



**REPORT OF THE NATIONAL HEARING
ON RACISM AND SOCIAL MEDIA
IN SOUTH AFRICA**

15 - 16 FEBRUARY 2017

AUGUST 2017



ENGAGEMENT REPORT

Stakeholder Dialogue on Racism and Social Media in South Africa

1 November 2019

09:00 – 13:00

Main boardroom (4th Floor)

Braampark Forum 3, 33 Hoofd St, Braampark, Johannesburg, 2017

1. Background

In 2017 and following a number of incidents of race-related statements via social media in early 2016, the Commission hosted a National Investigative Hearing on Racism and Social Media in South Africa. Race relations in the country continue to be an area of significant contention, and have resulted in spontaneous conversations about race, including through the media. The *Julius Malema*, *Adam Catzavelos*, *Ernst Roets*, *Penny Sparrow*, *Justin van Vuuren*, *Chris Hart*, *Velaphi Khumalo* and *Matthew Theunissen* matters, all of which were highlighted through social media are, arguably, indicative of evolving challenges in addressing racist attitudes and behaviour throughout the country.

Continued incidents of racism expressed on social media platforms illustrate the urgent need for intervention and leadership by the SAHRC in confronting discrimination and violations to the rights to human dignity and equality. The SAHRC must however, also ensure that the right to freedom of expression is not unjustifiably limited as the Commission responds to increasing violations to the rights of equality and dignity, often perpetrated through comment on social media. In relation to social media, the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerances (NAP) states that the media remains an integral component of civil society in South Africa, and has a critical role to play in combating racism and racial discrimination.¹

In light of the SAHRC's deep commitment to promoting tolerance, dignity, social cohesion and equality, the Commission in 2016 identified a need to consolidate its protection, monitoring and promotion work and to explore the issues evidenced by trends in complaints of violations of rights through social media.

¹ National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance: 2016 – 2021, par 184.

Consequently, the Commission hosted the 2017 National Investigative Hearing on Racism and Social Media in South Africa. The report emanating from the National Hearing is available on the Commission's Website.

Both the report of the national hearing and the Commission's complaints Trends Analysis Report² support the need for the Commission to continue engaging on the issues of racism and inequality. In particular, uncertainty in law, together with the nature of social media, provide challenges which impact on the strength of reforms which may be effected in response to racism and social media. While legal reforms are not a panacea which will eradicate racism, certainty to be gained from judicial pronouncements will be a welcomed step in respect of enforcement.

Social media, however, remains relatively uncharted territory. The hearing demonstrated a need to engage more fully on the use of social media as a platform through which vital expression may continue to flourish, but which can also be embraced to encourage respect for basic rights. Such platforms are likely to serve as dynamic tools through which all sectors of society are able to engage on issues which are regarded as sensitive or controversial in the physical realm of engagement.

Following a consultative process hosted by the SAHRC on 23 November 2016 with key stakeholders on the Prevention and Combating of Hate Crimes and Hate Speech Bill ("the Bill"), concern was raised about the lack of awareness amongst the general public concerning what constitutes racism and hate speech. These concerns surfaced again more recently when the Commission issued its 2019 findings related to Julius Malema, and again when the Equality Court declared that the gratuitous display of the old South African flag amounted to hate speech.

With respect to social media complaints in particular, concern was raised that the reporting mechanisms of social media sites, such as Facebook – which forms the basis of many race-related complaints lodged with the SAHRC – are not informed by South Africa's constitutional imperatives. Consequently, when requests by users are made to remove posts that could constitute hate speech, the social media managing entities may not view it as such. A greater responsibility is thus placed on individual users to ensure that they use social media sites responsibly in a manner that does not contravene the Constitution or ensuing hate speech legislation.

Racism includes both behavioural and attitudinal challenges, consisting of varying degrees of prejudice that manifests in both overt and subtle forms of conduct. While South African legal frameworks permit for the protection of rights against racist conduct, addressing racist thought that is embedded and socialised is far more complex. In addition, the institutionalisation and persisting structural forms of discrimination which feed racist conduct persist - as do economic and social indicators of poverty, income inequality, unemployment and a lack of access to opportunities, stratified by race.

² Available at <https://www.sahrc.org.za/home/21/files/SAHRC%20Trend%20Analysis%202016%20-%202017.pdf>

A number of responses through policy aimed at reform and legislative frameworks have been put in place with varying degrees of success to overcome unfair discrimination. However, abiding inequality and poverty demand that the phenomenon of racism be revisited for more holistic responses, both structured and unstructured, to advance national conversations about race, racism and racial discrimination. Without a meaningful and effective way of addressing entrenched racial attitudes and power imbalances (both real and perceived), social- and income inequalities, substantive empowerment of marginalised groups remains limited.

The panel at the hearing on racism and social media received inputs from diverse stakeholders, including government departments and civil society organisations. In recognition of the dynamism of evolving technology and the complexity of deeply embedded racism in South Africa, the SAHRC deems it necessary to convene an intimate roundtable of stakeholders to take forward the conversations initiated in the course of the hearing around racism and social media.

2. Purpose of the dialogue

In October 2019, and in light of the delays incurred in finalising the report, the Commission resolved to host a stakeholder dialogue on racism and social media, and publish the final hearing report on its website. The roundtable focused on taking forward issues raised during the hearing, identify new and emerging trends and issues, and propose priorities in this space to the SAHRC as part of its ongoing activities in responding to racism and racial discrimination. The Roundtable located as a point of commencement of discussions, the Commission's 2017 Racism in Social Media in South Africa Report, with the aim of taking the discussions forward.

The aims of the roundtable were to:

- a) To highlight legal, economic, social and political developments influencing racism in social media;
 - b) Provide considered and constructive engagement with government and other societal stakeholders to promote and ensure a collaborative approach to addressing prejudiced attitudes often expressed on social media platforms;
 - c) Use the National Hearing as a point of departure to engage on leveraging social media to influence change, transform society and promote human rights;
- a) Identify key priority areas for intervention; and
 - b) Provide reasoned, considered recommendations on the way forward
 - c) Promote the SAHRC and its report.

3. Summary of Discussions

The meeting was opened by the Chief Executive Officer, Adv Tseliso Thipanyane, who welcomed the meeting and provided context to the discussion. In summary, the CEO highlighted the prevalence of racism in social media, the public's lack of legal literacy related to the threshold for hate speech, the challenges associated with criminalised hate speech, especially on social media platforms. The CEO further made reference to the opportunities that social media affords us to promote our constitutional democracy and human rights.

The Chairperson of the **Information Regulator** of South Africa, **Pansy Tlakula** made a few remarks on her experience with bias and prejudice on social media. She noted that when it comes to social media, things are always moving and constantly changing. She noted that makes for some serious difficulties for regulatory bodies such as the Information Regulator. She underscored the need to work together on a continuous and adaptive basis to combat racism in social media. She noted that now that she has been appointed as a member of the United Nations Committee on the Elimination of Racial Discrimination, the issue of racism on social media will be receiving more attention from her side. Pansy Tlakula unfortunately had to leave the meeting early due to prior commitments.

This was followed by inputs from Ms Thandiwe Matthew, Senior Researcher for Civil and Political Rights, who provided a comprehensive overview of the Report of the National Hearing on Racism and Social Media in South Africa. Ms Matthews spoke to the background of the report, the aims of the hearing as well as the methodology followed. Ms Matthews focussed on key recommendations developed in the report.

Next, Dr Shanelle van der Berg made contributions to the discussion highlighting new developments, trends, challenges and opportunities in addressing Racism in Social Media. The discussion was thereafter opened for discussion. A number of issues were raised by the meeting:

1. Dr van den Berg highlighted some new developments related to the recent elections, Cyber Crime Act; media reporting (not reporting whole picture), the issue of expropriation without compensation; the National Action Plan.
2. Reiterated that prejudice and even racism will not always amount to hate speech.
3. Izak Minnaar mentioned the online monitoring platform.
4. Finally, the meeting discussed the lack of regulatory guards, the deficient "community standards" employed by intermediaries such as Facebook and Twitter, and the need for self-regulation when it comes to what is acceptable speech on social media platforms.
5. The meeting discussed the prevalence of disinformation on social media. In this context, representatives of the IEC noted that they have partnered with Media Monitoring Africa to develop the Real411.org campaign to create a platform where ordinary persons can report digital disinformation and other digital offences such as the harassment of journalists etc. The platform further creates a central repository of political party advertisements. The meeting also noted similar developments for the combatting of racism in social media such as the Zimele Racism Reporting App (ZiRRA) developed by the Kathrada Foundation.

6. The meeting further discussed how we can leverage work already done on racism and disinformation on social media such as the 2017 Joint declaration on freedom of expression and “fake news”, disinformation and propaganda; or UNESCO’s Addis Ababa Declaration resulting from the 2010 Meeting of the High-level Group on Education for All, Addis Ababa.
7. The meeting agreed that stakeholders should be prioritising advocacy and awareness raising to, in the absence of more concrete regulation, capacitate users on hate speech on social media with the aim of capacitating users to self-regulate.
8. The meeting discussed the possibility of creating a multi-sectoral, multi-disciplinary platform (similar to the LGBTIQ NTT structure under DoJ) for relevant stakeholders with the intention of facilitating collaboration and elimination of the practice of working on silos on matters of common interest.
9. The meeting discussed the possibility of a social media charter.

4. Agreed Actions

The following actions were agreed upon:

- The Commission, in consultation with policy-makers, regulatory bodies, civil society organisations, researchers and academics will develop a Social media charter before the end of the 2020/2021 financial year. The CEO indicated that the Commission will be in a position to fund this initiative.
- The Commission will publish the 2017 National Investigative Hearing on Racism and Social Media in South Africa on its website, and will create a mailing list or email group composed of all stakeholders present at the dialogue with the aim of continued collaborative work.
- The Commission, in collaboration with relevant stakeholder, will continue to strengthening the constitutional environment for the fullest possible exercise of basic rights and freedoms.
- It was agreed that the key point of entry to combatting racism in social media should be human rights education at all levels including basic education.

5. Programme for the dialogue



Programme

Stakeholder Dialogue on Racism and Social Media in South Africa

1 November 2019

09:00 – 13:00

Main boardroom (4th Floor)

Braampark Forum 3, 33 Hoofd St, Braampark, Johannesburg, 2017

Facilitator: Ms Thandiwe Matthews

		Person Responsible	Time
	Arrival, Tea and registration	All	09:00 – 10:00
	Opening and Welcome	CEO of the SAHRC, Adv Tseliso Thipanyane	10:30 – 10:45
	2017 Racism in Social Media in South Africa Report – Background, Process, methodology, key recommendations	Discussion lead by Thandiwe Matthews	10:45 – 11:15
	New developments and trends, challenges, opportunities in addressing Racism in Social Media	Discussion lead by Dr Shanelle van den Berg	11:15 - 11:45
	Way forward and wrapping up	Discussion lead by Thandiwe Matthews	11:45 – 12:00
	Closing	COO of SAHRC, Chantal Kisoon.	12:00-12:05