

SALO



Liaison, Dialogue and Research

Reg no: 2006/020285/08

The Southern African Liaison Office (NPC)

Liesbeek House, River Park,
Gloucester Road, Mowbray, Cape Town 7700

Tel: +27 (021) 680 5306

Email: info@salo.org.za

www.salo.org.za

[@salo_info](https://twitter.com/salo_info)

Building International, Regional and National Consensus



Persons with Disabilities in Africa, with a special focus on migrants

Policy Dialogue Report No: 49

24th November 2015 Pretoria

Executive Summary

In the context of National Disability Rights Awareness Month in South Africa, and following the adoption of the new Sustainable Development Goals (SDGs) whose formulation was more inclusive than the Millennium Development Goals (MDGs), the Southern African Liaison office (SALO) hosted a consensus building dialogue on 'Persons with disabilities in Africa with a special focus on migrants' in the SDGs' spirit of "leaving no one behind". The dialogue explored the possible impact of the new SDGs on people with disabilities in Africa, especially migrants, with regards to advocating for greater access to healthcare, education, and economic empowerment.

The dialogue was attended by members of the Diplomatic Community, Government Officials, Civil Society Representatives, academics and the youth groups. Speakers included representatives from the Church, organisations working with people with disabilities and disabled rights and government. The main speakers were Mr Gift Morani, the General Secretary of the South African Council of Churches; Mr Brian Muziringa, the Chairperson of Migrants Disabled Rights Networking Movement; Ms Anneline Sigamone, the Deputy Director of Redeeming Hope for the Disabled and Mr Reggie Ditsele from the Department of Home Affairs.

This Policy Dialogue Report highlights and provides a summary of the important points that emerged from the dialogue. It also highlights points from the main speakers, inputs from the academics who spoke from the floor and thereafter summarize contributions and questions from the audience. Some vital responses to those questions and contributions are highlighted and conclusions are drawn from the overall issues that emerged from the consensus building dialogue.

Summary of the Discussion



Mr Muziringa argued that many institutions in Africa continue to fail in their duty to fulfill civil rights including those of the people with disabilities. He pointed out that it is no longer a secret that disabled migrants are the living testimony of exclusion, poverty, inequality, social and economic deprivation, regardless of the new SDGs which seek to be more inclusive than the former MDGs. In terms of the former MDGs, Mr Muziringa maintained that unfortunately they have failed to explicitly cite individuals with disabilities, although research shows the inter-relation between persons with disability and poverty. He called on government and representative institutions to enact laws for the disabled migrant effectively and also implement existing laws and policies effectively. He articulated that reforming laws and policies that discriminate against migrants in South Africa should be at the center of government's work. With many government officials and

diplomats attending the dialogue workshop, Mr Muziringa reminded the audience that South African foreign policy regarding refugees and asylum seekers is not fully justified and is faced with challenges in many fronts.

In an effort to close the gap between all stakeholders, he called on the Migrants Networking Movement – a social, faith-based grassroots movement - to condemn discrimination against disabled migrants by institutions that are meant to serve humanity. The speakers maintained that there is a huge necessity for checks and balances on numerous gaps between policy and practice by institutions that deal with the disabled. Using the SDGs as a common base, and as a tool to strengthen advocacy at the regional, national and international level the panel put emphasis on the fact that existing structures therefore need to be inclusive and accountable. From the disabled network, **Ms Sigamone** argued that this network continues to inclusively assist all fellow disabled people, South African citizens and foreign nationals, stating:

“For our belief is that disability has no country. I am quite thankful for this opportunity to discuss with you the policies around us, the disabled, but focusing mostly on our fellow migrants.”

In relation to the constitution, speakers placed emphasis of the fact that South Africa's Constitution protects the rights of everyone in South Africa. Moreover in Section 9 it specifically states that no one may be discriminated against on the grounds of disability. This Section also specifically protects the rights of disabled persons by providing that the state must take whatever steps are necessary to ensure the advancement and protection of persons or categories of persons disadvantaged by unfair discrimination they argued.



In relation to the region, it emerged that during Open Society Foundation (OSF) Disability Rights Initiative and research into disability rights in nine southern African countries, it was found that while the state of affairs varies from country to country, in general people with disabilities are the most marginalized persons in the region. The workshop acknowledged that at least South Africa has made some attempts at addressing the rights

of people with disabilities. Whilst these efforts are admirable, the grants are often insufficient in meeting the needs of people with disabilities it was noted. One of the apparent failures is that there seems to be no comprehensive legislation or framework that exists to monitor and alleviate the challenges faced by people with disabilities. As such, Ms Sigamone reminded the audience that as the disabled persons continue to strive for inclusion in any efforts to mitigate the aforementioned challenges. She reminded participants of the motto for the disabled: *'Nothing about us without us.'* If the government and law enforcement agencies understand this, then we have truly stepped into an era of change.

From the government side, a representative from the Home Affairs Department **Mr Reggie Ditsele** highlighted that the department is undergoing a policy review; it is conducting an immigration policy review. He put emphasis of the fact that the Department acknowledges that there are two kinds of migrants – those that are broadly called refugees, and those that are called economic migrants. Therefore, due to the fact that the law does not clearly distinguish between the two, we end up with one clogged up system, as such the Department through its review is trying to look at how it can separate the two processes and ensure that those who are economic migrants get assisted when they come into the country. Furthermore, he underlined other considerations that the Department is busy with, including having refugee centers next to the border gates. To the dialogue workshop, he pointed out that these things are still being discussed within the Department and urge all stakeholders to use this opportunity to make input. As he puts it:



“An input from migrants with disabilities will be very welcome, and I think it will strengthen the review process and outcomes.”



The speaker from the faith-based organisations, **Reverend Gift Moerane** reminded the audience that the issue of migration has been with the church for many years. He argued that the South African Council of Churches (SACC) in the 1980s and up until the 1990s, used even to feed people who were here as asylum seekers/refugees. The theme that the dialogue workshop has taken reminds us as people, of the need to capacitate communities and churches to address issues of migration and understand why people leave their ancestral homes, it was pointed out. As such, it emerges that the issues of poverty, unemployment and under-development remain central and therefore we have to look at how we can mitigate those issues as the global community, the Reverend argued. Central to the Church's continued effort to help migrants is the need to understand that conflict in our fellow African countries has caused much of the migration all over the continent and the world as a whole. Reverend

Moerane highlighted the fact that the SACC in its effort to continue playing an integral role towards migrants in the country has enrolled a programme called Anti-Xenophobia Programme. This programme is composed of a

network of four hundred other NGOs in the country and the SACC is coordinating them on how to respond to the issues facing migrants in SA. He argued that in terms of the region, the SACC has:

“Just come from a SADC meeting, where we as countries in the SADC region were discussing the plight of refugees/asylum seekers, and also their access to health facilities”

The SACC has also been engaging with the South African government and has presented its resolution on reworking the migration policy for the country. In this resolution, the faith-based network put emphasis on the fact that South Africa has to make sure that it protects vulnerable people – women, children and people with disabilities. Indeed central to what the speakers spoke about was the reminder that as South Africans we always proclaim that our constitution is the best constitution, however, the question posed is, how well does the constitution protect the most vulnerable in society, especially those affected by violence. A major call from the panel therefore was for the people with disability to take up their struggles as no-one will fight them. Both SA citizens and migrants must become agents of change and are able to propagate and advocate for change.

Contributions from Academia

Mr Eduardo Kapapelo spoke of the declarations signed by African Union (AU) member states and how they have constantly emphasized the importance of including provisions for people with disabilities, both citizens of a country and migrants. He argued that the Grand Bay Declaration adopted in Mauritius in 1999 spoke very broadly about including persons with disabilities and asked that states speak more of the laws in place to protect persons with disabilities and the same can be said about the Kigali Declaration in 2003, which also spoke of the issue of vulnerable persons and how states can create broader frameworks for their inclusion. Furthermore, Mr Kapapelo pointed out that recently African states have signed the African Child’s Charter and also the Woman’s Protocol. Accordingly therefore, both of these instruments speak very broadly of the need for states to make provisions for persons with disabilities. Yet in the end it seems that within the continent this remains a political question for member states, as such, as the African community we have to ask why is it that the states still fail to follow through with these provisions under these various instruments. In the academia, there have been comments, or certain suggestions that Africa needs to have its own disability conventions, which would be equivalent to the Convention of the African Child or Convention of Women Mr Kapapelo concluded.

Emphasizing the importance of looking into disabled migrants, **Mr Ayong Lawrence** highlighted that the big challenges that we have as the global community rest mostly with the mentally challenged, especially when you have a refugee coming from war-torn countries or from an oppressive region, where a lot of torture is happening, which creates physical and mental disabilities. In an effort to mitigate this challenge, advocates of refugees have called for the South African government to establish protected refugee camps and the government has constantly said ‘No’. It argued that this is Africa and in Africa we will not have any segregation or camp, the audience heard. Indeed the ANC led government has always emphasized that as Africans we will live together, uniting together in cohesion. As South Africa has very advanced institutions to deal with the issues at hand today that have been raised, the academics acknowledge that the spirit of unity and cohesion as Africans living side by side is critical. It was also pointed out that discussions like these need to be engaged with not only by NGOs, Civil Society and Government, but by the academics as well. Academics therefore need to research in order to understand the issues more broadly and to come up with good solutions.

Contributions from the floor

The question was raised asking how human rights for asylum seekers, refugees and migrants with disabilities can be taken into consideration within the continent. **Tamara Naidoo** from SALO highlighted that people with disabilities and migrants themselves have a role to play in order to take responsibility for their own challenges, because churches, government or private sector alone cannot do it by themselves. It is important therefore, the floor maintained, that disabled migrants champion their own struggles by action. Ms Naidoo pointed out that with the Post-2015 Agenda and the SDGs there is now an opportunity to break down the existing barriers as mentioned, through the dialogue and brings all these different people into the same room. As it is common knowledge that most countries accept different categories of migrants, some legal, others illegal, **Ambassador George Nene** reminded the audience that we are talking about different categories of migrants and that in terms of South Africa, there is a constitution that protects everybody who is documented – South African and non-South African. He asked therefore how can you protect someone that you don't know of, how will you budget for migrants when you don't know how many there are, or what their status is or what their background is? These were some of the difficult questions raised. Underscoring what Ambassador Nene highlighted, **Ambassador Welile Nhlapho** argued that SA also has national security issues to consider when making policies, laws and legislations. He urged the audience to look at society and see how do we can ensure that people are educated to respond in a particular way to challenges such as those of disabled migrants?

Responses

The speaker highlighted the fact that due to the difficulty for African leaders to adopt conventions on disability, this exposes lawlessness, bad governance and also lack of vision towards the broader spectrum of society. It therefore becomes an issue of how we relate to one another, and whether we are accountable to one another, before we try to bring other institutions into our issues. From the governments' side, Mr Ditsele argued that currently there is a discussion within the Home Affairs Department about the so-called 'special skilled people'. A major point is on how to deal with these migrants to ensure that the country prospers and conditions are better than they are now. So it would seem, as Mr Ditsele points out, that there is that discussion as part of the migration policy review. As such, the Department encourages more engagements especially from the migrants and people with disabilities including those networks that work with them.

The most important component of any effort to mitigate the challenges faced by disabled migrants in the continent rests with the AU and regional bodies, the audience heard. This is a serious issue that really needs to be addressed, and in particular by institutions such as SADC, ECOWAS, EGAD – and the AU Ms Rabele argued in response to the question on the role of AU and regional bodies.

Conclusion

At the end of the dialogue, the idea of policy reviews from the government was well appreciated. Organizations focusing on people with disabilities and specifically migrants with disabilities were encouraged to participate in this process, to be represented in such a space so that their inputs can also be included in the draft and eventually in the outcome. Furthermore as it emerged throughout the dialogue workshop, the inclusion of persons with mental disability within this conversation was also emphasized. Such a well-represented and well informed platform would address this apparent disconnect between policy and legislative provisions between government and civil society. It is quite clear that much work needs to be done to bridge this apparent gap so that we are able to address the challenges faced by disabled migrants and migrants at large.

Yet the audience heard that this outcome is not as linear a process as some would like to think. However, existing complexities is not too complex to resolve, thus with the involvement of churches, NGOs, government and civil society the issues of migrants with disabilities can be addressed. As society, we need to acknowledge that marginalization and exclusion continue to be factors in both conversation and in reality, and one is prompted then to think about how we could harness international provisions such as the Post-2015 Agenda and SDG processes as catalysts for qualitative inclusion, and also speak to issues of complementarities with other initiatives that are happening.

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:



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International liaison, dialogue and research

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.

SALO would like to thank

(in alphabetical order) the Department of International Relations and Cooperation (DIRCO), the European Union; Friedrich-Ebert-Stiftung (FES); Irish Aid and the Embassy of Ireland, Pretoria; the Embassy of the Kingdom of the Netherlands in South Africa; the Royal Norwegian Embassy, Pretoria; The Olof Palme International Centre; Open Society Foundation; the Southern African Trust and UK aid, among others, for their ongoing support of our Policy Dialogue Series.



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