

Multi-Stakeholder Dialogue on Xenophobia and the Hate Crimes and Hate Speech Bill



Introduction

The Southern African Liaison Office (SALO) has had, as one of its core themes, dialogue workshops on issues relating to xenophobia, migrants' rights and the Hate Crimes and Hate Speech Bill. On the 18th of October 2019, in partnership with Action Support Center, SALO held a *Multi-Stakeholder Dialogue on Xenophobia and the Hate Crimes and Hate Speech Bill*. The purpose of this dialogue was to try and locate xenophobia in the policy framework as a means to assist policy analysis and research on xenophobia by all stakeholders involved in the process. The dialogue also sought to give a grassroots perspective from different stakeholders into the formulation of the Hate Crimes and Hate Speech Bill. As a reflection on the work done so far by the government and civil society groups, the dialogue aimed at giving an insight into the interventions that community peacebuilders undertake to foster peace in their respective communities. Participants included government and civil society groups. The speakers were Ntsako Mogobe, Benjamin Chisari, Philani Ndebele, Deputy Minister John Jeffery, Pretty Mncube, and Richard Smith.

Content of Discussion

The speakers in the dialogue highlighted the heightened xenophobic sentiments in Alexandra township in 2008 and how this resulted in widespread xenophobic attacks in the area. The peacebuilding efforts that occurred after these incidents were successful in as much as they helped limit the inevitable xenophobic violence that occurred in 2015 and 2019 was a lot less brutal. Noting that mainstream media plays a huge role in xenophobic attacks, one speaker mentioned an incident where people wanted to march to the Department of Labour and the Department of Home Affairs to hand in their grievances, however, this was labelled as an instance of xenophobia. Supposedly, this is because journalists and analysts are inclined to sensationalise events to sell a story.

It emerged from the meeting that actors on the ground have faced difficulties in conveying messages from the grassroots to the government. This is a problem that arises from the fact people tend to shy away from being frank with the government. Such frank discussions must be held amongst all stakeholders because the issue of xenophobia impacts everyone in South African society.

The dialogue did reiterate the perception that these xenophobic attacks are a fight for jobs and small business opportunities. Speakers referred to how, in some other African countries, migrants cannot open a business in specific areas. This is done to protect the citizens of the country and the local economy. It is important that as ordinary people unite in the fight against xenophobia, South Africans and migrants alike must deal with issues of xenophobia in combination with other social problems such as hate crimes and hate speech. It is pivotal that the government's effort against these social issues is well appreciated.

It is always an issue of much contestation that South Africans attack migrants while they continue to share many aspects of their lives. There is a question that must be posed

towards African leaders on these issues that continue to challenge the continent. During the discussions, it was pointed out that South Africa cannot shoulder the problems of the entire continent. As a young democracy, South Africa is faced with many challenges. It has to address the challenges faced by its citizenry; hence it becomes difficult to shoulder problems that face the entire continent.

As one of the countries that have a well-developed Constitution, it is pivotal that South Africa teaches its ordinary citizens the key elements of the country's Constitution. The xenophobic attacks are influenced by anxiety, hatred, and entitlement on the side of the locals. It is important that regional bodies try to address these issues. A shared understanding of the history and the background of regional countries need to be emphasised by regional bodies, including civil society groups. There are quite a number of issues that have influenced the notion of xenophobia. These types of issues need attention in the Hate Crimes and Hate Speech Bill, as advocated by the Justice Ministry.

Government and Policy Response

The South African government has committed itself to deal with issues of xenophobia, hate crimes and hate speech. The past few years have made the government more aware of the dangers faced by the vulnerable groups in society. In places like Alexandra, civil society organisations are working tirelessly to address the issue of xenophobia and gender-based violence (GBV). Initiatives such as peacebuilding in Alexandra are essential as the area is plagued by drugs, unemployment and overpopulation. The dialogue heard that every day one person is killed in Alexandra, and this is because there are underlying issues that local leaders are not addressing. These issues have manifested themselves into the community and are exacerbating other major challenges.

Hate Crimes and Hate Speech Bill

In the Alexandra township, the peacebuilding initiative is geared toward addressing issues such as GBV, hate crimes, and drugs. From the side of the South African government and specifically the Department of Justice and Correctional Development, the Hate Crimes and Hate Speech Bills are now theoretically in Parliament. However, there is political will against the Hate Crimes and Hate Speech Bill. In order for an act to be considered as hate speech and/ or a hate crime, there has to be a motive for the hate or dislike of that particular group. For example, the vandalism or defacing of a mosque due to intolerance based on conflicting religious beliefs. However, it has to be proven beyond reasonable doubt that the crime was done because of the above categories in order to be considered as a hate crime by the courts.

The discussions did highlight that verbally attacking and inciting violence on migrants and making negative remarks is considered hate speech. One intention of the Bill is to criminalise hurling racial and xenophobic insults at migrants. Indeed, it was indicated that the Department of Justice and Constitutional Development, in partnership with the Department of Social Development and the International Organisation for Migration, have

been conducting anti-xenophobic attacks, primarily focusing on xenophobia hotspot areas like Atteridgeville.

Speaking at this dialogue workshop, Deputy Minister for Justice and Constitutional Development, John Jeffery, made reference to the time when Ghana and Nigeria both had economic independence, and that when Nigeria was faced with a civil war most Nigerians fled to Ghana. Initially, they were well received, but when Ghana started experiencing an economic downturn due to critical mass, Ghana facilitated the deportation of Nigerians. Therefore, other factors that contribute to this xenophobic violence are lawlessness, the high scale of illegally imported goods, and the failure of law enforcement agencies to hold people accountable for obscuring the law. The South African government has always condemned the looting of foreign-owned shops. It is surprising that Europeans are not subjected to these kinds of attacks.

Complex Issues of Xenophobia

It is crucial to remind South Africans that like other Africans, they all come from the same continent and therefore no one should be considered to be a foreigner. It is important that Africans start looking at themselves beyond borders. Xenophobia is a complex issue that tends to be generalised, but it becomes an even bigger issue when citizens fail to conceptualise it. Xenophobia is a system that feeds on lawlessness, hence it is very important to deal with issues that could incite violence as they emerge in society. The role of the media is critical in spreading accurate information about xenophobia. Mr Philani Ndebele narrated a story that took place in Germiston where a number of migrants died due to xenophobic violence and mainstream media did not cover the story; therefore, it is important to develop our own media which will tell our own narratives.

On the issue of borders, this is where the challenge of migration has always existed. People moved from Kwa-Zulu Natal to Mozambique and Limpopo to Zimbabwe historically. Therefore, the issue of borders and migration have always been linked. In the Hate Crimes and Hate Speech Bill, there is no mention of xenophobia. If you commit a crime due to prejudice against a specific race or ethnicity, then that is perceived as a hate crime by the courts, as proposed by the Bill.

These xenophobic attacks are a result of the gap between the poor and the rich, thus they can be related to how the issue of white privilege comes into play because white people benefitted unduly from Apartheid. A lack of economic growth and resources drives the narrative that migrants are stealing jobs. For example, when South African farm labourers went on strike, Zimbabwean labourers stepped in to do those jobs. These are some of the core issues that all stakeholders need to come together and engage on. The dialogue discussion indicated the importance of a proper contextualisation of xenophobia-related issues and the importance of the Hate Crimes and Hate Speech Bill in dealing with prejudice.

Recommendations

- It is vital that the Hate Crime and Hate Speech Bill, while stretched in its reach, must acknowledge xenophobia as a hate crime against migrants
- Peacebuilding in disadvantaged communities is essential, the lessons from townships such as Alexandra emphasises this.
- Government must work with civil society to address the issue of xenophobia; it is important that all vital stakeholders are given a platform to contribute to this fight
- The Hate Crime and Hate Speech Bill is a step in the right direction in a fight against the prejudice of certain groups in society. The government should consider speeding up the process of implementation.
- It is important to engage leaders in the sphere of government when discussing the issue of hate crimes, hate speech and xenophobia
- A grassroots approach is important in trying to fight the scourge of hate crimes, hate speech and xenophobia
- The mainstream media plays a huge role in xenophobic attacks, it remains crucial to engage the media and appeal to it so that it reports accurate information

The analysis and recommendations included in this Policy Brief 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 brief 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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