

EVENT REPORT

Konrad-Adenauer-Stiftung e.V.

SOUTH AFRICA

SOPHIA JAEGER

December 2019

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XENOPHOBIA AND SOUTH AFRICA

ROUNDTABLE SERIES 2019: NUMBER 4 – CENTRE FOR UNITY IN DIVERSITY

The South African Constitution obliges the State to protect the rights of all who live in the country. The South African 2011 Census found that there were 2.2 million immigrants in a country of 52 million in 2011. Xenophobic attacks of the last years, especially the one in 2008 which was among the deadliest to date and the recent attacks in September 2019 in Johannesburg, frighten many people.

On 14 November 2019, the Centre for Unity and Diversity (CUD) and the Konrad Adenauer Foundation (KAS) hosted the fourth event of the Roundtable Discussion series. The focus of the presentations and the subsequent discussion was "Xenophobia and South Africa".



KAS and CUD invited Ms Rebecca Sibanda, Legal Officer at the Centre for Constitutional Rights (CFCR) as well as Mr Themba Masuku, Consultant at the Justice and Violence Prevention Programme, Institute for Security Studies (ISS) and Sufiya Bray, Senior Advocacy Officer and Project Manager at Centre for the Study of Violence and Reconciliation (CSV) to speak to the topics of their respective expertise.

Understanding of Xenophobia

Ms Rebecca Sibanda gave the audience a good overview of xenophobia in general, but also xenophobia in South Africa. Generally, xenophobia is not a new concept and it is not unique to South Africa. It is an international phenomenon and people in Europe are experiencing it currently as well.

What is xenophobia? The United Nations' Declaration on Racism, Discrimination, Xenophobia and Related Intolerance against Migrants and Trafficked Persons defines it as the "...attitudes, prejudices and behavior that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity." In South Africa we have seen xenophobia manifest through physical violence, property damage, displacement, xenophobic systems and policies, but also verbal abuse. It is important to note that xenophobia does not only manifest person to person, but that there also is a vertical experience of xenophobia from power structures, such as from government officials.



Xenophobia targets foreign nationals, but it is important to understand that you do not necessarily have to be a foreign national to

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be attacked by xenophobia. In the attacks of September 2019, ten of the twelve dead people were South Africans. This is because there are perceptions about how South Africans should be. And if one speaks differently or looks different one can become a victim of xenophobia.

Perceptions are the biggest cause of xenophobia. People do not have adequate information about the people they hate and, since they do not know how to deal with such people, they see them as a threat (Mogekwu 2005). Sibanda stated that xenophobia is racialized in South Africa. In South Africa, Western or Asian foreign nationals are not experiencing xenophobic attacks. Meanwhile, foreign nationals of colour from Zimbabwe, Somalia, Malawi are experiencing xenophobia.

Denial of xenophobia in South Africa is a huge problem. President Ramaphosa claimed "South Africans are not xenophobic". That appears not just untrue on the basis of the evidence, but also appears to be an attempt to cover up what is actually happening in the country and the government's inability to generate an appropriate response. Denial means that you cannot address the issue as it is. South Africa needs to acknowledge the term xenophobia and that it is a crime. But why is it not being acknowledged? According to Sibanda, one answer would be the indictment of the South African community if the government and the institutions were to acknowledge xenophobia.

Constitutional protection does not only apply to South Africans, but to everyone who is within the borders of South Africa. This means rights like security, dignity, equality and health are rights for everyone. Further, South Africa is committed to international law and jurisprudence and it is not enough to just sign these acts, but they have to be put in action. The inactivity speaks for the lack of political will in South Africa to implement these acts.

To close, Sibanda named a number of recommendations, which are non-legal. Change has to come from collective social change. South African society needs to acknowledge

xenophobia, so people can report, track and prosecute it. South Africa requires a responsible government, not just the institutions within it, but also the people that represent it. The legal vision should be to criminalize xenophobia.

Criminalization of Xenophobia

Xenophobia, like racism, should be criminalized. But it is not yet a crime in South Africa and this is why it causes problems. Mr Themba Masuku spoke about the urgent need to criminalize xenophobia. He defines xenophobia as "deep rooted fear, or hatred, or intolerance of strangers and foreigners". He underlined the mentioning of strangers, because many victims of xenophobic actions in South Africa are not foreigners, but simply strangers to a community.



A big problem in South Africa lies within the institutional framework, which results in a large gap in the interface between public officials and foreigners. For example, there is no element of xenophobic training for police officers. But South Africa should provide skills to them, so that they know how to deal with the situation.

The current legal position in South Africa means that no-one in South Africa has been prosecuted or convicted of xenophobia. In South Africa, xenophobia is often accompanied by violence looting, destruction of property, assault, displacement and murder. So if a person goes to court, they will convict the person for these transgressions, but never of xenophobia.

What is the difference between racism and xenophobia? South Africa is a signatory to

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the “International Convention on the Elimination of All Forms of Racial Discrimination” which requires countries to make racial superiority or hatred punishable by law. In South Africa racism cases are dealt with in terms of Crimen Injuria. For example, it provides the basis of protecting the constitutional right to human dignity in criminal prosecutions.

Cases of racism have been taken to court in South Africa. These cases give us hope for the criminalization of xenophobia. Every person in the country should have the right to dignity. But the right is taken away from individuals affected by xenophobia and it is not prosecuted at present.

Masuku also spoke about the Prevention and Combating Hate Crimes and Hate Speech Bill that deals with specific civic offences. This proposed legislation criminalizes xenophobia and other acts “intended to be harmful or to incite harm, or to promote or propagate hatred on the basis of nationality, birth, migrant, refugee status and language”. Xenophobia becomes a prosecuted law offence. A challenge for the bill will be the problem of the embedded xenophobia in the institutional system.

Masuku closed his presentation with a statement: Failure to deal with xenophobia and racism in South Africa impacts negatively on the image of the Rainbow Nation and South African businesses across the African continent.

Xenophobia and communities

Ms Sufiya Bray shared her experience working with migrants and refugees in communities. In her opinion, xenophobia is fear and hatred of other black Africans, which is why she calls it “Afrophobia”.

South Africa has for far too long relied on the myth that non-nationals are the reason for all the social ills we are facing in this country: unemployment, homelessness, crime, inequality. But research by the Centre for the Study of Violence and Reconciliation (CSV) indicates that the root causes of the violence that is unfolding in South Africa is directly

linked to the legacy of apartheid. Violence is the inherent othering of those who are different and the lack of integration in all levels in our society. There is no social cohesion in South Africa. Much more work needed to be done after apartheid to rebuild communities and trust between each other. Some people still struggle to identify as South Africans even though they were born here, because they are so connected to their roots that come from another end of the world. In addition, the state’s ability to address xenophobia and related problems are very limited as corruption has deeply impacted the state’s resources.



The irresponsibility of community leaders, where government agencies institutionalize xenophobia, is a problem that needs to be addressed. The police, for example, commits violence against foreigners. By appearance, the police does not protect everyone, but only South Africans. The result is that victims of xenophobia do not go to the police, because they are too scared. So only a small fraction of xenophobic crimes is actually recorded.

Bray mentions a few recommendations for both the local government level and national government level. Early warning systems should be developed and established. In addition, community leaders should be linked up with each other and receive mediation training. In the long term, policies have to be implemented and integrated in the communities and leaders need to be accountable for what they say.

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What was the aim of this event, and why has KAS supported it?

The Konrad Adenauer Foundation regards the dignity of the individual as an inviolable right that should stand at the forefront of all policy making and state action. Building bridges between communities and between politicians and the people fosters social cohesion and mutual understanding, thus generating a stable and prosperous society for all. Xenophobia and a breakdown of inter-community relations is one of the most worrying trends in South African society as it may unravel the state. The speakers of this event helped shape the audience's view on the topic of Xenophobia and sensitized them to the need for political action to combat it.



Impressum

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Zusammenarbeit

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