Centre celebrates Africa Day by reflecting on freedom of expression and xenophobia in a digital Africa

25 May 2017 - The Centre for Human Rights celebrated Africa Day 2017 with the theme **"*The Africa we want: Rights, freedoms and governance in digital Africa".*** This event was hosted in conjunction with Google. It was held at the historic Liliesleaf Farm, Rivonia, and attended by over eighty guests.

At the event, the Pan-African Parliament (PAP) was represented by Member of PAP – Hon Victor Hlatshwayo, from Swaziland (representing the President of PAP); and the Clerk of PAP, Mr Vipya Harawa. New Partnership for Africa's Development (NEPAD) was represented by Ms Jennifer Chiriga (Advisor to the CEO), while Ms Ife Osaga Ondondo, Head of Legal, Sub-Saharan Africa, represented Google.

In his address, Mr. Harawa indicated that when its new Protocol meets the required ratifications, it is expected to evolve in the near future into a Parliament with full legislative powers. In his view, this will enable the PAP to adopt and propose model laws that can advance and support domestic implementation of African Union normative and policy instruments, including Agenda 2063 aspirations. He indicated that the attainment of the seven aspirations of Agenda 2063 is highly dependent on the proper integration of the framework into existing national plans and policies. There is adequate evidence to show that the failure of most of Africa's developmental frameworks such as the Lagos Plan of Action, the Abuja Treaty, to name a few, is largely attributed to delay or failure to domesticate them at national level. The PAP will therefore play a very crucial role in the oversight and proper monitoring of the domestication and implementation process of Agenda 2063, both at the national, sub-regional and continental level. He concluded that while the PAP has rolled out advocacy initiatives to sensitise AU Member States to ratify the Malabo Protocol, there is need for continental support in pushing for a Legislative Parliament, which will play a meaningful role in supporting and advancing the Africa that we want.

Two panel discussions were also held, on dealing with restrictions on the internet, and the other focused on xenophobia.

Impact of internet shutdown on democracy and economy

The participants in the first panel were: Ms Ondondo, from Google, and Grant Masterson, Programme Manager, Electoral Institute for Sustainable Democracy in Africa (EISA). In contemporary Africa and the world, generally, access to the internet is central to political, economic and social development. In a significant way, access to the internet facilitates enjoyment of many fundamental rights and freedoms, such as freedom of expression, privacy, freedom of association, and education. The unique and transformative nature of the internet enables individuals to make informed civil and political choices. This is essential to democracy and progress in any society.

Several countries in Africa have experienced internet shutdowns by governments in the recent past. The government of Cameroon in response to demonstrations in the English-speaking regions shutdown the internet in the region from mid-January 2017 to 20 April 2017. The

shutdown had a grave impact on start-ups in Cameroon's 'Silicon Mountain', banking industry and economy in the regions. In Uganda, the government during the February 2016 elections ordered telecom companies to shut down social media and mobile money transactions. The shutdown affected cash flows and businesses online as well as the right of citizens to access information on the voting process. Between 8 October 2016 and December 2016 Ethiopian government shutdown the internet in response to protests by the Oromo people. The shutdown cost Ethiopia $500,000 a day.

Although governments have to respond to complex issues of national security and public interest, restrictions on access to internet must meet international human rights standards. This is premised on the fact that governments have an obligation under international human rights law to respect, protect and fulfill human rights. Therefore, restrictions on access to internet must be justifiable in an open and democratic society. This calls on governments to align their laws and policies on internet governance with their obligations under international law.

Xenophobia

The second panel of the event continued the discussions in the earlier panel around the right to freedom of expression by examining its linkages with xenophobia. South Africa continues to experience xenophobic statements and acts. As recently as March 2017, violence against non-South Africans resurfaced in Pretoria. These expressions of discriminatory attitudes against foreigners pose a challenge to the quest for a united African continent and the internalisation of human rights.

The three members of the second panel (Ms Okyerebea Ampofo-Anti from Webber Wentzel, Ms Sarah Findlay from Media Monitoring Africa and Prof Charles Ngwena from the Centre for Human Rights) all considered xenophobia as a complex issue, one that could not be resolved in a single discussion session. However, they provided the audience with pointers on socio-legal and political approaches to resolving the problem.

Existing legal frameworks are not always adequate for the protection of everyone. Ms Ampofo-Anti pointed out the assumptions that underlie freedom of expression laws. These include the assumption that all actors are rational and have no biases, or that there is an equality of political power between citizens. Hate speech, protected by free expression laws, is inevitable when the abstract assumptions of the law are not backed by reality. Law has to do more than just provide a generic statement of norms. It has to consciously protect the vulnerable.

Media vigilance is also necessary. As Ms Findlay noted, even though the editorials of news outlets would often condemn xenophobia explicitly, the terminology and framework used in news stories often initiate or encourage biases against non-South African citizens. The word 'alien', for example, is loaded. The media has to deliberately work towards shaping society rather than just mirroring its prejudices.

Prof Ngwena emphasised the importance of political discourse in stemming xenophobia. By mapping the 'geography of xenophobia' we can see the economic classism inherent in its incidences. A feeling of powerlessness by the 'working class' is enough to trigger animosity towards those vulnerable to attack. This observation is not unique to South Africa: given the

same circumstances, lower classes in other countries would behave similarly. Nevertheless, South Africa still has the challenge of giving meaning to post-apartheid 'citizenship' and understanding it in the context of gender, ethnicity, economic class and nationality, and not just in relation to racial identity.

The intersection of xenophobia with other discriminations is also important. The use of sexism in xenophobia was referenced both by the panel and the audience.

The journey to a non-discriminatory society in South Africa and beyond requires the exertion of legal, social and political energy. This process begins when we start focusing on causes and consequences rather than just on the actors.

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