



TOLERATING INTOLERANCE: XENOPHOBIC VIOLENCE IN SOUTH AFRICA

A REPORT

BY

**CITIZENSHIP RIGHTS IN AFRICA INITIATIVE (CRAI)
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ACRONYMS AND ABBREVIATIONS

APOA	Alexandra Property Owners Association
APON	Albert Park Outreach Network
AAX	Action against Xenophobia
CoRMSA	Consortium for Refugees and Migrants in South Africa
CoSS	Centres of Safe Shelter
CRAI	Citizenship Rights in Africa Initiative
CRGA	Concerned Residents Group of Alexandra
CSO	Civil Society Organisation
CSVV	Centre for Study of Violence and Reconciliation
DHA	Department of Home Affairs
DMC	Disaster Management Centre
EBA	Employment Bureau of Africa
FBO	Faith Based Organisation
FDP	Foundation for Professional Development
JRS	Jesuit Refugee Services
GNP	Gross National Product
GDP	Gross Domestic Product
HRW	Human Rights Watch
MSF	Medecins Sans Frontieres
MCC	Mennonite Central Committee
MMA	Media Monitoring Africa
PDMC	Provincial Disaster Management Centre
SANCO	South African National Civic Organisation
SAHRC	South Africa Human Rights Commission
TAC	Treatment Action Campaign
TRC	Truth and Reconciliation Commission
UNHCR	United Nations High Commissioner for Refugees
OCHA	United Nations Office for the Coordination of Humanitarian Affairs

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METHODOLOGY

The CRAI mission visited South Africa and Mozambique from 4 - 14 August 2008. Its primary purpose was to investigate and document the May 2008 attacks upon foreign nationals.

The mission was composed of international and South African members, including Custódio Duma from Mozambique, Adam Hussein Adam, from Kenya and Major Kobese from South Africa. Two additional members, Honourable Uche Onyeagucha and Ibim Semenitari, both Nigerian nationals, were unable to participate fully because they were denied visas by the South African government.

Prior to the mission team's departure to South Africa, a literature review was conducted by colleagues at the International Refugee Rights Initiative. In South Africa, the mission visited Johannesburg, Pretoria and Cape Town. East of Johannesburg, it visited Rand airport camp, the largest of five camps in Gauteng province for victims displaced in the attacks. Members of the mission interviewed foreign nationals in the camps, government officials managing camps in Cape Town and Johannesburg, and non-governmental organisations. CRAI representatives then proceeded to Mozambique where they spoke with Mozambicans who had recently fled from South Africa.

The team also had discussions with a number of civil society organisations (CSOs) and governmental institutions and officials, including the Minister of Labour and Justice for Mozambique. A list of persons interviewed during the mission is attached as an appendix to this report. Pseudonyms are used to refer to foreign nationals in South Africa throughout the report, in an effort to ensure their safety.

EXECUTIVE SUMMARY

In May 2008, a wave of violence overtook South Africa's main urban centres. The targets were overwhelmingly, although not exclusively, foreigners from other African nations settled in poor neighbourhoods. By the end of the month, 62 people had been killed and tens of thousands displaced.¹ Those who crowded into the government shelters set up to protect them told of being attacked and seeing their houses burned and their property looted. Throughout, it was clear that intolerance of foreigners was at the root of the violence.

In response, the Citizenship Rights in Africa Initiative (CRAI) commissioned an investigation to explore the reasons for the attacks; the roles played by different stakeholders, particularly the South African government; to document the experiences of victims; and to make recommendations. The mission took place from 4 - 14 August 2008 in Gauteng province and Cape Town in South Africa, and Maputo in Mozambique. What follows is a report of that mission.

The report begins with a description of the patterns of violence that took place. It then reflects on the causes behind the violence, examines the responses of various actors, including the South African government and civil society, and outlines the consequences for South Africa and for the region.

In popular parlance, what happened in South Africa in May was referred to as xenophobic violence. However, the reasons for what happened were clearly more complex than a simple dislike or mistrust of foreigners. Based on the findings of the mission, CRAI identified five main causal factors:

1. **failure of the government of South Africa to meet post-apartheid expectations with regard to economic conditions and service delivery:** the democratic transition in South Africa heralded great promise for South Africa's black population, but substantial positive economic change has been achieved only for relatively few, leading to widespread frustration amongst the population and a tendency to jealously guard against any perceived encroachment;
2. **competition in the informal business sector:** migrants may, in some cases, compete favourably with South African blacks for employment because of the relatively greater opportunities offered in other countries prior to the end of apartheid. In addition, certain migrants engage in petty trading, which some South Africans consider to be unfair competition;
3. **media portrayals of foreigners which reinforce prejudice:** because many South Africans do not have extensive personal experience in dealing with foreigners, they tend to rely heavily on third party information, especially from the media. For instance, depictions of migrants coming in "waves" and "hordes" and references to "job stealers" and "aliens" dehumanise migrants and increase the likelihood of violence;

¹ Mail & Guardian. "[Toll from xenophobic attacks rises.](#)" 31 May 2008.

4. **perceived tolerance by state institutions to increasing intolerance against foreign nationals:** the attacks in May were not the first incidents of violence directed against foreigners in South Africa: more than a decade of incidents, although smaller in scale, can be cited. The failure of the government to aggressively address these incidents helped to create a perception that such violence would be tolerated;
5. **South Africa's legacy of apartheid and isolation:** this legacy created fertile ground for violence in several ways. First, it created racialised notions of identity and worth, which encouraged black South Africans to see themselves not only as inferior to whites, but also as separate from the rest of the continent. Second, it encouraged separation and compartmentalisation of various populations as a means of governance and discouraged integration or contact between groups. Finally, it institutionalised violence as a means of communicating grievances and achieving political ends.

Combined, these factors created the context within which the shocking events of May 2008 took place. With regard to the *response* to the violence, the report chronicles the responses of the government of South Africa, civil society organisations and other governments. It describes the slowness of the government to take a stand against the violence - by the time the government took decisive action by sending in troops to assist the South African Police Service (SAPS), considerable damage had already been done. At the same time, local government structures including the police and disaster management structures, while playing a frontline role in responding, had considerable difficulty in ensuring coordination. Meanwhile the United Nations High Commissioner for Refugees (UNHCR) provided immediate assistance and advice to the government, and civil society organisations interrupted their regular programming in order to provide immediate assistance in legal, material and advocacy terms. Foreign governments were able to assist their nationals to return home, if they desired to do so.

The report goes on to reflect on the consequences of the violence, both in terms of damage to persons and property, and more generally to South Africa's image. It calls on the government of South Africa to ensure legal accountability for the violations that occurred and take stronger action to prevent their being repeated in future.

Recommendations

In light of the findings, CRAI calls on the South African government to:

- establish a special commission of enquiry to look into the causes and consequences of the violence in order to provide a concrete road map for redress and reform;
- invite all those affected by these attacks as well as their home governments to co-operate with the commission of enquiry and submit evidence to it;
- prosecute all those responsible for the attacks on foreign nationals;

- ensure that reparations are made to all foreign nationals who were affected by the violence and set up relief measures that would assist in the recovery of, or compensation for, lost, stolen or destroyed property;
- strengthen initiatives aimed at addressing xenophobia and encouraging tolerance amongst non-nationals and South African citizens in the Department of Home Affairs. The relevant parliamentary committee should play an oversight role in reviewing these initiatives;
- fulfil its international obligations on the elimination of racial discrimination by adopting legislation aimed at preventing, combating and punishing hate speech and hate crimes, and to eradicate all forms of ill-treatment, including extortion, of non citizens by law enforcement officials;
- educate and train law enforcement agencies on the entitlements of non-nationals.

In addition, CRAI calls on other African states to:

- guarantee, by individual and multi-lateral action, the effective protection of all people resident within their national borders irrespective of their status;
- explicitly recognise xenophobia as a crime of hate and to adopt measures to tackle xenophobia and all other hate crimes on the continent;
- urgently take measures to facilitate freedom of movement on the continent and especially within regional economic communities;
- institute and undertake public education aimed at enlightening the public on the rights and responsibilities of foreign nationals within their territories.

INTRODUCTION

On 11 May 2008, the world woke to reports of shocking attacks on foreign nationals of African descent by South African citizens. The violence started in poor neighbourhoods of Alexandra in Johannesburg² and quickly spread to other cities, including Cape Town and Pretoria.³ By 31 May 2008, the death toll had risen to 62, the vast majority of whom were in Gauteng province, where the country's economic capital, Johannesburg, and administrative capital, Pretoria, are located.⁴ Thousands of migrants and South Africans were the victims of criminal violence; women and children were attacked and raped, and thousands had their houses and belongings looted or destroyed. The most severely affected groups were Africans from neighbouring states, such as Zimbabwe and Mozambique, but migrants from more distant African countries, such as Nigeria and Somalia, as well as a significant number of South Africans, also became victims of the violence.⁵

Although a number of attacks against foreigners of African descent have been documented in recent years, the intensity of this violence was unprecedented. Although the South African Police Services (SAPS) provided frontline response to the crisis, sheltering victims in police stations and providing assistance, it was incapable of protecting the population or dealing with the perpetrators. With violence threatening to spin out of control, South Africa's then President, Thabo Mbeki, called in the army. Thousands were displaced: up to 33,000 people fled their homes and camped out in temporary shelters, churches and police stations within South Africa, while thousands more returned to their countries of origin.⁶ The violence calmed down relatively quickly, but the humanitarian aftermath lingered on: camps were characterised by inadequate shelter and outbreaks of disease.

In August 2008 the number of those displaced in the three provinces stood at 8,556 in 53 sites. Gauteng had 10 sites and 4,340 people; Western Cape had 40 sites and 3,958 people; and Kwazulu-Natal had 3 sites and 258 people.⁷ By 30 November all the safe sites were closed. As observed by the Task Team of Members of Parliament, the "impact of the violence and attacks was severe, as many people were gripped by fear and experienced the trauma of being evicted from their homes, being physically assaulted, killed and in some instances burnt".⁸ Furthermore, the violence had consequences for all of South Africa: the "new" South Africa may have set up a vision of human dignity, human rights and equality of all, but in it has clearly lacked the capacity to protect

² BBC. "South African Mob Kills Migrants." 12 May 2008.

³ BBC. "Africa Mob Burns Mozambican Man." 14 June 2008.

⁴ Mail & Guardian. "[Toll from xenophobic attacks rises.](#)" 31 May 2008.

⁵ Mail & Guardian and Sapa. "[Xenophobia: Mbeki gives nod to army](#)". Johannesburg. 21 May 2008, updated 27 November 2008. Also see Mail & Guardian "[Xenophobia deaths: One-third was South African.](#)" Johannesburg. 12 June 2008 updated 27 November 2008.

⁶ BBC. "[SA Province Seeks Disaster Status.](#)" 29 May 2008.

⁷ UN OCHA. "Violence Against Foreign Nationals in South Africa Centre of Safe Shelter and Displaced Population Totals by Province as of August 12 2008". United Nation Office of Coordinating Humanitarian Affairs Regional Office for Southern Africa, 2008.

⁸ Report of the Task Team of Members of Parliament Probing Violence and Attacks of Foreign Nationals. May 2008.

individuals in the country from violent criminal assaults. In addition, its capacity to offer justice to victims has been incomplete. One year after the attacks, only 137 of the 1433 people arrested in connection with the attacks had been prosecuted. Another 133 cases were still being processed and about 182 were withdrawn due to difficulties in tracking complainants and other issues.⁹

What caused or triggered these recent attacks? Could these attacks have been prevented? Why did the attacks target mainly African foreigners? Will these attacks recur? CRAI undertook an investigation to explore these questions. It sought to document the facts surrounding the violence - the causes, the triggers, and the extent - and to trace the return movements of the affected individuals in and out of South Africa. The study also sought to establish the roles played by persons, groups and institutions, particularly the South African government. Above all, the mission sought to identify measures to facilitate remedies for the victims and prevent the recurrence of similar violence.

In addition, the violence and associated xenophobia and intolerance observed in South Africa are part of a larger pattern of rights violations in Africa. Across the continent exclusionary ideologies have sprung up, conditioning access to rights on citizenship or belonging within a particular ethnic, racial, or cultural groups. These exclusionary ideologies have been used to justify both individual persecution and, at times, mass atrocities. CRAI hopes, therefore, that the study of discriminatory violence in South Africa will have an impact on improving policies not only in South Africa, but also elsewhere on the continent.

THE NATURE OF THE VIOLENCE

The violence appears to have been racially targeted and discriminatory in nature.¹⁰ The attacks primarily targeted black foreign nationals residing in poor neighbourhoods, although a fairly large number of South Africans were also targeted. Those targeted both South African and foreign, tended to live in poor areas of South Africa's urban centres where the level of skills tends to be low and South Africans and foreigners lived in mixed communities. Some of the targeted foreigners had made significant efforts to blend into South African society, for example learning local languages. The mission team observed that a majority of victims were attacked in their own neighbourhoods.

Despite being seen as organised, it became clear that the violence in some communities was a combination of premeditated attacks and opportunism. For instance, in KwaZulu-Natal, an attack incident on a tavern owned by Nigerians in Durban's Umbilo on Tuesday 20 May 2008 was declared political following its destruction by a gang of at least 150 people.¹¹ KwaZulu-Natal's safety and security minister, Bheki Cele, accused the Inkatha Freedom Party (IFP) of being behind the attacks, allegedly also involving residents from

⁹ Sibongile Mashaba, "Prosecuting the guilty," *The Sowetan*, 11 May 2009.

¹⁰ Vincent Williams, the South African Project Manager of the Southern African Migration Project (SAMP), highlights isolation as a major reason for South Africa's xenophobic tendencies.

¹¹ Mail & Guardian and Sapa. "[Xenophobia: Mbeki gives nod to army.](#)" Johannesburg. South Africa. 21 May 2008 updated 27 November 2008.

a Dalton Road men's hostel. "There was a meeting of the IFP branch in Dalton yesterday [Tuesday] and ... I know it was them who went straight from there to the tavern and raided the place and smashed the cars," Cele said.¹² At least 100 hostel dwellers converged on Durban's Umbilo suburb on Wednesday, ordering foreigners to leave KwaZulu-Natal. Captain John Lazarus said many were armed with stones and bottles.¹³

Instruments used in the attacks included machetes, axes, and stones. One Mozambican was burnt alive.¹⁴ In Actonville, Benoni, near the Emandleni squatter camp, a South African journalist was mistakenly burnt to death.¹⁵ Others were stoned, seriously beaten and stabbed, and many lost all their property to looters. Those whose properties were not looted saw them burnt down by the attackers, sometimes in the full glare of the media.

Where foreign nationals were organised and or where local leadership was strong, they were spared the attacks. For example, in Braamfontein a single Zimbabwean teacher organised a strong force of foreigners in the neighbourhood and they were not attacked.¹⁶ "No one dared attack Hillbrow", said the Zimbabwean Crisis Network press liaison.¹⁷ The foreign communities in these areas were arguably organised and thus they were spared the attacks, according to Nixon Nyikadzino. "When we were covering the news in this area we found residents on guard ready to repel any attacks,"¹⁸ he added. Hillbrow was once an exclusive housing project run by City of Johannesburg for European foreigners working in South Africa during the apartheid era, but is now home to able foreigners from African countries, mostly West Africa.

What started as a security problem became a humanitarian catastrophe for the thousands of survivors. In addition to the thousands of foreign nationals evicted from their homes thousands more fearing for their lives sought shelter in police stations while others were repatriated by their home governments¹⁹ to their countries of origin with nothing more than the clothes they were wearing.

¹² Ibid.

¹³ Ibid.

¹⁴ BBC. "Africa Mob Burns Mozambican Man." 14 June 2008. And Stringer/AFP/Getty Images (2008). "The Big Picture: New Stories in Photographs" in *Xenophobia in South Africa*. Published in the *The Boston Globe*.

¹⁵ Subashni Naidoo. "SA victim had a dark premonition." *The Times*. 24 May 2008. "In a different incident, a highly respected Gauteng photographer Pretham Singh, 55, a South African citizen who lived alone in Actonville, Benoni, was asleep when his house was torched last Sunday by a mob searching for foreigners was burnt alive his body was found burnt beyond recognition. His home is close to the Emandleni squatter camp."

¹⁶ CRAI interview with Tim Wilson the Coordinator of CSO on interventions on Xenophobia on 6 August 2008 at CSV. Tim Wilson a retired volunteer with CSV worked for the first democratic South African government in the Ministry of Health.

¹⁷ CRAI interview with Nixon Nyikadzino, Press Liaison, Crisis in Zimbabwe.

¹⁸ Ibid.

¹⁹ M&G Africa "Zimbabwe sends buses, trucks to fetch nationals in South Africa" 30 May 2008, available at http://www.monstersandcritics.com/news/africa/news/article_1408381.php/Zimbabwe_sends_buses_trucks_to_fetch_nationals_in_South_Africa

For instance, without declaring the aftermath of the violence a national disaster Mozambican government was forced to reactivate its National Operative Emergency Centre (CENOE) which deals with disasters such as floods to deal with violence victims. According to Deputy Foreign Minister Henrique Banze, the Mozambican government received nearly 20,000 of its citizens fleeing from violence through Ressano Garcia border and further 1,850 through Ponta de Oura border. The Mozambican government also set up three reception centres around Maputo; it hired 19 buses and several trucks to transport victims of the violence.²⁰

One Mozambican in Chamanculo, a sprawling township on the outskirts of the Mozambican capital, Maputo, told his story like this:

[I] was forced to run away to Maputo in Mozambique fearing for my life and my family after our house was razed to the ground by a mob. I had rented a piece land from a South African; built a modest house for me and my two brothers and we all worked as masons. My ten years' worth of work and investments in South Africa was reduced to ashes. When I returned from work, I found that my terrified wife and children had taken refuge in the nearby police station. With support of Mozambican government transport I left South Africa in company of family - my wife, two brothers and children. Without transport, I would have been in refugee camps in South Africa.²¹

RESPONSES TO THE VIOLENCE

Regardless of the causes, the violence that took place was both vicious and widespread. It left thousands displaced, unable to return home for fear of their lives. Government response was disorganised and lacking in leadership. Right from the beginning, it was slow in declaring the violence a crisis: although the attacks began on 11 May 2008, the governments' decisive action to stop the violence came more than ten days later on 22 May 2008.²² Four days into the violence, the Democratic Alliance (DA) party, the official opposition political party, called for the deployment of the army to help the over-stretched police and stop the violence. "The army should be used in a civilian context only in an emergency, but I believe we might have reached that stage," said party spokesman John Moodey.²³ By the time the army was deployed in Gauteng region, more than forty people had died, hundreds had been injured, and thousands more displaced. Although criticised by some CSOs²⁴ political parties all hailed this action²⁵ and it turned out to effectively stop the violence.

²⁰"Mozambicans flee over the border". Mail and Guardian, 26 May 2008, Updated 16 February 2009, available at <http://www.mg.co.za/article/2008-05-26-mozambicans-flee-over-the-border>

²¹ CRAI interview with Carlos Raul, a victim of the May attacks in Alexandra.

²² S'Thembisio Msomi, Borrie la Grange, Nkululeko Ncana, Werner Swart and SAPA "Mbeki sends in troops" In *The Times*. Published 23 May 2008.

²³ Nkululeko Ncana and Thabo Mkhize "Politicians dither as the violence spreads." *The Times*. 15 May 2008.

²⁴ In a statement quoted by the *Mail & Guardian*, Lawyers for Human Rights (LHR) expressed concern that "such use of military creates a situation similar to apartheid period before 1994. In any event, investigation of crime, public safety and prosecution of crime committed against foreign nationals require members who

However, the government was not alone in providing limited leadership. According to Tim Wilson “we have good laws; we have responding institutions too but these are mismatched, lacking in leadership.”²⁶ Churches that fought against apartheid are no longer actively involved in empowering the public, adds Bishop Paul Verryn.²⁷ “The complaining groups, the victims of xenophobia and all South Africans are yearning to be led”, concludes Tim Wilson. For instance, when political leaders came out in unison and condemned the violence, even criminals heard and heeded their calls.²⁸ Three days after the violence began, ANC National Executive Committee member Winnie Madikizela-Mandela visited families of those killed in xenophobic violence in Alexandra and apologised to the foreigners.²⁹

The overall lesson learned in this investigation is the danger of absent leadership in public affairs. While not implicating the government directly, many have complained about government actions and reactions to the entire processes before, during and after the violence. These actions directly and indirectly contributed to the escalation of unhealthy environment between local citizens and foreign nationals.

Humanitarian needs

During the attacks and in the immediate aftermath, frightened foreigners sought refuge in police stations and other local government structures. It fell on these structures, therefore, to provide immediate response. The United Nations High Commissioner for Refugees (UNHCR), for its part, saw an increased demand by refugees for third country resettlement. In addition, UNHCR played a key role during this crisis in advising the government, including providing materials for setting up camp facilities’ at some sites.

are trained in those areas. The military is not equipped to bring to book perpetrators of crimes against xenophobia victims’ ” See the Mail & Guardian and Sapa “Xenophobia: Mbeki gives nod to army”. Johannesburg: 21 May 2008.

²⁵ Political parties welcomed Mbeki’s decision. United Democratic Movement leader Bantu Holomisa said: “The president has made the right decision ... with the army in place; these attacks could go away within 48 hours of the deployment.” Inkatha Freedom Party spokesman Velaphi Ndlovu said: “The decision to bring the soldiers in will boost the image of security in the country and it will definitely help in dealing with this situation, as it is spreading.” But Democratic Alliance Gauteng Member of the Provincial Legislature Jack Bloom said: “It is a pity that this decision was not taken earlier. Many lives could have been saved if the army had been brought in last week when the DA first called for it.” S’Thembiso Msomi, Borrie la Grange, Nkululeko Ncana, Werner Swart and SAPA “[Mbeki sends in troops](#).” *The Times*. Published 23 May 2008.

²⁶ CRAI interview with Tim Wilson Coordinator of CSO activities on Xenophobia in Johannesburg on the August 6th 2008.

²⁷ CRAI interview with Bishop Paul Verryn of the Methodist Church on the 6 August 2008 at the Church offices in Johannesburg.

²⁸ “[Mandela calls for ‘social cohesion’](#).” *The Times*. 17 June 2008. “[Beware Holocaust mentality: Tutu](#)” *The Times*. 20 June 2008.

²⁹ Winnie Mandela apologized to a groups seeking safety in a police station, "I am sorry...It is not all South Africans that are like this". “[Winnie visits families of Alex victims](#).” *The Times*. 14 May 2008.

Few CSOs took interest in promoting integration processes or addressed xenophobia before the violence broke out. In the wake of the recent crisis, however, many CSOs,³⁰ along with many in the business community and faith based organisations (FBOs) lent a hand at a cost to their regular programmes. While CSOs were involved in the humanitarian efforts, their participation in the government's re-integration programme was minimal. This was partly due to a lack of comprehensive planning and limited information and consultation. As with the initial reaction to the violence, the government's response to the humanitarian emergency that subsequently developed was slow. For instance, in Western Cape it took three weeks from when camps were set up on 22 May 2008 to define which authority was responsible for maintaining them, with disputes between the city and provincial government about who should be responsible for the camps. Once the situation was declared a national disaster this was resolved in part through the creation of a Joint Task force. Even after this mechanism was created, however, coordination of efforts was slow.

By the time the CRAI team visited Gauteng, several camps had been closed down and people moved to different sites.³¹ At the time of the mission, the remaining camps in Gauteng were located at Rand Airport, Rifle Range, SAPS Reiger Park, River Road (Alex), Wadeville and DBSA (Olifantsfontein) and housed a population of more than 7,373 people³² while in Western Cape there were five major camps and about 79 state and non-state run shelters with an approximate population of 10,000 people.³³ The resulting crisis tested South Africa's competence in crisis management. The camps experienced problems of congestion and poor management, but by the time of writing had mostly been closed down.³⁴

A number of CSOs, FBOs and members of the business community responded quickly to the humanitarian crisis. For example, Standard Bank³⁵ and the Nelson Mandela Foundation (NMF) and its affiliates were among the many institutions that donated

³⁰In Gauteng the following institutions were key in offering humanitarian support: Centre for Study of Violence and Reconciliations (CSVR), Disaster Management Centre (DMC), Faith Based Organizations (FBO), Foundation for Professional Development (FDP), Jesuit Refugee Services (JRS), Medecins Sans Frontiers (MSF), and Provincial Disaster Management Centre (PDMC). In Western Cape the following cluster were key institutions involved in the offering humanitarian support: Albert Park Outreach Network (APON), Action Against Xenophobia (AAX), Centers of Safe Shelter (CoSS), Centre for Study of Violence and Reconciliations (CSVR), Disaster Management Centre (DMC), Faith Based Organization (FBO), Foundation for Professional Development (FDP), Mennonite Central Committee (MCC), Medecins Sans Frontiers (MSF), United Nations High Commission for Refugees (UNHCR), United Nation Office of Coordinating Humanitarian Affairs Regional (OCHA).

³¹By end of June 2008 in Gauteng people in the following camps were either moved or scheduled to move to alternative locations: SAPS Kwa Thema, SAPS Jeep, SAPS Reiger Park, SAPS Cleveland, Thokoza Auditorium, Boksburg Town Hall, Reiger Park Civic Centre, DH Williams Hall, Fararani Community Hall, Springs Community Centre.

³² CSVR. Abbreviated Site Report. June 2008.

³³ Fatima Hassan. "Report on Xenophobic Attack in The Western Cape." June 2008.

³⁴ By the time we concluding this reports some camps are still open in Cape Town reoccupied by groups fearing further attacks.

³⁵ Standard Bank. "[Standard Bank to Donate R3m to the Victims of Xenophobia.](#)" 2 June 2008.

funds.³⁶ UNHCR provided 2,000 tents, 7,000 blankets and 2,000 sleeping mats.³⁷ A number of organisations provided humanitarian assistance such as potable water and blankets at different camp sites.³⁸ While some provided food, others such as Medicines Sans Frontiers provided medical clinics. A number of religious institutions of different denominations housed and provided for victims.

Indeed, in a presentation made at the Parliamentary Seminar on Migration and Xenophobia, CSVR reported that in Kwazulu Natal, “CSOs were the only ones responding to the needs of the displaced people.”³⁹ Where the government responded without sufficient consultation, this resulted in problems in some cases. For instance, in the selection of Vickers Road as a site in Johannesburg, the lack of consultation meant that the authorities were unaware of that fact that the George Goch hostel, which was next to the site, has a history of violence. The location of a camp there was only prevented as a result of a successful legal challenge by CSOs. A second example was the establishment of a site in Wadeville, where there were concerns about toxicity levels in the soil, which were later confirmed and resulted in the forced removal of sheltering migrants. At City Deep, another site in a dusty old mine dump, MSF medical practitioners complained that the environment aggravated patients with respiratory infections. The camp was also closed down.⁴⁰ A number of CSOs responded to this crisis at significant cost to their regular programming.

For government, humanitarian activities and disaster management following the violence fell, at the provincial level, under the purview of disaster management. Generally disaster management involves responses to natural disasters such as floods and virus outbreaks. However, the humanitarian problems following the violence placed significant strain on the arrangement. Their magnitude was unprecedented. In addition to humanitarian issues, there were security concerns and issues of documentation. Placing the response to the crisis only under this heading constrained the ability of the government to respond rapidly and effectively to the problem.

Legal Protection

The Department of Home Affairs (DHA), the primary government agency responsible for migration policy, issues registration documents to migrants to protect them from deportation. The department, however, has been accused of ineffective registration of many immigrants (mostly Zimbabweans) who were left without documentation. During the crisis, the DHA commenced a process of registering and issuing temporary ID cards. The DHA registered the migrants to address the need for adequate documentation and information gathering. This need was also recognised by many NGOs. However, many of

³⁶ Nelson Mandela Foundation. “[Mandela Organisations Donate R1m to Victims of Xenophobia.](#)” 2 June 2008.

³⁷ UNHCR, “South Africa: UNHCR aid provided to displaced,” 30 May 2008.

³⁸ See UNOCHA. “Violence Against Foreign Nationals in South Africa Centre for Safe Shelter and Displaced Population Totals By Province as of 12 August 2008.”

³⁹ CSVR. “[Understanding current xenophobic attacks and how South Africa can move forward.](#)” June 2008.

⁴⁰ IOL. “[MSF Criticises Government Over Temporary Shelters.](#)” 2 June 2008.

the foreigners affected by the violence expressed concern that registration would facilitate their deportation.

In addition, the South African Police Service (SAPS), whose role in border control and crime prevention had previously been found wanting in relation to foreign nationals, in particular through allegations of unnecessary arrests and extortion of immigrants, refugees and asylum seekers, played a positive role in responding to the attacks, increasing police presence in areas affected by violence, and keeping victims safe in their stations. It was clear, however, that they were simply inadequately equipped to respond to the scale of the violence and unable to protect the population as a whole.

Furthermore, many of the displaced required legal assistance in order to reclaim their property and rights. Some CSOs provided legal representation, including the Legal Resources Centre (LRC) and Lawyers' for Human Rights (LHR), among others, on issues such as victims without ID cards, relocation cases and demanding reintegration plans.

At the time the CRAI team was in South Africa, camps in Gauteng and Cape Town were scheduled to close on 15 August 2008 and in September 2008 respectively.⁴¹ This forced a number of CSOs to seek a court injunction to stop the camp closures. For the victims, however, the crisis extended from the initial violence into the camps and shelters to which they had fled to escape the violence.

Monitoring and Co-ordination

The South Africa Human Rights Commission (SAHRC) and UNHCR since 1998 have played a useful but quiet role in their campaign "Role-Back Xenophobia". The campaign aimed at conducting public education and awareness programmes on asylum seekers, refugees and migrants with a view to reducing negative perceptions of, and hostility towards, foreign nationals. As part of its mandate, SAHRC advises the South African government and monitors human rights of all people resident in South Africa, including migrants and refugees. Following the attacks, SAHRC worked to mobilise CSOs to monitor events on the ground.

As in many situations of humanitarian crisis, coordination of relevant actors was critical. For instance, in the initial stages SAHRC coordinated and visited victims in police stations. However, on 19 May, they convened a meeting of Chapter 9 institutions,⁴² CSOs and FBOs to discuss their response to the xenophobic violence. The meeting mandated

⁴¹ See UNOCHA "Violence Against Foreign Nationals in South Africa Centre for Safe Shelter and Displaced Population Totals By Province as of 12 August 2008."

⁴² The Chapter 9 institutions are organisations established by Chapter 9 of the South African Constitution. These independent organisations have as their general mandate the strengthening of constitutional democracy in South Africa. They are subject only to the Constitution and the law, and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice. The Chapter 9 institutions are: the Public Protector, the Human Rights Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Commission for Gender Equality and The Electoral Commission.

CSVSR to coordinate CSO efforts on behalf of the displaced. On 20 May 2008 a similar meeting of over 20 civil society organisations was held in Cape Town convened by the Treatment Action Campaign and AIDS Law Project. A Task Force was formed between the Western Cape provincial government and the national government and CSOs to prevent violence against foreign nationals, and to provide humanitarian and other forms of assistance where necessary.⁴³

Media Coverage of the Violence

Although, as noted above, insensitive reporting of immigration issues might have contributed to the violence, it should also be noted that in the crisis period nearly all media came out to condemn the killings and other violence. This was not true of all outlets, however. According to Herman Wasserman, prejudiced clichés are no-longer a preserve of traditional print media: bloggers' vehemence shows that writers are finding new fora for xenophobic messages.⁴⁴ As he says, "the coverage given to the violent rage of communities lashing out against suspected criminals in their midst often stops just short of celebration."⁴⁵

In the immediate aftermath of the outbreak of violence in May, however, the nature of reporting may have increased panic. According to the deputy director of the regional office of the UNHCR, "watching a victim burning alive on television might have sent a chilling message to foreigners and many may have panicked [and] ran from their homes."⁴⁶

While this observer pointed to the media coverage as flaming the panic, the fact is that violence was occurring and the media was under an obligation to provide information to the public. Indeed, although some commentators criticised the fact that the reporting focused on the current attacks (whereas similar attacks had been ignored in the past), the prompt and thorough reporting this time may have saved lives. It allowed migrants to take appropriate steps to ensure their security amid genuine concerns and brought the plight of targeted communities to the attention of the South African government, civil society and the international community.

⁴³The Task Team is comprised of representatives from the AIDS Law Project, The Treatment Action Campaign, Black Sash, People Against Suffering Suppression Oppression and Poverty (PASSOP), the Congress of South African Trade Unions (COSATU), the Commission for Gender Equality, Sonke Justice Network, UCT Centre for Refugees, Scalabrini, the SAHRC, the AIDS Rights Alliance for Southern Africa and the Mitchells Plain Traders Association. As in Gauteng, a civil society task team has been established made up of trade unions, faith based organisations, legal and human rights organizations, humanitarian agencies and refugee organizations. The purpose of the Task Team is to work with the Western Cape provincial government and with national government to prevent violence against foreign nationals and to provide humanitarian and other forms of assistance where necessary.

⁴⁴ Herman Wasserman "Newspaper Tabloid in the dock" *Media Online*. 2008.

⁴⁵ Ibid.

⁴⁶ CRAI interview with Abel Mbilinyi, Deputy Director for UNHCR in South Africa, 6 August 2008.

Neighbouring Governments

Countries of origin, following the violence, showed concern for their nationals in South Africa. Learning from the past, Mozambique extended protection to its citizens by providing transport for thousands of its nationals out of South Africa. Tanzania also took its citizens out of the Rand Airport camp a day before the mission's visit. Other countries, including Zimbabwe, pledged support to the victims from their countries.⁴⁷

CAUSES

There has been little information to explain the initial outbreak of violence in South Africa in May 2008, but the parliamentary committee designated to investigate the attacks noted that the violence first emerged in Alexandra. The violence had reportedly been preceded by a community residents meeting held the day before. The report noted that a similar resident's meeting had preceded violence in 2007, but did not attempt to elucidate the connection between the two events.⁴⁸ Despite efforts to contain the violence, it quickly spread to other neighbourhoods and regions.

Numerous explanations have been put forward for the root causes of the violence, including institutional, historical, legal, social, economic and political factors. Theories range from "criminal plans" to poverty as being the main driver behind the violence.

The recent attacks were labelled xenophobic in the media and popular parlance. In its working definition, the South African Human Rights Commission (SAHRC) defines xenophobia as a deep dislike of foreigners. However, there are many who pointed out that the resentment in this case was not levelled equally at all foreigners, but was directed almost exclusively at foreigners from other black African countries. Some of those interviewed termed this phenomenon "negrophobia."

Others, in particular government officials, have disputed the characterisation of the violence as "xenophobic." Instead, they have argued that the violence was primarily the result of criminal acts motivated by a desire for personal gain. Senior government officials have blamed the attacks on a yet to be identified "third force," but have failed to produce public evidence to support their claims.⁴⁹ Although criminal intentions of particular segments of society undoubtedly contributed to the violence experienced in this period, it is necessary to take seriously, and to comprehensively address, the targeted nature of the attacks.

The CRAI mission established a number of critical causal factors: 1) the failure of the government of South Africa to meet post-apartheid expectations in terms of economic conditions and service delivery; 2) perceived competition between non-nationals and

⁴⁷ "Zimbabwe: Government Assist in Repatriating SA Xenophobia Victims." *The Herald* (Zimbabwe). 2008.

⁴⁸ Report of the Task Team of Members of Parliament Probing Violence and Attacks on Foreign Nationals, 13 May 2008.

⁴⁹ News 24. "UDM: Who is the third force?" 25 May 2008.

South Africans for scarce jobs and subsistence; 3) media portrayals of foreigners which reinforce prejudice; 4) Perceived tolerance by state institutions to increasing intolerance against foreign nationals; and 5) South Africa's legacy of apartheid and isolation. Each of these factors is discussed in detail below.

The Government's Failure to Realise Social and Economic Rights Since 1994

Although the democratic transition in South Africa promised the creation of a new "Rainbow Nation" and economic betterment for the majority of South Africans, remarkably little has changed for many. "The inability of individuals, households or entire communities to command sufficient resources to satisfy an acceptable minimum standard of living"⁵⁰ has not changed significantly from 1996 and 2001. However, those households living in poverty have sunk deeper into poverty and the gap between rich and poor has widened.⁵¹ Over the last decade the gap between rich and poor has widened. Many South Africans continue to suffer economic deprivation, high levels of HIV/AIDS infection, and serious levels of inequality in all areas of their lives. Today half the population is living under the poverty line and about a quarter of the population is unemployed.⁵²

The number of South Africans living in poverty is estimated to reach anywhere between 45 and 55 percent, approximately 20-28 million, and is not confined to any one race group. However, it is concentrated among blacks, particularly Africans: 61% of Africans and 38% of coloureds are poor, compared with 5% of Indians and 1% of whites. Statistics show that poverty in South Africa is critically linked to the labour market, which has failed to deliver opportunities for a majority of black people to access employment opportunities. In 1999 38% of African households or 3.1 million people were estimated to be worker-less, having no employed people.⁵³

Jaynes notes that many South Africans now see economic inequality as the country's largest source of division, replacing race.⁵⁴ She argues that the xenophobia cannot meaningfully be tackled without also dealing with the economic situation of the poor communities in which much of the violence is occurring. This view is also echoed by the Consortium for Refugees and Migrants in South Africa (CoRMSA):

⁵⁰ Banda Loreto, Herzenberg Collette and Paremoer Lauren. "Black Economic Empowerment: Addressing Socio-economic Inequality in South Africa" in *Epolitiicssa*. Vol 2. 2003.

⁵¹ Human Sciences Research Council (2004) **Fact Sheet: Poverty in South Africa**. 26 July 2004. <http://www.sarpn.org.za/documents/d0000990/>

⁵² Williams, Vincent. "Xenophobia in South Africa: Overview and Analysis." Ed. Antonie Katharine Nord. *Perspectives: Political Analysis and Commentary from Southern Africa* No. 3.08, June 2008.

⁵³ Banda Loreto, Herzenberg Collette and Paremoer Lauren Black Economic Empowerment: Addressing Socio-economic Inequality in South Africa in *Epolitiicssa*. Vol 2.2003

⁵⁴ Natalie Jaynes. "The State of Nation Building in South Africa in the Light of Recent Xenophobic Attacks." Ed. Antonie Katharine Nord. *Perspectives: Political Analysis and Commentary from Southern Africa*. No. 3.08. June 2008.

At one level, these attacks are not an immigration issue, but rather a sign of widespread disaffection with South Africa's transformation: with the state's apparent inability to create jobs or provide services and the resultant alienation of people from the country's politicians.⁵⁵

While economic growth, poverty reduction and job creation remain key goals of economic policy, and the South African government has made significant progress, much remains to be done. The economy remains divided, with the vast majority of the poor being black and most of the wealthy white,⁵⁶ with economic growth insufficient to reduce unemployment. "Black empowerment was meant to create self reliance... [but]... there are few jobs, not even voluntary services, available for South Africans. Instead South African companies are buying Africa while idleness eats away the human soul," said Tim Wilson.⁵⁷ Although jobs have been created in the informal sector they have been lost in the formal sector.

In attempting to link poverty and xenophobia, it is important to show how economic frustrations became linked with the presence of poor foreigners. Michael Neocosmos, sociologist and author of *From 'Foreign Native' to Native Foreigners' Explaining Xenophobia in Post South Africa: Citizenship and Nationalism, Identity and Politics*⁵⁸ poses the question in this way: "Why were whites or the rich or for that matter white foreigners in South Africa not targeted?"⁵⁹

Competition in Employment and the Informal Business Sector

One example of the way in which poverty can produce tensions is the way in which foreigners have been made scapegoats for the lack of opportunity in South Africa. Poor South Africans often accuse foreigners of "stealing their jobs" and livelihoods. Reports suggest that foreign nationals are ready to accept menial jobs such as gardening, masonry and housekeeping, jobs which, according to Tim Wilson, many South Africans do not want.⁶⁰ South Africans have also expressed concern about the presence of foreigners because they reportedly are willing to work for lower wages, which lowers the market price for labour. In addition, non-nationals compete with South Africans for valuable trading spaces.

⁵⁵ Consortium for Refugees and Migrants in South Africa, Protecting Refugees, Asylum Seekers and Immigrants in South Africa. Johannesburg. 18 June 2008.

⁵⁶ Banda Loreto, Herzenberg Collette and Paremoer Lauren Black Economic Empowerment: Addressing Socio-economic Inequality in South Africa in *Epoliticiessa*. Vol 2.2003

⁵⁷ CRAI interview with Tim Wilson the Coordinator of CSO on interventions on Xenophobia on 6 August 2008 at CSV. Tim Wilson a retired volunteer with CSV worked for the first democratic South African government in the Ministry of Health.

⁵⁸ Neocosmos, M., "From 'Foreign Native' to 'Native Foreigners' Explaining Xenophobia in Post-Apartheid South Africa." *Citizenship and Nationalism, Identity and Politics*. Council for the Development of Social Research in Africa (CORDESIA) Monograph Series. Senegal, 2006.

⁵⁹ Ibid.

⁶⁰ CRAI interview with Tim Wilson, Coordinator of CSO activities on Xenophobia in Johannesburg on 6 August 2008.

A further issue relates directly to the legacy of apartheid, whereby many South Africans are at a disadvantage from an educational and work experience perspective *vis a vis* other Africans. “I receive many curriculum vitae from South Africans and I realise many may not be prepared for job markets in Africa – they may not compete,” says Action Aid South Africa's director.⁶¹ “The South African government may have increased its social provision, but for how long can it sustain this?” Indigent South Africans are able to fall back on social grants to make ends meet, but sooner or later that money runs out: the grants are designed as a transitional measure and not a long term solution to joblessness.

Despite the difficulty that black South Africans find in competing economically, they have an equal stake in government through their rights as citizens and their power to vote. It is hardly surprising that they might try to leverage this in their economic favour. Put another way, according to an article written in August 2000, entitled *South Africa's New Racism*, black South Africans are reluctant to share economic gains that have come with democracy particularly because these were so hard fought and are so precarious.⁶²

In October 2008, members of the National African Federated Chamber of Commerce and Industry (NAFCOC) in Western Cape, while championing for the rights of its members, circulated a letter threatening to resort to violence against Somali business owners in their city if the latter did not close down their shops. The group also criticised local government for their sympathy with the displaced and threatened to take action against them if they did not take measures against Somali traders. Describing the letters and threats to Somali and government officials as “intolerable,” Western Cape Premier Lynne Brown promised to take action.⁶³ In an interview with the *Mail & Guardian*, the NAFCOC Western Cape secretary shared the group's frustration saying: “We are dying here, sister. Our children are hungry. These people [foreigners] work for two cents and when we complain they say we are xenophobic...During the day Shoprite take our business and during the night, it's the foreigners.”⁶⁴ Yet to protest at such perceived injustice, the group chose to threaten Somali business people while doing nothing to address competition from Shoprite.

The Media's Depiction of Non-Nationals

Exacerbating such tensions is the fact that mainstream debate around illegal immigration in South Africa, focusing on the economic impact and increase in crime associated with migration, has been alarmist and ill-informed. Public concerns about migration have been politically exploited and fanned by a partisan press. References to “clamp-down operations” on “illegal aliens”, or “alien terror” and a “war on aliens” have had prominent coverage, with foreign nationals being regularly associated with crimes.⁶⁵

⁶¹CRAI interview with Zanele Twala, Executive Director, Action Aid in Johannesburg on 6 August 2008.

⁶² Ibid.

⁶³ Joubert Pearlie “[NAFCOC Calls for Somali Purge](#)” in the *Mail & Guardian*, Cape Town, 23 October 2008.

⁶⁴ Ibid.

⁶⁵ Ibid.

Quoting a 2000 report on xenophobia and migrations by the South Africa Migration Project (SAMP),⁶⁶ a project of the Institute for Democracy in South Africa (IDASA), *The Times* argued that anti-immigration sentiments in South Africa are the product of misinformation from secondary sources, including the media. This is due, in part, to the lack of meaningful contact between South Africans and foreign nationals. In a survey of 950 media reports on immigration issues since 2000, the report shows that 17% of reports used “negative metaphors” such as “floods,” “waves” or “hordes”; 22% linked migrants with crime; and 20% referred to migrants as “illegal”.⁶⁷ Of the articles that used the term “job stealers”, “the SA Press Association was by far the worst offender, making up 38% [of the incidences of the term].”⁶⁸ This problem is exacerbated by the growth of tabloid press in South Africa.

Ten years earlier, the role of media in criminalising and condemning foreign nationals had already been noted. In a survey of 1,200 news articles about migrants or migration, which appeared in the South African media between 1994 and 1998, Ransford Danso and David A. MacDonald found that the vast majority of coverage was negative and uncritical. Although they were careful to note that coverage was varied, they criticised the unquestioning reproduction of problematic statistics and the use of terms such as “illegal” or national stereotypes such as the presentation of Mozambicans as car thieves and Nigerians as drug smugglers.⁶⁹

Although there have been marked changes in reporting since the 1990s, due in part to intensive work by civil society organisations with the media, a few media outlets remain partisan and have furthered such stereotypes: although the protections of freedom of expression under the South African Constitution have been heralded as part of South Africa’s democratisation process, some media outlets have yet to respect the need for responsible reporting that comes with that freedom. In the name of fearless reporting, some media outlets have used discriminatory or xenophobic messages, for instance linking increased crime rates to the presence of African foreigners. Particularly worrying has been the popularity of these outlets; with their modest operational costs and wide circulation, they have the potential to influence large numbers of South Africans. CoRMSA has noted that it is “concerned by the role of the media in promoting xenophobic discrimination and violence.”⁷⁰

While some foreign nationals have undoubtedly been involved in criminal activities, CRAI found no evidence that they have contributed to an overall increase in crime rates. At the same time, nearly all the respondents to the CRAI mission in August argued that stereotyping of African foreign nationals by partisan media may have demonised groups

⁶⁶ Danso Ransford and McDonald David. *Writing Xenophobia: Immigration and the Press in Post Apartheid South Africa*. SAMP report. Cape town. IDASA. 2000.

⁶⁷ IDASA, “Press Coverage of Cross Border Migration to South Africa Since 2000”, 2005.

⁶⁸ *The Times*. “[How the media stoked the fires.](#)” 25 May 2008.

⁶⁹ Ransford Danso and David A. MacDonald. “Writing Xenophobia: Immigration and the Press in Post-Apartheid.” *Southern Africa Migration Project*. 2000.

⁷⁰ CoRMSA “Protecting Refugees, Asylum Seekers and Immigrants in South Africa.” Johannesburg. 18 June 2008.

of foreigners. “This could have been one of the causes of the attacks,” said Tim Wilson, who coordinates civil society response to xenophobia.⁷¹

The *Daily Sun* has been singled out as an egregious example of irresponsible journalism. On 30 May 2008, the Media Monitoring Africa (MMA)⁷² and its partner, the Consortium for Refugees and Migrants in South Africa (CoRMSA) submitted a complaint to the Press Ombudsman, Joe Thloloe, and the South African Human Rights Commission. They charged the tabloid with stereotyping foreign nationals as “aliens”, and alleged that this created a negative public perception of foreigners. The tabloid was also charged with biased representation of government agencies and a failure to condemn the xenophobic violence. Although MMA lost the original case, during the appeal before the Press Appeals Panel on 22 October, the parties agreed “to settle their dispute on the basis that *Daily Sun* will no longer use the word ‘aliens’ to describe foreigners.”⁷³ In the ruling against the *Daily Sun*, the daily tabloid was asked to enlist the participation of tabloid readers to help construct an ethical code for the *Daily Sun*. However, Herman Wasserman, a professor of media studies at Newcastle University, argues that the “MMA might be in for a surprise”.⁷⁴ He argues that the papers had been tapping into widespread xenophobic attitudes in the country and amplifying them for sensational value.⁷⁵ In a focus group discussion conducted by Wasserman, members of the public complained of limited coverage of Zimbabweans taking their jobs. Thus, the problematic assertions forwarded in the media need to be addressed not only in print, but in the social groups whose views they reflect.

As the illustration of the impact of the media shows, exclusionary rhetoric clearly fanned the flames of xenophobic violence in South Africa. In this context, it is necessary to sensitise journalists and the ordinary people whose voices they amplify to the need to responsibly use their voice in ways which do not encourage harm to other groups. Part of this boundary setting needs to happen at the private level, with individuals and newspapers understanding the impact that certain perceptions or stereotypes can have, and altering their speech accordingly. However, at the governmental level, the need for a more stringent approach should be reflected through the adoption of legislation on hate speech. Although such legislation would not criminalise the vast majority of problematic presentations of foreigners in the media, it would, at a minimum, prohibit speech that is particularly harmful and designed to result in violence or with reckless disregard for its likelihood to fan racial violence. It would also send out a clear message that such language is unacceptable.

⁷¹CRAI interview with Tim Wilson, Coordinator of CSO activities on Xenophobia in Johannesburg on 6 August 2008.

⁷² MMA, previously known as The Media Monitoring Project, has been rebranded (including the name change and launch of a new website) to coincide with the MMA's 15-year anniversary. The name change represented a realignment of corporate identity to be more in-line with the MMA's work, according to the organisation. The organisation had been working in different countries in Africa since 1995.

⁷³Issa Sikiti da Silva. “[MMA smoke peace pipe.](#)” *Daily Sun*. 31 October 2008.

⁷⁴ Herman Wasserman, “[Newspaper tabloid in the dock.](#)” *Media Online*. 2008. Dr. Herman Wasserman teaches Media and Cultural Studies at Newcastle University in the UK. He is editor of the journal *Ecquid Novi: African Journalism Studies*.

⁷⁵ Ibid.

Tolerating Intolerance: The Government's failure to protect non-nationals

In addition to the failure to meet post-apartheid expectations and the role of the media in exploiting anti-immigrant sentiment, the government of South Africa played a role in producing the violence by failing to respond adequately to earlier incidences of xenophobia and intolerance on the part of state agents and the public at large.

Although the violence experienced in May was exceptional in its impact, it was by no means the first indication that xenophobia had become a serious problem in South Africa, and that there was clear potential for violence. Indeed, since 1994 dozens of incidents have been recorded by human rights groups. From the *buyelekhaya* or “go back home” campaign, in which gangs of South Africans attempted to forcibly evict perceived “illegals” from the township in December 1994, to an incident in Mamelodi, in Gauteng province in April 2008, in which individuals went on a house to house search for foreigners and setting foreign homes and businesses alight, there has been a well documented pattern of violence against foreigners in South Africa.⁷⁶

Foreigners also tend to be more vulnerable to ordinary crime for a number of reasons. First, they often have limited economic means and options in relation to housing and may live in poor and dangerous neighbourhoods. Second, they have limited access to the banking system, which means that they are more likely to keep their assets in cash. Finally, attackers may perceive that they will not be reported by an immigrant who is reluctant to draw attention to his or her presence in the country.

At the same time, immigrants in South Africa have not been able to rely on the police for an effective response to these attacks. A Human Rights Watch (HRW) report argues that:

The police and Home Affairs officials share this antagonism toward foreign nationals. The general negative attitude toward foreign nationals encourages and condones abuses by police, army, and Home Affairs officials not only against those suspected of being undocumented migrants, but also against non-South Africans who are lawfully in the country, who can expect little or no help from the police when they themselves are victims of crimes, including violent assault and theft.⁷⁷

Indeed, the police themselves have been cited as part of the problem. Police have systematically and indiscriminately targeted all foreigners in the name of enforcing immigration law, despite the fact that their actions have not led to the effective enforcement of immigration legislation. The SAHRC, for instance, criticised government

⁷⁶ Indexes of violent incidents have been compiled by a number of organizations, including the CoRMSA, Human Rights Watch and IRIN. For more information, see Human Rights Watch. *Prohibited Persons: Abuse of Undocumented Migrants, Asylum Seekers and Immigrants in South Africa*, 1998. CoRMSA (2008) and UN Integrated Regional Information Networks (UN IRIN), 19 May 2008.

⁷⁷ Human Rights Watch. *Prohibited Persons: Abuse of Undocumented Migrants, Asylum Seekers and Immigrants in South Africa*. 1998.

officials for detaining individuals solely on the basis of skin tone, walking style, or other questionable criteria.⁷⁸

Police have also been criticised for their large scale and public enforcement actions. For example in 2008, according to Bishop Verryn, “the police raided Central Methodist Church in Johannesburg, arresting 1,000 Zimbabweans, a number of them asylum seekers, who had taken shelter in the church.”⁷⁹ According to CoRMSA, however, not only undocumented migrants but also documented immigrants and persons with pending asylum claims were deported. Another incident, "Operation Crackdown", a joint police and army sweep, arrested over 7,000 people on suspicion of being illegal immigrants.

Such actions have been criticised not only for failing to adequately distinguish between documented and undocumented immigrants and, in some cases, South Africans, but also for creating the impression that large scale and heavy handed operations are a necessary response. In this way, those participating in violent attacks on foreigners can justify their actions as contributing to governmental response.

Finally, members of the police force have been accused of systematic extortion of immigrants. The government's failure to respond decisively to claims of extortion and abuse of foreigners by state agents contributed to an impression that violent attacks on African foreigners would be condoned. In the context of the most recent attacks, it is clear that the government must investigate thoroughly and publically such actions, and hold those who have been responsible for violence against foreigners accountable in order to ensure that this perception of tolerance is not perpetuated.

The Legacy of Apartheid

A number of academics and journalists, including Natalie Jaynes at the Institute for Justice and Reconciliation in Cape Town Non-Governmental Organisation argue that the devaluation of foreigners is a product of South Africa's history of apartheid, which excluded and dehumanised certain individuals. As Jaynes argues, apartheid not only created deep racial divisions in South African society, but it allowed other social divisions to flourish.⁸⁰ From early in its history, South Africa's nationalist Afrikaner leadership showed a preoccupation with separation and control of the population. Apartheid, beginning as a national policy in 1950, was premised on dividing the national space and clarifying and separating not only whites and blacks, but other national and ethnic groups as well. All South Africans were registered in racial groups, which determined their access to services, educational and job opportunities and even the

⁷⁸Consortium for Refugees and Migrants in South Africa, Protecting Refugees, Asylum Seekers and Immigrants in South Africa. Johannesburg. 18 June 2008.

⁷⁹CRAI interview with Bishop Paul Verryn of the Methodist Church on the 6 August 2008 at the Church offices in Johannesburg.

⁸⁰Natalie Jaynes, "The State of Nation Building in South Africa in the Light of Recent Xenophobic Attacks." Ed. Antonie Katharine Nord. Perspectives: Political Analysis and Commentary from Southern Africa. No. 3.08. June 2008 Natalie Jaynes, "The State of Nation Building in South Africa in the Light of Recent Xenophobic Attacks." Ed. Antonie Katharine Nord. Perspectives: Political Analysis and Commentary from Southern Africa. No. 3.08. June 2008

physical space of the country.⁸¹ Apartheid explicitly avowed a determination that different groups within South Africa needed to pursue separate paths to development. In addition to the well documented abuses of the rights of black South Africans that this spawned, it reinforced a notion that separation is both legitimate and integral to the functioning of the state. The consequences of this mode of thinking have yet to be fully addressed. The legacy of apartheid as a system of isolationist processes has resulted in a number of issues as will be noted herein:

- a) racialised complexes,
- b) poor integration processes, and
- c) a culture of violence.

a) *Racialised Complexes*

Historically, South Africa has viewed itself as separate from the rest of Africa in both socio-economic and racial terms - what some scholars have termed “South African exceptionalism”⁸² or South African’s superiority and inferiority complex in relation to other Africans. Despite the fact that African countries made enormous contributions to fighting apartheid, the South African public is not well informed about these facts. However, in response to the recent attacks, the African National Congress (ANC) recalled this contribution: “we believe and [recognise] the crucial role played by the international community in South Africa's liberation, all South Africans will work together to ensure that we build a better world where people of different nations and races co-exist and live in peace and harmony.”⁸³

At the same time, many social institutions, such as hospitals and universities, in South Africa forged closer relationships with European than with African institutions. This reflected a notion that South Africa was at a different level of social and economic development. Although this positioned South Africans as superior, its effect on South Africans was arguably negative. According to Tim Wilson, co-ordinator for interventions on xenophobia, “rather than this notion building South Africans’ confidence it turned many into fearful and prejudicial lots. In the 1960s in Britain I remember a Botswana national shouting after being mistreated by a South African saying ‘these South Africans think they are better than the rest of Africans, they would rather serve a "white man" than share anything with an African.’”⁸⁴ This racialised understanding of South Africa has informed attitudes towards foreigners. According to Jacob van Gaarderen of Lawyers for

⁸¹"Apartheid Origins." <http://www.bbc.co.uk/worldservice/africa/features/storyofafrica/12chapter6.shtml>. 17 June 2008 <http://www.bbc.co.uk/worldservice/africa/features/storyofafrica/index_section12.shtml>

⁸² HSRC (2008). “Violence and Xenophobia in South Africa: Developing Consensus, Moving to Action.”

⁸³In a signed statement, the African National Congress (ANC) said “We believe that through the recognition of the crucial role played by the international community in South Africa's liberation, all South Africans will work together to ensure that we build a better world where people of different nations and races co-exist and live in peace and harmony.” 12 May 2008.

⁸⁴ CRAI interview with Tim Wilson, Coordinator of CSO activities on Xenophobia in Johannesburg, 6 August 2008.

Human Rights, “South Africans without merit and irrespective of race or creed, look up to some, and despise other, foreigners.”⁸⁵

It must be noted that foreignness within South Africa, as in many parts of the world, is not a fixed concept. In South Africa, belonging can be determined by both race and skin colour, and by ability to speak vernacular languages. While foreigners of European backgrounds may gain the immediate acceptance of both blacks and whites, black people, even if they are South African, may have their belonging tested through language. In Gauteng province, a region dominated by Sesotho, SeTswana and IsiZulu languages, for instance, any other language, even those indigenous to other parts of South Africa are treated as foreign. This is also the case in other provinces, inability to speak the dominant language in a region, or speaking it with a foreign accent, brands one foreign.

Other identity markers have been employed by national authorities to determine who does, and does not, belong. These markers include complexion, accent, or inoculation marks.

We documented cases of persons who claimed they were arrested for being "too black," having a foreign name, or in one case, walking "like a Mozambican." Many of those arrested--up to twenty percent of the total in some areas by our calculation--are actually South African citizens or lawful residents.⁸⁶

Thus, when protesters and looters shout *Phansi makwerekwere* (a derogatory term for non-South Africans), *phansi* (down foreigners, down), the target is generalised in such a way that it can include South African citizens. This conceptualisation of “foreignness” could, in part, explain the high numbers of South African who were killed during the violence.

b) Poor Integration Processes

The recent violence against black foreigners has also been linked to South Africa’s isolationist past:⁸⁷ limited contact between foreigners and South Africans, as well as poor integration processes, may have exacerbated negative relations. While South Africa may have been a land teeming with foreigners for a century, little meaningful interaction took place.

For instance a large number of mine and farm workers in South Africa have come from other African countries, but these groups never freely interacted with local communities, partly as a result of inadequate systematic efforts to integrate foreigners in South Africa.

⁸⁵ See HSRC (2008). “Violence and Xenophobia in South Africa: Developing Consensus, Moving to Action.”

⁸⁶ Human Rights Watch. *Prohibited Persons: Abuse of Undocumented Migrants, Asylum Seekers and Immigrants in South Africa*. 1998.

⁸⁷ Vincent Williams, the South African Project Manager of the Southern African Migration Project (SAMP), highlights isolation as a major reason for South Africa's xenophobic tendencies.

A study by IDASA⁸⁸ points to the fact that less than 10% of South Africans have had a substantial amount of contact with foreigners. In areas where there has been some level of integration, it has been as a result of individual efforts to blend in rather than a concerted effort or policy by the South African government.

Nonetheless, it is difficult now for South Africans to deny being a part of Africa when estimates of the country's undocumented migrant population range up to eight million. Therefore it is critical that the trend of poor integration be addressed, not least given the fact that it has been shown that those that have had some positive connection with a foreigner are likely to harbour fewer xenophobic attitudes and behaviours.⁸⁹

c) The Culture of Violence

South Africa may have tried to embrace the rule of law and human rights, but the legacy of using violence as a means of communication remains dominant. According to Tim Wilson, "over time this country has built aggressive tendencies expressed through dominations and manifested in prejudices and violent means of communication." At all times, therefore, "groups look for [a] scapegoat to unleash their terror on as a means of sending a message to those in authority."⁹⁰

Given South Africa's long struggle for liberation in which violence was a tool both of repression and defiance, there is a degree of acceptance of violence as a means to resolve conflict. A report by the Centre for the Study of Violence and Reconciliation (CSVR), *Understanding Current Xenophobic Attacks and How South Africa Can Move Forward*,⁹¹ argues for the need to acknowledge and address the fact that South Africans use violence to deal with both personal and societal challenges. "This is linked to the fact that we [South Africans] come from a history whereby violence was used systematically. Yet, we have not done enough to address this history and the subsequent unresolved trauma. This culture of violence is evidenced in the high levels of crime and violence in South Africa".⁹²

REGIONAL IMPLICATIONS

South Africa remains a leading state in the SADC region as a result of its strong economy and stable democracy. However, since 1994, South Africa has pursued migration policies focused on enforcement and exclusion of migrants, and this may have had implications for policy elsewhere in the region. Despite the fact that SADC nations maintain policies relatively protective of migrants, refugees and asylum seekers, a SAMP survey published

⁸⁸ SAMP (2000). *Writing Xenophobia: Immigration and the Press in Post Apartheid South Africa*. SAMP report. Cape Town. IDASA publication

⁸⁹ Williams, Vincent. "Xenophobia in South Africa: Overview and Analysis." Ed. Antonie Katharine Nord. *Perspectives: Political Analysis and Commentary from Southern Africa* No. 3.08, June 2008.

⁹⁰ CRAI interview with Tim Wilson, Coordinator of CSO activities on Xenophobia in Johannesburg, 6 August 2008.

⁹¹ CSVR. "Understanding current xenophobic attacks and how South Africa can move forward". CSVR Report, Johannesburg 2008.

⁹²Ibid

in 2004 shows widespread xenophobic tendencies in SADC which vary from country to country.⁹³

Similarly, while South Africa may have been in the forefront of major and progressive regional initiatives such as the African Renaissance, New Partnership for Africa's Development (NEPAD), and Africa Peer Review Mechanism among others, it has neither taken advice from these instruments nor informed its public adequately of the consequences. For instance, South Africa has not addressed its Peer Review, which noted that xenophobia was on the rise and "should be nipped in the bud".⁹⁴

REFLECTING ON LESSONS LEARNED

While the South African government may have succeeded through forceful means in quelling the attacks, there are insufficient guarantees that the violence will not be repeated. Had the government taken heed of the warnings by its institutions or decisively responded sooner to the violence, injuries to persons and damage to property could have been prevented. The deaths of three migrants in South Africa on Sunday, 4 January 2009, serve as a vivid reminder of the potential for further violence. These migrants fell to their deaths while attempting to climb out of a six story window, allegedly to avoid members of a community policing forum.⁹⁵

In addition to its responses to the violence, there are serious questions about whether the South African national government failed to respond effectively to warnings that the violence might occur. South Africa's then President Thabo Mbeki denied ever receiving intelligence information warning about the prospect of the attacks. "There were no such intelligence reports - they certainly did not come to me. If there had been any such reports, of course we would have acted on them," Mbeki said.⁹⁶ However, there were clearly warnings in the public domain.

For instance, in April 2008, violence had erupted in the informal settlement of Phomolong in Mamelodi. In 2007 the SAHRC had warned that "[x]enophobia is definitely increasing." Again, in March of 2008, the SAHRC issued a statement reiterating "its concern about the scourge of xenophobic violent attacks and brutal murders of foreign nationals."⁹⁷ The Commission called for the government to pass a hate

⁹³ The highest xenophobic feeling being expressed by South African citizens, Namibia and lesser extent Botswana, while citizens tend to be more relaxed in Swaziland, Mozambique and Zimbabwe. Although the survey shows an increased shift in attitude of Botswana in favour of much tighter control over border and greater internal enforcement a very high percentage want electrification of borders with neighbouring states and want non-nationals to carry ID cards all the time. IOM. "[Migration Analysis for Regional Strategy Paper](#)" 2006.

⁹⁴ African Peer Review Mechanism, "Country Report: South Africa," September 2007.

⁹⁵ "3 forced to jump to death," *The Star*, 7 January 2009.

⁹⁶ SAPA. "[Mbeki denies xenophobia warning](#)." *The Times* 03 June 2008. President Thabo Mbeki denied reports that the SA government had been warned of the prospect of xenophobic attacks by the National Intelligence Agency. He said this while briefing the journalist after meeting with visiting Nigerian President Umaru Yar-Adua.

⁹⁷ Florence Panoussian "[Mbeki under fire over violence](#)." AFP. 22 June 2008.

crime law. For his part, the South Africa's Intelligence Minister Ronnie Kasrils was quoted admitting that the government knew that tensions were growing. "Of course, we were aware there was something brewing. It is one thing to know there is a social problem and another to know when that outburst will occur," he said.⁹⁸ The National Intelligence Agency (NIA) claims the attacks were deliberately unleashed ahead of next year's general election.⁹⁹ In a personal testimony on the causes of the attacks the chairman of Kwazulu Natal Refugee Council and a PhD student in the University of Kwa-Zulu Natal, Centre for Civil Society stated that "although none of us predicted the onset of xenophobic attacks, we should have been aware of the 'tinderbox' in hostels, shack settlements and townships, merely because of the [many] protests that have occurred each year since 2005."¹⁰⁰

Commenting on the recent attack in Alexandra, Joyce Tlou, a programme coordinator at South African Human Rights Commission (SAHRC) said, "[w]hen I received text messages that read xenophobic attacks in Alex in quick succession on Monday 13 May 2008, I naively hoped that it was the usual incidences (*sic*) that I had been addressing in the last 10 years." During our interview she added that, "violent attacks against foreigners are not shocking anymore; we are however surprised how the world's interest has increased on these recent attacks".¹⁰¹

It is clear that there had been a long pattern of violence against foreigners which had not been adequately addressed. It is unthinkable that reports associated with the conflict were never shared with decision makers. Whether there were advanced reports on the impending violence or not, different organs of the South Africa government failed to demonstrate leadership and effectively address the developing danger.

CONSEQUENCES OF THE VIOLENCE

The xenophobic attacks caused death, injury and massive loss of property, but these are only the most visible consequences. Most of the displaced have since returned to their home countries or their homes within South Africa, and those who have remained have expressed fear of further violence. The attacks on foreign nationals experienced in May 2008 have etched deep scars on the face of South Africa's reputation as a bastion of democracy and human rights. Many asylum seekers and migrants still look up to South Africa, but a small number have lost confidence in the country and are seeking repatriation to a third country.

However despite these attacks, the push and pull factors resulting in migration to South Africa persist. Dr. Maria Helena Taipo, Minister for Labour, Mozambique, reflected that,

⁹⁸ Ibid.

⁹⁹ AFP. "[SA knew of xenophobia threat: Kasrils.](#)" 24 May 2008.

¹⁰⁰ Baruti Amisi. "South Africa: Behind the xenophobic killings." *Green Left Weekly*. 31 May 2008. Baruti Amisi is the chair of the KZN Refugee Council and a PhD student in the UKZN Centre for Civil Society

¹⁰¹ CRAI interview with Joyce Tlou National Human Rights Commission Coordinator in charge of xenophobia on the 7 August 2008.

“despite Mozambican media demanding that we seek compensation for losses incurred by our citizens, we cannot create enough jobs for our citizens. That’s the reality.”¹⁰²

These factors have not only cowed neighbouring governments from making suggestions to or demands on South Africa, but have also limited the capacity for CSOs to take effective action. For instance, when asked why the church has not taken an active role in empowering the poor, Bishop Paul Verryn of the Central Methodist Church in Johannesburg replies, “[w]e thought our leadership is limited to spiritual nourishment; I now realise that we have failed our flock”.¹⁰³

The failure to address both the underlying reasons for the violence and the immediate grievances of affected communities continues to cause anguish to citizens around the SADC region. This is a recipe for a repetition of similar attacks in future on even a larger scale. Copy-cat or reprisal attacks elsewhere in the SADC region and other parts of Africa could also occur. The South African government needs to reinforce efforts to promote integration, combat intolerance and ensure accountability for previous violence.

CONCLUSION

The evidence gathered by the Mission suggests that the South African government showed high levels of tolerance for xenophobia and intolerance directed at black foreign Africans. More proactive action might have saved lives. Government and CSOs have to engage in a larger campaign aimed at ensuring that the human rights of migrants are respected and that xenophobia is not allowed to flourish. One mechanism for doing this may be to draw upon South Africa's experience of apartheid, educating the public about self-reliance and respect for the principle of *ubuntu*. In defining the concept, Archbishop Desmond Tutu says that *Ubuntu* “is open and available to others, affirming of others, does not feel threatened that others are able and good, for he or she has a proper self-assurance that comes from knowing that he or she belongs in a greater whole and is diminished when others are humiliated or diminished, when others are tortured or oppressed.”¹⁰⁴ This philosophy represents a cultural tradition that may be drawn upon in promoting human rights and integration of migrants in South Africa.

The South African government may have succeeded in quelling these recent attacks, but it cannot guarantee that violent crime on foreigners from African countries or its citizens will not happen again. With high prevalence of prejudice and vigilantism among poor South Africans, a repeat of the xenophobic violence is likely. Although the xenophobic violence might have taken place within South African borders, the mission has concluded that they are an example of a pattern of rights violations that has, at its base, exclusionary ideologies. It can, thus, happen anywhere in Africa. Every effort must be taken to protect citizens around Africa and governments must be held accountable in their obligations to protect everyone within their borders, irrespective of their status.

¹⁰² CRAI interview with Dr. Maria Helena Taipo the Republic of Mozambique Minister of Labour on the 13 November 2008.

¹⁰³ CRAI interview with Bishop Paul Verryn of the Central Methodist Church on the 7 August 2008.

¹⁰⁴ “Ubuntu,” Wikipedia at [http://en.wikipedia.org/wiki/Ubuntu_\(philosophy\)](http://en.wikipedia.org/wiki/Ubuntu_(philosophy))

APPENDIX: LIST OF RESPONDENTS

Name	Institution
Jacob van Gaarderen	Lawyers' for Human Rights (LHR)
Tim Wilson	CSVV CSO Coordinator on interventions on Xenophobia
Zanele Twala	Executive Director Action Aid
Bishop Paul Verryn	Central Methodist Church
Joyce Tlou	South African Human Rights Commission (SAHRC)
Ms. Lebogang Mahaye	Executive Director: Governance and Secretariat Services.
Neo Nyathi	Camp site manager Mid-rand Airport Camp
Abel Mbilinyi	Deputy Regional Representative UNHCR Regional Representation for South Africa
Nixon Nyikadzino	Press Liaison Crisis in Zimbabwe
Dr. Maria Helena Taipo	Republic of Mozambique Minister of labour
Ms. Maria Benvinda LEVI	Republic of Mozambique Minister of Justice
Mike Hamna	Campaigns Manager, TAC in Cape Town
Pastor Brian Koela	Pastor/Reverend Cape Town
Zephia Desai	Camps Coordinator Cape Town
Raul Carlos and family	Victim
Maggy Muchanga and family	Victim
Clara Kadzi	Victim
Paul	Victim
Peters	Victim