There are many areas of work being undertaken by the UN, which are leading to successful outcomes and ensuring that LGBTI rights remain on the global agenda.

Regarding the outcomes of the report on human rights violations against individuals based on their sexual orientation and gender identity done by the UN High Commissioner on Human Rights. The Deputy Minister highlighted that since then, three countries have decriminalised consensual same-sex relationships. Fourteen have adopted or strengthened anti-discrimination or hate-crimes laws, ensuring the protection of LGBT and intersex people. Twelve have introduced either marriage or civil unions for same-sex couples offering equivalent benefits and entitlements. Ten have changed gender recognition laws to make it easier for transgender people to obtain legal identification documents that reflect their gender identity. One country has introduced legal protection for the physical integrity of intersex children. And in dozens of countries, medical staff, teachers, police, judges and prison guards are now receiving gender and sexuality sensitivity training and guidance, and anti-bullying programs have been launched in schools.

He concluded by stating that if we are serious and committed to ensuring that ‘we leave no one behind’, we must continuously strive to ensure that LGBTI persons are as much included in focused legislation, legislative and other policies, and programs, as would be the case for any other vulnerable or marginalized group. We must continue to fight for the equality, non-discrimination and protection of the rights of LGBTI persons.

Ms Nomasonto Mazibuko, Commissioner: Commission for Gender Equality (CGE) and the Executive Director and founder: Albinism Society of South Africa (ASSA)



Ms Mazibuko stated that the CGE’s mandate is to conduct research projects to generate knowledge and to monitor the implementation of different frameworks that protect and promote gender transformation and compliance in South Africa. They also have a Department of Public Education and Information where we employ different advocacy strategies to reach the communities at their grassroots level. She explained that the rationale for this is to sensitise members of the communities about regulatory frameworks that are in place to protect them and to strategize the following access to such frameworks. CGE also has a legal department that ensures litigation, mediation in public hearings on employment equity and legal clinics.

Speaking on the challenges facing the post-2015 Development Agenda process, she stated that many women still live in poor conditions with meagre salaries, few skills, poor sanitation and inadequate basic necessities. There has been a generally slow pace in addressing issues of exclusion, inequality stigma, and discrimination of persons with disabilities. In the case of South Africa, violence against women and children remains high, and it has been found that in a few incidents sterilization is still forced upon women with disabilities. This impacts negatively on the new vision that we all aspire to. Towards the post-2015 development agenda, she stated that the CGE would be lobbying strongly for people with disabilities through the following recommendations:

- ❖ The enforcement of effective recruitment policies and enabling workplace environments for persons with disabilities;
- ❖ More awareness raising-through the use of the media by persons with disabilities, to voice and make inputs to the shadow reports that South Africa tables in the UN as per its obligation.

- ❖ Engagements by persons with disabilities about the 17 SDGs to ensure that these goals are monitored and implemented, and to ensure that promotion and gender equality is achieved in all spheres of government and private sector through the collaboration of civil society organisations.

Ms Mazibuko raised the issue of discrimination faced by the disabled, and in some cases entirely neglected. She said that it is through the UN, in the human rights, that they found that albinism has been taken and declared a disability. There is a major stigma against people with albinism – in terms of jobs, society, and being preyed upon, kidnapped and being murdered for their body parts. Ms Mazibuko concluded that the resistance of people with albinism is crucial towards challenging this stigma. She concluded by stating that it is vital to note that people with albinism in South Africa will have a home.

Dr Showers Mawowa, Researcher and Development Manager: SALO



Summing up the dialogue workshop, Dr Mawowa spoke to the SDGs, and their implementation. He stated that the purpose of the New York gathering was to officially and formally adopt the post-2015 Development Agenda, the 17 SDGs, and their 169 Targets. As someone who participated at the UN General Assembly proceedings, he pointed out that the main purpose of the proceedings was around implementation. And what emerged therefore as a consensus was that the global community needed to learn from the mistakes with the previous MDGs. According to Dr Mawowa, one of the issues that were highlighted about the challenges and experience of the previous MDGs was that it took approximately five years to start implementing them. Thus there was

a call to action in New York that the recently agreed upon SDGs need to be implemented immediately.

The rallying call when the SDGs were being formulated was the idea of *leaving no one behind*, so the question was: how do we ensure that implementation should not leave anyone behind? There was a lot of talk around inclusivity, this aimed at ensuring that there is broad participation in the implementation of the agenda, Dr Mawowa argued. When we talk about implementation, at a global, regional and a national level. Highlighting the key success factors for SDGs' implementation; Dr Mawowa pointed out that the global community need to have:

- ❖ Political will, this is related to the building of effective and capable institutions of governance, and issues of legal framework.
- ❖ Social cohesion, which relates to the idea of ownership, moreover a broader spectrum of the society converging around the need to realize these particular goals is critical.
- ❖ Monitoring and accountability, this talks to the issues of accountability at a global level, regional level and national level. Accountability plays out in different ways through the legal frameworks, but also empowering the citizens and civil society to hold their governments to account.

In his concluding remarks and highlight of the overall dialogue workshop, Dr Mawowa argued that the SDGs are interlinked, and we should be careful not to build silos around each Development Goal. He pointed out that, as previous speakers have stated that the SDGs have many gaps – in terms of missing out on addressing issues of migration, minority rights and so forth, how could we then use implementation to address some of these gaps and if we look carefully at the SDGs, there could be opportunities to make them more inclusive than the script entails.

Questions and comments from the floor



Some of the question from the floor had to do with the problems face by disabled people, the LGBTI community and the South Africa constitution. The audience asked that since it has been acknowledged that our communities have intersex individuals, why does the South African constitution allow for public spaces, schools and government buildings to have toilets that divide people according to male and female without considering the LGBTI community?

Another question related to government's role in placing any educational programmes that will teach the nation about albinism. Some kind of specialised peer education programme is needed for children with

albinism, it was suggested. The last question had to do with inclusivity as a critical element in ensuring that people's voices are heard. As such therefore the audience argued that inclusivity needs to become part of the public discourse going forward.

Responses from the Panellists

Ms NomasantoMazibuko

On albinism

The Albinism Society of South Africa is an organization of persons with albinism, parents, communities, and the country at large. They have support-groups throughout the country, and a special school.

The government has been active. The Department of Social Development is funding the Albinism Society. In 2013, the ASSA had a conference in South Africa in partnership with the Department of Women, Children and Disabilities.

Deputy Minister John Jeffery

On albinism

The Deputy Minister stated that it must be checked whether there is mention of albinism as a prohibited ground of discrimination, and if legislative amendments in that regard are required.

On toilets considering the LGBTI community

Mixed gender toilets would cater more to trans and intersex people. However, it is a bit more complicated in that there would also be cultural issues, as some women would not be comfortable going to a mixed toilet. However, he said that it is something to look at.

On crimes against LGBTI peoples

Then on the issue of the problem of crimes specifically against LGBTI people, the attitude of people in the criminal justice system, the police officers, the prosecutors, and hospital staff, is a problem. The government is running education programmes for state officials. They have introduced minimum sentences some time ago; one of the reasons for having minimum sentences was because there was concern that judicial officers, magistrates or judges were bringing their own prejudices to the case that they were considering when it came

to sentencing. Humans' attitudes and perceptions are very difficult to change. You could run education programmes for the judges on crimes against women, particularly; but you could still find that they then still come up with their own individual attitudes to issues like the rape of a woman. Hence it is necessary to bring in minimum sentences.

According to the Deputy Minister, one of the aims of the National Task Team on LGBTI issues, and particularly the Rapid Response Team is to ensure that crimes against LGBTI people can be monitored. So that if there's a so-called 'corrective' rape of a lesbian woman, and she goes to report it at a police station, and the police officers there have their own attitude or a negative attitude towards her, that she can be given assistance; and similarly from the prosecutor's side. The aim of that Response Team is to monitor and to ensure that the criminal justice system is working.

Mr Eduardo Kapapelo

Mr Kapapelo argued that there is a huge perception that African countries actually depend on UN protocols and conventions to actually implement human rights treaties. However, Africa has, a wealth of human rights mechanisms. The African Charter is an instrument that not only brings together civil and political rights, but also speaks of the language of peoples' rights. Mr Kapapelo stated that if we look at the African Children's Charter, for example, it is a document that is even more inclusive than that of the UN Children's Rights Charter. That is because it gives the African child rights that are both civil and political, and also socio-economic. He argued that there are many ways in which African states can attempt to implement these mechanisms. Unfortunately, there is a lack of political will.

Conclusion

Richard Smith, SALO board member



Mr Smith, concluded the dialogue workshop by thanking all the panellists, funders, SALO, and contributors to the workshop. He deduced that from what many of the speakers have said and highlighted that a key a commitment from this workshop was for everyone to take a principled stand against violence and discrimination, in whatever forms it takes. This includes analysing and understanding where in society all of the different forms of discrimination that are taking place, and then committing ourselves to a much deeper transformative agenda, at a local, national and international level.

Mr Smith further stated that we need to address the systemic and structural ways in which

attitudes are developed, and how those then impact and affect the practices that we are seeking to present an alternative to. It is only then, when we begin to look at that systemic understanding of the way in which society works, that we will be able to work together to find the complementarity between all of the different strategies that we have, so that, whether we are from civil society or from government, whether we believe in advocacy or whether we believe in action, whether we are working at the policy level or on the ground at the level of practice, we can find complementarity and opportunities for cooperative partnerships between us. And that's at the centre of the approach, and the theory of change that underpins the work that SALO does.

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 South African-based not-for-profit civil society organisation which, through advocacy, dialogue, policy consensus and in-depth research and analysis, influences the current thinking and debates on foreign policy especially regarding African crises and conflicts.

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