

HATE CRIMES WORKING GROUP (HCWG) — ANNUAL GENERAL MEETING HELD ON 27 NOVEMBER 2012

VENUE: CSVR BOARDROOM, 4th FLOOR BRAAMFONTEIN CENTRE BUILDING, BRAAMFONTEIN.

Present: Iole Matthews (IPT), Alfani Yoyo (CoRMSA), Sedica Davids (Create Africa Trading), Rebecca Chennells (Scalabrini), Nonhlanhla Mkhize (Durban LGBT Community Centre), Noel Kututwa (Amnesty International), Tracy Doig (Amnesty International), Khonzi Mbatha (UNISA), Juan Nel (UNISA), Hanlie van Wyk (Uhora Research Solutions), Steven Gruzd (SA Jewish Board of Deputies), Charlene Harry (HRW), Nokuthula Magudulela (Amnesty International), Anthony Waldhausen (Gay and Lesbian Network), Nancy Leal-Castro (GALA), Dawie Nel (OUT), Wendy Khan (SA Jewish Board of Deputies), Thifulufheli Sinthumule (CoRMSA), Jayne Amott (Triangle Project), Jacqueline Nzoyihera (UN OHCHR), Zoleka Kuswazi (FEW), Bilal Vaid (Council of Muslim Theologians), and Phindi Malaza (FEW).

Apologies: DoJ&CD and Charmaine Hedding (ORAM).

Note, the DoJ&CD was invited to the AGM to provide the meeting with updates re the imminent draft Hate Crimes Bill, as well as National Intervention Task Team (NTT) on Gender- and Sexual Orientation-based Violence perpetrated against LGBTI persons that they lead, but sent an apology and promised to meet with the HCWG early next year.

Agenda:

1. Welcome and Steering Committee Feedback Report from Chairperson
2. DOJ&CD hate crimes-related updates (apologised)
3. Draft Hate Crimes Monitoring Form Research feedback
4. Election of new Steering Committee

1. Welcome and introductions:

The Chairperson, Iole Matthews, welcomed everyone present and a round of introductions followed.

Report back by the HCWG Chairperson:

The Chairperson put in perspective the current year's main achievements. Following are some achievements of the HCWG in the year 2012 (power point available on website):

- Development of the Group's logo and corporate image.
- Accessing of funds from OSF-SA and HIVOs MAGI-fund to pilot the draft Hate Crimes Monitoring Form in five provinces.
- Increased engagement with DOJ&CD and with National Prosecuting Authority (NPA)
- One day Hate Crimes workshop for NPA provincial Director Public Prosecution (DPP) as well as national Senior Public Prosecutors (SPPs) and NPA training unit.

- Ongoing dialogue with DOJ&CD around development of the Draft Policy on Hate Crimes
- Networking with Human Rights First around an international visit of Hate Crime Legislation Experts in 2013
- Draft Hate Crimes Monitoring Form research presentation at the 30th International Congress of Psychology (ICP), 22-27 July 2012, held at the Cape Town International Convention Centre.
- Submission of letter to SAHRC regarding their response to the distribution of threatening xenophobic notices circulated to non-nationals in Mayfair, Johannesburg.
- Development of draft Hate Crimes Pamphlet
- Support for member organisations activities, e.g.: Amnesty International Justice for Noxolo Campaign. Noxolo Nogwaza was raped and beaten before being violently stabbed to death in April 2011 for being lesbian.
- Website development: <http://hcwg.ipt.co.za>
- Increased media coverage
- 8 Meetings and 1 teleconference were held in 2012 culminating into the AGM
- Increase in membership: 30 members and pending applications
- New members in 2012: OUT and Durban Lesbian and Gay Community and Health Centre with increased interest generated by provincial briefings by research team.

Feedback and discussions:

Jacqueline Nzoyihera from UN OHCHR raised the issue of our UPR submissions and the importance of working through the UN Regional office before making submissions to Geneva in order to ensure that the correct channels are followed to get the correct consideration of submissions. She also encouraged members of the HCWG to inform her office of Hate Crimes incidents. UN OHCHR will share this information with the Special Rapporteur who in turn will engage the South African government on hate crimes issues. Jacqueline's concern was that much of the hate crimes work seems to be scattered and she reiterated on the need for more cohesion, coordination and efficiency in the work of the Hate Crimes sector.

She was also keen to know how her office could have access to the DOJ&CD's hate crimes draft policy document.

Juan Nel (Unisa) referred to the key note address of the UN High Commissioner for Human Rights (Dr Navi Pillay) (under whom Jacqueline resorts) at the ICP 2013 in July in Cape Town and its appropriateness to the work of the HCWG. Juan suggested that, going forward, the HCWG use resources, such as the OHCHR more effectively. He emphasised the need to forge links and create more synergies, in general, and recommended the increased use of the HCWG mailing list to effectively disseminate information among members.

Dawie Nel from OUT was curious to know if there was any operational plan for the year and how to better synchronise or coordinate activities of the HCWG in order to achieve a clearer and more detailed picture.

Iole noted that over the past year there has been less structure but the idea or intention was to provide a clearing house for information, although this has not been fine-tuned due to issues around time and resources.

On the issue of accessing the draft policy document raised by Jacqueline, it was said that the document is currently being reviewed internally by government and so is confidential and it cannot yet be shared. However, the internal processing of the document is nearly complete according to the DoJ&CD with the Director Generals having seen and signed the document. It will apparently be submitted for public consultation after this process.

Iole also noted that the document had contained only European examples and had been reviewed in order to include examples that reflect the African context. It is highly likely that provincial meetings will be held on the report and that the HCWG could be instrumental in providing facilitation in this consultation process. This was supposed to happen in April 2012 but because of many delays on the side of government, it is anticipated to take place early in 2013.

2. DOJ&CD hate crimes-related updates (apologised)

In the absence of a DoJ&CD feedback (see apology noted earlier), Sedica Davids shared in broad strokes the research her consultancy was commissioned to do for the Department to investigate the barriers to assistance and service for LGBTI victims within the structures and systems of DoJ&CD - especially victims of hate crimes.

The research was conducted in courts in 5 provinces over a 5 months period and interviewed 33 senior staff members and prosecutors (denied access to judges) and did 165 interviews with support staff about services.

Summary of some of the findings:

- There is a lot of documentation on policies which are not embodied in practice.
- There is need to enforce ethics consistent with constitutional values at the workplace.
- There is no substantive equality in management, leadership and work behaviour in relation to LGBTI
- There is very low awareness of what constitutional behaviour requires
- Recommendations to create a tool to be used to gather the victims information (pre-Court, during Court, post-Court)

Note that this research report is currently embargoed by the Department.

Juan suggested that the HCWG, as well as members of the earlier mentioned LGBTI National Task Team (of whom several were present in this meeting) should officially request the DoJ&CD to without further delay release the above-mentioned research findings, which he deemed essential to the LGBTI sector. There is need for a legislative system that supports LGBTI victims. Policies exist but their implementation is a challenge. More work is

needed to ensure that people understand legislation better. There should also be forums to support vulnerable groups and mechanisms to promote LGBTI rights.

In closure, as a way forward, it was suggested that the HCWG should:

- Seek opportunities to engage the DoJ&CD and other departments differently in the year 2013
- Ensure that the new Steering Committee drives coordination effectively
- Ensure that more members join the LGBTI National Task Team.

3. Feedback from the draft Hate Crimes Monitoring Form research team.

The members of the HCWG Research sub-committee (Juan Nel, Hanlie v Wyk and Khonzi Mbatha) made presentations on the research that was conducted in five provinces (KZN, Western Cape, Gauteng, Limpopo and Eastern Cape) throughout the year 2012. Presentations covered preliminary findings including progress made and future plans for the roll-out of the finalised Hate Crimes Monitoring Form.

The presentation shed some light on the concept of hate crime by offering an inclusive and all-encompassing definition of the term. Hate crime was defined, for purposes of the research, as a criminal act committed against people, property, or organisations that is motivated in whole or part by prejudice because of the group to which the victim belongs or identifies with.

They emphasised that hate crime should be considered as a priority crime not on the basis of prevalence, but rather severity of emotional & psychological impact beyond individual victim, extending to group to which they belong (i.e. fear; shame; self hatred; delayed help, health seeking behaviour) or are perceived to belong, and to the broader community or society at large.

The presentation, furthermore, highlighted the provinces targeted, cases recorded per province and the preliminary summary of general findings.

The research was intended to retrospectively collate available data on hate crime cases, make the government aware of types of hate crimes happening in the country, improve future policy and strategies for addressing hate crimes as well as monitoring the extent of hate crimes in respective sectors.

The research consisted of three phases including pre-piloting, piloting and longitudinal study. The pre-pilot phase was marked by workshops and collaboration with different organisations towards developing the draft Hate Crimes Monitoring Form. During the pilot phase, 5 provinces were visited, briefing sessions were held and draft monitoring forms were completed with the assistance of a range of organisations and individuals in these provinces. The longitudinal phase will be marked by a roll out of the finalised Monitoring Form and intensive trainings in its use in the same five provinces and an online form will be developed

and made available for use, nationally, in the foreseeable future. OSF-SA will fund this process for 2013.

Concerning the draft monitoring form, it was reported that considerable restructuring and reformulation is needed towards finalisation of the form, as some sections are confusing and do not capture the intended information. There are general changes that will be applied throughout the form from section 1 through section 6 and other additional changes that will be made. The form will be accompanied by a cover letter to indicate its use. This letter will also emphasise the need for training before completion of the form.

For more details on the feedback from the research team please see the PowerPoint presentation on the following link:

http://hcwg.ipt.co.za/HCWG_AGM_Piloting_the_Hate_Bias-Crime_Monitoring_form_Final_27_Nov2012.pptx

4. Elections of the new Steering Committee:

All Steering Committee members present were ready to continue serving on the Committee except Charlene Harry from Human Rights Watch. Four new members and one observer member were added to the Committee: OUT, Triangle Project, Gay and Lesbian Centre, SA Jewish Board of Deputies and UN OHCHR (observer). The new Steering Committee will meet early next year to decide on members portfolios.

List of new Steering Committee members:

1. Iole Matthews (IPT)
2. Alfani Yoyo (CoRMSA)
3. Rebecca Chennells (Scalabrini)
4. Phindi Malaza (FEW)
5. Wendy Khan (SA Jewish Board of Deputies)
6. Nancy Castro-Leal (GALA)
7. Director (to be confirmed) (Triangle Project)
8. Jacqueline Nzohiyera (UN OHCHR)—Observer
9. Anthony Waldhausen (Gay and Lesbian Network)
10. Nokuthula Magudulela (Amnesty International-SA)
11. Dawie Nel (OUT)
12. Angelica Pino (Sonke). Note that Angelica did not attend the AGM but confirmed her position with the Chairperson.

Note, Juan Nel (Unisa), Hanlie van Wyk (Ubora Research) and Khonzi Mbatha (Unisa) will continue in the capacity of HCWG Research sub-committee.