



Liaison, Dialogue and Research

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Policy Brief

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

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**ROSA
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JOHN JEFFERY
DEPUTY MINISTER
OF JUSTICE



RONIKA ZUZE
INTERSEX
COMMUNITY OF
ZIMBABWE TRUST



STEVE LETSIKE
CO-CHAIR,
NATIONAL TASK
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CRIMES



DARIO DE SOUSA
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MOZAMBIQUE

Executive summary

SALO, in partnership with the Rosa Luxemburg Foundation, hosted a regional dialogue to discuss issues faced by the LGBTQIA+ community in Southern Africa. The purpose of this meeting was to strengthen the need to create transnational solidarity networks by uplifting human rights across the region and the continent, especially LGBTQIA+ rights. The workshop brought together voices from regional LGBTQIA+ civil society groups to compare and discuss ways in which challenges differ and overlap in Southern African countries, and how to move forward to create not only legal frameworks to protect the LGBTQIA+ community, but also to build societies that are tolerant and accepting of LGBTQIA+ persons. The keynote speaker to this discussion was John Jeffery, South African Deputy Minister of Justice and Constitutional Development. Other panellists included Dario de Sousa (LAMDA Mozambique), Steve Letsike (Co-chair of SA National Task Team on Hate Crimes and Hate Speech), and Ronika Zuze (Intersex Community Zimbabwe Trust).

Context/Importance of the Problem

The South African Human Rights Commission, supported by the South African government and members of civil society, hosted the First Regional African Seminar on *Finding Practical Solutions for Addressing Violence and Discrimination Based on Sexual Orientation, Gender Identity and Expression* in Johannesburg in March 2016. The seminar was based on Resolution 275 which was adopted by the African Commission on Human and People's Rights at its 55th ordinary session in 2014 entitled: "*protection against violence and other human rights violations on the basis of their real or imputed sexual orientation or gender identity*". It was a historic event - the first of its kind in the region where there were delegates from 54 countries speaking about their own experiences in their countries.

The Ekurhuleni Declaration was made public in 2016 after the seminar took place.¹ The Declaration recalled and reaffirmed several NGOs' commitment to human rights as expressed by the following provisions of the African Charter on Human and People's Rights:

- Article 2: The right to freedom from discrimination;
- Article 3: The right to equality before the law and equal protection of the law;
- Article: 4 The right to life; and

¹ Ekurhuleni Declaration. March 2016. Available: <https://www.oursplatform.org/wp-content/uploads/EKURHULENI-DECLARATION-FINAL.pdf>

- Article 5: The right to dignity and prohibition of torture and cruel, inhuman and degrading treatment.²

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;
- secondary victimisation in the criminal justice system;
- border control systems; and
- the importance of accurate data on incidences of violence and discrimination.

This dialogue acted as a reflection on the current situation for LGBTQIA+ persons in the region after the Ekurhuleni Declaration in 2016 as well as a platform to share knowledge about the lived experiences of LGBTQIA+ persons in Mozambique, Zimbabwe and South Africa. The workshop was a timely discussion as South Africa had seen an increase in attacks against LGBTQIA+ communities in the first few months of 2021³ The dialogue gave several suggestions and ways forward on ensuring that LGBTQIA+ people enjoy the rights as set out in the Ekurhuleni Declaration.

Progress and regression in Africa

The political climates that are hostile towards LGBTQIA+ people have been growing and intensifying in Africa. Illustrations of this include the anti-homosexuality law which has been introduced in Ghana following the arrest of 21 activists.⁴ Uganda also included an anti-homosexuality clause in its Sexual Offences Bill that has been passed in the country.⁵ In the Kakuma refugee camp in Kenya, a gay man was set on fire in an act of hatred.⁶

² LGBTI National Task Team. 2017. Available: <https://www.nationallgbtitaskteam.co.za/news/ekurhuleni-declaration>

³ 21 April 2021 Joint Statement: Spate of Hate Crime Murders - LGBTIQ+ People Say More Needs to be Done. Available: <https://za.boell.org/en/2021/04/22/21-april-2021-joint-statement-spate-hate-crime-murders-lgbtq-people-say-more-needs-be>

⁴ Bhalla, N. 2021. Ghana's anti-gay bill condemned as 'state-sponsored' violence. Reuters. Available: <https://www.reuters.com/article/ghana-lgbt-lawmaking-idUSL4N2PJ20D>

⁵ The Guardian. 2021. Uganda passes bill criminalising same-sex relationships and sex work. Available: <https://www.theguardian.com/global-development/2021/may/05/uganda-passes-bill-criminalising-same-sex-relationships-and-sex-work>

⁶ Bhalla, N. 2021, U.N. to boost security for LGBT+ refugees after deadly arson attack at Kenya camp. Reuters. Available: <https://www.reuters.com/article/us-kenya-lgbt-refugees-trfn-idUSKBN2C021C>

These trends are concerning, and even in South Africa, where the Constitution is liberal, violence against LGBTQIA+ people has peaked in the months leading up to this dialogue.

As Tanveer Dewa of the International Commission of Jurists recently wrote:

“despite most African countries having inherited the unnatural offences laws from the British empire, French and Dutch colonial powers during colonization, Africa seems to be moving backward with 61% of African countries now being unsafe for LGBTI people...sadly, even in countries where the legal framework is progressive, homophobia remains pervasive”.⁷

Whilst Malawi held its first-ever pride parade on 28 June 2021, homosexuality is still a criminal offence in Malawi.⁸ In April this year, a group of activists marched to the Zimbabwean consulate in Cape Town demanding rights to LGBTQIA+ persons and advocating for the repeal of Section 78 of the Zimbabwean Constitution which criminalises homosexuality. However, upon reaching the consulate, the receiving official allegedly refused to sign the receipt of the memorandum and refused to give his name.

However, there has been some progress in Mozambique, Botswana, Seychelles, Angola, and Gabon. This progress has been viewed as a move away from the colonial laws and legacies that established prejudice and discrimination against LGBTQIA+ people. These are positive developments and is in line with what the Ekurhuleni Declaration sought to do, which includes for governments and stakeholders to prioritise this and address the socio-economic exclusion that LGBTQIA+ persons often face.

An illustration of this is the LEGABIBO registration case in Botswana. Activists applied to register their organization called *Lesbians, Gays, and Bisexuals of Botswana* (LEGABIBO). The registrar rejected the application on the grounds that the application would contravene the society's acts by operating for an *“unlawful purpose or other purposes prejudicial to or incompatible with peace, welfare or good order in Botswana”*. In 2014, the Botswana High Court found that the refusal to register the group was a violation of the applicant's rights to equal protection of the law. The court held that gay, lesbian, and bisexual people have the same rights as anyone else, regardless of the laws that criminalise consensual same-sex conduct. In 2016, the Botswana court of appeal upheld the court's decision and ruled that the refusal by the government to register

⁷ Jeewa, T. 2021. African values: Why the African Commission's homophobic stance must be challenged. 16 May. *The Daily Maverick*. Available: <https://www.dailymaverick.co.za/article/2021-05-16-african-values-why-the-african-commissions-homophobic-stance-must-be-challenged/>

⁸ Pensulo, C. 2021. Malawi's LGBTQ+ community celebrates first Pride parade. 28 June. *The Guardian*. Available here: <https://www.theguardian.com/global-development/2021/jun/28/malawis-lgbtq-community-celebrates-first-pride-parade>

LEGABIBO was unconstitutional. In 2019, the High Court of Botswana ruled that consensual sex between adults of the same sex was no longer criminalised.

In March of 2021, Angola enacted a new penal code which was passed in 2019 and removed a provision criminalising same-sex relationships. Angola is now one of only seven African countries with some form of anti-discrimination provision.

Globally the number of countries with anti-LGBTIQIA+ laws has decreased from 76 to 71, but to fully and equally realise the rights of lesbian, gay, transgender, and intersex people there is the need for more than just laws and court judgments, but to practically change attitudes and practices on the ground.

The situation in the region

The situation in Mozambique

The first speaker, Dario de Susa, explained the situation in Mozambique for LGBTQIA+ people. He stressed the fact that Mozambique inherited its legal system from its colonisers, Portugal. The Mozambican Constitution states that all people in Mozambique are equal under the law, however only two laws in Mozambique expressly refers to sexual orientation or gender identity. These are:

1. The labour law that prohibits discrimination based on sexual orientation in the workplace and
2. The penal code that penalises discrimination based on gender identity and other characteristics.

The penal code was revised in 2014, which decriminalised same-sex relationships and homosexuality. Before 2014, same-sex relationships were regarded as 'crimes against nature'.

LAMDA Mozambique did a study three years prior to the dialogue to ascertain the social attitudes towards, and perceptions of, LGBTQIA+ persons in the cities of Maputo, Beira and Nampula. The research found that 85% of people were against physical and verbal violence against homosexual people and would intervene in favour of the victim. Only 25% of respondents in Maputo, 18% in Beira and 27% in Nampula said they would accept a homosexual child.

The situation in South Africa

Steve Letsike started her presentation by acknowledging the timeliness of this dialogue, following a perceived heightened vulnerability for LGBTQIA+ people in South Africa and the region. She believes that South Africa's liberal Constitution could be used as a template for Constitutional reform in other African countries, as it

“include[s] sexual orientation and gender identity as a non-discrimination clause and guarantee[s] the freedoms, the integrity, and [the] dignity of individuals. ... I think it's also a template that many African countries should be using as a way of improving legal and policy instruments”.

She went on to say that South Africa has over 14 pieces of legislation that promote the idea of the fulfilment and protection of rights for LGBTQIA+ people. Despite this, she explained why South Africa is still facing problems with violence against minority groups:

“I think where it becomes a challenge is whether we could advance and challenge social attitudes and I think we have that responsibility because, while we know protection is in the law... protection on its own in the law is not enough because we must never just wait for the law that will be reacted upon.”

Societal behaviour and attitude change in South Africa is key to overcoming the problem. Proactive approaches should be taken to identify and dismantle the root causes of hate against the LGBTQIA+ community which manifests itself in violence and threatens people's livelihoods due to economic exclusion. This means that an investment in education and awareness-raising should be made.

“[The] reality of the matter is that we have to translate the constitution into a daily reality for LGBTI people like [it is for] any other citizens.”

The situation in Zimbabwe

The SALO platform created a space for intersex voices to be heard. Ronika Zuze explained the intersectionality of being an intersex person and the situation of intersex people in Zimbabwe specifically:

“Intersex people in Zimbabwe live a hidden life. 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, therefore, they struggle to integrate into society to find employment or even to access justice.”

In many African states, intersex people are not recognised legally. As such, the intersectionality of being part of the LGBTQIA+ community and being intersex creates a double burden of vulnerability.

“The intersex community... as much as it is an issue of sex characteristics, also stands on the bottom of the list within the other sexual minority groups.”

Zimbabwe has been free and independent for the past 40 years, however, there is no legal recognition for LGBTQIA+ people:

“This liberation does not mean anything if a certain group of people [is] not legally recognised which means that it leaves them vulnerable to all human rights abuses.”

Attitude changes in society could feed into mechanisms that promote the legal recognition of LGBTQIA+ people across Africa. If LGBTQIA+ organisations keep fighting for the legal recognition of LGBTQIA+ people and laws and policies are adopted, but there is no change in societal behaviour, the situation will remain dire and human rights abuses will continue.

Keynote speaker: Deputy Minister of Justice and Constitutional Development, John Jeffery

Keynote speaker, John Jeffery, added an observation as to the timeliness of the dialogue, that South Africa is currently celebrating the 25th anniversary of its constitution. South Africa has a constitution that has been called groundbreaking as it was the first in the world to prohibit discrimination based on sexual orientation. Since then, there have been groundbreaking judgments by courts and groundbreaking laws implemented to prevent discrimination on the basis of sexual orientation, gender identity, gender expression, and sex characteristics.

Despite constitutional and legislative provisions of equality, there are ongoing threats and violations against the rights, well-being, and safety of LGBTQIA+ and gender non-conforming persons in South Africa. Individuals in these vulnerable communities continue to be subject to hate crimes and gender-based violence.

South Africa's National Task Team on violence against LGBTI persons was established in 2011 by the Minister of Justice and Constitutional Development, to strengthen the government's ability to respond to the needs of LGBTQIA+ persons and violence against them and to strengthen the capacity of civil society organisations to deliver related services. The NTT is a successful partnership between the government and civil society and was named by the United Nations Office of the High Commission on Human Rights as a best practice model - an international case study of cooperation between government and civil society to protect and promote the rights of LGBTI persons.

The NTT's rapid response team tracks pending cases of crimes against LGBTQIA+ people in the criminal justice system and effectively monitors these cases to ensure that they are properly investigated, that arrests are made, and that prosecutions follow. At the moment, there are approximately 42 pending LGBTQIA+ hate crimes on its tracking template and the NTT is actively working with the South African police service, the national prosecuting authority, and civil society bodies to ensure that these cases move forward and that survivors receive the necessary support services. The NTT is also

working with the European Union and aims to host an important SA-EU policy dialogue on trans and intersex persons later in 2021.

Despite this, the Deputy-minister was clear that,

“No law can ever be a panacea to rid society of all forms of discrimination or hate. We can have the best laws, but our real challenges are in the implementation, and changing societal attitudes in our communities is the only way to ensure that persons are not victims of violence or discrimination in their daily lives on the grounds of their sexual orientation, gender identity, gender expression, or sex characteristics - we need to change the perception that being gay is somehow ‘un-African’. We need to seriously address issues around toxic masculinity and patriarchy, we need to get the message out that being gay or trans or queer does not infringe on any other person's rights”.

Instead of being reliant on the law alone, the Deputy Minister proposed four essential elements to successfully implement policies to ensure equality and non-discrimination against the LGBTQIA+ community:

1. Political will to be able to put necessary laws on the statute book;
2. Policy measures and administrative measures to give effect to these laws and ensure that they function properly;
3. A criminal justice system which is geared to give effect to the political will and policy measures; and
4. Programmes of building communities that respect and embrace diversity and inclusion. This would include tackling and confronting homophobia and engaging with people who hold these beliefs and attitudes to change their perspectives.

The Deputy Minister concluded his keynote address on a positive note:

“I do believe that attitudes are changing, albeit slowly. Between 2012 and 2015 there's been a tenfold increase in the number of South Africans who strongly agree with allowing same-sex marriage. These positive changes come about because of the work being done on the ground. It's because of activists and civil society organizations like those represented here today who continue to speak out honestly and openly about their experiences, who continue to advocate that LGBTIQ+ rights are human rights, and it's because of that that we are moving forward.”

Questions and Comments From the Participants

- **Emma Boekee, Netherlands Embassy, South Africa** raised the question on how we can work with other countries or nudge them into the right direction in order to promote these rights elsewhere, especially in countries that are more conservative.

- **Dewa Mavhinga, Human Rights Watch:** *“On Zimbabwe, we know that when there was the military coup in November 2017, there was a sense of an ‘opening up of space for all people’, for the respect for human rights and fundamental freedoms. I wanted to check with colleagues, who are on the ground in Zimbabwe, what the sense is now, two or three years down the line, in terms of the space and freedoms in Zimbabwe?”* and
- Mr Mavhinga also spoke about his engagements with the Botswanan government – noting, *“... they felt that some of the reforms that need to be taken to ensure the full enjoyment of rights of everyone, including on the basis of sexual orientation, that their society was not ready to engage in these issues. So, I want to get a sense, in terms of the challenge highlighted by Minister Jeffery about the need to focus on changing societal attitudes, Botswana [using this as an] excuse for not putting in place the necessary legal framework. How would, for example, South Africa or Mr Jeffery or others respond to that?”*

Samuel Mutsukure, Gay and Lesbians of Zimbabwe:

With the new dispensation under Emmerson Mnangagwa, there has been relatively lower cases of violence against LGBTQIA+ people generally. During the Mugabe period, wherever LGBTQIA+ persons congregated there was always a police presence. This type of policing is not as common anymore. Part of that could be that when the new dispensation started, the President was asked at a meeting in Davos whether he was going to change his position with regards to LGBTQIA+ issues. He claimed that his position was that he would not advocate for LGBTQIA+ rights, as it was not his role and responsibility and that he would respect the constitution, which currently prohibits same-sex marriage but does not criminalise advocating for LGBTQIA+ rights.

Before the elections, GALZ reached out to all political parties and of the 14 to 18 political parties that participated in the previous elections, only two political parties responded to GALZ's invitation to address issues around the protection of LGBTQIA+ rights. The ruling party was one of the respondents and showed interest. GALZ subsequently met with ZANU-PF. That set the tone for the new government trying to act differently in addressing LGBTQIA+ rights. There have been less political rhetoric and homophobic vitriol in the public domain.

This created an opportunity to engage parliamentarians and GALZ has had sessions with parliamentarians to sensitise them on LGBTQIA+ issues. The Human Rights Commission has made statements on the sensitisation of LGBTQIA+ rights and has made commitments to protect those rights. Thus, there have been some efforts made to protect LGBTQIA+ rights, such as in the health sector where national programs for transgender people and MSM is supported, but the Minister of Justice remains silent on the

advancement of LGBTQIA+ rights. This provides an opportunity for civil society to come together and strategise and use this open window to engage more arms of government.

- **Lily Manóim, SALO** asked the following question: *“What do participants or panellists think about the possibilities for regional solidarity? How do we support each other as the queer community and as supporters of the queer community if there are such different challenges that we are all facing.”*

Ronie Zuze: On the issue of solidarity- individual countries in the region are all faced with different challenges. Some face the challenge of the lack of legal recognition of their basic existence, and some countries are faced with challenges such as human rights violations.

It is important to approach these different issues in strategic ways. Different strategies should be used to target different issues in the respective countries to ensure that advocacy leads to positive results. For example, Intersex Zimbabwe pushes for the legal recognition for intersex people to start paving the way for all other social minority groups. It is also important to raise awareness and educate people on these issues. It is difficult for people to accept, acknowledge and grant rights to a group of people who they do not understand. Intersexuality is based on biology, however, intersex people can have any sexual orientation or gender identity. Thus, the hope is that acquiring legal recognition on the basis of biology could pave the way for the same to be extended to sexual orientation and gender identities.

- **Xola Booï, COSAS:** *“I feel like the discussions that [have] been held by the LGBTQIA+ community...85% of [attendees] [are] people that are directly involved. How do we then send out the invitation so that all parties of our countries or of where we come [from], form part of the discussion so that when we speak about something we are all part of it? Secondly, how do we then use this platform that we're having now to make sure that we speak for all the countries that are part of the African continent? Lastly, how do we then influence members of parliament, who form part of the Pan-African parliament, so that when we speak of this, they are also speaking about it in terms of office of legislation? How do we then make sure that our members of parliament will form part of that Pan-African parliament, how do we then give them information, how do we lobby them to be part of us?”*

Deputy Minister John Jefferey: The key issue is that one has to go out to those sectors, as people who are not directly impacted will not easily come to the platforms that are created. COSAS has been consistently raising these issues and supporting LGBTQIA+ equality rights which is extremely important because often the youth are implicated in the violence.

- **Lwazi Somya, SALO** asked – *“How far have we come as a society [since] the Ekurhuleni Declaration?”*

Steve Letsike: Currently, there is the risk of reversing the gains made by the African Charter and resolution 275 of the African Commission. There are democratic governments in Africa and coupled with this, there should be an advancement in equality, inclusion and social justice. Change cannot only happen on paper, it should be accompanied by positive effects on the quality of life of citizens. This only happens when there is a mutual commitment and obligation that is expressed by both the government and by members of society.

The willpower of the governments is lacking in the advancement of rights and equality for LGBTQIA+ people in the region. It is mostly civil society that challenges governments and use the judicial systems to force governments to comply with the decriminalisation of homosexuality and gender identification.

- **Kaajal Ramjathan-Keogh, International Commission of Jurists:** *“Deputy Minister, can you let us know what is the current status of the Hate Crimes bill and [can] you provide us with some kind of timeline for the finalisation of the bill? In view of the significant number of attacks against the queer community in South Africa over the last few months, is the finalization of the bill a priority for the Department of Justice?”*

Deputy Minister John Jeffery: The Hate Crimes Bill is currently within parliament waiting for the Constitutional Court's judgment in the Qwelane matter on homophobia and the Masuku matter on anti-Semitism. The key issue with these crimes is to ensure they are investigated and prosecuted, which is not dependent on the Hate Crimes legislation. The Hate Crimes Bill will help with defining what hate speech is and it will help with elevating less serious crimes, such as assault, to a more serious crime. Murder and rape are already serious crimes so they will not have a great impact on crimes that are already deemed 'serious'. Hate crimes and hate speech would only be added to the above crimes as aggravating factors. One cannot pressure the Constitutional Court too much, the correct processes need to be followed.

- **Athenkosi Thoba, SALO.** *“[My question] is related to what we have seen in South Africa in terms of the role of civil society engag[ement] on these issues from a national level [and] with the National Task Team. What kind of mechanisms can the Deputy Minister propose in terms of coming together with different ideas and strategies, and also drafting one document that speaks to all these challenges [and] taking that to a regional platform, maybe some kind of a conference within the region which would not focus on governance but [on] civil society, without waiting for governments to come together?”*

Deputy Minister John Jeffery: The first Sexual Orientation and Gender Identity resolution was adopted in Geneva in 2011.⁹ Following this, all regions were meant to have a seminar. Ours happened in South Africa. The feeling was that if this was organised in the capacity of the government not many countries would be in attendance. Therefore, the Human Rights Commission was approached as that would make it possible for more countries to attend and to target sympathetic government officials from different countries, without needing to follow official channels. This was successful as attendance from human rights institutions from other countries, the continent, and the African Commission was high.

There are more opportunities for a type of regional platform, for example, the SADC parliamentary forum. The South African parliament could be engaged to debate this issue and then the pan-African parliament similarly could look at debating this issue or at least having discussions with the South African members on how best to approach it.

Busisiwe Nxumalo, ANC: “The [ANC] Gabby Shapiro branch [has] formed an LGBTI task team. We've been doing work like amendments [to] the Hate Crime and Hate Speech Bill [and] we've been engaging with other NGOs and stakeholders. We also have ... a regional meeting that's going to be hosted on the 6th of July. Our aim is to try to [encourage] queer activism within the whole continent of Africa, so we can all have one voice and in the long term, we have plans of also getting [something like] a charter to be adopted specifically with[in] the AU in terms of protection of LGBTI rights in general.”

- **Wendy Isaack, Human Rights Watch:** *“To what extent are we having a conversation about incorporating elements of the national action plan to combat racism, racial discrimination, xenophobia, and related intolerance in our work? I ask this question because we know that South Africa is a primary destination for a lot of LGBT African asylum seekers, refugees, and undocumented migrants because we have the most protective refugee law in the country. So, in our conversation [it] would be most critical for me to consider to what extent in our work - as regional, or national, or international NGOs - we take into account the issues or the challenges faced by African LGBT asylum seekers who come to South Africa to seek protection and then are caught up in a system that is not necessarily protective.”*

Deputy Minister John Jeffery: This is a very important remark and the issue is complicated. It has become even more complicated as the department of Home Affairs had to reduce its capacity because of the COVID-19 pandemic. However, this is an issue

⁹ Human Rights Watch. 2011. Historic Decision at the United Nations: Human Rights Council Passes First-Ever Resolution on Sexual Orientation and Gender Identity. 17 June. Available: <https://www.hrw.org/news/2011/06/17/historic-decision-united-nations>

that is too important to discuss hastily - it needs attention and further discussion in a future engagement.

Policy critiques

- The legacy of colonialism discriminates on the basis of race, sexual orientation, sex; and other grounds.
- The intersex community is not legally recognised in many African states - as such they carry a double burden of vulnerability due to the intersectionality of their sex characteristics and gender identities.
- Gaps and loopholes still exist in policies that protect LGBTQIA+ people, such as inaccessibility of healthcare services or incompetent and incomprehensive health services for transgender people.
- The LGBTQIA+ community should not only have a conversation amongst themselves and with those who are already converted. Responsibility should not be shifted only to the LGBTQIA+ people. Everybody in every space who believes in equality and in inclusion and diversity must create the space.
- Legal instruments are not in place in many African countries to protect LGBTQIA+ people's rights and even when they are, in many cases this is not enough to ensure that they enjoy equality and the same human rights as others.

Policy Recommendations

- The Hate Crimes and Hate Speech legislation must be in place to deal with the injustice of the past and to bridge the gap between the legislation that is already in place and the need for societal behaviour and attitude changes.
- South Africa must be at the forefront of championing accountability and commitment to non-discrimination and non-violence. It must take the lead in championing the instruments and policies it has put in place to improve the legal policy and social environment that propels forward the agenda of LGBTQIA+ inclusion.
- Legal and policy instruments are a first step to protecting the LGBTQIA+ community, however, this should be followed by educational programs to galvanise attitude and behavioural changes/attitude changes to inform legal instruments and policies.
- Sexual orientation and gender identity (SOGI) rights must remain high on the public agenda. Further, the importance of ensuring an enabling environment and democratic space for human rights defenders and civil society organizations working for the protection of SOGI rights is critical to ensure that they carry out their work safely and effectively without facing violent threats and persecution.

- Existing legislation and policies should be revised to address gaps and loopholes that render LGBTQIA+ people vulnerable.
- Relevant strategies should be identified and implemented in different countries and the region to promote equality for LGBTQIA+ persons.
- South Africa passed its first gender-neutral bill earlier this year - the Cybercrimes Bill. It is the first bill that has no references to 'he' or 'she'. This is a milestone for South Africa and discussions around how to implement this in future bills in South Africa and the region is a vital way forward.
- LGBTQIA+ rights are very fundamental in the region and civil society organisations should continue to share experiences and strategies, and learn from each other because if one person is robbed of their rights, the whole of the community suffers.
- Conversion therapy practices should be rooted out, in South Africa and the region. These practices are at play for different reasons - tradition, religion, medical and clinical and need to be dealt with using different relevant strategies in the region.
- Governments in the region should let go of the colonial laws that were forced upon them.

Conclusion

This dialogue was an inclusive and diverse space for regional LGBTQIA+ organisations to share their experiences and their views on the growing trend of attacks on the LGBTQIA+ community, the challenges of the incongruence of constitutionally enshrined rights versus so-called cultural/traditional views, and the causality of growing homophobic views in the region. Further, the criminalisation of homosexuality as a lasting legacy of colonialism was unpacked as a point of departure from traditional African beliefs and practices that valued tolerance and non-violence

The analysis and recommendations included in this 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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