



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

Policy Dialogue Report

1 July 2021, Zoom Platform

SALO Regional LGBTQIA+ Workshop

SALO REGIONAL
LGBTQIA+ DIALOGUE

THURSDAY 1 JULY
11:00-13:00 (SAST)



MODERATOR
LWAZI SOMYA
SALO

SALO



JOHN JEFFERY
DEPUTY MINISTER
OF JUSTICE



RONIKA ZUZE
INTERSEX
COMMUNITY OF
ZIMBABWE TRUST



STEVE LETSIKE
CO-CHAIR,
NATIONAL TASK
TEAM ON HATE
CRIMES

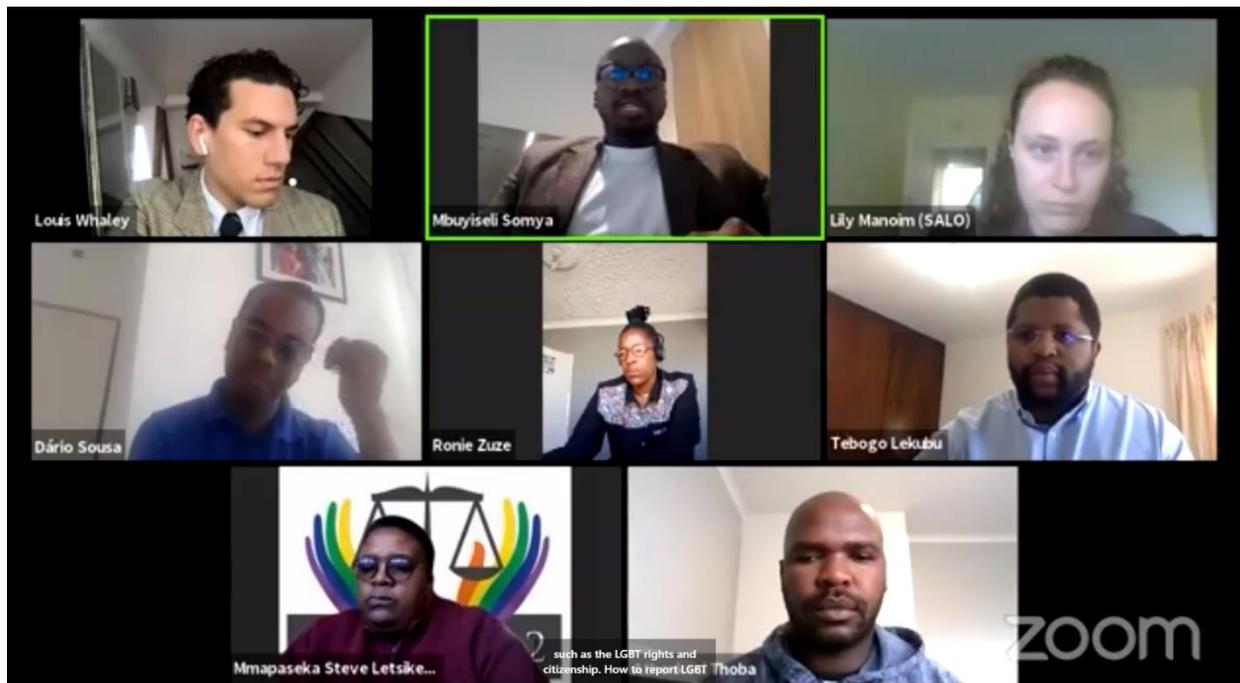


DARIO DE SOUSA
LAMDA
MOZAMBIQUE

Executive Summary

On the 1st of July 2021, the Southern African Liaison Office (SALO) in partnership with the Rosa Luxemburg Foundation, hosted an online dialogue that brought together LGBTQIA+ activists from around the region in conversation with South Africa's Deputy Minister of Justice, John Jeffery. The panellists were from Zimbabwe, Mozambique, and South Africa. The workshop was moderated by Mr Lwazi Somya from SALO.

The speakers were **Dario de Sousa** from LAMBDA Mozambique, **Steve Letsike** who is the co-chair of South African National Task Team on Hate Crimes and Hate Speech, **Ronika Zuze** from the Intersex Community of Zimbabwe Trust, and **Deputy Minister John Jeffery** from the Department of Justice and Constitutional Development.



Summary of the Presentations

Dario de Sousa, LAMBDA Mozambique

Dario de Sousa began by discussing the legal and legislative context in Mozambique. Even though Mozambique has been independent for 46 years, most of the legal framework is underpinned by the colonial legacy. Until 2014, the Mozambican penal code penalised same-sex relationships as 'crimes against nature'. More recently, two laws do exist that specifically protect people based on their sexual orientation and gender identity, and from 2014 homosexuality was finally decriminalised. de Sousa

then moved on to discuss public attitudes and perceptions, sharing quantitative research findings, alongside the legal framework, social tolerance plays a vital role in the extent of violence towards LGBTQIA+ people. Whilst the colonial origin of the laws still seems to shape public perception to some extent, there is some progress on social tolerance. For instance, 85% of respondents were against physical and verbal violence against homosexual people, yet at the same time many respondents do not believe that LGBTQI people deserve equal rights. Less than 27% of respondents said that they would accept their child being homosexual. Therefore, a significant deal of advocacy is still required to shift public perceptions.

Steve Letsike, Co-chair - SA National Task Team on Hate Crime and Hate Speech

Steve Letsike pointed out the importance of having this conversation at a time where the vulnerability experienced by LGBTQI people is heightened, both in South Africa and in the region, naming Eswatini, Ghana, Uganda, and Kenya as key examples of countries where the political climate significantly affects LGBTQIA+ people. She noted that the intention of the Ekurhuleni Declaration was to bring an end to violence committed against LGBTI people.

“The Ekurhuleni Declaration was calling for governments, for stakeholders, to... [roll] up their sleeves and respond to [the] vulnerability that really puts LGBTI people [at]... even more heightened risk of exclusion from socio-economic opportunities and services.”

Yet the laws and legacy enduring from colonialism in many countries remain- within Africa there are still 31 countries that criminalise homosexuality.

Before moving on to a discussion about South Africa, she mentioned a number of countries who have made legislative progress undoing the colonial era discriminatory laws, which she argues, has contributed towards,

“...a shift from the colonial legacy that has [sought] to create prejudice and discrimination against LGBTI people”

South Africa has a constitution that is widely celebrated for its advanced protection of rights, being the first to include sexual orientation and gender identity as a non-discrimination clause, along with having 14 other progressive pieces of legislation protecting the rights of LGBTI people. That being so, even with in the weeks leading up to the workshop, a number of LGBTQIA+ people were sexually assaulted and murdered. Echoing the previous speaker, she explained that this was due to the disconnect between the law and social attitudes. Letsike argued that we, as a society, have a responsibility to take proactive approaches, including investment in education and raising awareness, and working on addressing the root causes of hate and

discrimination. For instance, the legislation surrounding hate speech should be put in place. Similarly, there is need to address:

“...the injustice of the past, because the legacy of colonialism was felt on the base of race; on the basis of sexual orientation; on sex; and the basis of many other grounds”

Whilst the legal framework plays an important role in protecting and affirming people’s rights and identities, so too do social attitudes.

Finally, beyond the threat of violence, there is also a need to address the socio-economic exclusion faced by LGBTI people, and how the daily threat of violence impacts their livelihoods.

In concluding, Steve Letsike urged that

“[The] reality of the matter is that we have to translate the constitution into a daily reality for LGBTI people like any other citizens. We have to account, we have to commit as countries, and South Africa has that opportunity to do better.”

Ronika (Ronnie) Zuze, Intersex Community of Zimbabwe Trust

In speaking to the reality faced by intersex people in Zimbabwe, Ronika Zuze explained that it was likely a shared experience across the region and the continent. Notably,

“Intersex people in Zimbabwe live a hidden life.”

Whilst the issues faced by intersex people intersect with the substantial challenges faced by the broader LGBTQI community, the biggest challenge, Zuze argues, is the lack of legal recognition of intersex people.

“There [have] been cases of infanticide, children being confined within the home, children being abandoned and disowned. Many intersex children and even adults do not have identity documents, they do not have access to schooling [and] therefore they struggle to integrate into society, to find employment or even to access justice”

Despite 40 years of independence from colonialism, Zimbabwe does not legally recognise or protect LGBTQI people broadly, which makes them vulnerable to human rights abuses. Zuze spoke to the relationship between the legal framework and the social attitudes, arguing that both play important roles but that they also feed into one

another. Without social acceptance, legal rights are often 'meaningless. as LGBTQI people are still subject to human rights abuses.

Deputy Minister John Jeffery, Department of Justice and Constitutional Development

Deputy Minister John Jeffery begun by discussing the various 'ground-breaking' legal achievements in South Africa, ranging from the constitution to court judgements to laws passed, that protect LGBTQIA+ rights. He then added on to the previous speakers' discussions around developments within the region, such as the case of an LGB organisation in Botswana winning a case in the high court, and finally in 2019, same-sex sexual relationships were decriminalised.

Adding his voice to the sentiment expressed by the three previous speakers, Deputy Minister John Jeffery noted that

"...to fully realize the rights of lesbian, gay, transgender, etc. people to equality we require more than laws and court judgments. It means that SOGIE [sexual orientation, gender identity and expression]-esque rights must remain high on the public agenda".

In addition, he stressed the importance of protecting SOGIE activists against physical harm and persecution, whilst ensuring they can operate within a democratic environment.

He discussed the history of the adoption of the Ekurhuleni Declaration¹, and how it came out of a gathering of representatives from 54 countries in Africa five years ago.

"...the Ekurhuleni Declaration... sought to address issues such as changing perceptions and creating awareness; violence and discrimination in accessing education; economic justice; health and psychosocial support; legal support for victims of violence, and discrimination in their families; secondary victimization in the criminal justice system and border control systems; and lastly, the importance of accurate data on incidences of violence and discrimination"

¹ Ekurhuleni Declaration. 5 March 2016. 'On Practical Solutions on Ending Violence and Discrimination Against Persons Based on Sexual Orientation and Gender Identity and Expression'

Contributions and Questions from the Floor

- Her Excellency Astrid Emille Helle, the Ambassador of Norway, expressed her appreciation for the event. She explained how it is important to highlight the gains made. The ambassador had previously worked with the Human Rights Council in Geneva, where at that stage working towards advancing the human rights of LGBTQI people was ‘unthinkable’.

“...Many years ago, I used to work with the Human Rights Council in Geneva where we had the first-ever declaration on human rights of people with what we called then ‘LGBTI’ only in the Human Rights Council and at that point, it was just impossible to think of that the Council could at all mandate the High Commissioner for Human Rights to work on this issue. It was unthinkable, so the only thing you could have was [a] non-binding declaration and the only thing we could say in order to have broad support was to say that the people of different sexual orientations and gender identities should not be subject to death or torture or grave human rights violations. So, we have come [a long] way also there when it comes to universal acceptance.”

- Emma Boekee from the Dutch embassy indicated that one of their main human rights foreign policy priorities is the protection and promotion of LGBTQI rights. Europe, like Africa, also has challenges where homosexuality is criminalised in some countries. She therefore raised the question of how it might be possible to influence such conservative countries.
- Dewa Mavhinga, the Southern Africa director at Human Rights Watch asked those based in Zimbabwe whether there was a sense of more civil freedoms and democratic spaces after the 2017 military coup.
- He also explained that in his engagements with ministers in Botswana, they had explained that “their society was not ready to engage in these issues” – being that of LGBTQI rights. He therefore asked to what extent does the need to change societal attitudes as a pre-cursor to changing policy become an “an excuse for not putting in place the necessary legal framework”?
- Lily Manoim from SALO pointed out that whilst there are many similarities between the struggles faced by different sexual and gender minority populations within different countries, there are also substantial differences. Therefore, she asked participants what they thought the possibilities might be for forging regional solidarity.

- Xola Booii, the Second Deputy Secretary of COSAS, critiqued the fact that audiences at dialogues such as this are largely members of the LGBTQIA+ community, yet whilst LGBTQIA+ struggles affect some more than others, nevertheless all parts of society are affected and should be involved in discussions. She asked how we can work towards attaining a wider audience, and broader buy-in. She also asked how members of South African parliament can be influenced to lobby for LGBTQI rights at the level of the Pan-African parliament.
- Samuel Mutsukure, representing the organisation Gay and Lesbians of Zimbabwe (GALZ), offered to address the question around the current conditions of LGBTI rights in Zimbabwe: In the new dispensation the violence against LGBTI people, particularly from the state, has decreased. Mutsukure argues that this may be explained by the agreement of the president that whilst he was not going to support LGBTI rights and would uphold the Constitution which prohibits same-sex marriage, he would allow LGBTI activists and NGOs to continue to operate. In addition, the ruling party was one of the only parties that responded to GALZ's invitation to engage.

“That also became a public note, that you know Zanu-PF and GALZ were able to meet to speak on behalf of LGBTI persons that we represent, and I think that sort of set the tone for the new government trying to act differently in addressing LGBTI rights.”

- Since then, there is far less public homophobia and hate speech against LGBTI people. It is usually only in the religious circles that such public rhetoric has remained, Mutsukure argues.

“Once in a while, we see political opponents using the word gay in trying to fight each other or within parliament and so on but it's not as much as in [the] Mugabe [presidency]”

- He went on to explain the spaces in which progress has been made, such as in GALZ engaging with the Human Rights commission, progress within the health sector, and decreased homophobia and prejudice in public discourse. The LGBTI sector is also working on coordinating and developing a joint advocacy agenda.
- Kaajal Ramjathan-Keogh, from the International Commission of Jurists, asked the Deputy Minister for an update about the current status of the Hate Crimes Bill, and to what extent the Department is prioritising it.

- Athenkosi Thoba from SALO asked the Deputy Minister about what mechanisms might exist that, through recognising the important role played by civil society, could help to work towards a change in social attitudes. He asked about the possibility of a large conference at a regional level.
- Busisiwe Nxumalo, from the ANC Gaby Shapiro Branch, reminded us that whilst June is international Pride month, in South Africa we celebrate in October to commemorate the first Pride March led by Simon Nkoli. Nxumalo explained that in their branch, they have formed an LGBTI task team which has been engaging with various LGBTI stakeholders. They echoed the suggestions of the previous speaker and explained that they too are working on organising at a regional level, in the hopes that as queer activists,

“...we can all have one voice, and in the long term, we have these plans of also getting [something] like a charter to be adopted specifically with the AU in terms of protection of LGBTI rights in general”

- Wendy Isaack from the LGBT programme at Human Rights Watch, discussed the challenges faced by LGBT migrants. Whilst South Africa receives many African LGBT asylum seekers, they end up,

“...caught up in a system that is not necessarily protective... we know that our asylum system is not necessarily functional for everybody, [but] it's particularly dysfunctional for LGBT asylum seekers from the African continent”.

Responses from the Panellists

Deputy Minister John Jeffery

- The ‘Hate Crimes Bill’, is within parliament waiting for the constitutional court's judgment in the Qwelane case regarding on homophobia and the Masuku case on anti-Semitism. Whilst he did try and speak to the relevant people in the constitutional court to speed up the process, the government needs to be patient.

“The Hate Crimes Bill will help with defining what hate speech is, it will help with elevating less serious crimes like assault to a more serious crime, but murder and rape are already serious crimes so it's not going to make too much of an impact I think [on] that”

- He also noted that in the past, the constitutional court played a key role in promoting progressive legislation, and even encouraging the government to do their part, such as with the Same-sex Marriages Act.

- Whilst in Zimbabwe both the ruling and opposition party do not support LGBTI rights, in South Africa all four of the major parties do support equal rights for LGBTIQIA+ people. South Africa therefore finds itself in a different position to other countries where parties might lose votes for their support of equal rights.
- In terms of trying to speak to people who hold different views, one has to actively work at trying to engage with them rather than holding events on an invite-only basis. COSAS in particular should be commended on their work at engaging young constituencies.
- Regarding the suggestion of a wide-reaching regional event, South Africa needs to take the lead. Yet the problems with it being a government-led initiative is that many other governments would not attend. A few years ago, there was some success at going through the continental Human Rights bodies.
- Another point made by the Deputy Minister is the milestone that South Africa has passed its first gender-neutral bill a few weeks prior.

Dario de Sousa

- Due to internet connectivity problems, Dario de Sousa was unable to address many of the questions.
- In his concluding remarks, he noted his appreciation for the dialogue and how useful it was to see both the similarities and differences for LGBTQIA+ activists in the region. Whilst there is clearly a lot of work to be done to advance the struggle for human rights of LGBTI people in Africa, he believes that we can collectively make a positive change.

Ronika Zuze

- Ronika Zuze emphasised the importance of including their voice in this discussion, as even within the LGBTQI spaces, there are still minority groups whose voices are usually absent from such conversations. Voices of the intersex community in particular are usually missing, and therefore the invitation to speak was welcomed.
- They also echoed the importance of the need to share experiences and strategies across countries, as all struggles are interconnected.

“...if one person is robbed of their rights, it means that the whole of the community suffers.”

Steve Letsike

- Steve Letsike highlighted the importance of the social environment in being able to tackle homophobia and transphobia. This includes having a holistic understanding of trauma and its implications, and of the root causes of these prejudices. This also includes addressing ‘conversation’ practices that exist across the region.

“We know it’s at play in different ways from tradition to religion, to a medical or clinical aspect...”

- Finally, she reiterated the need for African countries to move beyond the colonial laws that have remained even after the imperial powers have changed their own laws.
- Letsike called on developmental partners such as the Dutch and Norwegian embassies present, to continue to support civil society, through both financial and technical support.

Deputy Mister John Jeffery

- In response to the question about LGBT migrants and asylum seekers, the Deputy Minister explained that the situation has gotten increasingly complicated and that there was not enough time to discuss it at present.
- He also posited that whilst there are possibilities for regional solidarity, it may be necessary to “analyse the areas where one can make gains more easily than others”.
- In a similar vein to Steve Letsike, he also argued that changing social attitudes might in fact be more important than changing the law.
- Finally, he explained that the significance of the Ekurhuleni meeting was not the meeting useful but that it produced a declaration that others can draw on.

Conclusion

The workshop, which aimed to bring together members of the LGBTQIA+ community from across the region, afforded the participants and attendees a platform to address representatives of the South African state. Through the workshop, representatives of a wide range of civil society groups were able to discuss the challenges faced by LGBTQIA+ people and better understand both the similarities and the differences between differently marginalised groups of people in different countries. Each country represented had a different legal framework – but overall, the legacy of colonial legislative frameworks presented a challenge to advancing equal rights and protections for all. South Africa was seen to be far ahead in terms of legal protections

for LGBTQIA+ people, and yet hate crimes persisted. A new proposed piece of legislation was detailed and discussed, which attendees hoped would begin to address that. All the panellists and many of those speaking from the floor stressed that beyond legislation – social attitudes played a vital role in whether LGBTQIA+ individuals would or wouldn't be safe from violence and discrimination.

The analysis and recommendations included in this 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.

SALO would like to thank

The Rosa Luxemburg Foundation for their direct support of this event



**ROSA
LUXEMBURG
FOUNDATION**

