



THE HALO SLIPS?
XENOPHOBIA AND ITS CONSEQUENCES IN THE NEW SOUTH
AFRICA.

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by

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Abstract

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The New South was built on a culture of inclusiveness, tolerance and human rights, embodied in its 1996 Constitution. However recent studies show that South African citizens exhibit high levels of xenophobia towards fellow Africans which in May 2008 culminated in the death of 62 people, 22 of whom were South Africans. Xenophobia is more complex than just the irrational fear of foreigners. It is about the interplay of relationships between the state and its citizens; citizens and foreigners; and foreigners and the state. For the state this involves balancing its ‘realist’ obligations to protect the national interests of its citizens with its international obligations to protect foreigners within its borders. It is about the perception of immigrants as threats to the socio-economic wellbeing of the local population. Furthermore, it also involves assessing the role of immigrants themselves and how their actions can exacerbate negative sentiments. This thesis therefore argues that xenophobic sentiment is about the *politics of access*; a struggle for political, social and economic entitlements, and investigates how immigrants in South Africa are negotiating their survival. In doing so, the thesis locates possibilities for change within the political system of South Africa itself.

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Contents

Abstract	i
Acknowledgment	ii
List of contents	iii
List of Figures, Maps and Tables	v
Acronyms and Abbreviations	vi
Introduction	1
Chapter 1: Identifying the problem of Xenophobia in South Africa	18
Immigration History of South Africa	19
The New South Africa: From Miracle to Pogroms	21
The Politics of Access: Citizenship as Exclusionary in South Africa	31
The Economic Dimension	33
Democracy: The Double-Edged Sword	38
Human Rights: Theory and Practice	40
Myths about Immigration	42
Immigrants and the Numbers Game in South Africa	42
Immigrants Steal Jobs	44
The Media	46
Institutional Xenophobia	48
Police	48
Lindela	51
Department of Home Affairs	53
Conclusion	54
Chapter 2: State Responses to Xenophobia: One Step Forward Two Steps Backwards	55
South African Immigration Policy from 1994 to 2000	56
Refugees Act No.130 of 1998	57
Aliens Control Amendment Act No. 76 of 1995	59
Definition of an immigrant: Aliens	59
Arrest	63
Detention	65
Aliens Control Amendment Act no. 76 of 1995	66

Police and ANC Responses to Attacks on Immigrants during the Aliens Control Act	68
South African Immigration Policy from 2000: One step forward	72
The White Paper on International Migration 31 March 1999	72
Immigration Act No.13 of 2002	76
Counter Xenophobia Unit	77
The Police	84
May 2008 Violence in Gauteng: Two steps backwards.	89
Conclusion	101
Chapter 3: Immigrant Initiatives as Self Help	103
Somali Association of South Africa	104
Traits of immigrant communities	108
Entrepreneurism as a factor for contention	114
Visibility as a factor for contention	118
Conceptualisation of xenophobia	120
Violence as an expression of internalised racism	120
The politics of access	122
Lack of awareness	122
Faith Based Organisations:	126
Mosques	126
Churches	128
The Coordinating Body of Refugee Communities	133
Roll Back Xenophobia Campaign	135
Reflections	139
Conclusion	145
Chapter 4: Promoting Tolerance and Integration	148
The Broader Policy Environment: Socio Economic Policy	149
Micro Level Recommendations	155
Conclusion	181
Conclusion	182
Bibliography	186

List of Figures, Maps and Tables

		Page
Figure 1:	Number of Non-Citizens in South Africa in 2003.	21
Figure 2:	Level of all Crimes per 100 000: Cape Town versus National Level 2001-2008.	30
Figure 3:	Deportations from South Africa 1990-2006	88
Map 1.	Map of South Africa: Provinces and Towns	24
Map 2.	Alexandra and surrounding areas.	90
Table 1:	Police and ANC response to Xenophobia from 1994 to 2000.	68
Table 2:	Have you received any type of training that deals with race and discrimination:	85
Table 3:	Are most documented migrants in Johannesburg involved in crime?	86
Table 4:	Attacks on Immigrants in Gauteng between 2001 to 2008	91
Table 5:	Chronological development of the May 2008 violence in South Africa.	92

Acronyms and Abbreviations

AFRISA	Alliance for Refugees in South Africa
ANC	African National Congress
ANCYL	African National Congress Youth League
ARESTA	Agency for Refugee Education, Skills Training and Advocacy
CBO	Community Based Organisations
CBRC	Coordinating Body of Refugee Communities
CDE	Centre for Development and Enterprise
CMC	Central Methodist Church Johannesburg
CORMSA	Consortium for Refugee and Migrants in South Africa
COSATU	Congress of South African Trade Unions
CPS	Centre for Policy Studies
CSV	Centre for the Study of Violence and Reconciliation
DTI	Department of Trade and Industry
EU	European Union
EUMC	European Union Monitoring Centre for Racism and Xenophobia
GEAR	Growth, Economy and Redistribution
HRW	Human Rights Watch
HSRC	Human sciences Research Council
IAJ	Institute of Journalism
IDASA	Institute for Democracy in South Africa
IFP	Inkatha Freedom Party
JMCO	Johannesburg Muslim Charitable Organisation
LHR	Lawyers for Human Right
NCAR	National Conference Against Xenophobia
NCRA	National Consortium for Refugee Affairs
NEDLAC	The National Economic development and Labour Council
NFAR	National Forum Against Racism
NIZA	Netherlands Institute for South Africa
PMG	Parliamentary Monitoring Group
RBX	Roll Back Xenophobia Campaign

RDP	Reconstruction and Development Programme
SABC	South African Broadcasting
SACC	South African Council of Churches
SADC	Southern African Development Community
SAHRC	South African human Rights Commission
SAIIA	South African Institute of International Affairs
SAMMP	South African Media Monitoring Group
SAMP	South African Migration Project
SANF	South African National Defence Force
SANZAF	Southern African National Zakah Fund
SAPA	South African Press Association
SAPS	South African Police Service
SASA	Somali Association of South Africa
SMME	Small, Medium and Micro Enterprise
TRC	Truth and Reconciliation Commission
UCT	University of Cape Town
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WCAR	World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance
WITS	University of Witwatersrand

Introduction

*“Today it is good to be an African”.*¹

The transition to democracy ushered in the formal removal of racial discrimination that had formed barriers to people accessing their political, social and economic rights. Building on this, the African National Congress in 1994 based its election manifesto on meeting basic needs, strengthening the economy and democratising the state.² This meant that in the first democratic elections South Africans voted in hope for a ‘better life for all’; where the very essence of society was built on principles of tolerance, equality and the respect of human rights. However the reality of life in South Africa has not been a better life for all. The euphoria brought about by the change in government withered with the increase in unemployment, HIV AIDS, and crime. As such, the harsh realities of life in democratic South Africa are that of: poor black South Africans being unable to eke out a living; an ever growing gap between rich and poor; and a government struggling to meet the high expectations it set when it came into power. This is the environment immigrants find themselves in. Lured by the human rights protection enshrined in the South African Constitution of 1996; the economic advantages; as well as networks made with those already in the country, they came to South Africa, only to encounter a society grappling with the legacy of apartheid.

Excluded, insulted, and often targets of violent behaviour particularly from black South Africans. The experience of immigrants in South Africa must be understood against the

¹ T. Mbeki, 1996, “I am an African”, *Soweto*, 8 May, http://www.soweto.co.za/html/i_iamafican.htm Accessed 25 March 2010.

² Republic of South Africa, 1994, *White Paper on Reconstruction and Development*. Pretoria. September

backdrop of apartheid. From its formation as the Union of South in 1910, South Africa has been a deeply divided society where exclusion and impoverishment were firmly established in its political and social fabric, entrenched by racist ideology. The then Prime Minister of the Union of South Africa J.C. Smuts stated “racial separation is imperative...for the purpose of racial purity and good public order. The mixing of the two alien elements such as white and black would lead to many forms of social evil.”³ When the white minority National Party came into power in 1948, apartheid (racial segregation) became the official government policy.⁴ It formalised separate development in legal, social and economic terms. The black majority were separated and denied political and economic rights equal to those of whites. For instance, the Population Registration Act No 30 of 1950 categorised people into three racial categories: white, black, or coloured (either of mixed decent, or a subgroup if Indians/Asians). The Group Areas Act, Act No 41 of 1950- forced the physical separation between the races through the creation of different residential areas for different races.⁵ Another enactment included the Bantu Education Act No47 of 1953- whereby a curriculum that suited the “requirements of black people” was drawn up. Dr Hendrick Verwoerd stated that the aim was to prevent, “Africans receiving education that would lead them to ‘aspire to positions they wouldn’t hold in society’ therefore education was limited to the acquisition of skills that would: 1)serve their own people or 2)allow them to work in labouring jobs under whites.”⁶

³ H. Deegan, 2001, *The Politics of the New South Africa: Apartheid and After*. Longman, Harlow, p9

⁴ Collins Dictionary (1999), p30

⁵ A, Boddy-Evans (2005), “Apartheid Legislation in South Africa” *African History* <http://africanhistory.about.com/library/bl/blsalaws.htm> Accessed in 17 November.

⁶ *ibid*

The effects of the apartheid system are still evident today with poor black South Africans still living in shacks surrounding urban areas. Illiteracy rates are high with around 24% of adults over 15 years old (6 to 8 million adults are not functionally literate), teachers in township schools are poorly trained, and the matric pass rate remains low. While 65% of whites over 20 years old and 40% of Indians have a high school or higher qualification, only 14% of blacks and 17% of the coloured population have higher education.⁷ Racial tensions exist in employment with the percentage of blacks in top management positions increasing to 9.5% by 2006.⁸ Some whites in the country consider the ANC policies of Affirmative Action and Black Economic Empowerment to be “anti-white”.⁹ It is against this backdrop that African immigrants find themselves as targets of black South Africans.

This black-on-black antagonism is not racism per se as racism refers to discriminatory treatment at the hands of a race (a biological group) different to one’s own. Instead it is based on the “other’s” national origin or ethnicity. This parallels the concept of new racism. Firstly new racism contends that the basis for exclusion is not biological differences between groups but rather cultural differences. It is a, ‘shift in racism, from notions of biological superiority, to exclusion based on cultural and national difference’.¹⁰ ‘Racial differences’ has been substituted with ‘cultural’ ones. Secondly it dispenses with the notion of superiority. Instead the focal point is difference. As Babacan argues, ‘the proponents of new racism claim that they are not being racist or prejudiced, nor are they making any value judgements about the “others”, but simply

⁷ South Africa, 2010, “Education in South Africa”, South Africa Info

<http://www.southafrica.info/about/education/education.htm> Accessed 07 June 2010

⁸ Fin24, 2007, “Government: We’re not anti-white” *Fin24* <http://www.fin24.com/Business/Govt-Were-not-anti-white-20070515> , 15 May, Accessed 02 July 2010

⁹ Ibid.

¹⁰ M, Ibrahim,. 2005, ‘The Securitization of Migration: A Racial Discourse’, *International Migration*, Vol. 43, No. 5, pp. 164

recognising that they [the others] are different'.¹¹ Thirdly reasons for exclusion are based on concerns about the threat "the other" poses. In other words this difference forms the basis for 'legitimate' and contemporary concerns of issues that are generalised as posing a threat to the values and beliefs that are cherished by the community.¹² This justification of exclusion of certain groups of people has "modernised racism and made it respectable".¹³ As Wieviorka explains, 'racism no longer means relations of domination, but rather the setting apart, the exclusion (and in extreme cases the destruction) of races [cultures and ethnic groups] which are thought to pose a threat.'¹⁴

Parallels can be drawn between the term xenophobia and new racism as they share similar outcomes of: perceiving the other as a threat; discrimination and exclusion based on the other's cultural origin; and the tightening of immigration controls. However a distinctive difference between the two terms is that racism is not merely an ideology but it is structural. As Essel explains: rules, laws, regulations and institutions are formulated and created to reproduce racist ideology. However under xenophobia institutions have been used to exclude the other, but these institutions were not deliberately designed to reproduce xenophobic sentiment.

This thesis purposely used the term xenophobia as xenophobia transcends race. It is a specific term that already, and adequately, encompasses the ethno-linguistic and cultural

¹¹ H. Babacan, N. Gopalkrishnan, A. Babacan, 2009, *Situating Racism: the Local, National and the Global*, Cambridge Scholars Publishing, Newcastle, p.10.

¹² T.A. Dijk, 2000, 'New(s) Racism: A discourse analytical approach', in Cottle, S., eds., *Ethnic Minorities and the Media*, Open University Press, Milton Keynes, p.34.

¹³ M. Duffield, 1996, 'The Symphony of the Damned: Racial discourse, Complex Political Emergencies and Humanitarian Aid' *Dissasters*, vol.2,no.3,p.175.

¹⁴ M. Wieviorka, 1995, *The Arena of Racism*, Sage Publications, London, p.43.

identifiers that form the basis of distrust and suspicion of the other.¹⁵ Xenophobia is defined in the Concise Oxford Dictionary as “the morbid dislike of foreigners”. Nyamnjoh defines it as “the intense dislike, hatred or fear of others”¹⁶ For some xenophobia is a fear that is a natural biological reaction to strangers.¹⁷ As a multi-disciplinary topic this thesis examines xenophobia as a socio-economic and political phenomenon. As this thesis demonstrates, xenophobia is more complex than just the irrational fear of foreigners. It is about the interplay of relationships between the state and its citizens; citizens and foreigners; and foreigners and the state. For the state this involves balancing its ‘realist’ obligations to protect the national interests of its citizens with its international obligations to protect foreigners within its borders. It is about the perception of immigrants as threats to the socio-economic wellbeing of the local population. Furthermore, it also involves assessing the role of immigrants themselves and how their actions exacerbate such negative sentiments. Owing to this multifaceted character of xenophobia this research utilises the definition of xenophobia formulated at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Iran 2001 as the foundation of its hypothesis. They defined xenophobia as, "attitudes, prejudices and behaviour that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity".¹⁸

¹⁵ Furthermore it was widely understood by respondents in the research and could translate in questioning. The researcher also needed to be consistent with the phraseology used with respondents as well as the study as a whole.

¹⁶ F, Nyamnjoh, 2006, *Insiders and Outsiders: Citizenship and Xenophobia in Contemporary Southern Africa*, CODESRIA, Dakar, p.5.

¹⁷ D. Allen, 1993, *Fear of Strangers and its Consequence*, Bennington Books, Michigan, p.15.

¹⁸ Declaration on Racism, discrimination, Xenophobia and Related Intolerance against Migrants and Trafficked Persons. Asia Pacific NGO Meeting for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Tehran, Iran, 18 February 2001.

African immigrants are treated as outsiders, in a country that professes to uphold the rule of law. This thesis argues that human rights, democratic principles and notions such as *ubuntu* have been defined narrowly for the benefit of South Africans only. They have not been extended to include foreigners. ‘Ubuntu’ which means togetherness is an idea based on humanness, that people realise their humanity through interaction with others.¹⁹ It was introduced to facilitate national unity by calling for forgiveness during the Truth and Reconciliation process. It derives from the Xhosa expression ‘*umuntu ngumuntu ngabantu*’ people are people through other people.²⁰ Pobee states that, “it is often said that where Descartes said, ‘I think therefore I am, the African would say, ‘I am related, therefore we are’.”²¹ John Mbiti develops this by stating “whatever happens to the individual happens to the whole group, and whatever happens to the whole group happens to the individual”.²² A person with *ubuntu* therefore cares about the deepest needs of people.²³ I am because we are and since we are therefore I am. Former Archbishop Desmond Tutu describes *ubuntu* as “I am human only because you are human. I undermine your humanity I dehumanise myself.”²⁴ It reflects tolerance, compassion and forgiveness²⁵, and by extension acceptance of the each other.

Although Ngubane argues that “ *ubuntu* it is the common foundation of all African cultures- a consciousness of belonging together”²⁶ The existence of xenophobia demonstrates an absence of tolerance for Africans. This severely challenges South Africa’s role in the renaissance of the continent. Mbeki’s vision of an ‘African

¹⁹ Lodge (1999), p.99.

²⁰ L. Graybill, 2002, *Truth and Reconciliation in South Africa: Miracle or Model?* Lynne Rienner, Colorado, p.32.

²¹ N. Ndungane, 1996, ‘UTutu: Nguntu Iowo’ in Hulley, L., Krestzschmar and Pato, L, eds, *Archbishop Tutu: Prophetic Witness in South Africa*, Human & Rousseau, Cape Town, p.78

²² J. Mbiti, 1969, *African Religions and Philosophy*, Heinemann, London p.108

²³ M. Mahamba, 1993, ‘Ubuntu and Democracy’ *Challenge*, no.16, June-July, p.7

²⁴ M. Gevisser, 1996, “The Ultimate Test of Faith”, *Mail and Guardian*, 12 April

²⁵ M. F. Bhengu, 1996, *Ubuntu: The Essence of Democracy*, Novalis Press, Cape Town p.5

²⁶ Lodge (1999) p.100.

Renaissance' was modelled on the ideas of "rebirth and rejuvenation of the African continent where South Africa would contribute to the common African struggle for the establishment of stable democracies, respect for human rights, an end to conflict and a better life for all in Africa."²⁷ The growing level of hostility that South Africans have towards immigrants is fundamentally incompatible with the African renaissance.

Therefore the aim of this research project is to address the following questions:

1. What is the conceptualisation of xenophobia in the New South Africa?
2. How is it triggered and how does it manifest in the country?
3. In doing so the thesis seeks to identify who may be the best agents to curb xenophobic behaviour,
4. with the purpose of formulating policy recommendations on how to address xenophobic sentiment.

Prima facie the fear of foreigners does not seem rational in a globalised era where there is increased interconnectedness and integration of the world.²⁸ After all, improved communication has revolutionized interaction with the rest of the world. Technologies such as the electronic mass media, telephone and the growth of computer networks, has made it much easier to access information and gain more knowledge about different parts of the world. The improvement of various means and modes of transportation has facilitated the movement of people around the world, making it possible for more cultures to come into contact with each other although this does not inevitably mean harmony. The free movement of goods and capital is encouraged, however when it

²⁷ T. Lodge, 1999, *South African Politics since 1994*, David Philip ,Cape Town, p. 96.

²⁸ See J. Scholte, *Globalisation: A Critical Introduction* (2ed) Basingtoke: Palgrave, 2005, p.59; D. Held and McGrew, A. *The Global Transformation Reader* (2ed) Cambridge: Polity Press, 2003; J. Nye and Keohane, R. 'Globalization: What's New? And What's Not?', *Foreign Policy*, 118 (2000) p104-112.

comes to the free movement of people barriers are put up mainly in the form of the tightening of immigration controls. Given that by 2001, 150 million people (2.5% of the world's population) lived outside their country of origin²⁹ migration has been characterised with growing hostility towards immigrants.³⁰ Experiences of immigrants in South Africa are therefore not vastly different to occurrences in the rest of the world. The new security discourse has developed examining how immigrants are perceived as threats (Waever 1993; Weiner 1993; Buzan 1993). Linking immigrants to insecurity and portraying them as the dangerous other, according to Husymans, "sustains a political strategy aimed at excluding particular categories of people."³¹ This has led to the securitization of migration (Buzan 1993; Poku 2000; Messina 2006) which in turn leads to the tightening of immigration controls. This thesis therefore firmly locates South Africa within the international migration system identifying it as a country of immigration, where increased immigration into the country has been followed by the concomitant increase in hostility.

²⁹ Inter-Agency, 2001, *International Migration, Racism, Discrimination and Xenophobia*, NGO Working Group on Migration and Xenophobia for the World Conference in International Migration, Racism, Discrimination and Xenophobia, a publication jointly produced by the ILO, IOM, OHCHR in consultation with UNHCR, August, <http://www.unhcr.org/refworld/docid/49353b4d2.html> Accessed 31 May 2005.

³⁰ J. Baylis, (2001) 'International and Global Security in the Post-Cold War Era' in J, Baylis and S, Smith *The Globalization of World Politics*. Oxford: Oxford University Press, p.139.

³¹ J. Huysmans. 2000 .The European Union and the securitization of migration., *Journal of*

Common Market Studies, vol. 38, no.5, p771.

Contribution and Structure of thesis

The aim of this thesis is to analyse state and immigrant non-governmental organisations responses to xenophobia and for this reason it adopts an empirical approach rather than a theoretical appraisal of the phenomena.

Existing research into xenophobia in South Africa has highlighted the deficiencies of the governments response to the phenomenon by detailing its failings and providing recommendations. This study advances the debate on xenophobia in two significant ways. Firstly it illustrates that there are a number of underlying complexities underpinning the state's response. On the one hand, as a result of its political transformation South Africa has become a victim of its own success. It became a magnet for nationals from African countries who come to South Africa to share in the fruits of more stable governance and enjoy the benefits of a larger more dynamic economy. The state has had to absorb the consequences of poor or non-existent governance in African countries, whilst simultaneously contending with its poor service delivery that has the consequence of creating a disempowered populace who have not been able to access or enjoy the material benefits promised by government.

Secondly, and most importantly, this study analyses the role of immigrant non-governmental organisations. The novelty provided by this study rests in its analysis of how immigrants in South Africa come together to form institutions (i.e non-governmental organisations) to address xenophobia. The thesis investigates how the Somali Association of South Africa, the Coordinating Body for Refugee Communities, and the Alliance for Refugees in South Africa have advocated for their rights, and the

outcome of their alliance with bodies such as the South African Human Rights Commission and Lawyers for Human Rights.

The thesis is structured as follows:

Chapter one identifies roots causes, trigger factors and how xenophobia manifests itself in South Africa by conceptualising it within the discourse of citizenship, democracy, human rights and economics. Furthermore it locates xenophobic behaviour within the struggle for access to resources.

Chapter two analyses the development of immigration policy in post-apartheid South Africa in terms of the protections it has afforded immigrants as well as how it has informed the behaviour of state officials from 1994 to 2008. It argues that legislation has made significant strides in informing the behaviour of high ranking officials in government and state departments but still has a long way to go to change the perception of more junior officials.

Chapter three illustrates how immigrants exercise agency. Through the establishment of immigrant non-governmental organisations and networks with key organisations such as the South African Human Rights Commission and the Consortium for Refugees and Migrants in South Africa, immigrants have been proactive in their efforts to address xenophobia.

Chapter four identifies government, immigrants and the media as agents well placed to effectively address xenophobic sentiment within the country. In the broader policy environment the government must develop socio-economic policies that will bolster

confidence amongst South Africans regarding its ability to deliver services. It argues for a multifaceted assault on xenophobia through the use of legislation and fostering a culture of interaction between immigrants and South Africans.

The term ‘immigrant’ is defined as a ‘foreign national who has acquired, or is in the process of acquiring, legal status in the country’. This includes refugees, asylum seekers and those with work permits.

Methodology

In order to ascertain the causes, triggers and manifestations of xenophobia in South Africa this study undertakes a qualitative research approach since this methodology provides a more holistic perspective that yields “rich insights of a phenomena”³². Identifying who the best agents for change are requires the data to be grounded in reality. Based on these reasons the respondents identified are those who possessed a particular experience and knowledge of matters concerning xenophobia. From the onset the researcher deliberately identified government officials from the Department of Home Affairs, and the Department of Justice. From the non-governmental sector organisations with mandates to address concerns of immigrants in South Africa were contacted. This included the Consortium for Refugee and Migrants in South Africa and its network partners as well as faith-based bodies such as churches and mosques. Research into xenophobia thus far constitutes: the documenting the experience of migrants in the country (conducted by the South African Migration Project and Human Rights Watch and the South African Human Rights Commission); the measurement of

³² C. Frankfort-Nachmias & D. Nachmias, 1996, *Research Methods in Social Sciences*, 5ed., Arnold, London, p.299.

perceptions of South Africans towards foreigners (the Centre for Policy Studies and the Human Sciences Research Council); the review of immigration policy and developing policy recommendations for government (the Consortium for Refugees and Migrants in South Africa, and the South African Migration Project). This research endeavours to contribute to the debate on how to conceptualise and tackle xenophobic sentiment by analysing the contributions made by migrant non-governmental organisations, in particular, the Somali Association of South Africa and the Alliance of Refugees in South Africa.

Primary data was gathered from interviews, official statements, mandates, speeches and policy initiatives made by the above respondents on their websites, in press releases and newspaper articles. The validity of the data provided was cross referenced with surveys conducted by reputable institutions such as the Forced Migration Studies Program, the South African Human Rights Commission and Lawyers for Human Rights, Institute for Democracy in South Africa, Human Rights Watch and in particular the Southern African Migration Project (SAMP). This is an international network of organizations founded in 1996 to promote awareness of migration-development linkages in the South African Development Community. SAMP conducts applied research on migration and development issues, provides policy advice and expertise, offers training in migration policy and management, and conducts public education campaigns on migration-related issues. ³³ Furthermore, primary data was supplemented by providing detailed content analysis of books, journal articles and a comprehensive coverage of xenophobia related issues in the South African media. Wimmer and Dominick argue that, ‘multiple sources

³³ See www.queensu.ca/samp/

of data permits for the triangulation of the phenomena under investigation'.³⁴ In relation to the media, this research gathered data from the print and radio mediums. The research focussed primarily on the print media's coverage of migration related topics, by conducting textual analysis of newspaper articles from English language papers namely: the Star, Sunday Times, Mail and Guardian, Sowetan and the Cape Times, dating between 1994 and 2009. The internet served as an invaluable tool in this process as it provided access to archived issues of the newspapers and SAMP's media database. Apart from identifying keywords in headlines, this research analysed the language and imagery used in the articles portrayal of immigration and immigrants. This follows the methodological approach employed by Danso and Macdonald who carried out research on *Immigration and the Press*.³⁵ In relation to radio, archived material of transcripts of discussions on immigration on Radio 702 and SAFM were analysed, paying particular attention to radio coverage following large scale attacks on immigrants.

Fieldwork was conducted in four two month research trips to South Africa; April to May 2005, April to May 2006 and August to September 2006³⁶, August to September 2007. Interviews were conducted with: eight members of four migrant-led non-governmental organisations; two prominent religious leaders; seven coordinators of leading South African agencies advocating migrant rights; fifteen South Africans, six Congolese women; seven Somalis women; and three immigrant men. The migrant organisations were the gatekeepers who provided access to immigrant respondents.

³⁴ R. Wimmer and J. Dominick, 2006, *Mass Media Research: An Introduction*, 8ed, Bed, Wadsworth, United States, p123.

³⁵ R. Danso and D. MacDonald, 2000, "Writing Xenophobia: Immigration and the Press in Post-Apartheid South Africa", *Migration Policy Series*, no.17, p119-121

³⁶ This particular research trip coincided with the August killings of Somali shopkeepers in Cape Town.

All the respondents that participated in the study were contacted by means of phone calls and emails explaining the purpose of research, the reason they had been identified as vital contributors, and the theme of questions to be asked. Face to face interviews were arranged with these respondents in order to elicit their views. In circumstances where they were not available telephone interviews were conducted instead.

The face to face interviews followed a semi-structured format in order to permit respondents to develop on ideas and themes raised.³⁷ The duration of the interview was greatly influenced by availability of the respondents and ranged between forty minutes to an entire day.³⁸

As xenophobia is an emotive subject great care was taken to reduce any unintended or unanticipated consequences of the research. A letter of introduction confirming the identity of the researcher and nature of the research was always produced at the beginning of all interviews. Follow up calls and emails were sent after the interview thanking the respondents for their participation.

In order to help improve the reliability and validity of the study, data was collected from non-participant observations to supplement data collected from interviews. As Wimmer and Dominck argue, 'observation is not dependent on the subject's willingness or ability to report their behaviour'.³⁹ Unlike interviews which by their very nature solicit particular information from respondents, guiding participants to provide specific

³⁷ M. Denscombe, 1998, *Good Research Guide: For Small Scale Social Research Projects*, 2ed., Open University Press, Maidenhead, p.167.

³⁸ These interviews were the ones where gatekeepers had permitted the researcher to observe a particular group of immigrants. These were non-participant observations. See reflections in chapter three on how the non-participant observations influenced the study.

³⁹ Wimmer (2006), p122.

responses, non participant observations allows for the study of the phenomenon in its natural setting.

To identify trends and regularities in the research, empirical data⁴⁰ on 1) the perceptions of foreigners by South Africans and 2) immigrants' experience of xenophobia in the country; was cross referenced with findings from interviews and triangulated with primary and secondary sources.

Denscombe points out that the disadvantage of qualitative research is that it is "bound up with the self of the researcher"⁴¹ and therefore subject to researcher bias. This study does factor in the researcher's bias and therefore became an exercise in reflexivity.⁴² Having lived in South Africa as an immigrant for sixteen years, had contact with immigrant communities and experienced first hand hostility from some South Africans, the researcher had come to perceive the treatment of foreigners as a lack of awareness and misconceptions on the part of South Africans of who foreigners are and their purpose in the country. Misconceptions such as: immigrants are uneducated, steal jobs, don't bother to learn the language, and that migrants must go back home. It is these very misconceptions that the study seeks to deconstruct in order to provide an understanding of xenophobia; how misconceptions affect behaviour; and what efforts are made by immigrant non-governmental organisations to curb xenophobic sentiment. Based upon

⁴⁰ The researcher acknowledges that in analysing empirical data it is important to note that statistical data is socially constructed to convey the opinions and perspectives of those who collated the information. The shortcomings of such data is that it is biased towards a particular position, and it is therefore necessary to not only know the intentions and objectives of the researchers but test the validity of their findings against other studies.

⁴¹Denscombe (1998), p.281.

⁴² Reflexivity in research is "the process of critical self-reflection on one's biases, theoretical predispositions, and preferences and how these inform research. T. Schwandt, 2001, *Dictionary of qualitative inquiry*. Sage Publications, Thousand Oaks California, p.224. See discussion on reflexivity in chapter three.

the researchers biases and perceptions samples from the following three groups were identified as proponent of change: the coordinators of migrant-led-organisations, South African Non-governmental organisations networked with migrants, and immigrants themselves. The research therefore also becomes an exercise in self awareness.⁴³

Even though the researcher understands Sotho- one of the eleven official languages, two translators were required for South African respondents that did not speak English and three Somali nationals that were interviewed. Accuracy- the extent to which a translation matches its original⁴⁴- is essential when translators are used. Identifying an impartial translator was challenging as at times he or she did not directly translate the question posed or the response provided. Kalina argues that in order for the translator to ‘represent fully the original speaker’s interests and intentions, it is essential that the translator identifies and understands cultural and linguistic issues’.⁴⁵ If not nuances would be lost in translation. To overcome some of these issues, the researcher identified two people with the appropriate vocational experience of translating who had been used by other organisations. Wadensjo identified that one of the challenges for translation is finding out the hidden meaning(s) behind the speaker’s actual intentions.⁴⁶ This was addressed by posing the same question in different ways. Through the continual questioning of the respondent the researcher was able to ascertain that questions and responses were being effectively translated. The translator used the English word “xenophobia” from which the respondent immediately inferred meaning.

⁴³ R. Cohen, & P. Kennedy, 2000, *Global sociology*. New York University Press New York, p.36.

⁴⁴ D. Gile, 1991, ‘A Communication Oriented Analysis of Quality in Non-literacy translations and interpretations’, in M. L. Larson, ed, *Translation: Theory and Practise: Tension and Interdependence*, Binghampton, New York, p198.

⁴⁵ S. Kalina, 2002, ‘Quality in interpreting and it’s prerequisites: a framework for a comprehensive view’ in G. Garzone and M. Viezzi, *Interpreting in the 21st Century*, John Benjamins Publishing Company, Amsterdam, p.125.

⁴⁶ C. Wadensjo, 1998, *Interpreting as Interaction*, Longman, London, p.27.

This meant that the researcher and the translator did not impose their own inferences on the term.

The fact that I was self-funded posed a number of challenges. This limits the scale at which I could conduct the study. However a number of factors worked to my advantage. The statistics relating to perceptions of South Africans of immigrants and the experience of immigrants in the country have been well documented and made available by reputable organisations such as the South African Migration Project. Secondly, practical costs like travel and accommodation are reduced because friends and family and their networks were willing to assist me.

Chapter 1

Identifying the Problem of Xenophobia in the New South Africa

Moeletsi Mbeki has argued that "treating the symptoms won't treat the underlying malaise."⁴⁷ In order to treat the symptoms of xenophobia it is imperative to correctly identify causes of xenophobic sentiment. To achieve this aim this chapter provides a detailed account of the South African experience of xenophobia in terms of: who exhibits high levels of xenophobic behaviour; who is targeted and where; as well as, how xenophobic sentiment manifests itself. The purpose of which is to conceptualise xenophobia as a phenomenon that is more than just the irrational fear of foreigners. Xenophobia is defined as "attitudes, prejudices and behaviour that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity"⁴⁸. This chapter locates xenophobia within a struggle for access to political, economic or social resources and provides insight into how xenophobia has manifested itself in South Africa, particularly amongst Black South Africans. Furthermore an analysis is provided of three attributes of the politics of access namely: 1) why a group refers to an 'us' versus 'them' dichotomy when faced with perceived threats, 2) how access is triggered and 3) why it takes such violent form.

Central to this study is the analysis of how South Africa as a democratic nation embracing market economics is faced with the challenges raised by immigration. This involves balancing immigration policy and the international obligations that states have

⁴⁷ J. Li, 2008, "News Analysis: What is Behind xenophobia in S. Africa" *China View*, 24 May, http://news.xinhuanet.com/english/2008-05/24/content_8240500.htm Accessed on 5 April 2007.

⁴⁸ Declaration on Racism, discrimination, Xenophobia and Related Intolerance against Migrants and Trafficked Persons. Asia Pacific NGO Meeting for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Tehran, Iran. 18 February 2001.

towards foreign nationals on the one hand with state sovereignty and their national obligations to citizens on the other hand. This conflictual relationship is analysed in more detail in chapter two.

Immigration history of South Africa

Peberdy and Crush provide a detailed account of South African immigration in the twentieth century.⁴⁹ Evident from their analysis is the fact that immigration legislation has discriminated between people on the grounds of national origin, and most importantly race. Throughout the twentieth century pro-European immigration has always been favoured by subsequent governments. Following the creation of the Union, the Immigration Act of 1913, and the Immigration Quota Act of 1930 permitted the access of European immigrants into the Union of South Africa, restricting Indian and Jewish immigration once their figures starting increasing. The 1948 election brought into power the National Party and the inception of apartheid ideology. The government focused on recruiting German and Dutch immigrants rather than English immigrants.⁵⁰

Prior to 1994 Black South Africans had not been considered “citizens” of South Africa. The Immigration Act of 1913 restricted the movement of black South Africans between provinces, defining them as “non-citizens” therefore subjecting them to the same legislation that governed entry into the country by non-South Africans.⁵¹ The Population Registration Amendment Act of 1950 divided the population into racial groups: white, coloured, Indian and black. Bantustans were created and people had to

⁴⁹ S. Peberdy, and W. Crush, 1998, ‘Rooted in Racism: The Origins of the Aliens Control Act’ in J. Crush, eds, *Beyond Control: Immigration and Human Rights in a Democratic South Africa*, IDASA, Canada.

⁵⁰ Peberdy (1998), pp22-33

⁵¹ *ibid*

carry identity books that stated their race and place of birth. Verwoerd's Bantustan policy or "Grand Apartheid" from 1959 sort to strip black South Africans of their citizenship through the creation of designated 'homelands' for each ethnic group. Blacks South Africans were denied political rights not because of their race but because they were deemed citizens of these new 'states', four of which claimed to be 'independent' by the close of the apartheid era (Transkei, Bophutatswana, Venda and Ciskei).

In relation to African migrants, the South African migrant labour system under the apartheid regime recruited labour from neighbouring countries to work in the mines and on farms. At its height in 1972 the South African mining industry employed over 600,000 black migrants from: Malawi (33%), Mozambique (26%), Lesotho (25%), Botswana (7%), Zambia (5%) and Swaziland (4%). The mining industry absorbed 296,000 migrants.⁵² They were only permitted to live at the mines and were expected to return to their home countries at the end of their contracts.

The Aliens Amendment Act of 1986 made it possible for skilled African immigrants to move legally into South Africa.⁵³ The Bantustans in particular benefitted from the brain drain of skills from East and West Africa.

From 1990 South Africa became a destination for refugees when 350 000 Mozambican refugees entered the country.⁵⁴ Following the country's first democratic elections in

⁵² F. Wilson, 1972, *Migrant Labour: Report to the South African Council of Churches*. The South African Council of Churches, Johannesburg, p.109.

⁵³ Peberdy (1998), pp 29

⁵⁴ Crush (2003), p.3.

1994 and political transformation post apartheid South Africa become a magnet for those fleeing persecution in their own countries.⁵⁵

As Figure 1 illustrates, the total population of legal immigrants in 2001 stood at 460,813 people which accounts for less than 0.1% of the number of people in South Africa. The mid-year statistics of 2009 assumed that there were a total number of 1,000 000 legal immigrants in the country since 1996.⁵⁶

Figure 1: Number of Non-Citizens in South Africa in 2003.



[Source: Statistics South Africa 2003]

The New South Africa: From Miracle to Pogroms

The political and social history of South Africa changed dramatically in 1994, when all in the country irrespective of race (which had segregated them in the past) were able to take ownership of a new South Africa, built on a culture of citizen inclusiveness,

⁵⁵ K. Christie, 1997, "Security and forced migration concerns in South Africa" *African Security Review*, vol.6, no.1. <http://www.iss.co.za/ASR/6No1/Christie>. Accessed on 13 July 2006.

⁵⁶ Statistics South Africa, 2009, "Mid-Year Population Estimates" *Statistics South Africa*, 27 July <http://www.statssa.gov.za/publications/P0302/P03022009.pdf> Accessed on 10 January 2010.

tolerance and human rights embodied in its 1996 Constitution. Not only do South Africans consider themselves “proudly South African”, but following Thabo Mbeki’s “I am an African!”⁵⁷ speech, a survey conducted in 2005 revealed that over 60% of the population consider themselves African⁵⁸. This parallels its foreign policy direction where South Africa embarked on redefining its role and identity in Southern Africa, the rest of Africa and globally through aspirations such as the African Renaissance, and New Partnership for African Development (NEPAD)- whereby South Africa would take a lead in the emancipation of Africa.⁵⁹

How then in May 2008 could the world be seeing images reminiscent of the apartheid years? 35 year old Ernesto Alfabeto Nhamuave, was set alight in full view of the residents Alexandra township. They called him the 'flaming man'- a man slumped on his hands and knees, his flesh burning and screaming for his life.⁶⁰ He was fleeing his home following the outbreak of a riot in Alexandra township when the mob caught up with him and set him alight. The May 2008 attacks began in Alexandra then spread to other areas in and around Johannesburg, including Cleveland, Diepsloot, Hillbrow, Tembisa, Primrose, Ivory Park and Thokoza. Violence in Kwazulu-Natal, Mpumalanga and Cape Town soon followed.⁶¹ The outcome of which was the death of 62 people (22 of whom were South Africans) and the displacement of an estimated 150, 000 immigrants.⁶²

⁵⁷ T. Mbeki, 1996, Statement of Deputy President TM Mbeki on behalf of the African National Congress, on the occasion of the adoption of the Constitutional Assembly of the ‘Republic of South Africa Constitutional Bill 1996’, 8 May, <http://66.102.9.132/custom?q=cache:WmBFBOKq4p0J:www.anc.org.za/ancdocs/history/mbeki/1996/sp960508.html+I+am+African&cd=1&hl=en&ct=clnk> Accessed on 20 April 2007.

⁵⁸ Kornegay (2005), p.4.

⁵⁹ T. Mbeki, 1998, “The African Renaissance, South Africa and the World”, South African Deputy President Speaks at the United Nations University, 9 April, <http://www.unu.edu/unupress/Mbeki.html> Accessed on 12 March 2009.

⁶⁰ S. Bevan, 2008, “The Tale of the Flaming Man Whose Picture Woke the World Up to South Africa’s Xenophobia”, *Mail Online*, 9 June.

⁶¹ S. Pillay, 2008, “Dangerous Ordinary Discourse: Preliminary Reflections on Xenophobia, Violence and the Public Sphere in South Africa”, Paper presented at the CODESRIA 12th General Assembly on

This was the first time in South Africa that attacks on a foreign national had sparked such violence and disruption throughout the country. Nonetheless it was not the first time a foreign national had been burnt to death. On the 8th of January 1999 two men from Mozambique were necklaced (a tyre placed around their neck which is then doused with petrol then set alight) in Ivory Park –Johannesburg by a mob of 400 people accusing them of rape, theft and terrorising residents.⁶³ Human Rights Watch (HRW) were the first body to officially investigate abuses of foreign nationals in South Africa following the killing of three men (one from Mozambique and two from Senegal) who were thrown off a train in 1998. These men were on a train travelling between Pretoria and Johannesburg.⁶⁴ They were attacked by an angry mob of black South Africans that had earlier taken part in a protest march against unemployment. Two placards found near the scene read “Down with Foreigners: they are taking our jobs” and “we will take the law into our own hands.”⁶⁵

Governing the African Public Sphere, Yaoundé, Cameroon, 7-11 December,

http://www.sun.ac.za/News/NewsItem_Eng.asp?Lang=2&ItemID=14846 Accessed on 31 March 2006.

⁶² CORMSA, 2008, “**Protecting Refugees, Asylum Seekers & Immigrants in South Africa**“, *CORMSA*, 18 June, p.7 <http://www.lhr.org.za/sites/lhr.org.za/files/Cormsa08-Final.pdf> Accessed on 30 November 2008.

⁶³ SAPA , 1999, “Ivory Park Vigilante Necklacing-No arrests yet”, *ANC Daily News Briefing*, 8 January, <http://70.84.171.10/~etools/newsbrief/1999/news0108> Accessed on 15 May 2009.

⁶⁴ Human Rights Watch, 1998, “Xenophobia in South Africa,” *Human Rights Watch*, 6 March, http://www.africa.upenn.edu/Urgent_Action/apic_6398.html Accessed on 26 February 2007.

⁶⁵ SAPA, 1998, “Immigrant Businessmen From Africa Create Jobs in SA” *ANC Daily News Briefing*, 4 September, <http://70.84.171.10/~etools/newsbrief/1998/news0905> Accessed on 15 April 2008.

Map 1. Map of South Africa: Provinces and towns.



In South Africa, HRW uncovered further abuses ranging from verbal abuse, physical assaults to murders. For instance: In Tshwane and Gauteng:

- In 1998 A Rwandan refugee was beaten up by a taxi driver because he was foreign and received cuts and bruises to his face, ear and body.⁶⁶
- In 2001 Sudanese refugee James Diop was seriously injured after being thrown from a train in Pretoria by a group of armed men.⁶⁷
- October 2001 in Zandspruit near Honeydew, Johannesburg: homes belonging to Zimbabwean immigrants were set alight.⁶⁸

⁶⁶ Ibid.

⁶⁷ K. Lefko-Everett, 2008 “Aliens, Migrants, Refugees and Interlopers: Perceptions of Foreigners in South Africa”, *ePoliticsSA*, ed. 1, p.30.

http://www.idasa.org.za/index.asp?page=output_details.asp%3FRID%3D1554%26oplang%3Den%26OTID%3D5%26PID%3D44 Accessed on 31 September 2007.

- The 2005 HRW report documents harassment, mistreatment and extortion of asylum-seekers and refugees by law enforcement agencies, the arrest, detention and threat of deportation of refugees and asylum-seekers as “illegal foreigners”, and the unlawful detention and threats of deportation at Lindela Repatriation Centre.⁶⁹

In the Western Cape:

- In 2001 the Cape Town City Council recorded 22 stabbings of migrants based only on the fact that they were foreign⁷⁰.
- In August 2007, 13 Somali shopkeepers were found murdered in their shops in Cape Town, nothing had been taken.⁷¹
- In September 2007 following a service-delivery protest by residents in Delmas in the Western Cape, shops owned and staffed by non-nationals were attacked and looted. 40 non-nationals fled and were temporarily accommodated at mosques and with friends.⁷²

Incidents have not been isolated to the two main receiving ports for migrants- the Western Cape and Gauteng (see chapter two). On the contrary surveys of newspaper articles conducted by the Roll Back Xenophobia campaign, the Consortium for Refugees and Migrants in South Africa, Human Rights Watch and the Centre for the Study of Violence and Reconciliation-found that xenophobia occurred throughout the country.

⁶⁸ Lefko-Everett (2008), p.31.

⁶⁹ Ibid.

⁷⁰ B. Harris, 2002, “Xenophobia: A New Pathology for A New South Africa” in D, Hook and G, Eagle, *Psychopathology and Social Prejudice*, University of Cape Town Press, Cape Town, p.5. <http://www.csvr.org.za/docs/foreigners/xenopobia.pdf> Accessed 4 November 2005.

⁷¹ CORMSA (2008), p.7.

⁷² Ibid.

In 1999:

- 19 November 1999: SABC Two Way Programme reported that 30 refugees were killed in South Africa, and one refugee had acid poured over his entire body.⁷³

In 2000:

- March 2000: A joint police and army sweep called Operation Crackdown was launched. Over 7 000 people were arrested on suspicion of being illegal immigrants.⁷⁴
- 4 August 2000: Kenyan Roy Ndeti and his roommate were shot in their home by armed men who then fled taking nothing with them.⁷⁵
- In the Zandspruit Natal residents went on a rampage, burning down shacks of Zimbabwean foreigners living in the settlement in a bid to drive out foreigners who they claimed were stealing their jobs and causing crime.⁷⁶

In 2001 to 2005

- People were apprehended for being "too dark" or "walking like a black foreigner"⁷⁷. This is followed by the deportation of foreigners on the grounds that they were illegal immigrants even when in possession of legal documentation. Police also regularly destroyed documents of black non-South Africans.⁷⁸

⁷³ SABC, 2001, "Two Way Programme" SABC. 29 January 2001.

⁷⁴ Harris (2002), p.37

⁷⁵ J. Parsley, 2008, "We Are Not Treated Like People", *The Roll Back Xenophobia Campaign in South Africa*, <http://www.odihpn.org/report.asp?id=2208> Accessed 2 November 2005.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Human Rights Watch, 1998, "*Prohibited Persons': Abuse of Undocumented Migrants, Asylum Seekers, and Refugees in South Africa*", *Human Rights Watch*, New York quoted in B, Harris, 2001, "A Foreign Experience: Violence, Crime and Xenophobia during South Africa's Transition", *Violence and Transition Series*, vol.5, August, p.31.

In 2005

- August 2005: Bothaville –Free State: Zimbabwean and Somali refugees were beaten. These attacks on foreigners occurred after a community protest against the local municipality, and were accompanied with looting of the foreigners' belongings⁷⁹

In 2006

- July 2006: Township outside Knysna- Somali shop owners were chased out of the area and at least 30 spaza shops were damaged. Tensions started when an 18-year-old South African alleged robber was shot by a Somali shopkeeper.⁸⁰

In 2007:

- February 2007: Motherwell-Eastern Cape: violence was triggered by the accidental shooting of a young South African man which resulted in the looting of over one-hundred Somali-owned shops in a 24 hour period. A day later, more than four hundred Somalis had left the township in fear, most without any of their belongings.⁸¹
- May 2007: Pelegeng –Northern Province: a township near the Northwest Province town of Schwiezer-Reneke. Mobs of youths destroyed and looted shops causing Somali and Ethiopian shop-owners to flee.⁸²

In 2008

- January 2008: Duncan Village -Eastern Cape: Two Somalis were found burned to death in their shop. Police later arrested seven people in connection with the

⁷⁹ CORMSA, 2007, "Protecting Refugees and Asylum Seekers in South Africa", *CORMSA*, June, p.50, <http://www.cormsa.org.za/wp-content/uploads/2008/06/crmsa07report.pdf> Accessed on 8 May 2008.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² CORMSA (2007), p.51.

incident after they were found in possession of property belonging to the deceased.⁸³

- January 2008: Albert Park –KwaZulu Natal: The local community forum held a meeting to address the issue of non-nationals living amongst them. The community indicated during this meeting that they wanted foreign nationals living in the area to leave.⁸⁴
- January 2008- Jeffrey’s Bay- Eastern Cape: After a Somali shop owner allegedly shot dead a suspected thief, a crowd of residents attacked Somali-owned shops, and many Somali nationals sought shelter at the police station.⁸⁵
- 12 August 08: Umbilo, Durban- Congolese lawyer Chirs Kwigomba who returned to his Umbilo home and job the previous week after assurances of safety from the municipality was beaten by locals and hospitalised.⁸⁶
- 16 August 2008: Caradale Settlement in Bokdale, North West- Two Zimbabwean-owned shacks, valued at R10,000 each were burnt down after a tavern brawl. Police spokesperson Captain Adele Myburgh stated that "A group of South Africans and Zimbabweans had a fight in a tavern (on Friday night)... then the differences were settled...Later that night stones were thrown at their (Zimbabwean) homes and they were set on fire."⁸⁷

⁸³ CORMSA (2008), p.26.

⁸⁴ CORMSA (2008), p.26.

⁸⁵ Ibid.

⁸⁶ M. Madlala, 2008, “Beaten up for coming back” *The Daily News*, 12 August, <http://www.thestar.co.za/index.php?fSectionId=493&fArticleId=vn20080812111528744C747938>
Accessed on 15 August 2008.

⁸⁷ SAPA, 2008, “Zimbabwean Shacks burnt”, *Daily News*, 16 August, <http://www.dailynews.co.za/index.php?fSectionId=3532&fArticleId=nw20080816144336183C783167>
Accessed on 20 August 2008.

- 3 October 2008: Queenstown- Eastern Cape: A woman, along with her two teenage sons and daughter, were bludgeoned to death.⁸⁸

A number of distinctive features become apparent from the above. Firstly, foreign nationals targeted are black Africans with those from Europe and South East Asia being excluded.⁸⁹ Secondly, similar to cases in Germany-there is an identifiable group of those that perpetrate xenophobic violence. Black South Africans particularly those living in townships are the main perpetrators of xenophobic sentiment. This begs the question of why black South Africans exhibit high levels of xenophobic behaviour and why it is usually in the form of violence. The response rests in three areas: politics of access based on exclusionary citizenship; the schizophrenic nature of democracy; and the influence of myths and prejudices. These factors are not mutually exclusive and when combined create conditions conducive to exacerbating xenophobic sentiment and behaviour.

It could be argued, albeit mistakenly, that the experience of immigrants in South Africa is no different to that of South African citizens subjected to crime in the country. Taking the example of August 2006 for instance-16 Somali shopkeepers were killed in Cape Town.⁹⁰ The police claimed that the attacks were simply robberies, part of the crime wave that plagues the townships.⁹¹ Although the levels of ‘all crime’⁹² has decreased from 9,634 per 100,000 of the population in 2001 to 8,557 per 100,000 at the

⁸⁸ CORMSA, 2009, ‘**Protecting Refugees, Asylum Seekers & Immigrants in South Africa**’ CORMSA, 18 June, p.40-41 <http://www.lhr.org.za/sites/lhr.org.za/files/Cormsa09-Final.pdf> Accessed on 30 November 2009.

⁸⁹ Explanations are provided below to account for why Africans are targeted and not Europeans

⁹⁰ H. Roberts , 2006,” Is xenophobia fuelling attacks on foreigners?” *The Cape Argus*, 23 August.

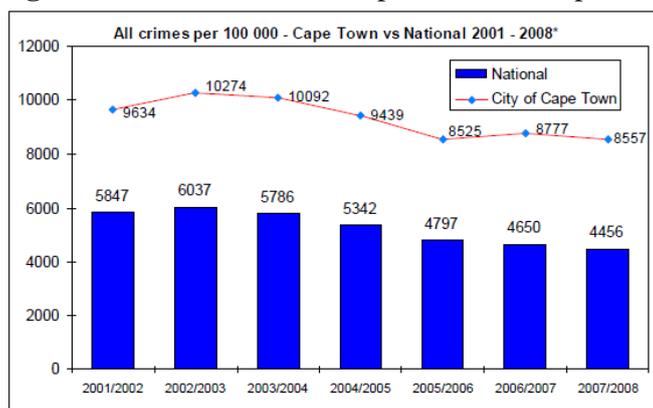
⁹¹ Special Assignment, 2006, “Refugees Under Attack” *SABC 3*, 21 November.

⁹² All crimes refer to acts defined as crimes and reported to the police. J. Gie, 2009, “Crime in Cape Town: 2001- 2008: A Brief Analysis of Reported Violent, Property and Drug-Related Crime in Cape Town January 2009” *Strategic Development Information and GIS Department*, Strategic Information Branch, p.6.

end of 2008 (See Figure 2), the overall levels of crime in Cape Town alone at the end 2008 is almost double the national average of 4,456 per 100,000.⁹³ Attacks on foreigners do get lost in these figures as crimes recorded do not indicate if they were motivated by xenophobia.⁹⁴ This however does not negate the fact that foreigners are being attacked for reasons other than crime which must be investigated. Mohammed Hassan of the Somali Association of South Africa (SASA) rightly stated that:

Of course we know that South Africans themselves get killed and get hurt in the crime sweep in this country. But we have had situations where Somalis have been murdered and nothing has been taken out of their pockets not to mention their shops.⁹⁵

Figure 2: Level of all Crimes per 100 000: Cape Town versus National Level 2001-2008



[Source: Capetown.gov.za]

⁹³ Crime in Cape Town can be attributed to the following: it is a large metropolitan city, with an urban population of 3,366,171 in 2007/2008, the fourth largest in a country with a population of 47,850,064 (J. Gie, 2009, *Crime in Cape Town*, p.80). Furthermore researchers of the Institute of Security Studies state that rapid urbanisation into the city was also a major factor a contributing factor (L. Samadien, 2009, “Urbanisation fuels crime in W. Cape”, *Cape Times*, 4 July). The Western Cape is the second most urbanised province in the country at 89% second to Gauteng -97% (T. Legget, 2004, ‘What’s up with the Cape? Crime rates in the Western and Northern Cape’, *Crime Quarterly*, no.7). People have been drawn into the province because of its wealth. A study conducted by the Institute of Security Studies found that the province was one of the wealthiest, with the highest wealth per household of R147,000 and contributing ‘14.5% to the economy’s gross domestic product in 2007’. It is also the province that experienced the highest level of internal migration, second to Gauteng, with people coming in from the poorer Eastern Cape (Legget, 2004). The fact that the city’s infrastructure has not been able to provide jobs and basic services for these people only serves to exacerbate the city’s high drug and alcohol abuse-know to contribute to crime.

⁹⁴ See chapter 4.

⁹⁵ Special Assignment ,2006, “Refugees Under Attack” *SABC 3*, 21 November.

The Politics of Access: Citizenship as exclusionary in South Africa

The State is the main provider of economic, political and social resources. It is also the body that determines who gets entitlements and who doesn't. It is also "a definite social space, fairly well demarcated and bounded territory, with which members identify and to which they feel they belong"⁹⁶ Communities (bound together by ethnicity, race, culture or language) within the boundaries of a nation-state also have their own sense of what they are entitled to. A community gets its identity both from itself, other communities (that it compares itself with) as well as the State. In order to access resources, it is very important for communities to have an identity that gives them legitimate access to these resources. As will be demonstrated, the presence of another community (with their own set of organising principles) is perceived as a threat to their access and full enjoyment of entitlements.

In forging a nation out of a multicultural and multiethnic society South Africa could not rely on common culture or ethnicity to create its 'imagined community'.⁹⁷ As such it focused on citizenship as the unifying force. Imbued in the concept of citizenship is a sense of belonging and ownership that provides and guarantees access to state resources. In creating this notion of inclusiveness those that do not meet the criteria are effectively excluded. The South African nation became an imagined community of solidarity whereby the State in a sense is owned by the people. Smith argues that the "idea of citizenship- creates a sense of minimal reciprocal rights and obligations among members and the correlative exclusion of outsiders from those rights and duties."⁹⁸ So in defining itself, South Africa had to define who or what was to be excluded from the

⁹⁶ A.D. Smith ,1991, *National Identity*, Penguin Books, London, p.9.

⁹⁷ S. Peberdy, 2001, "Imagining Immigration: Inclusive Identities and Exclusive Policies in Post-1994 South Africa", *Africa Today*, vol.48, p.28.

⁹⁸ Smith (1991), p.10.

nation. Citizenship therefore forms the grounds for exclusion by drawing boundaries between insiders and outsiders.

Going on the grounds of the above principle national identity in the new democratic South Africa has been built on citizenship. Access and entitlement to the State or public resources is determined by citizenship and protected by legal instruments. For this reason the Constitution through the Bill of Rights differentiates between the rights of citizens and non-citizens just like any democratic country in the world with the freedom of rights. Whilst some rights are held by all regardless of nationality others are for citizens only.

Therefore, according to the politics of access only citizens have the legitimate right to access the fruits of this newly founded democracy. Of all the racial groups black South Africans can now enjoy full citizenship with all its rights and obligations, a position not previously experienced owing to their exclusion under apartheid legislation which stripped them of their citizenship due to the Bantustan. However the majority of South Africans realised that their constitutional rights were slow at delivering the material benefits of citizenship. The economic policies embraced by the South African government through the Redistribution and Development Program (RDP) from 1994 to 1996 and the Growth, Employment and Redistribution strategy (GEAR) from 1996 onwards did not build houses fast enough, nor alleviate unemployment currently at 40%.⁹⁹ Xenophobia therefore became an obvious expression of disillusionment of the government's ability to deliver.

⁹⁹ CORMSA (2008), p.6.

Khosa and Muthein highlighted the challenges South Africa faces when they stated that the country had a “formidable task of building a unified nation from the fragments of a divided society”¹⁰⁰. Therefore a sense of national unity and affiliation needed to be forged amongst South African citizens. To assist in creating a common identity former Archbishop Desmond Tutu coined the term “rainbow nation”¹⁰¹ to describe South Africa’s multicultural make-up. This succeeded in unifying the nation as evidenced by the survey carried out by the Centre for Policy Studies that found: 70.9% of blacks, 74.6% of coloureds, 71.5% of Asians and 68.4% of whites identified themselves as *proudly* South African; and 72.5% of blacks, 69.8% of coloureds, 77.4% of Asians and 67% of whites identified themselves as being part of the rainbow nation.¹⁰² The post apartheid government had succeeded in creating solidarity in a fractured society. However only 28.4% of black South Africans identified themselves as African.¹⁰³ This brings into question whether black South Africans have fully embraced the spirit of ubuntu which extends to and includes all humans irrespective of race, national origin or ethnicity. Instead an all-inclusive identity is extended only to members of the rainbow nation and excludes foreigners particularly those from the African continent.

The Economic Dimension

Francis Nyamjoh has pointed out that the gap between rich and poor South Africans is rapidly increasing.¹⁰⁴ Moeletsi Mbeki of the South African Institute for International Affairs (SAIIA), and brother of former South African president, Thabo Mbeki argued

¹⁰⁰ M. Khosa and Y. Muthein, 1998, *Regionalism in the New South Africa*, Ashgate, Aldershot, p.34.

¹⁰¹ A metaphor denoting unity in South Africa based on its multicultural make-up. A. Habib (1996) “Myth of the Rainbow Nation: Prospects for the Consolidation of Democracy in South Africa” *African Review* 5(6) p1.

¹⁰² F. Kornegay, 2005, “Research Report 106 Race and Ethnic Barometer: A Narrative Analysis of Findings from the Centre of Policy Studies Social Identity Survey” *Centre for Policy Studies* <http://www.cps.org.za/cps%20pdf/RR106.pdf> Accessed 19 April 2007.

¹⁰³ J. Gibson, 2006, *Overcoming Apartheid: Can Truth Reconcile a Divided Nation?* Russell Sage Foundation, New York, p54

¹⁰⁴ F. Nyamjoh, 2006, *Insiders and Outsiders: Citizenship and xenophobia in Contemporary Southern Africa*. Zed Books, London, p.5.

that the underlying problem is "the extreme and widespread poverty in South Africa, accompanied by homelessness and landlessness, and the lack of any way out of this."¹⁰⁵ Most ordinary South Africans are "trapped in shacks, they are jobless, and poverty stricken"¹⁰⁶ which is compounded by the fact that they have to struggle with black African immigrants for whatever little is left to eke out a living.

A study conducted by the Centre for the Study of Violence and Reconciliation further emphasized that 'the targeting of African foreigners is a product of proximity as they reside in areas where both poverty and frustration with a lack of government response to the economic situation is at its highest amongst South Africans.'¹⁰⁷ The presence of the foreigner, who is in close proximity, is deemed a threat to black South African's access to resources. Poverty serves to bring to the forefront the socio-economic circumstances facing fully-fledged South African citizens. The reality of ordinary South Africans was documented by the South African Broadcasting Corporation's (SABC) Special Assignment programme.¹⁰⁸ The Special Assignment reporter stated that:

It's in the market places that the hostility towards the Somalis plays out. Their asylum status in South Africa means they can't get formal jobs so they have to make it in the informal sector. This brings them into direct competition, with other poor South Africans also trying to eke out a living.¹⁰⁹

Evidence presented in chapter three on how certain actions taken by migrants themselves contributes to xenophobic sentiment is supported by the position presented by the Special Assignment reporter that:

¹⁰⁵ Li (2008).

¹⁰⁶ Ibid.

¹⁰⁷ N. Valji, & R. Fuller, 2008, 'Scarcity Sets Fire to Countries Xenophobic Tinderbox', *Business Day*, 2 May.

¹⁰⁸ Is a current affairs investigative journalism program that seeks to uncover the truth behind news.

¹⁰⁹ Special Assignment (2006).

Somalis sell their goods at lower profit margins than their South African competitors relying on volume to earn an income. When we looked at prices, the differences were striking. In this stall, jeans sell for one hundred and forty [Rands]. In the Somali stall next door, the same jeans cost one hundred and twenty [Rands]. This is the root of the growing resentment.¹¹⁰ This in effect stifles competition and was confirmed by the response of a local South

African Hawker - Lisolomzi Alex Mbham who stated:

They are spoiling our business because they took all our business in our location even in the township they took all the businesses there. Because the people don't want to buy from us because our prices is higher than the Somalis. So our communities buy with the Somalis shop now.¹¹¹

Somalis are able to purchase their products at in bulk at wholesale prices enabling them to sell them at lower prices.¹¹² Such actions by Somali shopkeepers is met with hostility and a sense of unfairness from local South African Hawker Associations. Khaya Cwayi-Chairperson of the Siyaka Business Trust stated:

We can't say that they can run their business and demoralize the existing business in Masiphumelele. We can't accept that. That is not good enough. That is not fair. They don't actually give the chance to other people to run their business.¹¹³

It is to this background that Ashraf Mahomed of the South African Human Rights Commission (SAHRC) stated:

In a context where we are grappling with social issues, issues of diversity, racial integration, economic and social rights and competition for resources; it is not surprising that there would be a sense of territoriality [the perception that] the other is coming to displace us and remove our livelihoods. [This] may have contributed to an increase in xenophobia.¹¹⁴

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Although local South African shopkeepers can purchase goods in bulk, they have to sell their goods at prices set by the local Hawker Associations who determine the minimum price of products. Somalis are not members of local Hawker Associations and are able to offer more competitive prices

¹¹³ Ibid.

¹¹⁴ Ibid.

Joyce Ntlou of SAHRC argues that “there are genuine socio-economic concerns of South Africans that cannot be ignored.”¹¹⁵ Xenophobia is therefore an expression of vulnerability and desperation by South African citizens and disillusionment with a government that have been slow in delivering on economic entitlements. Abdul Hassan of SASA places this disillusionment at the feet of the government.

They [South Africans] didn't get what was promised to them after the 1994 elections. So they think that the little things that they have [are] being shared by some of the African countries who have come to South Africa and they don't want that.¹¹⁶

These internal socio-economic challenges heighten the perception that migrants place an immense burden on already scarce resources. This position is in line with international studies that revealed that developing countries do not have the financial or administrative resources to cope with the growing competition for scarce resources.¹¹⁷ Terrif argues that migration poses “substantial economic costs and strains to infrastructures in housing, education, transportation and on welfare providing institutions.”¹¹⁸ With South Africa struggling to meet the needs of its own people, it will struggle to allocate resources to foreigners in the country.

In Southern Africa, a survey conducted by Macdonald and Jacobs found that the three countries in the region that expressed the highest anti-immigrant sentiment were; Botswana, South Africa and Namibia. These countries were regarded as doing comparatively well economically compared to Zimbabwe, Swaziland and Mozambique who were regarded as being considerably more relaxed about the presence of

¹¹⁵ Joyce Ntlou- National Coordinator of Non-Nationals at SAHRC. Interviewed 6 August 2007 at SAHRC, Johannesburg.

¹¹⁶ Abdul Hassan- Chairperson of the SASA in Pretoria. Telephone interview on 7 September 2008.

¹¹⁷ R. Lohrmann, 2000, “Migrants, Refugees and Insecurity. Current Threats to Peace”, *International Migration*, vol.38, no.4, p.12.

¹¹⁸ T. Terrif , 1999, *Security Studies Today*, Polity Press, Cambridge, p,157.

immigrants,¹¹⁹ suggesting the economics plays a central role in triggering xenophobic sentiment. This is not necessarily akin to South Africa. For example, the unification of East and West Germany brought together two uneven political, social and economic entities. One of the economic consequences of unification was an increase in unemployment, owing to what Watt defines as the “structural adaptation in the German economy”.¹²⁰ It also brought about a widening gap between the more successful West and the less advantaged East. The West Germans were unhappy at the pace of economic growth and the pressures on society brought on by the unification. Unemployment was high with two million West Germans and one million East Germans needing jobs.¹²¹ These manifested itself in attacks on nationals from Eastern and Southern Europe.

The inability to realise their full citizenship rights coupled with the economic challenges facing the state creates a vulnerable group in society. In South Africa it is the black unemployed living in townships. In Germany it is mostly young people identified to exhibit violent manifestation of xenophobia. These groups are those whom Watts identifies as those that have not benefited from the process of modernization and economic transitions in Germany.¹²² What makes them come together is their subjective perception of threat and blocked opportunities. They identify themselves by shaving their heads and some are in support of neo-Nazi right wing groups. These vulnerable groups of people usually lack education and therefore have no access to gainful employment.¹²³ Extrapolated to South Africa, the education system under apartheid placed no impetus on the national government to provide education tailored to deliver

¹¹⁹ D. McDonald S.Jacobs, 2005, “(Re)writing Xenophobia: Understanding Press Coverage of Cross-Border Migration in Southern Africa”, *Journal of Contemporary AfricanStudies*, vol. 23,3 no.3, p300

¹²⁰ M.W. Watts, 1997, *Xenophobia in United Germany: Generations, Modernization, and Ideology*, Macmillan, Basingstoke, p.10.

¹²¹ Watts (1997), p.11.

¹²² Watts (1997) p.7.

¹²³ Ibid.

economic or political emancipation. The challenge therefore remains for the government to develop socio-economic policies that meet the needs of these vulnerable groups (see chapter four).

Democracy: The Double Edged Sword

The democratisation process had profound effects on South Africa. On the one hand it has empowered people. This was achieved through the transition from an oppressive system to an all inclusive democratic nation where human rights for all are respected.¹²⁴ As a political system, formal democracy calls for regular free and fair elections as well as universal suffrage. It permits that those previously marginalised under oppressive regimes are able to actively and assertively exercise their political rights. In this way democracy increases the political power of an impoverished majority. It therefore affords marginalised groups the opportunity to become architects of their own political destinies.

The rule of law, respect for human rights, and embracing liberal economic policies has made South Africa a favourable destination for migrants seeking refuge and those wanting to improve themselves economically. Democratisation permits new players (foreigners that could legitimately prove their status as refugee or asylum seeker or those with work permits) an opportunity to enter South Africa. Based on this institutionalised democratic principles South Africa became the attractive hub for nationals from African nations that may at best be described as pseudo-democracies with their citizens having little or no economic prospects.

¹²⁴ Embodied in the Constitution of the Republic of South Africa. No. 108 of 1996

Xenophobia therefore as Wimmer argues becomes “an element of a political struggle about who has the right to be cared for by society”.¹²⁵ For South Africans society must care for its citizens first and foremost. From this perspective democratic entitlements belong solely to citizens.

The third effect of formal democracy is that it calls for freedom of expression and association. Democratic entities such as political parties and civil society provide channels for citizens to express their demands. Democracy is about creating and providing a platform for ordinary citizens to voice their concerns and in effect lobby government. However, this very political arena also provides a platform to voice xenophobic sentiment, a platform that is effectively used by right wing parties who gain support by politicising the effects of migration such as the British National Party in the United Kingdom; Le Pen’s party in France; the African Chamber of Hawkers and Independent Businessmen. The African Chamber of Hawkers and Independent Businessmen was founded in 1986 by 250 street vendors as a reaction to police brutality. By 2004 it had 110,000 members.¹²⁶ Their vision is to establish the micro business sector. They provide support; training, physical infrastructure; micro-loans; capital for business opportunities and business development to their members. They offer: financial loans from R250 up to R18 000 through the Land Bank; free legal aid and representation on business related matters; and a membership card which gives members discounts at major wholesalers and retail chain stores.¹²⁷ They regulate the

¹²⁵ Wimmer (1997), p.17

¹²⁶ J. Blundell, 2004, “Try, Beloved Country: Rumours of South Africa’s decline are greatly exaggerated” *Reason.com*

http://webcache.googleusercontent.com/search?q=cache:gqKOocF_rcwJ:reason.com/archives/2004/08/01/try-beloved-country+what+is+ACHIB&cd=19&hl=en&ct=clnk&gl=za Accessed 10 January 2006.

¹²⁷ ACHIB, 2010, *African Cooperative for Hawkers and Informal Business*, <http://www.achib.co.za/index.asp> Accessed 28 July 2010

minimum price of goods amongst themselves to ensure accountability and transparency thereby preventing members from having unfair advantages. Since 1994 they have led vocal campaigns against foreign hawkers blaming foreigners for rising crime, overpopulation, and falling wages, and accuses foreign hawkers of selling stolen, rotten, and expired goods. They have organized anti-foreigner meetings and marches, and by 1997 had successfully negotiated a "neighbourhood watch" program with the police.¹²⁸

Human Rights: Theory and Practice

A State that defines itself as democratic and respecting human rights with reference to their own citizens, then by extension must respect the human rights of foreigners. The end of Apartheid presented South Africa with an opportunity to create a new image for itself. South Africa deliberately and willingly chose to model itself on democratic principles as a means to redress past injustices. Defining itself as a democratic nation is indicative of the type of policies that operate within its national boundaries particularly with reference to how a state treats its members and by extension non-members. South Africa openly declared in the preamble of the Constitution that they believe 'South Africa belongs to all who live in it, united in our diversity'¹²⁹. This has been interpreted to mean that South Africa expressly guarantees rights to everyone.¹³⁰

Unfortunately both the State and South African citizens have not been able to extend the respect of human rights to immigrants in the country. In a survey carried out by SAMP when asked if migrants should be afforded rights only 35% of respondents stated that

¹²⁸ A. Minnaar and M. Hough, 1996, *Who Goes There? Perspectives on Clandestine Migration and Illegal Aliens in Southern Africa*, HSRC Publishers, Pretoria, 1996, p186.

¹²⁹ Preamble of The Constitution of the Republic of South Africa, 1996.

¹³⁰ This is a wide interpretation of Section 7 (1) of the Bill of Rights of the Constitution of the Republic of South Africa, 1996 which states: This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom. (Njyamjoh 2006, Crush 1998, Reitzes 1998).

they should.¹³¹ The suffering and discrimination suffered by black South Africans because of their race should in theory make black South Africans in particular more sensitive and sympathetic to the plight of their fellow Africans. However as is explained below, fellow Africans seeking refuge, asylum or an opportunity to improve their economic prospects within the borders of South Africa are perfect targets for exclusion. Following the logic that xenophobia is about the politics of access there are two possibilities for denying migrants their human rights which are both based on the perception of a 'human right' as a resource. Human rights provide access to previously unattainable entitlements. Citizens do not want anything to stand between them and accessing and enjoying the benefits of this right. The presence of migrants however is perceived as just such a threat. The first possibility for denying the human rights of immigrants is that they are very much like 'us' (with reference to discrimination suffered). By extending human rights to 'them' 'they' will be able to gain access to entitlements that are justifiably 'ours'. From the perception of citizens who want to protect their entitlements, justifying this protection on the grounds of denied access in the past, human rights are seen purely as a right to be enjoyed by South African citizens, although this is a contradiction in terms as human rights, by definition, transcends citizenship.

The second proposition is that the presence of migrants is perceived as a threat to the access of entitlements afforded by the right. If human rights are extended to the 'others' then there is the possibility that they can become more like 'us'. In becoming like 'us' they too will gain access to what is 'ours'. Therefore by denying 'them' human rights,

¹³¹ D. McDonald; J. Gay, J.; L. Zinyama; R. Mattes, & F. Vletter, 1998, "Challenging Xenophobia: Myths and Realities about Cross Border Migration in Southern Africa", *Migration Policy Series*, no. 7. <http://www.queensu.ca/samp/sampresources/samppublications/policyseries/policy7.htm>
Accessed on 17 September 2005

‘they’ will remain ‘outsiders’ and therefore undeserving of this ‘resource’. Justification for denying immigrants their human rights rests in the myths and stereotypes created about them.

Myths about Immigrants

As an extreme form of prejudice the failure to take account of the true characteristics of the other is what denotes xenophobia as irrational. As a concept, it is also discriminatory in nature because it leads to the unfair treatment of a person or group on the basis of prejudice. It serves to create an identity of the ‘other’ that makes them legitimately undesirable within the borders of a citizen’s nation state. In order to protect access to resources citizens engage in acts that serve to exclude migrants.

a) Immigrants and the Numbers Game in South Africa

Assertions have been made by the media that migrants are “flooding” and “swarming” into South Africa.¹³² The number of illegal migrants is unknown and as such figures are highly contested. Estimates range between 2.5 million on the lowest end of the spectrum to 12 million for the period 1990 to 1999.¹³³ Estimates in 2008 ranged from between 3 million to 15 million.¹³⁴ In relation to the number of illegal immigrants in the country since 1994 no one knows¹³⁵:

- The South African Institute of International Affairs stated 5 million¹³⁶ ; Buthelezi stated that there are between 2.5 -5 million illegal aliens in South Africa based on the number of repatriations, illegal border crossings, number of

¹³² R. Danso & D. McDonald, 2000, "Writing Xenophobia: Immigration and the Press in Post-Apartheid South Africa", *Migration Policy Series*, no. 17, p.35.

¹³³ Crush, J. 2003, "South Africa: New National, New Migration Policy", *Migration Policy Series*, no.25, p.3.

¹³⁴ CoRMSA (2008), p.7.

¹³⁵ H. Solomon, 2001, "Contemplating the Impact of Illegal immigration in the Republic of South Africa" *Journal of Contemporary History*, vol 26, no.1, p.13.

¹³⁶ Ibid.

people who have overstayed their tourist and study visas, and information supplied by the South African National Defence Force and the South African Police Service (SAPS)¹³⁷; whilst SAPS put the number at 2- 3.5 million (5-8% of South Africa's total population)¹³⁸; the Freedom Front estimated 8 million¹³⁹; and the Human Science Research Council state 12million, implying one in four South Africans is an illegal alien.¹⁴⁰

[The most recent estimates of foreigners legally and illegally in the country had not been published by Statistics South Africa at the time of writing].

As it is almost impossible to accurately count the number of illegal immigrants in the country, the purpose of these figures is to demonstrate the level of competition citizens face in terms of access to entitlements. It also serves to fuel anti-migrant sentiment. For instance the former Home Affairs Minister Mongosuthu Buthelezi used these figures to politicise the tightening of immigration controls (discussed at length in chapter two). The African **Chamber of Hawkers and Independent Businessmen use these fears in their campaigns against foreigners.**¹⁴¹

There also exists the perception that there are a lot of immigrants in the country. In relation to the number of legal immigrants, the population census carried out in 2001 (Figure 1) highlighted the reality of the matter. The total population of legal immigrants stood at 460, 813 which accounts for less than 0.1% of the number of people in South

¹³⁷ M. Reitzes, 1998, "The Stranger within the Gates: Xenophobia and Public Leadership", *Policy Brief*, no.9, Centre for Policy Studies, Johannesburg, October, p.6.

¹³⁸ Solomon (2001), p.13.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Harris, B. 2001, "A Foreign Experience: Violence, Crime, and Xenophobia during South Africa's Transition", *Violence and Transition*, vol.5, August, <http://www.csvr.org.za/wits/papers/papvtp5.htm> Accessed on 18 October 2005.

Africa. The mid year statistics in 2009 assumed that there were a total number of 1,000.000 legal immigrants in the country since 1996.¹⁴²

b) Immigrants Steal Jobs

The employment arena is a very guarded economic entitlement that all citizens want to enjoy. The number of people legally entering the country has risen from 3.7million in 1992 to 9.9million in 1999.¹⁴³ The official level of unemployment in 1997 was estimated to be 22.7%¹⁴⁴ By 2002, the unemployment rate officially was 30.5%¹⁴⁵ with unofficial records by the Department of Trade and Industry at 40.3%.¹⁴⁶ By 2006 unofficial rates stated employment was at 40.7%.¹⁴⁷ Furthermore there exists a large economic disparity between rich and poor, which in South Africa's case is drawn along racial lines. When asked if migrants posed a threat to the availability of jobs, 58% of the South African citizens of the sample group in the study conducted by from the Southern African Migration Project believed that immigrants took local jobs away from South Africans¹⁴⁸.

However when objectively analysed as illustrated by evidence from the Centre of Violence and Reconciliation and the University of Witwatersrand, it was shown that immigrants have positively contributed to the economy by buying goods and services,

¹⁴² Statistics South Africa, 2009, "Mid-Year Population Estimates", *Statistics South Africa*, 27 July, <http://www.statssa.gov.za/publications/P0302/P03022009.pdf> Accessed on 10 January 2010.

¹⁴³ Crush (2003), p.3

¹⁴⁴ Statistics South Africa (2000), p.3

¹⁴⁵ Statistics South Africa (2003), p.8.

¹⁴⁶ Department of Trade and Industry, 2002, "Recent Employment Data from the Labour Force Survey" *thedti*, February, www.thedti.gov.za/econdb/eoverviewlfsweb.doc Accessed 10 January 2010
Statistics SA 2003 official unemployment was at 30.5% p.8

¹⁴⁷ Altman (2006)

¹⁴⁸ J, Crush and P, Pendleton, 2004, "Regionalising Xenophobia: Citizen's Attitudes to Immigration and Refugee Policy in South Africa", *Migration Policy Series*, no.30, p.25.

and importing skills.¹⁴⁹ Through enterprise and entrepreneurship, migrants have also created job opportunities for South Africans in the small and medium sectors. (See chapter three for a detailed discussion on the positive contributions made by migrants).

The study conducted by the University of Witwatersrand in inner-city Johannesburg in 1998 highlighted the positive contributions that migrants bring to South Africa. It found that non-South Africans were far more likely to hire someone to work for them than their South African counterparts. 20% of South Africans surveyed in Johannesburg reported having paid someone to work for them compared to 34% of the immigrants surveyed. Furthermore, 67% of those hired by migrants were South Africans.¹⁵⁰ Similar studies in Durban and Cape Town identified the positive economic impact of immigration. Maharaj argues that immigrants are net contributors, not parasites.¹⁵¹ Many pay tax and through their entrepreneurship make positive contributions to the local economy. Ten years on, the Centre for Development and Enterprise carried out research in 2008 on immigrant-owned businesses in Johannesburg. They found that:

- Immigrants are more than twice as likely to be self-employed;
- 12 per cent of immigrants employ nearly four people each mostly in the informal sector and many of those they employ are South Africans.¹⁵²

However this is only a small percentage of immigrants. In an environment where refugees and asylum seekers have to wait long periods for their permits, they make a

¹⁴⁹B, Maharaj, 2002, "Economic Refugees in Post-Apartheid South Africa: Assets or Liabilities. Implications for Progressive Migration Policies" *GeoJournal*, vol 56, no.1, January, p.52.

¹⁵⁰ L. Landau, K. Ramjathan-Keogh, & G. Singh 2005, "Xenophobia In South Africa and Problems related to it", *Forced Migration Paper*, no. 13, p.7.

¹⁵¹ Maharaj (2002), p.45.

¹⁵² CDE, 2008, 'Immigrants in Johannesburg: Perception and Reality.' *CDE*, 24 August, http://www.cde.org.za/article.php?a_id=321) Accessed on 30 August 2008.

living for themselves within the informal sector. It was estimated that in 2002 the informal sector¹⁵³ contributed 7.1% of the gross domestic product (GDP) and accounts for 22.3% of all jobs.¹⁵⁴ This only serves to fuel perceptions that migrants are increasing competition and “taking jobs”.

Myths are not the only way to convey a sense of ‘undeserved-ness’ of immigrants. One of the most common features of xenophobia is name calling. African foreigners are referred to as “makwerekwere” – a derogatory term referring to the phonetic sound of their foreign languages¹⁵⁵. The process of name calling serves to demean the other as language is a an emotive tool that has the ability- in the case of xenophobia- to convey onto the ‘other’ a sense of worthlessness.

The Media

A fundamental feature of the press in democratic societies is the freedom to express ideas and bring to the forefront realities within the country. In the case of South Africa, it would be irresponsible of the press not to highlight the “widespread opposition to migrants and immigration that exists in the country”¹⁵⁶ However by not presenting a balanced picture they fall prey to aggravating xenophobic sentiment within the county. Between 1994 and 1998, the South African Migration Programme carried out a survey on 1,200 newspaper clippings about migration, taken from all English language South

¹⁵³ The informal sector refers to labour activities that fall outside the formal economy and which are mostly not regulated by government.

¹⁵⁴ R, Davies and J. Thurlow, 2009, Formal-informal economy linkages and unemployment in South Africa. Human Sciences Research Council. March.

http://www.hsrc.ac.za/research/output/outputDocuments/5811_Davies_Formalinformallinkages.pdf

Accessed 11 July 2010

¹⁵⁵ B. Harris, 2002, “Xenophobia: A New Pathology for A New South Africa” in D, Hook and G, Eagle (2002), *Psychopathology and Social Prejudice*, University of Cape Town Press, Cape Town, p169-184, p15.

¹⁵⁶ Danso (2000), p.3.

African newspapers¹⁵⁷. Their findings found that coverage of international migration by the papers has been largely anti-immigrant.

The South African print press fell short in the following areas: firstly their sensational headlines on immigration have fuelled public perceptions and attitudes towards migrants. For example ‘Illegal in South Africa Add to Decay of Cities’, ‘Francophone invasion’, ‘Africans Flood of Misery’¹⁵⁸- do not generate a positive picture of the presence of immigrants.

They also failed to explain the true definition of the ‘alien’ and ‘illegal’¹⁵⁹. Valji argues that the ability of average South Africans to make a distinction is limited.¹⁶⁰ Nor did they try to make distinctions about the categories of immigrants: economic immigrants, those with work permits, refugees and asylum seekers, tourists, and those who hold permanent residence in South Africa. As such these very different categories are clumped together into “one indistinguishable group”¹⁶¹ Furthermore there is a range of estimates about the number of undocumented immigrants which they print as fact.

¹⁵⁷ The sample of which came from national as well as regional newspapers. Ibid.

¹⁵⁸ Danso (2000), p3-5.

¹⁵⁹ The latter refers to anyone who overstays a visa, gives false information or documentation to enter the country or to obtain formal documentation, or has entered the country clandestinely. Danso (2000), p.18.

¹⁶⁰ N. Valji, 2003, “Race and Reconciliation in Post-TRC South Africa”, Paper Presented at the *Ten Years of Democracy* Conference at Queens University, Canada, May, p.4.

<http://www.csvr.org.za/wits/papers/papnv3.htm> Accessed on 15 October 2005.

¹⁶¹ Danso (2000), p.19.

When compared to the Southern African region, Botswana came second to South Africa in terms of articles that had negative references and sensational headline. It was also found that Botswana produced the most xenophobic articles.¹⁶²

Irrespective of the fact that workshops organised by the Roll Back Xenophobia Campaign¹⁶³ during the period of 1998 to 2003 to challenge and change reporting by the media, resulted in an increased quality of reporting in the print medium, the South African Media Monitoring Project highlighted that media still perpetuated xenophobic sentiment.¹⁶⁴ (See chapter three).

Institutional Xenophobia

The South African government is struggling to deliver its promises of a better life which has led to discontented South Africans turning on foreigners and blaming them for the country's ills. Harris refers to this as the "*scapegoat hypothesis*" of xenophobia where frustrated with the pace of transition, people are more conscious of their "deprivations". This frustration is therefore projected onto the foreigner.¹⁶⁵ These bodies politicise the presence of immigrants in the country as a means to draw attention away from the challenges they face in the area of service delivery. Below is an overview of the types of abuses committed by specific government bodies tasked with protecting the rights of immigrants.

¹⁶² McDonald (2005), p.300.

¹⁶³ RBX is an education awareness program responding to the high levels of xenophobia in South Africa. It is a partnership between the South African Human Rights Commission, the National Consortium on Refugee Affairs and the United Nations High Commissioner for Refugees.

¹⁶⁴ I. Sikiti da Silva, 2007, "SA print Media Racist, Xenophobic?"
<http://www.bizcommunity.com/Article/196/15/14321.html> Accessed on 12 June 2007.

¹⁶⁵ Harris (2002), p.26.

The Police

The police force is a government organisation charged with the responsibility of maintaining law and order. This involves upholding the law, preserving rights and preventing crime. Migrants in South Africa have a different story to tell about their treatment at the hands of the police. Sulega Dahir¹⁶⁶ a Somali social worker recounted several incidents where migrants had suffered abuse at the hands of the police. This is discussed at great length in chapter three.

In relation to the number of arrests, "Non-South Africans (this includes those with work permits, refugees and asylum seekers) living or working in Johannesburg, for example, consequently report having been stopped by the police far more frequently than South Africans."¹⁶⁷ Similar results were found by the South African Broadcasting Association (SABC) Special Assignment Programme in 2006.¹⁶⁸ A survey done by the University of the Witwatersrand, based in Johannesburg, found that 71% of refugees interviewed said they were stopped by the police, compared with 47% of South Africans.¹⁶⁹

Reasons for apprehending a person and the process of deciding their legal status has been described as archaic and dehumanising by SAHRC "Thirty percent of people arrested by police on suspicion of being illegal immigrants are South Africans. They are picked up because they are too dark and they happen to be in the wrong place at the

¹⁶⁶ Interviewed 31 August 2007 at the Johannesburg Muslim Charity Organisation in Mayfair Johannesburg.

¹⁶⁷ M, Nduru, 2005, "SA doesn't roll out welcome mat for all immigrants", *Mail and Guardian*, 22 August.

¹⁶⁸ Special Assignment, 2006, "Refugees Under Attack", *SABC 3*, November.

¹⁶⁹ *Ibid.*

wrong time," observed Neocosmos.¹⁷⁰ The criteria used to identify foreigners include traits such as 'skin colour, height, and presence of inoculation marks' has also meant that South Africans get arrested and detained.¹⁷¹

The Human Rights Commission found that arresting officers do not work within the parameters of the law, and go as far as abusing the law. For example, it is not a legal requirement that individuals carry proof of identification. The carrying of identification is likened to pass laws that operated during the Apartheid regime. In the same way that black Africans had to carry documentation as proof of their legal status under Apartheid, so too do immigrants. If an officer suspects that the individual is illegal, he should accompany the person to retrieve their ID or documentation.¹⁷² In practice however, suspects are immediately arrested. The police have been reported to routinely confiscate and destroy refugees' documents in order to justify arresting them as illegal immigrants.¹⁷³ For example, a legal immigrant with a work permit stated that:

my documents were destroyed by the police at Diepkloof Zone 5 on the 26th November. Now I have no documents. I was never given the chance to tell the police or Home Affairs about my documents. I'm afraid to get beaten¹⁷⁴

Irrespective of the fact that the police are clearly violating the human-rights of immigrants, their justification is based on one of the myths associated with immigrants- that immigrants commit crime. Crime rates in South Africa are very high (Figure 2). To reassure the population that steps are being taken to address the issue the police have

¹⁷⁰ Ibid.

¹⁷¹ Valji (2003), p.5.

¹⁷² Human Rights Watch (1995).

¹⁷³ Nduru (2005).

¹⁷⁴ Human Rights Watch (1998), p.54.

engaged in activities such as “Operation Crackdown”. So during a week in mid March 2000, over 1,000 police and military personnel were deployed in Hillbrow to search 22,568 vehicles, 293 buildings and over 205,324 people. Approximately 7,068 people were arrested on suspicion of being illegal immigrants of whom 7,000 were sent to the deportation centre.¹⁷⁵ Such action in turn reinforces the perception that migrants are linked to crime.

On 1 February 2008 the police arrested 500 Zimbabweans who had sought refuge in the Central Methodist Church in Central Johannesburg on the grounds that these people were not only suspected of being illegal immigrants staying in the building, but as Captain Bheki Mavundla a police spokesman stated "We were responding to public complaints about robbers who were in the church"¹⁷⁶

Lindela

Lindela repatriation centre is funded by the department of Home Affairs and is responsible for housing, feeding and repatriation.¹⁷⁷ A study carried out by HRW revealed the following:

- in its first year of opening, there were 73 378 people (although Lindela was built to accommodate a maximum of 1 800)¹⁷⁸

¹⁷⁵ Harris (2001), p.37.

¹⁷⁶ Z. Kharsany, 2008, "Refugees Return to Raided Church Amid Legal Wrangles", *Mail, Guardian*, 6 February.

¹⁷⁷ HRW (1998)

¹⁷⁸ *ibid*

- The majority of inmates were black. Whites are almost never picked up, and any Asians that were detained are remanded on bail¹⁷⁹
- 20% percentage of detainees were South African who were arrested for “being too black” or “looking foreign”.¹⁸⁰
- There are numerous reports of abuse, violence, and bribery within Lindela by HRW
- Under the Refugees Act of 1998, a High Court Judge must review any detention over 30 days¹⁸¹. Lawyers for Human Rights (LHR) found that between February 2001 and January 2002, 1 674 people were unlawfully detained in excess of 30 days without judicial consent.

South Africa has the sovereign right to deport undocumented immigrants, it has been known to deport legally recognised refugees, which is in direct violation of the internationally recognised principle of *non-refoulement* entrenched in the 1951 UN Refugee Convention.

Once again to re-assure citizens that the government is trying to take control of the ever increasing number of alleged illegal immigrants in the country, Lindela constantly repatriates (returns undocumented immigrants) and deports (returns immigrants who have committed a crime) foreigners.

¹⁷⁹ Valji (2003), p.6.

¹⁸⁰ Ibid.

¹⁸¹ Section 29(1) Refugee Act of 1998.

Since the last study by HRW was carried out in 1998, Lindela has refused access to NGOs dealing with immigrant rights including Lawyers for Human Rights. Lawyers for Human Rights reported in 2008 that statements made by their clients highlight that detainees were still being denied basic rights such as access to drinking water.¹⁸²

Department of Home Affairs

The Department of Home Affairs is at the forefront of handling all migrant related issues dealing with permits and border control. Immigration officers are accused of using excessive force, engaging in acts of bribery and abusing the human rights of migrants.¹⁸³ Xenophobic sentiments are also reflected in political discourse particularly by the former Minister of Home Affairs- Mongosuthu Buthelezi who stated that:

If we South Africans are going to compete for scarce resources with millions of aliens who are pouring into South Africa, then we can bid goodbye to our Reconstruction and Development Program.¹⁸⁴

He also stated that:

The employment of illegal immigrants is unpatriotic because it deprives South Africans of jobs and that the rising level of immigrants has awesome implications for RDP as they will be

¹⁸² Lawyers for Human Rights, 2008, 'Monitoring Immigration Detention in South Africa' *Lawyers for Human Rights* (December) p.2.
<http://www.lhr.org.za/sites/lhr.org.za/files/LHR%20detention%20monitoring%20report%2010%20Dec%2008.pdf> Accessed on 31 May 2009.

¹⁸³ *Ibid.*

¹⁸⁴ Human Rights Watch (1998), p.20.

absorbing unacceptable proportions of housing subsidies and adding to the difficulties we will be experiencing in health care.¹⁸⁵

What is surprising is the fact that Mr Buthelezi was Minister of Home Affairs for ten years (1994-2004) and within that time the ANC had never officially endorsed his exclusivist approach nor had they challenged it.¹⁸⁶ This can only imply that Buthelezi implemented a punitive policy which allowed the ANC to keep its distance whilst quietly approving, and Buthelezi would receive most the opprobrium from the policy.

Conclusion

The negative portrayal, discrimination and attacks on non-nationals greatly undermines South Africa's efforts to overcome its legacy of intolerance and discrimination. Any attempt to analyse the root causes of xenophobia in South Africa must take into account the central role of the politics of access. But more importantly xenophobia highlights how South African citizens are expressing their *vulnerability* in post-apartheid South Africa. After all, the entry of large numbers of immigrants into the country coincided with South African people's first concept of belonging- a concept that had not yet been firmly established in society. It is therefore the responsibility of government together with the media to create a positive portrayal of the contributions made by immigration, whilst being sensitive to the concerns of South Africans.

¹⁸⁵ Reitzes (1998), p.9.

¹⁸⁶ F. B. Nyamnjoh, 2006, *Insiders and Outsiders: Citizenship and Xenophobia in Contemporary Southern Africa*, Zed Books, London, p.37.

Chapter 2

State Responses to Xenophobia: One Step Forward, Two Steps Back.

Government policy serves to inform and direct government behaviour. It took the government seven years from 1995 to develop the post apartheid legislation governing Immigration: Immigration Act No. 13 of 2002. Prior to 2000, legislation drafted by Apartheid law makers - the Aliens Control Act No.96 of 1991 and its amendment No.76 of 1995- was the only legislation governing the treatment of immigrants. This chapter argues that the interpretation and implementation of the Aliens Control Act instilled a culture of bias regarding the treatment of immigrants. It examines whether the treatment of immigrants under the Immigration Act of 2002 is any different from treatment under the Aliens Control Act of 1991. Therefore the question at hand is whether the Immigration Act 2002 has been able to challenge this culture of bias in state bodies directly in contact with immigrants. The central premise of this chapter is that *in order to address xenophobia it is imperative to identify, understand, then challenge the culture of bias institutionalised within these bodies.*

The chapter provides an analysis of the State's responses to incidents of xenophobic attacks and sentiment from 1994 to 2008. The first section of the chapter examines state policy and behaviour under the Aliens Control Act; and how it was interpreted and implemented by branches of government from 1994 to 2000. The second section investigates state responses from 2000 to 2008. The May 2008 country-wide outbreak of violence that led to the deaths of 62 people is analysed as a case study of responses by the African National Congress and the police.

South African Immigration Policy from 1994 to 2000.

When drafting immigration policy governments must consider two interrelated factors: the rights and obligations due to immigrants; and secondly the host country's ability to exercise sovereignty that balances the interests of its citizens and its international legal obligations. Therefore immigration policy is a tool used to determine rights and duties relating to who will be allowed entry into the country; and from this category who will be arrested, detained and/or deported. In doing so it creates a legal framework on how immigrants should be perceived and treated. The question at hand is: how is a culture of bias regarding the treatment of immigrants created? The response rests in the interpretation and implementation of immigration legislation. This section argues *that xenophobic sentiment-and by extension-a negative bias towards immigrants rests in the interpretation and implementation of legislation- not the legislation itself.*

The aims of the ANC led post apartheid government was the creation of an inclusive multi-racial, human rights based democracy. Therefore the principal aim of the 1994 lawmakers was to introduce new laws and policies that advanced the principles and values of the new Constitution. However the government inherited the Aliens Control Act 95 No. 96 of 1991 [27 June 1991] a body of legislation designed by apartheid law makers. During apartheid the purpose of all legislation (and immigration policy was no different) was to cement racial segregation and institutionalise discrimination.¹⁸⁷ Until new immigration policy was drafted, the challenge facing the new ANC-led government was how to apply apartheid legislation in a democratic South Africa.

¹⁸⁷ To mention a few: To solidify the supremacy of whites over all other races: Prohibition of Mixed Marriages No 55 of 1949; Group Areas Act No.41 of 1950; Bantu Authorities Act No 68 of 1951; Bantu Homelands Citizenship Act (National States Citizenship Act) No 26 of 1970 which basically stated that black people are forced by residence in designated 'homelands' areas to be citizens of that homeland and denied South African nationality, or the right to work in South Africa.

In and of itself the ACA legislation was straight forward legislation governing immigration. The first chapter of the Act covers administrative details, and Chapters 2-4 provide for the admission, residence, and departure of aliens. Chapter 5 identifies prohibited persons and describes the conditions under which a prohibited person can receive a temporary permit to enter and reside in South Africa. The sixth chapter covers removal of persons, whilst the remaining chapters contain supplementary and general provisions outlining offences, penalties, and requirements for evidence.

Unlike the quick development of legislation regarding refugees that conformed to international conventions, little or no effort was made by government to interpret apartheid legislation through the prism of the South African Constitution.

Refugees Act No.130 of 1998

The development of legislation relating to refugees and asylum seekers was expedient for a number of reasons. South Africa had to deal with the immediate issue of about 300 000 Mozambicans that had fled the civil war in Mozambique and had settled in South Africa from 1980.¹⁸⁸ With this in mind the South African government and the United Nations High Commissioner for Refugees (UNHCR) signed a memorandum in 1993 permitting refugees to enter the country. By 1996 South Africa became signatory to international agreements and conventions concerning refugees namely: the 1951 United Nations Refugee Convention, the 1967 Protocol Relating to the Status of Refugees, as well as the 1969 Organisation of African Union Convention Governing the Specific Aspects of Refugee Problems in Africa. Committed to fulfilling its convention obligations and the growing number of refugees and asylum seekers in the country, the

¹⁸⁸ J.,Crush, 2003, "South Africa: New Nation, New Migration Policy", *Migration Information Source*. Migration Information Institute, Washington, p.2.

government swiftly appointed a refugee task team to draft South Africa's first legislation regarding refugees. President Nelson Mandela signed into the law the Refugees Act on 20 November 1998.

The Act allows for any person to apply for asylum and states that no person should be denied the right to apply for asylum in South Africa. Its definition of a refugee complies with the international standard that a refugee is a person facing political persecution or discrimination on social, racial, religious or political grounds from his/her government and must as a consequence seek the protection of another state.¹⁸⁹

Whilst Section 27 (a) of the Act guarantees refugees full legal protection under the law, this is not the case in practice. For instance Section 30 states that refugees must be issued with a red identity document that contains the particulars of the refugee. Unfortunately, studies by Human Rights Watch and the Consortium for Refugees and Migrants, discussed in chapter 1, have shown that the possession of the correct documentation has not protected refugees from arbitrary arrest and detention. Similarly Section 35(2) calls for the establishment of Reception Areas where asylum applications will be processed. However there are not enough Reception Centres. This administrative shortfall of the department of Home Affairs has led to delays in the processing of applications leaving immigrants vulnerable and open to abuse at the hands of immigration officials. This also fuels the myth that migrants are in the country illegally. So although the Refugee Act was speedily drafted, its provisions have not

¹⁸⁹ Section 3(a) of the Refugee Act defines as refugee is a person: Owing to well founded fear of being persecuted by reason of his or her race, tribe, religion, nationality, political opinion or membership of a particular social group, is outside the country of his or her nationality and is unable or unwilling to avail himself or herself of the protection of that country, or, not having a nationality and being outside the country of his or her former habitual residence is unable or, owing to such fear, unwilling to return to it.

been properly applied. This chapter argues that by 1998 a culture of bias already existed within the department regarding the treatment of immigrants and as such, the Refugee Act lay victim to interpretation by the very same personnel who operated under the Aliens Control Act.

Aliens Control Act No. 96 of 1991

The interpretation and implementation of sections of the ACA on definitions, arrest, detention and deportation led to the creation of negative portrayal of immigrants that unfortunately became institutionalised in bodies of government and the police.

- **Definition of an immigrant: Aliens**

Section (1) In this Act unless the context otherwise indicates: "alien" means a person who is not a South African citizen.

The term alien conjures up images of immigrants as outsiders with distinctively different characteristics to that of a citizen and by extension a human. It is not so much the use of the term "alien" by government officials where the beginnings of negative perception of immigrants originates but rather the use of the term "illegal aliens".

The Act does not have a provision defining "illegal alien" instead it speaks of "prohibited persons" in section 39¹⁹⁰. Therefore under the ACA, the following constitute what can be termed as an 'undocumented immigrant' or 'illegal alien':

¹⁹⁰ Section 39: (1)Anyone of the persons referred to in subsection (2) who enters or has entered the Republic, shall be a prohibited person. (2)The persons referred to in subsection (1) shall be the following, namely: (a)any person who is likely to become a public charge by reason of infirmity of mind or body, or because he is not in possession of sufficient means to support himself and his dependants that he brings or has brought with him into the Republic; (b)any person who, from information received from a government through official or diplomatic channels, is deemed by the Minister to be an undesirable inhabitant of or visitor to the Republic; (c)any person who lives or has lived on the earnings of prostitution or receives or has received any part of such earnings or procures or has procured persons for immoral purposes; (d)any person who has (whether before or after the commencement of this Act) been convicted in any country of a contravention of a law relating to exchange control or an offence mentioned

if he or she enters the Republic of South Africa (RSA) at a place other than a port of entry; remains in the RSA without a valid residence permit; acts in contravention of his/her residence permit; remains in the RSA after the expiry of a residence permit; is prohibited from entering the RSA; or becomes a prohibited person while in the RSA.¹⁹¹

The above clearly specifies a straightforward classification for determining the illegality of an immigrant. However, it is the application of the term that has wide ramifications in creating negative perceptions of immigrants.

In relation to government, the then Minister of Home Affairs- Mongosotho Buthelezi used the term “illegal” indiscriminately. As head of a frontline department directly in contact with immigrants Buthelezi was in a very powerful position to provide information about immigrants in South Africa and immigration in general. He was also able to set the tone of debate surrounding immigrants. From the beginning of his tenure negative images were being created of immigrants.

Firstly, in 1997 Buthelezi stated that there were between 2.5-5 million illegal aliens in South Africa. He based these figures on the number of repatriations, illegal border crossings, number of people who had overstayed their tourist and study visa, and information supplied by the South African National Defence Force and the police.¹⁹²

However in 1995, using figures from the same sources the police put the number at 2-

in Schedule I (unless he has received a free pardon in respect thereof) and is deemed by the Minister to be an undesirable inhabitant of or visitor to the Republic; (e) a mentally ill person, or any person who is deaf and dumb, deaf and blind, or dumb and blind, or is otherwise physically afflicted, unless in such case the person concerned or the person accompanying him or another person gives security, to the satisfaction of the Minister, for his permanent support in the Republic or for his removal there from when required by the Minister; (f) any person who is afflicted with any such contagious, communicable or other disease, or who is a carrier of such a virus, as may be prescribed; (g) any person who has been removed from the Republic by warrant issued under any law, unless he is in possession of an authority to return to the Republic; (h) any person who has been removed from the Republic under a warrant in terms of section 45, 46 or 47 or who has in terms of this Act been ordered to leave the Republic; (i) any person who in terms of any other provision of this Act is a prohibited person.

¹⁹¹ H. Solomon, 1996, “Who is an illegal Immigrant?” *African Review*, vol.5, no.6, 1996

<http://www.issafrica.org/pubs/ASR/5No6/Solomon.html> accessed 12 February 2007.

¹⁹² Rietzes (1998), p.2

3.5 million (5-8% of SA's total population)¹⁹³. Although the base figure is pretty much the same, no evidence was produced to show how the figure could have risen by 2million in between 1995 and 1997. By 1999 Buthelezi was quoting 9 million illegal aliens in the country.¹⁹⁴

The consequence of inflating these figures filtered through the media to the South African populace the perception that South Africa was inundated with illegal immigrants. Danso and McDonald carried out a survey of the depiction of Immigrants by the press between 1994 and 1998. They found that:

- 38% of all papers surveyed refer to immigrants as illegals
- 17 % use inflated statistics on the number of immigrants in South Africa ¹⁹⁵

Press headlines included:

- The Staff reporter of *The Star* 1995 argues that “the government has spent about R397,000 on each illegal alien, which translates into about R1.98billion being spent on maintaining illegals last year”¹⁹⁶
- “Illegals in South Africa Add to Decay of Cities”, in the Sunday Times, 25 September 1994
- “5,052 people arrested by the defence force and police last month” reported by the South African Press Association, 13 August 1998

The figures were also interpreted to mean that immigrants were “flooding” and “swarming” into South Africa.

- “No turn of the tide: A Policy is needed urgently before the problem becomes explosive” in the Financial Mail, 18 September 1994

¹⁹³ Solomon (2001), p 13

¹⁹⁴ Ibid.

¹⁹⁵ Danso R, and McDonald, D, 2000, “Writing Xenophobia: Immigration and the Press in Post Apartheid South Africa”, Migration Policy Series, no. 17, p20

¹⁹⁶ Ibid.

- “Aliens in the back yard” in the Mail and Guardian, 11 August 1998

This had the effect of increasing the myths about immigration (see chapter 1) and increasing anti-immigration sentiment amongst South African citizens.

The negative portrayal of immigrants as illegal was further instilled into the fabric of governance through clauses that encouraged citizens to become actively involved in the enforcement of the Aliens Control Act. The Act encouraged and empowered ordinary South African citizens and service providers to report foreigners they suspect of breaking immigration laws. Buthelezi called on citizens to “aid the Department and the South African Police Service in the detection, prosecution and removal of illegal aliens from the country”, emphasizing that the “cooperation of the community is required in the proper execution of the Department’s functions”.¹⁹⁷

In 1995 government officials promised R300.00 to South Africans and legal residents who tipped-off officials of an illegal immigrant. The Citizen stated that between January 1995 and June 1995 about R10,000.00 had been paid out for the assistance provided in apprehending illegal immigrants.¹⁹⁸ This opened up several cases of abuse. For example Pushie Dunn a TV presenter was reported as an illegal immigrant to Home Affairs by an ex-boyfriend when she ended the relationship.¹⁹⁹ Such action further instilled the negative portrayal of immigrants.

¹⁹⁷ M. Buthelezi, 1997, “Keynote Address By Mg Buthelezi, MP, Minister Of Home Affairs, at the Southern African Migration Project’s Conference: After Amnesty: The Future Of Foreign Migrants In South Africa”, 20 June, <http://www.queensu.ca/samp/sampresources/migrationdocuments/speeches/mgb/200697.htm> Accessed on 2 April 2007,

¹⁹⁸ M. Mnyaka, 2003, *Xenophobia as a Response to Foreigners in Post-Apartheid South Africa and Post-Exilic Israel: A Comparative Critique in the Light of the Gospel and Ubuntu Ethical Principles*. UNISA, Pretoria, p47.

¹⁹⁹ Mnyaka (2003), p.48.

Zoleka Capa the then chairperson of the Portfolio Committee on Home Affairs actively encouraged communities to report illegal aliens. Although she maintained that communities should only report and not take action²⁰⁰ there were no recommendations made by the committee to educate the general public about the different categories of immigrants. The requirement to report under Aliens Control Act, together with the frenzy created by the media coupled with the absence of a public education programme on immigrants, meant that immigrants were firstly presumed as illegal.

The term illegal was also indiscriminately implemented by those arresting persons suspected of being illegal. They interpreted it widely to mean that “all immigrants” were potentially illegal first and foremost before being considered legal. Such an assertion is only fuelled by the perception that the country is inundated with illegal aliens.

- **Arrest**

Section 53(1) If any immigration officer or police officer suspects on reasonable grounds that a person is an alien he may require such a person to produce to him proof that he is entitled to be in the Republic, and if such person fails to satisfy such officer that he is entitled, such officer may take him into custody without warrant and if such officer deems it necessary to detain such person in a manner and at a place determined by the Director General, and such person shall as soon as possible be dealt with under Section 7.

‘Reasonable grounds’ used for suspecting a person as an immigrant included looking for traits such as ‘skin colour, height, and presence of inoculation marks’²⁰¹ For example a journalist reported that a South African citizen was arrested and summarily

²⁰⁰ Ibid.

²⁰¹ Valji (2003), p.5.

deported because, according to the arresting officer, "he walked like a Mozambican" some were arrested for being "too black," or having a foreign name".²⁰²

The police actively stopped those they considered to be immigrants. A survey done by the University of the Witwatersrand, based in Johannesburg, found that 71% of refugees interviewed said they were stopped by the police and their papers checked.²⁰³

Klotz also highlighted the fact that "securing proper status and paperwork did not protect foreign Africans from harassment or arrest."²⁰⁴ An immigrant on a work permit stated that "My documents were destroyed by the police at Diepkloof Zone 5 on the 26th November. Now I have no documents. I was never given the chance to tell the police or Home Affairs about my documents. I'm afraid to get beaten."²⁰⁵ Once identified the person's immigration status is addressed. From reports of those arrested the police did not apply the section of the Act that required the person in question to provide proof that he or she could be in the country. Suspects were not given the opportunity to take the police to places where their documents were; instead they were immediately arrested and detained.

²⁰² Christian Science Monitor, 2000, "South Africa's Brutal New Bias," *Christian Science Monitor*, 31 August.

²⁰³ Nduru (2005).

²⁰⁴ Klotz, A. 2000, "Migration after Apartheid: Reracialising South African Foreign Policy", *Third World Quarterly*, vol. 21, no. 5, p834.

²⁰⁵ HRW (199, p.54).

- **Detention**

Section 55. Restriction on detention (1) If any person is detained under the provisions of this Act...not be for a period longer than 48 hours from the time of his or her arrest, or from the time on which he or she was taken into custody.²⁰⁶

The South African Human Rights Commission found that members of the South African Police Service abused their powers through arbitrary arrests and, detention of foreigners.²⁰⁷

In terms of detention, three charges of gross misconduct were laid against Lindela Repatriation Facility located in Krugersdorp. The South African Human Rights Commission found that the ill-treatment of migrants was rife at the centre.²⁰⁸ Firstly, in the area of the actual living conditions: lack of nutrition, inadequate medical care and overcrowding.²⁰⁹ Secondly issues regarding length of stay: The Act stated that a person detained should be brought before an immigration officer within 48 hours of their arrest and should not be detained longer than 30 days. A judicial review would have to be sort for an extension. A case was brought before the High Court in Johannesburg by 40 illegal immigrants who had been held for over 60 days. The immigrants won their case and were released. And lastly there were issues surrounding assaults and abuse from immigration officers that had led to the death of some detainees.²¹⁰

The Aliens Control Act was interpreted and implemented through the prism of negative perceptions of immigrants. This in turn meant that immigrants experienced xenophobia

²⁰⁶ This section was then substituted by section 31 of Act 76 of 1995

²⁰⁷ SAHRC, 1999, *Illegal? Report on the Arrest and Detention of persons in terms of the Aliens Control Act*. South African Human Rights Commission, Johannesburg, p.6.

²⁰⁸ Ibid.

²⁰⁹ SAHRC (1999), p.1.

²¹⁰ Ibid.

at the hands of government officials. The Aliens Control Amendment Act went further and solidified the negative biasness towards the treatment of immigrants.

Aliens Control Amendment Act No. 76 of 1995

The ACA was also used as an instrument to exercise control. Aliens Control Amendment Act No. 76 of 1995 (effective as of July 1996) only served to solidify perceptions of immigrants as negative and a threat to South Africa. As Buthelezi was of the firm belief that immigrants had a negative impact on South Africa, the Minister of Home Affairs persuaded Parliament that, “the Aliens Control Act of 1991 was in fact too soft”²¹¹ on the grounds that it did not provide sufficient control for government. This was echoed by the then Deputy Minister of Home Affairs -Peneul Maduna of the ANC, indicating that need for control had been institutionalised within the department of Home Affairs. When introducing the 1995 amendment to the 1991 Aliens Control Act, Peneul Maduna said the purpose of the Act was to “improve control” over immigration.²¹² The Amendment Act therefore had regulations built in that provided for “much stronger and higher barriers to entry”.²¹³

In June 1996, the South African Minister of Home Affairs publicly defended the Aliens Control Act as providing a “sound legal base for effective alien control on the grounds that the amended Act was in line with international practices of “more stringent control.”²¹⁴ This served the purpose of legitimising government action.

²¹¹ J. Crush, & D. A. McDonald, eds., 2002, *Transnationalism and New African Immigration to South Africa*, Southern African Migration Project and the Canadian Association of African Studies, Toronto, p.6.

²¹² Peberdy (2001), p.31.

²¹³ Ibid.

²¹⁴ Ibid.

Buthelezi found support for wanting to tighten the controls on immigration from those concerned with issues regarding labour and the economy. He stated that if “we are to scramble for resources with these illegal aliens we might as well forget the Reconstruction and Development Programme.”²¹⁵ This set the tone that immigrants, especially illegal aliens pose a threat to the economic development of South Africans. He noted further that the success of the Department’s intensified law enforcement and control measures depended on the cooperation of all political parties and tiers of government: “the future of our country and children depends on us in this regard.”²¹⁶ Members of opposition parties also capitalised in the politicisation of immigration. A member of the New National Party stated “It was not good to take R10 million from the budget of the Department of Home Affairs for the Reconstruction and Development Programme when illegal aliens were removing far more from the economy by taking away jobs from South Africans.”²¹⁷

Immigrants were seen as a threat to the economic development of South Africa. Home Affairs officials appearing before the Presidential Labour Market Commission in 1996 defended the Aliens Control Act and said they saw no need for new immigration legislation.²¹⁸ Deputy Minister of Home Affairs Lindiwe Sisulu of the ANC took it as far as stating, “ that non-South Africans even those with skills useful to the country are only welcome on a temporary basis.”²¹⁹

Government officials were not alone in their sentiments regarding immigrants. The treatment of immigrants by the police was informed by their misconceptions of

²¹⁵ S. Croucher (1998), p.650.

²¹⁶ Ibid.

²¹⁷ Croucher (1998), p.651.

²¹⁸ Crush (2002), p.1

²¹⁹ Peberdy (2002), p.31.

migrants as illegal, and prone to criminal tendencies. They justified their treatment of them on legislation that had been selectively interpreted to mean human rights could not be extended to immigrants. Such a position hampered police response to attacks on immigrants by South Africans.

Police and ANC response to attacks on immigrants during the Aliens Control Act.

This section provides a discussion on attacks that caused grievous bodily harm or led to the death of immigrants between 1994 and 2000 in Johannesburg- a prime destination for cross border migrants.²²⁰

Table 1: Police and ANC response to Xenophobia from 1994 to 2000.

Date and Location	Description of incident	Police Response	Government Response
December 1994 to January 1995 Alexandra township,	Gangs of South Africans try to evict perceived illegals, blaming them for increased crime, sexual attacks and unemployment. This campaign of intimidation and ridding townships of foreigners lasted several weeks, and was known as "Buyelekhaya" (Go back home). ²²¹	Police advised they would investigate but nothing came of it, no arrests were made. ²²²	No government response
1997 Central Johannesburg	Local hawkers attack foreign hawkers. The chairperson of the Inner Johannesburg Hawkers	Cases were reported to the police, no arrests were made. ²²⁴	No government response.

²²⁰ They all took place in and around the Johannesburg metropolitan area. The validity of each case was reported by the local media. They were also validated by South African Human Rights Commission who carried out their own investigation by also confirming it with friends, relatives or the members of the immigrant community.

²²¹ H.Solomon, 2008, "Xenophobia in South Africa: Origins, Trajectory and Recommendations", *Centre for International Political Studies*, University of Pretoria, Pretoria,
http://209.85.229.132/search?q=cache:BIEm6BwM6IwJ:www.cips.up.ac.za/files/conference/papers/Xenophobia_in_South_Africa_July_08.pdf+buyelekhaya+1994&cd=3&hl=en&ct=clnk&gl=za Accessed on 15 December 2008.

²²² Ibid.

²²⁴ Ibid.

	Committee stated "We are prepared to push them out of the city, come what may. My group is not prepared to let our government inherit a garbage city because of these leeches." ²²³		
January 1998	SABC 3's Special Assignment broadcasted on 7 November 2000 footage of six white police men from the North East Rand Dog Unit setting their dogs on, assaulting and racially abusing three alleged illegal immigrants from Mozambique. ²²⁵ In a statement read to the media on behalf of the policemen, they stated "this whole things was pulled out of proportion...we did not kill, rape or rob anyone." ²²⁶	Police commissioner Jackie Selebi and the then Safety and Security Minister Steve Tshwete proceeded to swiftly arrest Inspectors Christo Koch and Eugene Truter and Sergeants Kobus Smith, Dino Guitto, Robert Henzen and Nicolaas Laubser. They were charged and convicted for assault with aggravated circumstances, corruption, and an attempt to defeat the ends of justice. ²²⁷	President Thabo Mbeki's office said he had seen the seen the footage. ²²⁸ Following the conviction of the officers the Presidency said that "it was satisfied that justice had run its course." It also stated that it was committed to "doubling efforts to build a non-racial democracy underpinned by the rule of law." ²²⁹
4 September 1998	Three foreigners are killed on a train travelling between Pretoria and Johannesburg in what was described by the media as a xenophobic attack. They were trying to escape an angry mob that had earlier taken part in a protest march against unemployment. Two placards stating "Down with foreigners, there are taking our jobs" and "we will take the law into our own hands" were found near the scene" ²³⁰	Police spokesman Captain George Francis said there had been no arrests because, "people on the train are reluctant to come forward with evidence, and the information we have at present is vague," ²³¹	A statement was issued by the ANC stating "the ANC condemns in the strongest possible terms the abominable killing of our fellow Africans by people who do not attach any value to human life. This cruel killing of foreigners will create a wrong perception that the South African people do not welcome foreigners in this

²²³ Lefko- Everett (2008), p.29.

²²⁵ The Eastern Province Herald, 10 November 2000

²²⁶ Ibid.

²²⁷ Gifford "Dog Unit Stand Accused" *Reuters*, 18 November 2001

²²⁸ M. Sithole, 2000, "Police Will Restrict the Use of Dogs", *The Star*, 11 November,

<http://66.102.9.132/search?q=cache:yUXDwDqTfogJ:www.thestar.co.za/index.php%3FfSectionId%3D129%26fArticleId%3Dct20001111211003693D230179+mbeki+footage+dogs&cd=8&hl=en&ct=clnk&gl=za> Accessed 25 October 2005

²²⁹ Staff Reporter, 2001, "Dog Handlers' Sentencing Gets Mixed Reaction", *Business Day*, 30 November.

²³⁰ Eastern Province Herald 4 September 1998

²³¹ Ibid.

			country, and may also undermine efforts of our government on the African Renaissance. Our country does not have discriminatory policies against foreigners. In fact many foreigners are already contributing to the reconstruction and development of our country, and we should encourage them to continue to do so.” ²³²
7 January 1999	Two men from Mozambique were necklaced (a tyre placed around their neck, doused with petrol then set alight) in Ivory Park (squatter camp) in Johannesburg by a mob of 400 people accusing them of rape, theft and terrorising residents. ²³³	Superintendent Eugene Opperman of North Rand said police on 14 January 1999 had arrested four suspects. ²³⁴	The ANC condemned these attacks. ²³⁵
4 August 2000 Pretoria	Sudanese refugee James Diop was seriously injured after being thrown from a train in Pretoria by a group of armed men. ²³⁶	No arrests had been made.	No record of ANC response.
4 August 2000	Kenyan Roy Ndeti and his room mate are shot in their home by armed men who then fled taking nothing with them. ²³⁷	No arrests were made.	No record of ANC response.

²³² ANC Daily News Briefing, “ANC Briefing Statement on the killing of Foreigners”, *ANC Daily News Briefing*, 4 September, <http://209.85.229.132/search?q=cache:g1LtFr-ujX8J:www.anc.org.za/show.php%3Fdoc%3Dancdocs/pr/1998/pr0904b.html+train+%224+september+1998%22&cd=1&hl=en&ct=clnk&gl=za> Accessed on 25 October 2005

²³³ SAPA, 1999a, “Ivory Park Vigilante Necklacing-No Arrests Yet”, *ANC Daily News Briefing*, 7 January, <http://66.102.9.132/search?q=cache:Rp6lraj2iAJ:70.84.171.10/~etools/newsbrief/1999/news0108+moza mbicans+necklaced&cd=3&hl=en&ct=clnk&gl=za> Accessed on 25 October 2005

²³⁴ SAPA, 1999b, “Four Arrested for Necklacing of Mozambicans”, *ANC Daily News Briefing* <http://70.84.171.10/~etools/newsbrief/1999/news0115> Accessed on 25 October 2005

²³⁵ Ibid.

²³⁶ Lefko-Everett (2008), p. 30.

²³⁷ Jennifer Parsley, 2002. “We Are Not Treated Like People: The Roll Back Xenophobia Campaign in South Africa”, *Humanitarian Exchange Magazine*, no.17, <http://www.odihpn.org/report.asp?id=2208> Accessed on 26 October 2005

Table 1 demonstrates the haphazard response of the police to attacks on immigrants. The evidence suggests that no extensive investigations were carried out by the police. This can only suggest that owing to the negative perception of immigrants, police did not feel the need to investigate cases reported to them any further. A case reported by a Rwandan confirmed this assertion. He went to the police to report a burglary. Instead the police officer requested to see his papers and then proceeded to arrest him.²³⁸

Cases that were followed through were ones that received intensive media attention and or public outcry that something needed to be done. Between 1994 and 2000, the ANC did not take a leadership role on the matter of xenophobia. From the statement made by the ANC in response to the killing of people on the trains, the ANC was more concerned with its foreign policy concerns and repairing any damage the attacks might have on their international reputation. They failed to contextualise the incident into the broader context of socio-economic conditions in the country (protest against unemployment), indicating that the attacks was indicative of concerns by South Africans of their socio-economic circumstances. In the case of police setting their dogs on foreigners, the government failed to acknowledge the case as xenophobic in character reducing it to merely a case of police brutality and racism. The media identified the cases of 1998 as xenophobic but the government was silent in on the matter. Furthermore the government did not provide any guidance to the police on how they were to treat crimes against immigrants.

²³⁸ D. McDonald & S. Jacobs, 2005, "Understanding Press Coverage of Cross-Border Migration in Southern Africa Since 2000", *SAMP*, IDASA, Cape Town, p.26.

South African Immigration Policy from 2000 onwards: One step forward.

By 1999 the government had received immense criticism from external and internal sources to review its immigration policy. It could not avoid the critical attentions of the world media and the international community that commented extensively on the treatment of immigrants in South Africa.²³⁹ From within the country the government was receiving pressure from: the South African Human Rights Commission, Lawyers for Human Rights, the National Consortium for Refugee Affairs together with academics such as Vincent Williams, Jonathan Crush of the Southern African Migration Project.²⁴⁰ Combined, these factors led to an increased momentum in the development of immigration policy and after the elections in 1999 the government took steps to review its immigration policy. Thus this section investigates the provisions of the new legislation to ascertain whether it could change the behaviour of government departments when it comes to the treatment of foreigners. This section argues that mechanisms put in place by the Immigration Act have had limited success in changing institutional behaviour.

The White Paper on International Migration 31 March 1999.²⁴¹

The challenge of drafting new legislation is finding the perfect medium between international obligations and national interest. The process of drafting brought to the forefront concerns and misconceptions held by drafters that would inform legislation.²⁴²

²³⁹ This included the United Nations Human Rights Commission and Human Rights Watch.

²⁴⁰ Chapter 4 details efforts made by NGOS.

²⁴¹ The White Paper on International Migration presented by the Minister of Home Affairs Dr Mongosuthu Buthelezi , 31 March 1999

²⁴² The Task Team was made up of representatives from the ruling party (ANC); social and economic concerns (NEDLAC); and organisations promoting democracy in South Africa (IDASA). The Task Team was chaired by the Director General of the Department of Home Affairs, Mr AS Mokoena and consisted of Mr D Chetty (NEDLAC), Dr W James (IDASA), Mr D Lewis (NEDLAC), Mrs NW Madikizela-Mandela, MP (ANC), Dr PM Matlou (Home Affairs), Adv. PK O'Malley, MP (IFP), Dr

The positive steps made by the White Paper include: firstly, the recognition that globalisation presented opportunities .

Section 4 .2 The challenge for South Africa is to formulate policy that takes advantage of the positive aspects of globalization, including the unprecedented movement of people with skills, expertise, resources, entrepreneurship and capital, which will support the country's efforts at reconstruction, development and nation-building.

This moves away from the narrow perception that all categories of immigrants place a strain on economic resources and also highlights the possibility that skilled immigrants could fill the skills gap in South Africa. It also served to shift the protectionist overview of migration, which since 1994 was conducive to distrust and animosity towards foreigners, to one that recognises the potential benefits of migration for South Africa.

Secondly, it recognised South Africa's continental and international responsibilities.

Section 4 .4. There is also a hierarchy of interests to be considered. Our obligations are to serve our people first; the people of the region and the member states of the Southern African Development Community second; the people of Africa third; and the rest of the world last.

Even though there is a 'hierarchy of interests' it nonetheless recognises the fundamental role South Africa has in the region, continentally and globally.

Thirdly, the White Paper recognises refugees- a category of immigrants not recognised under the Aliens Control Act and thereby not afforded any rights or obligations. The

White Paper defines "refugees" to mean:

people who have left their country because of political persecution or war and in accordance with relevant international standards are entitled to temporary protection until such time as they may safely return home.

These positive steps that were made demonstrate an acknowledgment of the positive elements of international migration. In order to bring about change, the White Paper had to challenge perceptions created as a result of the implementation of the Aliens Control Act. Nonetheless there were a number of concerning assertions made, bringing into question how radical and progressive the immigration legislation would be.

- **Shortfalls of the White Paper**

Firstly, there was the continued use of the term ‘alien’ defined as “a person who is not a South African citizen or permanent resident”. The danger of keeping the terminology was that it would continue the negative perception of foreigners as being ‘out of this world’.

Secondly, absent from the Aliens Control Act, a definition was provided for an ‘illegal alien’ as some one who is not a citizen or a resident of a country in which he or she is physically present without being authorized by the law of that country to be in or to have entered the country .This raised a number of valid concerns regarding control. The White Paper justifies the call to make the control of illegal immigration its highest priority on the grounds that South Africa had been *flooded* by illegal immigrants since 1994. As Jonathan Crush points the White Paper put illegal immigration at 5million. A figure that many argue to be too high.²⁴³ Justification for increasing control of illegal immigration can have the added effect of perpetuating myths that the country is overrun with immigrants, which in turn fosters xenophobic sentiment regarding immigrants.

²⁴³ Crush, J and Williams, V., 2001, “The South African White Paper on International Migration: An Analysis and Critique”, *SAMP*, IDASA, Cape Town, p.2.

Thirdly, Section 4.3 states that:

this White Paper accepts the spirit of the Green Paper, which is to strike a balance between liberalization of immigration policy and necessary government regulation in the interests of domestic communities. It seeks, therefore, to let people who add value to our society in and to keep those that do not, out.

Although it is open to forms of immigration that benefit South African citizens, the White Paper offers SA's high unemployment rate as the primary justification for discouraging further immigration.²⁴⁴ Section 5:2 of the White Paper argued that the objectives of GEAR (Growth, Economy and Redistribution 1996) were 'achievable by limiting the entry of any migrant other than tourists and business persons, so as to reduce the number of people to whom the government had to supply services and for whom the economy has to provide'.

Section 4.1 states that:

since 1990s and particularly since 1994, South Africa has faced increased tourist traffic, refugee flows, heightened business immigration interests and an increase in illegal immigration. These are the features of globalization in the late 20th century, which countries everywhere have difficulty managing and regulating.

This has been used to justify assertions made in sections advocating the detention and deportation of illegal aliens. It enlists the support of the police to be trained to identify and arrest illegal aliens. Once again, the White Paper is about control, which only leads to the further marginalisation and discrimination of immigrants.

In relation to xenophobia, the White Paper places emphasis on training as the key approach to addressing changing xenophobic behaviour and sentiment.

²⁴⁴ Rogerson, C, 1997, "International Migration, Immigrant Entrepreneurs and South Africa's Small Enterprise Economy" in J. Crush, J & S. Peberdy, 1998, "Trading Places: Cross Border Traders and the South African Informal Sector", *Migration Policy Series*, no.3, p.15.

Section 11.2.1. The Immigration Service should have training and educational capacity to explain immigration issues to the police and local government authorities. Training and education of broad segments of the public service and the public is essential to the success of the migration policy.

Section 13. One of the major missions in the Immigration service will be to work with other departments and with NGOS to ensure that communities recognize the difference between illegal aliens and refugees, accommodate refugees and reject any type of xenophobia.²⁴⁵

Government thus must develop comprehensive action plans to educate South Africans of the various categories of immigrants and the contribution immigrants can make economically. The unintended effect, of the education programmes and Section 11 and 12 of the White Paper, is the risk of setting up a dangerous dichotomy between ‘acceptable’ and ‘unacceptable’ immigrants. Nonetheless ANC leadership needs to be the driving force behind the implementation of these provisions. It must publically support initiatives to train state officials particularly in the police and Home Affairs, and provide funding in support of such programmes. Strong political will regarding training serves to challenge institutional practices and behaviours (see chapter 4).

Immigration Act No.13 of 2002

The Immigration Bill was passed by the National Assembly on 17 May 2002. It’s core principles found in the Preamble summarise the aim of the Act particularly:

(i) the contribution of foreigners in the South African labour market does not adversely impact on existing labour standards and the rights and expectations of South African workers; (l) immigration control is performed within the highest applicable standards of human rights protection; (m) xenophobia is prevented and countered.²⁴⁶

²⁴⁵ See section on the Counter Xenophobia Unit. The section also echoes the aims of the Roll Back Xenophobia Campaign run by UNHCR, SAHRC, and the National Consortium for Refugee Action discussed in chapter 3.

²⁴⁶ The 2004 Amendment Act included two further additions: (n) a human rights based culture of enforcement is promoted; (o) the international obligations of the Republic are complied with.

It also made the positive step of replacing the term ‘alien’ with ‘foreigner’ which means an individual who is not a citizen. Finally Section 2 of the Act had a profound effect on directing the activity of the Department of Home Affairs.

Section 2 (1) (d) creating a climate of cooperation with communities and organs of civil society, including trade unions, to encourage them to cooperate with the *Department* to implement *this Act*.

Section 2 (2) (f) educate communities and organs of civil society on the rights of *foreigners, illegal foreigners* and refugees, and conduct other activities to prevent xenophobia.

The Counter Xenophobia Unit

The Preamble of the 2002 Immigration Act imposed a statutory obligation on government to contest xenophobia in civil society and the public service. This clause was omitted in the 2004 Immigration Amendment Act. The omission did not mean that government would not challenge xenophobic behaviour. Instead it went further to state that bodies would be created to monitor civil society, the public service as well as government departments. The portfolio committee of the department of Home Affairs stated that: “the department has put in place two important units that will contribute significantly in our commitment to protect and promote the rights of refugees.”²⁴⁷ These are the Counter Corruption Unit and the Counter Xenophobia Unit.”²⁴⁸

The efforts made by the Counter Xenophobia Unit are analysed to ascertain whether they address:

- the institutional cultural bias towards immigrants and;

²⁴⁷ This was extended to include all migrants’ not just refugees and asylum seekers.

²⁴⁸ PMG, 2005, “Response to Questions Relating to Refugee Matters in an attempt to outline legislative or policy measures taken by the Department of Home Affairs to protect and promote the rights of Vulnerable groups (Refugees)”, *Parliamentary Monitoring Group* www.pmg.org.za/docs/2005/051123response.htm Accessed on 12 November 2008.

- changing perceptions of civil servants and by extension the behaviour of the local population.

Emma Ramokhele²⁴⁹-the Head of the Unit was interviewed and the following information was brought to light.

The Unit was working in cooperation with other government bodies as stated in Section 2 of the Immigration Act 2002. It highlighted the necessity to work in conjunction with the Police on the grounds that they were involved in law enforcement; Department of Justice as they deal with equality and address issues of imbalances and injustice; and lastly the Department of Social Development as they deal with social services for which access to such services must be equally applied to everyone, not just South African citizens.²⁵⁰ Emma Ramokhele emphasised that consultation with these three bodies was vital for the working of the Unit for a number of reasons.

One of the objectives of this consultation would be to provide a more comprehensive definition of xenophobia. The Unit did not have an all-inclusive definition of xenophobia. Instead they were using the general definition – “dislike of foreigners.”²⁵¹ The reason provided for this was that “they were undergoing a consultative process to come up with a comprehensive definition specific and relevant to South Africa.”²⁵² Therefore partnering with those in direct contact with immigrants provided an opportunity to learn more about the needs and challenges of migrants. Networking with

²⁴⁹ Interviewed on 13 September 2007 at the Department of Home Affairs, Pretoria.

²⁵⁰ The functions of these bodies relating to xenophobia is discussed a little further in this section.

²⁵¹ *ibid*

²⁵² Ramokhele (2007).

the National Forum Against Racism was central and seen as vital to meeting this objective.

The National Forum Against Racism is a body within the Department of Justice whose ambit addresses issues of xenophobia. It was formed following the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) held in Durban- August to September 2001. One of the outcomes of the conference was that member states of the UN together with the National Human Rights Institutions (in the case of South Africa this was the South African Human Rights Commission) and NGOs were to develop a National Plan of Action. Although their focus is on racism, Gladys Ndou highlighted that xenophobia like racism is a form of discrimination.²⁵³ Just like racism it manifests itself in acts of violence.²⁵⁴ Furthermore Gladys Ndou confirmed that xenophobia within the police, the Department of Home Affairs and its associated bodies needed to be addressed. As noted below the Counter Xenophobia Unit has taken this on board when planning their programme of action.

Partnering with other government departments also provided the Department of Home Affairs with an understanding of how those departments functioned. For example, the National Forum Against Racism like the Counter Xenophobia Unit focuses on policy not socio economic issues which the Department of Social Development specialises in.

Cooperation between departments is meant to allow for a more coherent approach across government regarding the treatment of immigrants. They all acknowledged that they could not do it on their own. Gladys Ndou stated “we need to work with others as

²⁵³ A Lawyer working for NFAR. Interviewed on 13 September 2007 at the Department of Justice, Pretoria.

²⁵⁴ A distinction between racial discrimination and xenophobia is made in chapter 4.

we cannot do it on our own.”²⁵⁵ This was echoed by Emma Ramokhele who stated that the “the Counter Xenophobia Unit cannot solve problems alone. We need these partnerships.”²⁵⁶ However as illustrated below there has been a lot of duplication of workshops organised by the Forum Against racism and the Unit.

Both have devised activities and programmes that clearly address institutional bias and seek to challenge perceptions of immigrants held by the local population. For example, from a workshop hosted by the National Forum Against Racism in Durban on 28th of June 2007 the following people were invited:

- Government departments included: Home Affairs, Social Development, the South African Police Service and hospitals,
- Community based organisations such as: Red Cross, the Ecumenical Council of Churches²⁵⁷,
- Refugee representatives, and
- Local South Africans.

The workshops were a consultative process to raise awareness amongst different stakeholders. Gladys Ndou recalled one of the activities at a workshop required participants to answer questions relating to the scenario. The scenario was one of a young man, standing outside the department of Home Affairs waving a toy gun and shouting abuse at immigrants. The questions included: providing a reason for the cause of such behaviour; why it manifested itself that way; how best to deal with it; and who would be best to address the situation. This provided an opportunity to explain to participants the definition of xenophobia, and challenges faced by foreigners and South Africans.

²⁵⁵ Ndou (2007)

²⁵⁶ Ramokhele (2007)

²⁵⁷ Their contributions on combating xenophobia is discussed in detail in chapter 3

The Counter Xenophobia Unit has also identified the same key stakeholders in its national plan. But their strategy is more specific to a target group and its needs.

At institutional Level it is about government departments and officials:²⁵⁸

- Conducting a national Counter Xenophobia workshop with Department of Home Affairs senior management and other senior government officials,
- Providing ongoing peer education training workshops on human rights and xenophobia,
- Designing and distributing Counter Xenophobia public awareness materials to government officials, and
- Making them aware of the Counter Xenophobia strategy

In terms of the local population public awareness campaigns²⁵⁹ are aimed to teach communities to be more receptive and accommodating:

- At Schools, Churches, Community meetings²⁶⁰
- Trains and Taxi ranks- as this is an excellent target place for Hawkers and Commuters,
- Townships and squatter camps to target citizens and foreigners that live side by side,
- Factories – in order to speak to employers,
- Celebrating public human rights events and days with local foreign communities and citizens. (See chapter 4).

²⁵⁸ Department of Home Affairs, 2007, “The Counter Xenophobia Program of Action” emailed to researcher by Emma Ramokhele 16 November.

²⁵⁹ Ibid

²⁶⁰ It is very encouraging that government identified this group because as is argued in Chapter 3 these are place that migrant interact with the local population and thereby serves as the best place to effectively challenge xenophobic behaviour.

This overlap of activities serves to strengthen the various training the stakeholders have undergone. The duplication of programmes serves to reinforce the importance of a particular activity. However duplication may be a cause for concern when it comes to management, particularly, in terms of which government body is to take leadership in advocating a particular programme. Both the National Forum Against Racism and the Unit are government funded and both require the budget to launch their programmes.²⁶¹ This can be overcome by negotiating with partners to contribute a proportion of their budget.

The greatest challenge facing both bodies is addressing the institutional culture of bias particularly those of lower ranking officials who are considered very biased as is evidenced below.

In 2005, a Human Rights Watch report documents the harassment, mistreatment and extortion of asylum-seekers and refugees by law enforcement agencies, the arrest, detention and threat of deportation of refugees and asylum-seekers as “illegal foreigners”, and the unlawful detention and threats of deportation at Lindela Repatriation Centre. Lindela refused access to representatives from Lawyers for Human Rights and South African Human Rights Commission.

In 2007 CORMSA documents the continuation of the same abuses :

- Asylum-seekers are illegally arrested and detained despite being in possession of valid documents;

²⁶¹ Confirmed by Gladys Ndou and Emma Rmojkhele.

- Detainees are not being adequately informed of their rights or permitted to access their files;
- Non-nationals are being deported from the detention facility in Musina without having their status determined by an immigration official²⁶²

As responsive as the Counter Xenophobia Unit and the National Forum Against Racism have been, their efforts have unfortunately not permeated to the government officials in direct contact with immigrants. This begs the question of how intensive the training workshops have been. Immigration policy therefore can only challenge institutional behaviour at high ranking levels. There still remains the need to address behaviours of all sectors of government particularly lower ranking officials.

Furthermore, in order to successfully meet their objectives the National Forum Against Racism and the Unit need to revise some administrative practices before any substantial progress can be made. For instance, considering the scale of the task ahead of them the Unit and the National Forum Against Racism need to employ more people. At the time of this research the Unit had only five employees whilst the National Forum Against Racism had four limiting the number of projects that could be run concurrently. They also need to develop mechanisms that monitor the behaviour of state officials- for example punitive measures for staff that fail to comply to provisions (see chapter 4). At the time of this research both bodies were unable to provide copies on the training material utilised or reports from workshops, on the grounds that they were still being developed. To avoid inadvertently perpetuating xenophobic sentiment all training material and reports need to be reviewed.

²⁶² CORMSA (2007), p.31.

What made for the smooth introduction of the Unit was the level of support it received from President Mbeki and the new Minister of Home Affairs- Nosiwe Mapisa Nquakula. The underlying premise of the Immigration Act was in line with Mbeki's comment in 2001, "many of these immigrants bring with them important skills that our country needs. Many of them are also people who are creative, full of initiative and driven by an enterprising spirit".²⁶³ Nosiwe Mapisa Nquakula has passionately advocated for a department that is people centred that provides the best service to all its clients: be they South African or foreigners. (See discussion on the Turnaround Strategy and *Batho Pele* principles in chapter four).

The Police.

There is no section in the Immigration Act 2002 that refers specifically to the training of the police service. It is just assumed that, like all other departments that are affected by the Immigration Act, the police will carry out their duties with the "highest applicable standards of human rights protection"²⁶⁴. In light of this the police took it upon themselves to undergo training on race and discrimination. The findings indicate two major concerns: firstly the commitment of police officers to be trained; and secondly the effectiveness of training.

In 2004 the Centre for the Study of Violence and Reconciliation conducted research²⁶⁵ on diversity and transformation in the South African Police Service based on a case

²⁶³ T. Mbeki, 2001, "Letter from the President Thabo Mbeki: Statement on Xenophobia", *ANC Today*, vol.1,no.18, 25-31 May.

²⁶⁴ Immigration Act 2002 Preamble (1)

²⁶⁵ G. Newham, T Masuku and J Dlamini, 2005, *A decade of transformation of the South African Police Services: A Study of Police Perspectives on Race, Gender and the Community in the Johannesburg*, CSVR, Johannesburg, p.26.

study of the Johannesburg policing area. As shown in Table 2, a minority of the members (35%) indicated that they had received some training on race and discrimination.²⁶⁶

Table 2: Have you received any type of training that deals with race and discrimination:

Gender		Black %	Coloured %	Indian %	White %	Total
Male	Yes	38.4	53.8	27.3	41.3	38.9
	No	61.6	46.2	72.7	58.7	61.1
Total		100	100	100	100	100
Female	Yes	25.3	50.0	66.7	47.4	31.7
	No	74.7	50.0	33.3	52.6	68.3
Total		100	100	100	100	100

The Centre for the Study of Violence found that when asked about the lack of training they had received some respondents acknowledged that the lack of training in cultural diversity was impacting on their ability to provide adequate policing to immigrants:

[I]t is difficult to police foreigners because we do not understand their language or culture. As a result we sometimes do not believe what they say because most police officials believe that foreigners are lying [in order] to remain in the country...Most police officials do not understand that foreigners are human too with human rights. (white male captain)²⁶⁷

Herein lies the key component of xenophobic sentiment- viewing the “other” not being entitled to the same rights as the citizen.

The Centre for the Study of Violence also found that some police members indicated that diversity training was unnecessary for police officials:

We cannot afford to send our members all the time for training and workshops that have nothing to do with policing work. If I had to send

²⁶⁶ Although male officials (39%) were slightly more likely than females (32%) to have attended, the difference is small. Ibid.

²⁶⁷ Newman (2005), p26

members to all these human rights workshops I will be left with few members to deliver services, and communities will be up in arms. (black male superintendent)²⁶⁸

This is very concerning especially in a country where race and discrimination have been the fabric of society for decades. This is also concerning that the police officer in question sees it as “nothing to do with policing work” when criminal activity flows from xenophobia.

Once it was established that a large proportion of the police did not attend such training, The Centre for the Study of Violence posed questions relating to myths surrounding immigration. The survey asked police officials whether they thought that most illegal immigrants commit crime. Table 2 shows that the vast majority (87%) of SAPS members thought so.

Table 3: Are most documented migrants in Johannesburg involved in crime?

		Agree	Disagree	Neutral/Don't Know	Total
Race	Black	91.0	7.9	1.1	100
	Coloured	64.7	35.3	-	100
	Indian	85.7	14.3	-	100
	White	69.5	25.6	4.9	100
Total		87.1	11.4	1.6	100

Black South Africans top the table as being the most xenophobic racial group in South Africa. The study by CSVr confirmed these facts. But it is interesting to note that Indians follow closely behind.

We do not want illegal foreigners in this country because they cause a lot of serious crimes, don't pay tax and it is often difficult to solve a crime caused by illegal immigrants because of lack of their fingerprints. We can never solve especially serious crimes because of these faceless people who do not even have a physical address where we can find them...whenever we suspect that they are illegal we arrest them and in many instances they try to

²⁶⁸ Ibid.

be clever by producing fake papers...we tear those up in front of them to frustrate their efforts and send them to Lindela. (Indian male captain).²⁶⁹

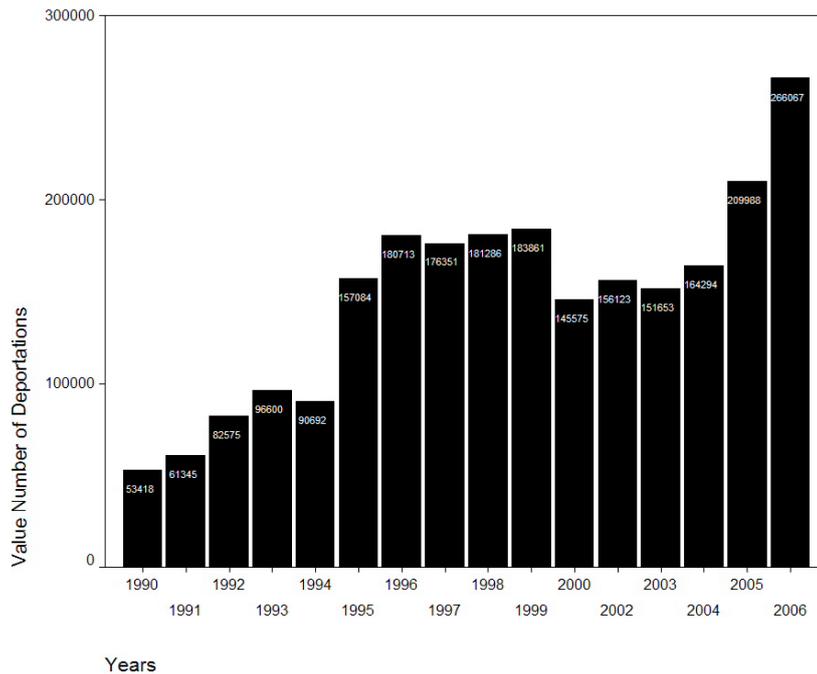
The lack of training that police officers have received has severely hampered humane and sensitive treatment of foreigners . It is evident from the study that a sustained programme for the training of South African police officers is vital before the full potential of the Immigration Act can be realised.

Furthermore, the findings demonstrate that an institutional culture of perceiving immigrants negatively (especially as illegal) is rife within the police service. Therefore it is not enough for the Immigration Act to be amended to include provisions that police officers must be trained on matters relating to migration. Regular checks on the performance of the police should be made by a government agency mandated to do so.

The findings on police attitudes provides more insight when interpreting government statistics. For example in the area of deportations (Figure 3).

²⁶⁹ Ibid.

Figure 3: Deportations from South Africa 1990-2006²⁷⁰



Two explanations are put forth: The first relates to the control of immigration that the Immigration Act aims to achieve. Irrespective of the fact that human rights culture is advocated in section 2(1) of the Immigration Act, there is the need to control immigration, particular illegal immigration. This need for control becomes apparent when assessing deportations figures. The high numbers of deportation under the ANC led government between 1994 and 2000 was the result of control provisions interpreted and implemented under the of Aliens Control Act. As the Aliens Control Act was repealed end of 2000 and the immigration Act 2002 signed in 2002 the number of deportations was relatively low. In the absence of official immigration policy the institutional culture of deportations occurred at a steady rate. Once in force the control provisions necessitating the need for government to work closely with the police in the area of illegal immigration came into force . This is line with CORMSA’s findings that

²⁷⁰ Ibid.

the reason for the rise in the number of deportations has been “the heightened activity of the police in immigration enforcement”²⁷¹

The second and interrelated point is that the Immigration Act utilises the services of police that hold very negative perceptions of immigrants. This means that immigrants are left vulnerable to abuse and xenophobic sentiment and behaviour prevails under the Immigration Act. It is therefore necessary to attribute the high number of deportations under the Immigration Act to: the need for control; and negative attitudes of immigrants rampant within the police system.

The findings of the Counter Xenophobia Unit and the police emphasise that through extensive training programmes it is possible to address the institutional bias towards immigrants. The success of the training however depends very much on all officials viewing the process as vital. Nevertheless the fact that the department of Home Affairs and SAPS have identified core areas within their departments to target, is a step in the right direction in the fight against xenophobia.

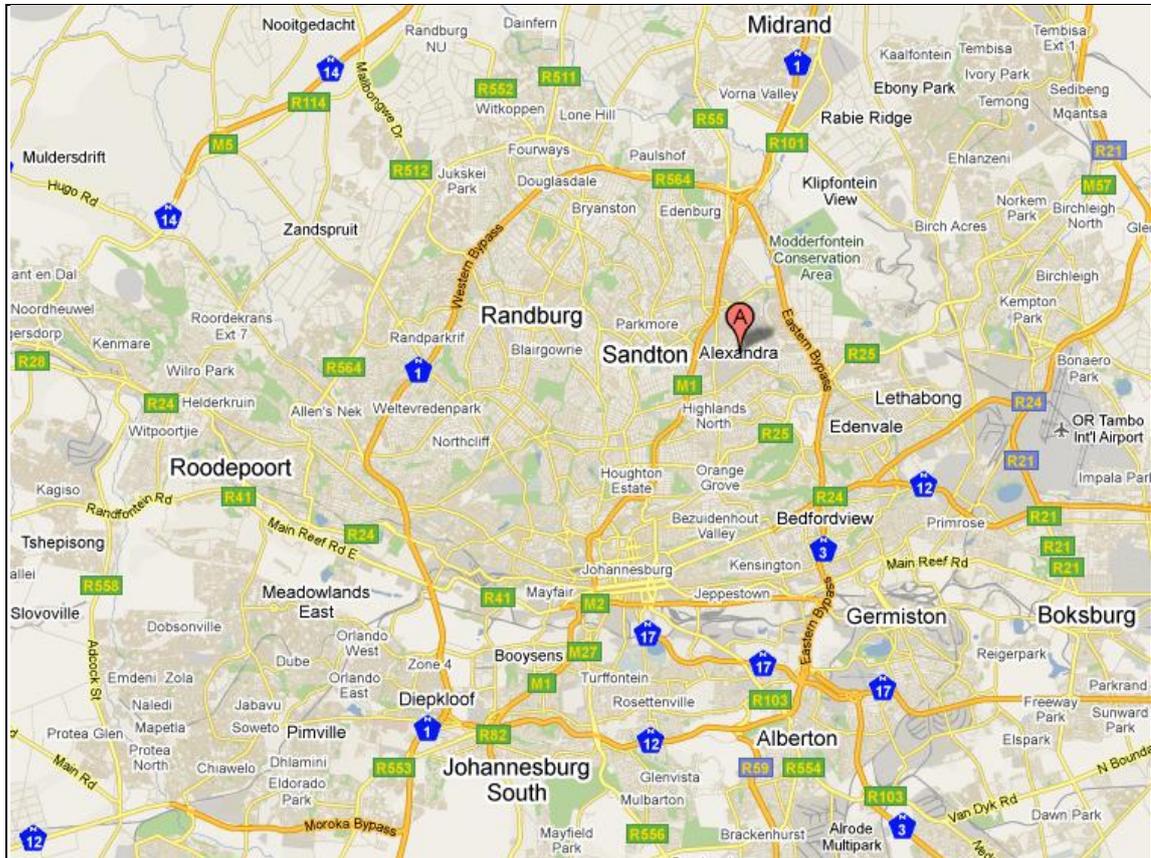
May 2008 Violence in Gauteng: Two steps backwards

From the 11th of May 2008 to the 21st of May 2008, Gauteng province witnessed two weeks of sustained violence against foreigners leaving 62 dead, 22 of whom were South African, and 150,000 immigrants displaced.²⁷² The response of government and the police demonstrated that the training received as a result of clauses in the Immigration Act has been limited.

²⁷¹ CORMSA (2008), p.30.

²⁷² CORMSA (2008), p.7

Map 2. Alexandra and some surrounding areas.



The response to the violence demonstrates a short-sightedness on the part of national government. Government officials stated that they had been taken by surprise by the uprising but as Table 4 demonstrates attacks on immigrants were nothing new. Granted the scale of the attacks was new but not the attacks themselves.

In a media briefing on the 20th of May, Deputy Minister of Foreign Affairs Aziz Pahad described the “unprecedented savage attacks against South Africans and fellow Africans” as “a totally unexpected phenomenon in our country”. Pahad lamented, “You would not have thought that 14 years into our democracy we would suddenly experience such an explosion of attacks against foreigners when we have been trying

through education and political processes to inform people about our vision of one Africa and an integrated Africa.²⁷³ Safety and Security Minister Charles Nqakula also described the violence as “strange”, given that many South Africans had sought refuge in neighbouring countries under apartheid.²⁷⁴ At a briefing to the Parliamentary Portfolio Committee on Home Affairs on the 13th of May, the Minister for Home Affairs Nosiviwe Mapisa-Nqakula commented that it was “strange that people who had lived together for many years were suddenly at each other’s throats”.²⁷⁵

These comments indicate a serious deficit of understanding at the highest levels of events on the ground. Table 4 indicates that between the years 2001 and 2008 there have been consistent aggressive attacks on foreigners in Gauteng. The fact that these incidents did not spill over to other parts of the country does not diminish the disturbing pattern on violence these attacks utilised. These incidents could not go unnoticed, identified merely as indicative of the high crime levels in South Africa.

Table 4: Attacks on Immigrants in Gauteng between 2001 to 2008

Date and Location	Details of incident
October 2001 Zandspruit near Honeydew, Johannesburg	Homes belonging to Zimbabwean immigrants were set alight.
December 2005 Olievenhoutbosch	Groups of South Africans chased foreign Africans living in the Choba informal settlement from their shacks, shops and businesses. The exact numbers killed, wounded, and dispossessed vary. ²⁷⁶

²⁷³ South African Government Information, 2008, “Notes following briefing to media by Deputy Foreign Minister Aziz Pahad”, 20 May, <http://www.info.gov.za/speeches/2008/08052113451001.htm> Accessed 5 November 2008

²⁷⁴ SAPA, 2008, “It was the Third Force in Alex”, *Sowetan*, 13 May, <http://www.sowetan.co.za/News/Article.aspx?id=765595> Accessed 27 May 2008

²⁷⁵ Ibid.

²⁷⁶ CORMSA (2007), p.50.

2006 Diepsloot,	Somali-owned businesses were repeatedly torched. ²⁷⁷
May 2007 Khutsong township	Shops belonging to Somalis and other foreign nationals were torched during anti-government protests. ²⁷⁸
December 2007. Mooiplaas	Minor clashes between South African and Zimbabwean nationals led to retaliatory attacks resulting in over 100 shacks being burned. ²⁷⁹
January 2008. Soshanguve	Attacks started after four non-nationals allegedly broke into a spaza shop owned by a local trader. Residents apprehended the suspects and allegedly burnt one of the suspects to death. After this incident, residents called for foreigners to leave. Shacks were burnt and shops belonging to non-nationals looted. Many non-nationals fled the area. ²⁸⁰
Feb 08 Laudium	At a community meeting in the informal settlement of Itireleng some members encouraged residents to chase the non-nationals out of the area. Violent clashes took place. Shacks and shops belonging to non-nationals were burnt and others looted. ²⁸¹
April 2008 Mamelodi	In a similar pattern to the attacks in Itireleng and Atteridgeville, residents of Mamelodi went from house to house attacking non-nationals and setting alight the shops and houses abandoned by non-nationals. This was again violence on a major scale, resulting in large numbers of displaced non-nationals. ²⁸²

Table 5: Chronological development of the May 2008 violence in South Africa.

Date and Location	Details of incident	Police Response
11 and 12 May 2008 Death toll at 3 Alexandra	Three dead, one injured by mob. (2 South Africans and 1 foreign national). An angry mob targeted foreigners, who residents say are not welcome here [in South Africa]. For example: Sibanda- a female Zimbabwean told how men she described as "Zulus"	Foreigners flee to police station after more attacks. Constable Neria Malefetse said a total of 39 people were arrested. Public-order police unit has been deployed to monitor the situation. Following arrests they say things had quietened down. ²⁸⁴

²⁷⁷ Ibid.

²⁷⁸ Lefko-Everett (2008), p.31.

²⁷⁹ CORMSA (2008), p.26.

²⁸⁰ Ibid.

²⁸¹ Ibid.

²⁸² Ibid.

²⁸⁴ SAPA, 2008a, "Xenophobia Violence Flares in Alexandra", *Mail and Guardian*, 13 May <http://www.mg.co.za/article/2008-05-13-xenophobia-violence-flares-in-alexandra> Accessed on 14 May 2008.

	<p>from a hostel in Alexandra kicked down her door at about 10pm and told her to leave everything and get out. "They insulted us. They screamed, they shouted and said 'get out' ... They said leave everything. They demanded my cellphone and money ... [they] touched me all over," she said. They shouted at Sibanda and her sister to go back to Zimbabwe because they wanted her house and were tired of living in a hostel.²⁸³</p>	
<p>15 May 2008 Alexandra</p>	<p>More violence reported during the day, but quiet in the evening.</p>	<p>Chief Superintendent Wayne Minnaar of the Johannesburg metro police said "Police earlier fired rubber bullets to disperse the crowd of over 2 000 residents who gathered on along London Road at about 6.30pm to hold a meeting." It was unclear who had called the meeting or the motive for it.²⁸⁵</p> <p>About 370 foreigners had been registered by the Red Cross on Tuesday²⁸⁶</p>
<p>15 May 2008 Diepsloot</p>	<p>Violence spreads to Diepsloot.</p> <p>SABC claim violence was triggered by the arrival of foreigners from Alexandra in taxis. But Captain Louise Reed could not confirm this.²⁸⁷</p>	<p>Captain Louise Reed stated "the situation in Diepsloot is tense. In what we suspect was xenophobic attacks, a mob threw stones at the police and looted spaza shops."²⁸⁸</p> <p>Between Alexandra and Diepsloot the police have arrested more than 50 people for various crimes, including rape, murder and robbery.²⁸⁹</p>
<p>15 May 2008 Tembisa and</p>	<p>In Tembisa, one man was shot and killed and two others were</p>	<p>300 foreigners had flocked to the Thokoza community hall .</p>

²⁸³ N. Marrian, 2008, "Alex Residents Seek shelter at Police Station After Attacks", *Mail and Guardian*, 13 May 2008 <http://www.mg.co.za/article/2008-05-13-alex-residents-seek-shelter-at-police-station-after-attacks> Accessed on 14 May 2008.

²⁸⁵ N. Marrian, & M. Meesen, 2008, "Further Clashes in Tense Alexandra", *Mail and Guardian*, 15 May <http://www.mg.co.za/article/2008-05-15-further-clashes-in-tense-alexandra> Accessed on 16 May 2008.

²⁸⁶ Ibid.

²⁸⁷ <http://www.mg.co.za/article/2008-05-15-townships-tense-after-xenophobic-attacks>

²⁸⁸ Ibid.

²⁸⁹ Ibid.

Thokoza	injured. 15 shacks had been burnt down Captain Louise Reed said "The residents are starting fires in the street and lighting up the garbage that has not been collected." ²⁹⁰	Police spokesperson Captain Mega Ndobe said "Seven people were arrested for public violence" ²⁹¹
18 May 2008 Death toll at 5 Cleveland	Two people were burnt and three beaten to death. 50 injured from gunshot and stab wounds. Shops were vandalised and looted. ²⁹²	300 foreigners sought refuge at the police station. Spokesperson Captain Cheryl Engelbrecht said the violence started at about 1am. ²⁹³
18 May 2008 Johannesburg	Clashes spread to Jo'burg CBD; hundreds of foreigners flee their homes "There were clashes at the Central Methodist church where many Zimbabweans have taken shelter." Malawian national Mohammed Namgoma (23), who lives in Jeppestown not far from the police station, told the Mail and Guardian that a mob had arrived at his residence on Saturday, armed with knives and other weapons. "They broke into the house with stones. The stones were coming through the window. There were burglar bars near the top of the ceiling, so I pulled myself up so the stones would not hit me. I hung there for three hours," he said, showing his blackened hands. Nomsa Sibanda, of Bulawayo in Zimbabwe, has been employed in South Africa by a cleaning company since 1991. "They [the attackers] are not educated. They have only a little and they think	Station commander Director Danie Louw said: "It [the violence in the area] started this morning when a large number of foreign nationals started coming to the police station to seek assistance One person was arrested for being in possession of an unlicensed machine gun, and a further seven were detained for looting." ²⁹⁵

²⁹⁰ SAPA, 2008b, "Xenophobic Violence Claims Five Lives", *Mail and Guardian Online*, 18 May, <http://www.mg.co.za/article/2008-05-18-xenophobic-violence-claims-five-lives> Accessed 19 May.

²⁹¹ Ibid.

²⁹² Ibid.

²⁹³ Ibid.

	we are here to take it away," she said. ²⁹⁴	
19 May 2008 Death toll at 13 Primrose, Reiger Park, Kya Sands, Zandspruit, Ramaphosa	<p>Violence spreads</p> <p>An immigrant died after being covered with his own blankets and set alight.</p> <p>In Primrose a crowd of people with makeshift weapons had gathered. Radio 702 reporter said a mob had also gathered in the Ramaphosa informal settlement on the East Rand and were toyi-toying around a huge fire.</p> <p>South African citizens were also reportedly victimised, with, for example, Pedi and Shangaan people being told by Zulu antagonists to "go back to Limpopo". "We will burn the Shangaans if they don't go back," were the words of a 25-year-old man arrested for public violence in Ramaphosa on the East Rand.²⁹⁶</p> <p>In Kya Sands groups of people began throwing stones at each other after a community meeting, but the situation was brought under control, said police spokesperson Superintendent Lungelo Dlamini²⁹⁷.</p>	<p>About 250 people had been arrested during the attacks, including those committing offences such as looting which police spokesperson Govindsamy Mariemuthoo said were "pure criminal activities". Mariemuthoo said there was a substantial police presence in all the affected areas "We are using all the available resources and will call in reinforcements if the need arises," he said²⁹⁸.</p> <p>"We will fight for this country. We will keep on going, they can't stop us," said an unemployed man, speaking to reporters through the bars of a holding cell at the Reiger Park police station. He said he was proud of destroying a few shacks in the area. "I will be proud to meet the man who started this," he said, adding: "Foreigners are taking our jobs and our wives."²⁹⁹</p>
19 May 2008 death toll at 22 Zamimpilo, and Jerusalem	<p>Violence spreads and aid needed for thousands.</p> <p>In the Jerusalem informal settlement, near Boksburg, police came under fire as they tried to</p>	<p>South African Police Service dispatched experienced officers to the province and the National Intelligence Agency confirmed it was investigating the attacks.</p>

²⁹⁵

²⁹⁴ Ibid.

²⁹⁶ SAPA, 2008c, "Gauteng Reels Under xenophobic Attacks", *Mail and Guardian Online*, 19 May, <http://www.mg.co.za/article/2008-05-19-gauteng-reels-under-xenophobic-attacks> Accessed 20 May 2008

²⁹⁷ Ibid.

²⁹⁸ Staff Reporter, 2008, "Mob Violence Sweeps Gauteng", *Mail and Guardian Online*, 19 May, <http://www.mg.co.za/article/2008-05-19-mob-violence-sweeps-gauteng> Accessed 20 May 2008.

²⁹⁹ SAPA (2008b)

	stop a group of about 500 people from looting shops. ³⁰⁰	
20 May 2008 Death toll 24 Joe Slovo, and Actonville	<p>Violence spreads shacks were then set alight Two people killed in Joe Slovo.</p> <p>Actonville businessman was killed after being accused of hiring foreign workers, the <i>Sowetan</i> reported on Tuesday. The man, the owner of a construction company in Benoni, had his house set ablaze by a mob who accused him of not hiring local people. He was killed in the early hours of Monday.</p> <p>Several foreigners have been burnt to death, women have been raped and scores of shops and homes looted during the violence³⁰¹</p>	Johannesburg police spokesperson Govindsamy Mariemuthoo said 40 people were arrested on Monday night during more flare-ups of violence in the east of the city, bringing the total number to 297. ³⁰²
20 May 2008 Jo'burg CBD, Kagiso and Mayfair	<p>Violence spreads Residents told the <i>Mail & Guardian Online</i> that trouble in the area had started on Saturday 17th May 2008, when foreigners there had held a meeting to discuss their fears of being attacked. This meeting, however, raised concerns among South Africans, and on Monday 19th May 2008 a mob of about 1,000 people had attacked those believed to be foreigners.</p> <p>In Mayfair, Mail and Guardian reporters found Somali nationals living in fear as a mob had appeared at their home, which housed only single mothers and children, at night on Monday 19th May. Mob members pointed out houses owned by foreigners, they</p>	8pm on Tuesday 21 st May 2008 evening, police got word that violence had flared up in the Tudor Shaft informal settlement -- this despite a community meeting between police, South Africans and foreigners earlier in the day where foreigners had been told that police would escort them to their homes to help them collect their possessions. ³⁰⁵

³⁰⁰ Ibid.

³⁰¹ SAPA, 2008d, "SA Moves to Quell Xenophobic Attacks", 20 May 2008

<http://www.mg.co.za/article/2008-05-20-sa-moves-to-quell-xenophobic-attacks> Accessed 20 May 2008

³⁰² Ibid.

³⁰⁵ Ibid.

	said, and threatened to return at 2am or 3am. The terrified women then fled to the local mosque, which was still closed, and waited for it to open for prayers. Mosque workers later accompanied them back to their home. The women reported phoning the police's 10111 emergency number, but said they received no response. One of the women, Zuleka Dahir ³⁰³ , said: "We were very scared because we saw on TV they don't even have mercy for mothers and children." ³⁰⁴	
21 May 2008 Death toll at 42 Sebokeng, and Guguletu	Violence spreads. ³⁰⁶	Gauteng says attacks on the wane. Mbeki agrees to army involvement ³⁰⁷ .

The response to the May 2008 outbreak of violence is telling of the ANC government's approach to immigration and xenophobia. Back in 2001 Thabo Mbeki stated:

we must continue to be vigilant against any evidence of xenophobia against African immigrants. It is fundamentally wrong and unacceptable that we should treat people who come to us as friends as though they are our enemies. We should also never forget that the same people welcomed us to their own countries when many of our citizens had to go into exile as a result of the brutality of the apartheid system.³⁰⁸

His sentiments were echoed in the ANC policy on xenophobia where the ANC stated its support for the "establishment of a human-rights based system for immigration control legislation that...[aims] to prevent and deter xenophobia in other spheres of

³⁰³ Interview conducted with Sulega Dahir. See chapter 3

³⁰⁴ Mail and Guardian Online Reporters, 2008a, "Another Night of Terror in Gauteng", *Mail and Guardian Online*, <http://www.mg.co.za/article/2008-05-20-another-night-of-terror-in-gauteng> Accessed on 21 May 2008.

³⁰⁶ Mail and Guardian Online Reporters, 2008b, "Xenophobia: Mbeki Gives Nod to Army", *Mail and Guardian Online*, <http://www.mg.co.za/article/2008-05-21-xenophobia-mbeki-gives-nod-to-army> Accessed 23 May.

³⁰⁷ Ibid.

³⁰⁸ Mbeki (2001)

government, state organs and at community level.”³⁰⁹ It implies a government that identifies the benefits of immigration and abhors xenophobic sentiment. The mandate for dealing with xenophobia and issues of migration was left to the department of Home Affairs.

Apart from statements made during the development of new immigration policies and towards the build up to the WCAR conference hosted in Durban 2001, the ANC at national level were not actively engaging in the debate on xenophobia between 2000 and 2008. In the same manner as their response to incidents between 1994 to 2000, government responded mainly to high profile cases brought to the attention of all by the media. The debate regarding xenophobia was spearheaded by NGOs lobbying government rather than a government initiative. Based on this, the ANC's response to the May 2008 violence was unsurprising. Had the ANC been actively debating issues surrounding xenophobia, the outbreak of violence should not have taken them by surprise.

Secondly, they did not identify the attacks as xenophobic in nature blaming criminal elements instead making statements such as: “The ANC calls on the community to be vigilant and not to be used by sinister forces and criminal elements that are trying to destabilise the township”.³¹⁰ The African National Congress Youth League Alexandra chairperson Thulani Mncube said: "The ANC Youth League strongly condemns the action by thugs and sinister forces that are using hatred of foreigners to destabilise the township."³¹¹ The ANC provincial chairperson Paul Mashatile stated “there is no

³⁰⁹ ANC, 2001, ANC Policy on Xenophobia: Xenophobia Intolerance towards fellow Africans Must be Tackled. *ANC Today*, vol.1, no.31, August.

³¹⁰ SAPA, 2008e, “ANC calls for calm in Alexandra”, *Mail and Guardian*, 14 May

³¹¹ *ibid*

campaign to drive foreigners out of Alexandra”.³¹² A week into the violence they were still focussing thier efforts on addressing these criminal elements.

The ANC said its national, provincial and regional leadership “would be addressing public meetings across Gauteng this weekend to try to stop criminals using discrimination, hatred and fear to destabilise communities.”³¹³

It was Zuma who in the 19th of May 2008 publicly acknowledged the attacks as xenophobic, rightfully condemning the attacks on foreigners when stating “we cannot allow South Africa to be famous for xenophobia. We cannot be a xenophobic country”.³¹⁴ It was only towards the end of the violence that the attacks were identified as xenophobic and parallels drawn with racism. The Gauteng provincial ANC stated "in the same manner that we fought against racism, sexism and all forms of discrimination, we must fight against the hatred of foreign nationals,"³¹⁵

The Democratic Alliance , the Congress of South African Trade Unions, Inkata Freedom Party all identified the attacks as xenophobic.³¹⁶This is indeed worrying for the ANC who’s responsibility it is to show leadership.

The ANC then stressed that it was the remit of the police to deal with the violence with statements such as “we would like the community in Alexandra to be calm and allow

³¹² Mail & Guardian Online Reporter, 2008, “No Campaign to Repel Foreigners” ,*Mail and Guardian*, 14 May.

³¹³ SAPA, 2008f, “Xenophobia like Racism of Apartheid”, *Mail and Guardian*, 16 May, http://www.mg.co.za/articlePage.aspx?articleid=339434&area=/breaking_news/breaking_news_national/ Accessed 17 May 2008

³¹⁴ Ibid.

³¹⁵ Ibid.

³¹⁶ SAPA, 2008g, “Xenophobia attacks an assault on democracy”, *Mail and Guardian*, 13 May,

the police to handle the situation,"³¹⁷³¹⁸ made by Phalatse , after which they proceeded to criticise the police for acting too slowly.

ANC national executive committee member Winnie Madikizela-Mandela, accompanied by provincial ministers from Gauteng and senior ANC leadership figures in the province, on Wednesday visited the families of two immigrants who had died in the violence to sympathise with them³¹⁹ "I am sorry ... It is not all South Africans that are like this."³²⁰ She then went on further to say it was not xenophobia "this is not xenophobia, it is about the government failing our people. We are sorry".³²¹ However it is about xenophobia - the scapegoating of immigrants.

The ineffective manner in which the ANC responded highlights a lack of leadership on the matter. Lessons should be learnt from the department of Home Affairs that acted swiftly and according from the onset of the violence. Home Affairs Minister Nosiviwe Mapisa-Nqakula identified the attacks as xenophobic. Then immediately proceeded to set up a task team to "investigate the cause of the recent xenophobic attacks"³²². The task team convened by the Department of Home Affairs included Safety and Security, Social Development, Health and Education departments, as well as the Presidency.³²³ They then visited affected areas. A government delegation led by Home Affairs Minister Nosiviwe Mapisa-Nqakula visited Alexandra in Johannesburg on Thursday to

³¹⁷ SAPA (2008e)

³¹⁸ *ibid*

³¹⁹ Mail & Guardian Online Reporter (2008)

³²⁰ *ibid*

³²¹ Lefko-Everett (2008),p.31.

³²² SAPA, 2008h, "Task team to probe Xenophobia attacks", *Mail and Guardian*, 15 May,

http://www.mg.co.za/articlepage.aspx?area=/breaking_news/breaking_news_national/&articleid=33927

³²³ Accessed on 16 May

³²³ *Ibid.*

meet residents and affected foreign nationals in an attempt to assess the situation.³²⁴ Mapisa-Nqakula said there was a plan in place to return “all displaced people -- foreign and South African -- to their houses before the end of this week.”³²⁵ Furthermore they identified the fact that South Africans are a vulnerable group. Deputy Minister of Home Affairs Malusi Gigaba "People who attacked foreigners are from shacks, same as the foreigners. It is a matter of homeless people rising against homeless people".³²⁶

Conclusion

The interpretation of the Aliens Control Act led to the negative portrayal and subsequent mistreatment of immigrants. Through its implementation this biasness was institutionalised in the Department of Home Affairs and the police. Thus the Immigration Act of 2002 had a two fold challenge. Firstly, to ensure that immigration legislation was formulated in accordance with principles of human rights and secondly, that its provisions tackled the issues of xenophobia within state bodies and the country at large. In this aspect legislation has done very well in acknowledging the existence of xenophobia, as well as changing terms such as ‘alien’ to ‘foreigner’. Overall the new legislation has had the added effect of holding South Africa accountable regarding its treatment of immigrants. The positive step of establishing the Counter Xenophobia Unit means that government is not only mandated to address issues surrounding xenophobia, but is actively challenging behaviours and practises within state departments.(See chapter four for measures government has put in place). Furthermore the responsible

³²⁴ Ibid.

³²⁵ M. Montsho, 2008, “Criminals fingered for xenophobic strife”, *Mail and Guardian*, 15 May, http://www.mg.co.za/articlePage.aspx?articleid=339314&area=/breaking_news/breaking_news_national / Accessed on 16 May 2008

³²⁶ Ibid.

nature in which the Department of Home Affairs responded to the May 2008 violence demonstrates its leadership and positive commitment to curbing xenophobic sentiment.

The ANC government must take the lead in the fight against xenophobia. It can not rely on rhetoric that xenophobia will not be tolerated in the country. Instead leadership must be visibly seen as supportive of measures to combat xenophobia.

As demonstrated in the chapter, legislation alone can not bring about effective change. It needs to be backed up by investment in an extensive training programme for officials in government and the police. These officials are supposed to enforce legislation and protect this vulnerable group. Training must also be at senior and junior levels. For example, for a police captain to think sending his men on workshops on human rights, will not consider it appropriate to discipline a subordinate that abuses the rights of foreigners.

Chapter 3

Immigrant Initiatives as Self Help

Immigrants are all too aware of the challenges they face and need to be part of the multifaceted approach required to effectively address xenophobia. As one of the respondents stated “immigrants have to constantly try to address xenophobia just like black South Africans constantly [fought against] apartheid”³²⁷ This chapter analyses efforts made by immigrant communities demonstrating that they are not just victims of xenophobia. Instead they are proactive in their initiatives to build social cohesion amongst themselves by forming organisations and effectively networking themselves with South African NGOs. The chapter argues that by forming immigrant-led organisations, embedding themselves into local civil society and networking with key stakeholders advocating the rights of immigrants, immigrants are actively addressing issues of protection, integration and acceptance into South African society.

The first section of the chapter analyses how immigrants conceptualise the phenomenon whilst the second section investigates measures they have taken to address xenophobic sentiment.

Having been a West African immigrant in South Africa for sixteen years, immigrants from Nigeria, Ghana or even East Africans from Uganda could have served as case studies of immigrant experiences in South Africa. They speak English; the majority are from a similar faith background-Christianity; and I shared a secondary or tertiary

³²⁷ Sulega Dahir, a Somali Social Worker working with SASA. Interviewed on 31 August 2007 at the Johannesburg Muslim Charity Organisation based in Mayfair, Johannesburg.

education with many of them. However instead of looking within a familiar community Somalis were identified as the case study. From their dress and faith background they were a highly visible group that I previously had very little interaction with. It became very apparent that they were extremely organised and had registered a section 21 company-the Somali Association of South Africa (SASA).

Somali Association of South Africa

The Somali Association have been singled out by immigrant groups from Ivory Coast and Burundi, Tutumike-a network of organisations dealing with immigrant issues based in Cape Town and the Jesuite Refugee Services³²⁸ as a highly organised immigrant group. The fact that UNHCR in their efforts to collate information on the number of refugees in South Africa regularly consults the Somali Association is acknowledgement of the association's level of organisation.³²⁹ Unlike other immigrant groups the Somali Association has regional offices in all nine provinces of South Africa that are well coordinated. Furthermore the national director of the Somali Association-Ahmed Dawlo is called upon by the media (such as Radio 702 Talk) to provide insights into xenophobia in South Africa.³³⁰

Secondly they are the only immigrant group that have a rough estimate of how many Somalis are legally (those that have their status determined and the legal documentation to prove it) in South Africa. They estimate that from 1991 to 2008 there are about

³²⁸ Norman Malatjie, Former employee of Jesuite Refugee Services. Interviewed on 27 August 2007 at the offices of Summat Institute.

³²⁹ This information was provided by Ahmed Dawlo the National Director of the Somali Association and Hassam Abdul the chairperson of SASA in Pretoria. An interview with personnel from UNHCR confirmed that migrant communities that had strong networks within their communities.

³³⁰ Radio 702, 2006. "Series on attacks of Somalis in Cape Town", ³³⁰ *Radio 702*, August –September.

30,000 Somalis in the country.³³¹ This figure cannot be verified using government statistics as the statistics for the population census are not specific regarding nationality. The population census of 2003 stated that 0.1% (which is 460,813) of the total population of South Africa (44,356,776) were legal immigrants. Of this number 24,983 were from the rest of Africa, this figure excludes people from the Southern African Development Community countries. No mention is made of how many of the 24,983 were of Somali origin. The census in 2007 does not shed any more light into the matter. It states that 3.4% (1,648,821) of the population are foreign born.³³² This gives no indication of nationality, or if this group included South African citizens that were born outside of the country but are from South African parentage. A personnel from UNHCR stated that unfortunately statistics from the Department of Home Affairs were not cumulative and did not provide information of how many Somalis there are in the country in previous years. For instance, the Annual Report of the Department for 2008 estimates that there were 18,000 Somalis in 2008 that have either been granted refugee status or are seeking asylum³³³. However, there is no differentiation between new applications made in 2008 and those that are part of the backlog of applications still to be dealt with.

The year 2006 saw the largest number of xenophobic related incidents within one month aimed at one migrant group-the Somalis living in Cape Town. 28 Somali shopkeepers lost their lives in these attacks. This promoted the need to ascertain whether there was something unique about Somali immigrants that made them prone to attacks or whether the attacks were indicative of a larger problem relating to immigrants in general.

³³¹ Records held by SASA at its Head Office in Johannesburg.

³³² Statistics South Africa (2007).

³³³ Department of Home Affairs, 2008, *Annual Report 2008* Government Printer, Pretoria, p.35.

It was therefore necessary to compare the Somali experience to other immigrant groups. This served to highlight the strengths and weaknesses of the Somali community. The following section illustrates that a number of fundamental similarities in activities exist between immigrant groups. Differences in approach serve to inform and challenge the behaviours of all immigrant groups. Therefore the Somali experience is used as a prism from which to extrapolate key efforts made by immigrant populations from which recommendations are made.³³⁴

Interviews were conducted with immigrant community leaders who are well versed about the experience of their communities. Questions posed related to:

- Steps taken to integrate into South African society;
- Organisations formed by the immigrant community;
- Engagement with the local population;
- Their definition of xenophobia;
- Their network partners.

Key respondents from the Somali community included: Ahmed Dawlo, Abdul Hassam, Hussain Omar and Sulega Dahir who hold leadership positions with the Somali Association. Ahmed Dawlo³³⁵ is one of the founding members of the association. He is currently the National Director as well as a businessman. He came to South Africa in the early nineties. Whilst as a student in 1997 together with Somali businessmen and professionals (doctors and lecturers) they realised that there was no official body that represented Somalis. The association was formed in 1998 to address issues of welfare

³³⁴ See chapter four for detailed recommendations,

³³⁵ Interviewed 6 September 2007 in Highfields Johannesburg.

and advocacy. He is a charismatic man highly respected by community members as well as leaders of other immigrant groups.

To gain a perspective of the regional functioning of the association interviews were conducted with Abdul Hassam³³⁶ chairperson in Pretoria and Hussain Omar the coordinator of the Association in the Western Cape. Abbas Yusuf the association's representative of Johannesburg was unavailable for the interview, so Ahmed Dawlo suggested Abdul Hassam instead. Abdul Hassam joined the association in 1997 and became part of the executive in 2001.

Sulega Dahir³³⁷ a middle aged Muslim Somali woman acted as the gatekeeper to Somali women in the community. She had been in South Africa since 1999 working as a social worker for the Somali Association. Gaining her acceptance made it possible to secure interviews with Somali women. She also served as interpreter for a number of these women who did not speak English. Under her invite it was possible to visit places of worship.

From outside the Somali community, Ivorian Dosso Ndessomin³³⁸ was interviewed. He is the founder and currently the Coordinator of the Coordinating Body for Refugee Communities (CBRC). A well educated man who came to South Africa in 1998 as a refugee. He is very influential in that he identified and networked himself to community leaders from other immigrant groups like the Ethiopians, Malawians and the Rwandans and together formed the coordination body.

³³⁶ Interviewed 12 November 2007. Telephone interview.

³³⁷ Interviewed 31 August 2007 at the Johannesburg Muslim Association.

³³⁸ Interviewed 20 August 2007 at the offices of CBRC in Braamfontien Johannesburg.

Traits of immigrant communities

- a) *Immigrant populations are well networked within their own communities and draw upon knowledge from each other.*

Immigrants in South Africa have capitalised on the benefits of social capital. Social capital refers to the 'capacity for individuals to command scarce resources by virtue of their membership in a network or broader social structure'.³³⁹ The voluntary formation of networks amongst immigrant groups has been vital to their survival in South Africa as it is from these networks that they are able to negotiate their existence in the country. Social capital consists of both structural and cultural aspects. Kazemipur argues that cultural factors, 'the strength of the community- orientedness among individuals in a network, influences their willingness to share their resources with others in the community'.³⁴⁰ Norris and Inglehart argue that structural factors such as: 'time, money, knowledge, and skills that facilitate participation in voluntary associations'.³⁴¹

Upon arrival in the country immigrants quickly locate fellow countrymen living in South Africa. For the Somalis, Ahmed Dawlo pointed out that although Somalis are historically from a nomadic background, having to flee their country meant that they arrived into South Africa with nothing and with "a language barrier".³⁴² This meant that out of necessity they needed to find fellow Somalis settled in the country to assist them. Making use of contacts (be it family and or friend connections, immigrant organisations) in a host country is a common feature of migration. The Somali

³³⁹ A., Portes, 1995, 'Economic Sociology and the Sociology of Immigration: A Conceptual Overview' in A., Portes, eds, *The Economic Sociology of Immigration*, Russell Sage Foundation, p14.

³⁴⁰ A. Kazemipur, 2004, 'Social Capital of Immigrants in Canada', *PCERII Working Paper Series*, no. WP04-04, April, p.5

³⁴¹ P. Norris and R. Inglehart, 2006, "Gendering social capital : bowling in women's leagues?" in B. O'Neil, and E. Gidengil, eds, **Gender and social capital**, Routledge, New York

³⁴² Dawlo (2007)

Association has compiled information in the form of a short list that is given to new arrivals to help them settle. Addul Hassam stated:

whenever they [Somalis] come to this country we [the Somali Association] give them information first before they go into the country. We give them paperwork about how to live, where to go, who to ask what, and teach [them] about crime and all that.³⁴³

Dosso Ndessomin stated that immigrants from Ethiopia, Burundi, Ivory Coast, Malawi and Rwanda did not receive any formalised written information. Instead they relied upon the verbal information passed on to them by their contacts in the country or those they were living with. Any written information in the form of pamphlets or booklets could be obtained from umbrella migrant organisations such as the Coordination Body.³⁴⁴ Nonetheless immigrant communities are able to disseminate information amongst themselves about survival in South Africa. This is standard practice in immigration (Massey 1990, Messina 2006, Weiner 1985). From a random selection of immigrants on the streets of Hillbrow and Yeoville in Johannesburg, Burundian and Nigerian respondents provided details of persons from their own community that helped them upon their arrival into the country or the city. It is not only push and pull factors that cause people to move but choice was also a contributing factor. Choice is a determining factor in deciding which country to go to.³⁴⁵ A Burundian immigrant interviewed stated that he sought refuge in South Africa because of its favourable constitution as well as the fact that reports from fellow Burundians in the country identified conditions in South Africa as favourable for settlement.³⁴⁶ The relevance of these contacts and the various means by which immigrants gain information is

³⁴³ Hassam (2007)

³⁴⁴ Efforts made by CBRC are further in this chapter.

³⁴⁵ D. Massey et al, 1993 'Theories of International Migration: A Review and Appraisal' *Population and Development Review*. Vol.19. no.3, p.449.

³⁴⁶ Burundian respondent interviewed 6 September in Hillbrow, Johannesburg.

significant particularly with respect to work within the formal and informal sector. This then challenges the perception that immigrants steal jobs.

b) Immigrants have very strong work ethic.

The success of immigrants particularly as entrepreneurs is dependent on a number of factors relating to how well inserted or embedded they are in the socio-economic and institutional contexts they find themselves.³⁴⁷ Immigrants firstly identify openings for businesses that require ‘only a small outlay’ of capital and relatively little educational qualifications’.³⁴⁸ Openings are created by the emergence of demand for either ethnic products (foodstuffs, clothing, hair styles)³⁴⁹, or in the case of South Africa taking over a shop that has closed down. Kloosterman argues these markets are saturated because of the easy entry into them, therefore in order to continue immigrant entrepreneurs compete on flexibility of supply or price.³⁵⁰ Furthermore they gain competitive advantage through their access and use of social capital. Through their networks of relatives, ethnic group, or structures that they have managed to build a relationship of trust with; immigrant entrepreneurs have access to information, capital and labour at relatively low costs.³⁵¹

Contrary to the myth that immigrants are stealing jobs, the reality is that they are in fact making a positive contribution to the South African economy. Professor of Geography and Environmental Studies at the University of the Witwatersrand- Christian M

³⁴⁷ R. Kloosterman, 1996, “Immigrant Entrepreneurship and the Institutional Context: A Theoretical Exploration” in J. Rath, eds, *Immigrant Business: An Explanation of Embeddedness in Economic, Politico-Institutional and Social Environment*, Macmillan Press, Basingstoke, p.38.

³⁴⁸ R. Kloosterman, J. van der Leun, J. Rath, 1999, ‘Mixed embeddedness. (In)formal economic activities and immigrant business in the Netherlands’ *International Journal of Urban and Regional Research*, vol. 23, no.2, June, p.8

³⁴⁹ Kloosterman (1999), p.9

³⁵⁰ Ibid.

³⁵¹ Kloosterman (1999), p.10

Rogerson conducted research on 70 small, medium and micro enterprises (SMME) in Johannesburg owned by immigrants from Africa in 1998³⁵². He found that:

- Of the 70 entrepreneurs interviewed 37 originating from the Southern African Development Community (SADC) countries and 33 from other African countries. It was found that non-SADC businesses created an average of 4,06 jobs per business, compared to SADC businesses' average of 2,65. South Africans constituted about 50 percent of the workforce of non-SADC SMMEs and 40 percent in SADC businesses.
- At least half of the respondents were reinvesting capital into the further expansion and/or diversification of their businesses.

His findings were supported by the Centre for Development and Enterprise who in 2008 also carried out research on immigrant-owned businesses in Johannesburg who found that:³⁵³

- Immigrants are more than twice as likely to be self-employed as local adult residents
- 12 per cent of immigrants employ nearly four people each (mostly in the informal sector) and many of those they employ are South Africans

A young Somali male student randomly selected from the streets of Mayfair Johannesburg stated that his uncle owned a internet café in Mayfair and employed two South Africans- one as a security guard and the other worked on the shop floor.

³⁵² C.M. Rogerson, 1997, 'International Migration, Immigrant Entrepreneurs and South Africa's Small Enterprise Economy' *SAMP*, Cape Town, p.14.

³⁵³ CDE (2008)

This work ethic is part of a strong entrepreneurial spirit amongst Somalis. The reasons provided for this were two fold. Ahmed Dawlo stated that “being a refugee means being associated with a lot of negative assertions. [As] Somalis [we] do not want to be seen as a strain on society”. Since the label ‘refugee’ sustains as Zetter argues “a condition of dependency”³⁵⁴; it is very important for refugees to create an identity for themselves that portrays them as active contributors to the economy.

Sulega Dahir explained how Somalis would go about setting-up shops. Muslim charity organisations were relied upon.

The Islamic NGOS like Johannesburg Muslim Charity Organisation (JMCO) and Sunset National Zakah Fund of South African (ZAKAT)³⁵⁵ ... are the ones that give out the charity [of]about R3,000. If I want to set a shop it is [up to me] to look for an area that I think is suitable to open a shop. You have to find your shop by yourself. If you find one in the location you give them directions. You have to write down... I mean how you are going to run your business and sell everything. They give you the money [once you have brought] the quotation of what you want . They will check the prices you bring back from wholesalers. They might say “ah it’s a bit high go find somewhere else which is cheaper than this”. They send you to places like Jumbo, Metro and other wholesalers...After a month they come and see how you are doing [to ensure] you are doing fine and [how] your business is going. Next time if anything happens then they will assist you again.³⁵⁶

These organisations also provided training workshops. Sulega Dahir noted that:

Sunset National Zakah Fund of South African [Muslim] NGO and Johannesburg Muslim Charitable Organisation run workshops. They give you training on how to handle your business. As long as you know how to speak English, and as long as you know how to write, how to calculate then it’s all fine. Training is for three weeks. The training is free. Monday to Wednesdays from 9 o’clock to 1 o’clock.³⁵⁷

³⁵⁴ Zetter, R., 1991, ‘Labelling Refugees: forming and transforming a Bureaucratic Identity’ *Journal of Refugee Studies* , vol. 4, no.1, p. 47.

³⁵⁵ The South African National Zakah Fund (ZAKAT) is a Muslim based welfare organisation committed to the “economic, educational, spiritual and social upliftment of the destitute.” The Business Training Programme is one of its welfare programmes. It assess the capabilities and skills of participants and is aimed at assisting individuals and families to become financially self sufficient. www.sanzah.org.za

³⁵⁶ Dahir (2007)

³⁵⁷ Ibid.

The example demonstrates the utility of community networks in assisting members to set up businesses. Ahmed Dawlo also stated that as “Somalis we will never beg!”³⁵⁸ There was a sense of pride in being self-reliant. This sense of pride is not only exhibited by Somalis.

This sentiment is replicated on other immigrant populations who take pride in their entrepreneurial ability Dosso Ndessomin recalled when he used to sell in the streets:

In 1995 we realised that we would receive no assistance from the State apart from being issued a paper. So up until your case is adjudicated we decided that we were going to sell in the street, next to the post office and around the High Court. The local population realised that we were selling belts, shoes that we used to buy from Chinese people [and] were making profit. If you buy a belt at R3.00 and you come and sell [it] at R15.00 or R20.00 imagine [the profit]. And we were buying in bulk. South Africans started approaching us. South African women used to come to us and sit next to us and start selling or learning how to do braiding. So we started interacting. It did not matter what your profession in your country of origin was. Selling on the street was about making a living. In our communities we would get R200.00 or R300.00 to establish ourselves then you would pay back the community. That is how we were doing it. So from selling in the streets people started opening shops [and] employing South Africans. We started moving from locations to a better location. It was about upward mobility.³⁵⁹

A positive outcome was that it encouraged a few South Africans in the informal sector, particularly South African women, to move from selling fruits and vegetables at the side of the streets to branch out into braiding and selling commodities that yielded higher returns. A South African woman braiding hair in Hillbrow stated that she had learnt this skill from “watching and asking these people”.³⁶⁰

³⁵⁸ Dawlo (2007)

³⁵⁹ Ndessomin (2007)

³⁶⁰ South African street hawker interviewed on 3 September 2007 in Hillbrow, Johannesburg.

Dosso Ndessomin went on further to say:

We were entrepreneurial. When[ever] a newcomer arrives we knew we must host that person until that person fits into the system. [For] the first two months that person does not pay rent. [Because he does not have money we agree] to give him some money to start a business. After two or three months he will start paying back the R100.00.³⁶¹

Like the Somalis the Ivorian refugees did not want their refugee label to create the notion that refugees were highly dependent on State resources for their day to day survival. It is for this reason that Dosso Ndessomin launched a programme to educate communities not to rely on NGOs for feeding schemes. The purpose was to encourage immigrants to get involved in business.

Taken together, the fact that immigrant communities are well organised and supportive of strong work ethic challenges the notion that immigrants are a socio-economic burden on society.

Entrepreneurism as a factor for contention

The above examples reveal the utility of community networks in assisting members to become self sufficient however these actions can exacerbate xenophobic sentiment. Entrepreneurism has not been positively received by the local South African populace. When asked if Somalis had a role to play in exacerbating xenophobic sentiment by opening Spaza Shops Dawla responded by stating, “we are a very open society. We take business into areas where there are no services. Other immigrant communities isolate themselves. Somalis employ local south Africans”.³⁶² No consideration was made of the socio-economic conditions they were entering and the justification provided related to

³⁶¹ Ibid.

³⁶² Dawlo (2007)

the creation of employment. The locations that Sulega Dahir spoke about are very poor, in a country where unofficial levels of unemployment are very high. It is this entrepreneurship that exacerbates and in most cases fuels xenophobic sentiment. Dosso Ndessomin highlighted the fact that “Somalis make problems for themselves by selling cheaper goods in townships where they are isolated”³⁶³ Dosso went on further to state:

Competition is there and accentuates xenophobic-hatred. You [the Somalis] are doing good but I [a local South African] don't know how to go about it. And I'm not making anything whilst you are making everything . You are dropping down prices and people are going to you.³⁶⁴

Local South Africans shopkeepers confirmed this by stating “they are lowering prices. They are selling things cheaper, R3.00 or £5.00 cheaper than us”³⁶⁵. This explains the resentment of Somalis by South African shopkeepers. In terms of the wider populace resentment rests in the fact that Somalis have been able to create employment for themselves. At the heart of it Somalis need to be more aware of how their entrepreneurialism sparks xenophobic sentiment.

Sulega Dahir responded that “it is the Hawkers Association that keeps the prices high when they should not be.”³⁶⁶ But she couldn't provide a response when asked if steps were being taken with Hawker Associations to discuss prices.

In their defence Ahmed Dawlo argued that in the early years (between 1998-2001) the Somalis with the aid of SASA aimed to promote interaction between local South African and Somali traders in Diepsloot Johannesburg. Somali traders rented a hall

³⁶³ Interviewed conducted on 20 August 2007

³⁶⁴ Ndessomin (2007)

³⁶⁵ HSRC, 2008, *Citizenship, Violence and Xenophobia in South Africa: Perceptions from South African Communities*, HSRC, June, p.19, <http://www.hsrc.ac.za/Document-2807.phtml> Accessed on 26 January 2009.

³⁶⁶ Dahir (2007)

from the local municipality and ran a workshop with local people and local hawkers to allow each side to “get to know each other”.³⁶⁷ Unfortunately the process was brought to an abrupt halt because a petition stating that “Somalis must leave”³⁶⁸ was circulated by local community leaders.

Abdul Hassam provided another dimension. He stated that although some meetings with local South African community members have been successful it was not “the perpetrators that are around the table, but the good people.”³⁶⁹ A valid assertion to make considering the purpose of the meetings was to explain to those that felt threatened why Somalis did not pose a threat. Abdul Hassam explained that the meetings were used as platforms to introduce South Africans to Somalis and explain the presence of Somalis in the country.

[We]talk to them and tell them exactly who we are...That Somalis are people who have no country. They [South Africans] do not [know] the background story of what is happening in Somalia. They think these are the people who come [to South Africa] for the sole reason of making business. Which is not the case. Somalis have come here for the mere reason of survival.³⁷⁰

What the Somalis failed to understand is that South Africans too are also trying to *survive* in a country where they have not received the socio-economic benefits promised to them by the new South Africa. Ahmed Dawlo in an interview with the Cape Argus on 09 July 2007 stated that "they are jealous of the thriving immigrant community in the townships."³⁷¹ In another interview with the Mail and Guardian on 03 October 2006 Dawlo said, "Somalis have made a name for themselves because they make more

³⁶⁷ Dawlo (2007)

³⁶⁸ Ibid.

³⁶⁹ Hassam (2007)

³⁷⁰ Ibid.

³⁷¹ C. Bailey, 2007, 'Somalis seen as threats to the economy' *Cape Argus* 05 July http://www.iol.co.za/index.php?set_id=1&click_id=15&art_id=vn20070709115612548C374766 Accessed on 23 August 2008.

money than some South Africans.”³⁷² These factors increase resentment of immigrant populations.

It was also interesting for Abdul Hassam to state that the sole purpose of Somalis in South Africa was not to ‘make business’. As illustrated above Somalis have the starting capital to start businesses which local South Africans do not. Somalis need to assess what their contribution to society is. In other words are they engaged in activities that look beyond themselves to the good of the country? In response to how socio-economic circumstances of South Africans could result in xenophobic sentiment Somalis stated that “the government needs to focus on improving living conditions in these areas, so that people do not succumb to irrational fear”.³⁷³ This statement is telling of how Somalis do not recognise, let alone take responsibility for their actions that do exacerbate xenophobic sentiment.

Another crucial point relating to entrepreneurship was made by Dosso Ndessomin who said that “they [Somalis] don’t integrate well. They keep to themselves. They live by themselves. They don’t speak the language”.³⁷⁴ This is where Somalis differ greatly from other immigrant groups who have tried to learn the local language in order to increase their communication with local South Africans which in turn has facilitated their integration into local society. Dalwo acknowledged that Somalis “didn’t easily pick up local languages”.³⁷⁵ Dosso Ndessomin stated that:

Somalis and Ethiopians isolate themselves. I think for some of these communities it is a traditional and cultural thing. We are telling them that

³⁷² S. Ismail, 2006, ‘Somalis live in fear in South Africa’ *Mail and Guardian*, 30 October.
<http://www.mg.co.za/article/2006-10-03-somalis-live-in-fear-south-africa> Accessed on 23 August 2008

³⁷³ Bailey (2007)

³⁷⁴ Ndessomin (2007)

³⁷⁵ Dawlo (2007)

whenever you get together and you isolate yourselves from the people in the local communities it will always create some frictions. This is what is happening. If you can try to move and disseminate a bit and try to be within their [local South African] communities they will adopt you.³⁷⁶

Abbas Yusuf in an interview with the Star on 09 September 2006 stated that “Somalis don’t have any links with the community they’re trading in”.³⁷⁷ Creating links with local communities is vital to integration therefore speaking the local language is an integral part of this process.

Abdul Hassam was quick to stress that “Somali people are very social people. And they have a very good attitude and they are people that have got respect for other people”. In the politics of access once perceived as a threat particularly a threat to the access of economic resources it is immaterial how friendly or sociable a migrant is.

Visibility as a factor for contention

Somalis are highly concentrated in certain areas in South Africa. Mayfair, Fordsburg and Newtown in Johannesburg. Clustering together is not specific to Somalis. Culter argues that immigrant communities cluster together when they have cultural characteristics in common with each other (such as language) that differ from the characteristics of the population as a whole.³⁷⁸ In a new environment the familiar is comforting however this makes them easily identifiable. Their concentration can not provide an automatic response to why immigrants are targeted. After all immigration

³⁷⁶ Ndessomin (2007)

³⁷⁷ M. Schmidt, 2006, ‘Attacks on Somalis are put down to jealousy and racism’ *The Star*, 9 September , <http://www.thestar.co.za/index.php?fArticleId=3431263> Accessed on 25 July 2009

³⁷⁸ CutlerD., Glaeser, E., Vigdor J. 2005, ‘Is the Melting Pot Still hot? Explaining the Resurgence of Immigrant Segregation’ Working Paper 11295 *National Bureau of Economic Research* , Cambridge: Massachusetts , April 2005. p.5 <http://www.nber.org/papers/w11295> Accessed on 11 November 2009.

into South Africa is not a new phenomenon. There were a large number of black immigrants concentrated in specific areas during Apartheid. At its height in 1972 the South African mining industry employed over 600,000 black immigrants from: Malawi (33%), Mozambique (26%), Lesotho (25%), Botswana (7%), Zambia (5%) and Swaziland (4%). The mining industry absorbed 296, 000 immigrants. They constituted over 78% of the black labour force employed in the gold and coal mining industries in the Transvaal.³⁷⁹ This however did not lead to violent expressions of xenophobic sentiment which must imply that there is something about immigrants in the New South Africa that makes them undesirable.

A factor that distinguished Somalis from South Africans and other immigrant groups is their dress and slender builds. Somalis are very visible making it difficult for them to integrate. Loren Landau chairperson of the Consortium for Refugees and Migrants in South Africa (CORMSA) argued that, "there's no chance for Somalis to really integrate. Zimbabweans, Batswana, etc, can, if they choose, make themselves more invisible, but for the Somalis that's not an option".³⁸⁰

Ahmed Dawlo in an interview in the Mail and Guardian on the 03 of October 2006 mentioned that townships “pose greater risks to Somalis because of the language and culture discrepancies, which appear more noticeable in these areas. He said metropolitan areas, which are generally more cosmopolitan, make foreigners feel safer.”³⁸¹ And yet Somalis still ventured into the townships.

³⁷⁹ F., Wilson, 1972, *Migrant Labour: Report to the South African Council of Churches*. The South African Council of Churches, Johannesburg, p.109.

³⁸⁰ Ibid.

³⁸¹ Ismail (2006)

Somalis have deliberately taken responsibility for their socio-economic wellbeing and as communities supported each other. In the fight against xenophobia it is imperative that they and all immigrants in South Africa acknowledge that their entrepreneurship and visibility can unwittingly increase xenophobic sentiment.

It is also necessary to take into consideration other factors such as religion. The atrocities of 9/11 led to the securitization of Muslims and its ensuing Islamophobia. Could being Muslim be a contributing factor as to why Somalis experience xenophobia? Cape Town was affected by violence in the 1990s led by Muslims called 'People against Gangsters and Drugs (PAGAD)' thus could the violence directed at Somalis be a result of that? The researcher was not persuaded by the findings that there was definitive evidence to support this.³⁸²

Conceptualisation of xenophobia

Any programme that seeks to address xenophobia must consider immigrants' conceptualisation of the phenomenon with the purpose of developing measures which address specific triggers and manifestations of xenophobia. A number of causes of xenophobic sentiment were identified by the respondents.

- **Violence as an expression of internalised racism**

Ahmed Dawlo argued that xenophobia must be understood against the backdrop of apartheid. He stated that:

Xenophobia is a child of racism. This is a product of apartheid South Africa that has continued into the new South Africa. It is black immigrants from

³⁸² Nevertheless, V. Igglesden presented a paper entitled "A Refugee Vigilante Network in Cape Town" in 2006 at the Biennial Conference of the South African Association of Political Studies hosted at the University of the Western Cape, South Africa, 5-8 September. It examined how refugees, in particular Somalis, are contributing to crime.

the African continent and not other groups of immigrants that are targeted.³⁸³

The treatment of black immigrants by black South African is indicative of internalised racism. Weissglass argues that “patterns of internalizing and transferring racism (insults, criticism, slurs, and violence) are rooted in genocide, slavery, subjugation, conquest, and exploitation. When people are hurt and not allowed to heal through emotional release, they are pulled to re-enact the hurt on someone else.”³⁸⁴ This follows the logic that the abused becomes the abuser. Black South Africans were greatly disadvantaged by the apartheid regime that objectified them as inferior. Legislation was used to ensure that black South Africans were treated and conceptualised as second-class people, unworthy of rights. The exclusion that they suffered is now being projected onto immigrants. Nyamnjoh argues that immigrants are targeted because of ‘their blackness, by a society where skin colour served as an excuse for whole categories of discriminatory practises’.³⁸⁵

This provides a plausible explanation of why negative sentiment is directed at African immigrants. It also explains why black shopkeepers from the African continent and not Pakistanis or Chinese shopkeepers are targeted. Loren Landau confirms this assertion in the following statement, “in rural areas you see a lot of Pakistani and Chinese shopkeepers - but they are not being killed - it seems to be taken as a special affront when a foreign black person owns a business.”³⁸⁶ Coupled with the fact that the government has not delivered on promises made in 1994, this internalisation has manifested itself in: name calling (makwerekwere); the creation of negative perceptions

³⁸³ Dawlo (2007)

³⁸⁴ J. Weissglass, 2001, “Racism and the Achievement Gap”, *St Pauls School Reform*, vol.20, no.43, p.49-55 <http://saintpaulschoolreform.com/files/research/weissglass.pdf> Accessed on 31 August 2009

³⁸⁵ Nyamnjoh (2006), p.45

³⁸⁶ Schmidt (2006)

of immigrants; and in extreme cases violence. No wonder Sulega Dahir mentioned that “xenophobia is open access. They target Somalis, people from Burundi, Zimbabwe, you name it. If you are a black African then that’s it for you....they call us makwerekwere and shout insults at us.”³⁸⁷

- **The politics of access**

Abdul Hassam was the only respondent to provide a holistic definition of xenophobia.

Xenophobia is more than the irrational hatred of foreigners. The reason is that after the 1994 elections there was something that was promised to these people and they did not get that. So they think that the little things that they have is being shared with people from African countries who have come to South Africa, and they don’t want that. So they say our jobs are being taken, our women are taken. Which I think is a misconception.³⁸⁸

Abdul Hassam in the statement above explained the operation of the politics of access highlighting how when it comes to the economic rights such as employment and social rights such as housing, the government has not been able to deliver liberally. So in order to protect entitlements misconceptions are created with the purpose of making immigrants undesirable.

- **Lack of awareness**

Dosso Ndesommin summarised that one of the reasons for xenophobic sentiment in South Africa is “a lack of awareness”. This lack of awareness refers to the fact that black South Africans have been very insulated. Courtesy of the apartheid education system, there is no historical awareness of political conditions in countries beyond their borders. Abdul Hassan stated that:

These people were never told about the history of this country and how this country was liberated. Who helped liberated them. Africans shed their

³⁸⁷ Dahir (2007).

³⁸⁸ Hassam (2007).

blood. Particularly Zimbabweans and Mozambique and part of neighbouring countries also. This history is not given back to these people.³⁸⁹

In relation to government officials all the respondents identified them as very xenophobic on the basis that they were unaware of entitlements due to immigrants. When asked who she thought exhibited the worst signs of xenophobia, Sulega Dahir responded by saying “the police. We make complaints-nothing happens. They check ID and permit papers. If they are not recognised the individuals are locked [up or] arrested”.³⁹⁰ She recounted an incident that took place on the 16th of August 2007 where she was called upon to offer assistance to Nimo- a female refugee from Ethiopia. Nimo was 7months pregnant at the time and was accused of theft by fellow Ethiopians who then called the police on her. She was arrested and roughly placed into the police van whilst her house was searched. The police arrested her and she was held at John Voster police station for two weeks.

Dosso Ndessomin illustrated that the possession of a refugee identity book has not guaranteed access to entitlements.

This is my ID [*holds up the red Refugee identity book*]. It is not known by everybody. When you are given your refugee ID it comes with a list of entitlements. But when it comes to entitlements at implementation level this is where there is a problem. Because services and institutions do not know about this.³⁹¹

He gave an example of the problems faced with Immigration Officers at South African airports upon his return from international trips.

At the airport you are asked, ‘are you a resident?’ you say, ‘yes!’ ‘Show me that you are a resident.’ You show him the ID. ‘Is this a green paper?’ I didn’t stamp this. Check it and you will see. It is issued by your State your

³⁸⁹ Ndessomin (2007).

³⁹⁰ Dahir (2007).

³⁹¹ Ndessomin (2007).

department, not me. My travel document is stamped by the department of Home Affairs signed by the Director of Refugees. But they don't care.³⁹²

He also spoke of the procedural problems of having a refugee permit.

Your refugee permit is extended every two years. You apply for the ID. It takes a long time before a new one is sent. This one [*pointing to his ID book*] expired in February 2007. It is now September 2007. It is expired-dead what do you do it? When you go to an institution like the bank and say I put my money here. They say your ID has expired we can't [provide] you a service. I have [banked my money] and I cannot get it. The laws all refer to a green ID and proof of residence. It is not easy for refugees. If they have landlords they cannot prove residency if they are sharing and it is someone else's name on the lease.³⁹³

For Dosso Ndessomin xenophobia "is not that much at community and individual level. It is at an institutional level." This reinforces arguments made in chapter two of the existence of institutional xenophobia amongst state officials. Although new legislation in the form of the Immigration Act 2002 and its amendment Acts have been introduced immigrants are yet to experience its full benefits.

The media was also identified as perpetuating xenophobic sentiment. Ahmed Dawlo pointed out that "the media systematic [ally] portray negative [perceptions]. Anything African [is about] taking away jobs or bringing drugs. You've got Pakistanis, East Europeans, Chinese who do these things but nothing is said about them."³⁹⁴ No distinction was made regarding the different categories of immigrants: temporary visitors, refugees and asylum.

Dosso Ndessomin agreed that the media exacerbated xenophobic sentiment.

The media was polarising the matter by saying, you know, all these people are aliens. Imagine in South Africa what aliens means. People are told not to get close to aliens. And we were aliens. In our papers it was written aliens. So the media has really made things worse. [Especially] by saying

³⁹² Ibid.

³⁹³ Ibid.

³⁹⁴ Dawlo (2007).

we will take your jobs or take your wives. So they were making things very difficult for us to integrate.³⁹⁵

The conceptualisation of xenophobia provided by the respondents related to the attributes of xenophobia; namely who the main perpetrators were and how it manifested itself. Lack of awareness was highlighted as the main reason for xenophobic sentiment which was illustrated by the fact that all the respondents stated, “they do not know who we are, why we are here, and how to treat us.”

The response provided by immigrants of their perception of xenophobia demonstrates an acute understanding of xenophobic sentiment which serves to help develop precise measures aimed at achieving specific outcomes. One of the ways immigrants address issues surrounding the lack of awareness on a micro level is through their interaction with faith based organisations.

³⁹⁵ Ndessomin (2007).

Faith Based Organisations

All respondents mentioned that central to integration was their involvement in local civic organisations-namely faith based organisations for two reasons. Firstly, faith based organisations invariably provided a neutral yet common platform for immigrants and South Africans to interact. Secondly, religion has the soft power capability of challenging behaviours.

Somalis head for places of worship because as Ahmed Dawla stated “we are a religious people”.³⁹⁶ As faith is a shared experience, places of worship provide a sense of familiarity and common ground for interaction between immigrants and the local population.³⁹⁷ The experience of a Somali attending a mosque and another a church are examined to ascertain how Somali interests are furthered through faith based organizations.

Mosques

The most evident niche provided by mosques relates to their soft power capability “use of persuasive power of information, ideas and communication”.³⁹⁸ Teachings have a profound thought- provoking effect. SASA encouraged its members to interact with the congregation based on the Islamic teachings that called for all to respect ones’ neighbours. Islam encouraged Muslims to treat their neighbours in a gentle way that reflects the true and genuine spirit of Islam. The Qu’ran states the necessity to show

³⁹⁶ Dawlo (2007)

³⁹⁷ Civil Society is defined as, “the realm of organised social life that is voluntary, self generating, self supporting, autonomous from the state, and bound by the legal order or set of shared rules. L. Diamond, 1995, “Rethinking Civil Society” quoted in *Crossroads* USIS Newsletter, Lagos, February 1995, p9-10

³⁹⁸ P. Gready ,2004, “Introduction” in P.Gready ,eds, *Fighting For Human Rights*, Routledge, London, p.18.

“kindness unto the neighbour who is not of kin”³⁹⁹. Imam Alim stated that: ‘A person is either your brother in faith, or your equal in humanity.’⁴⁰⁰ Being good to neighbours is not only restricted to those who share the same building with you. Muslims are encouraged to introduce themselves and their family to neighbours when they move into a new place or when new neighbours move in.⁴⁰¹ This was a powerful teaching to make to Muslims living in a country that portrays immigrants negatively.

Teachings at the Mosques can shape the behaviour of members. Sulega Dahir stated that all her actions to help were motivated by her faith that calls Muslims to be of service. “First priority is our neighbour. Anything happens to them you are there. One day you will need them. We are neighbours, we need each other.”⁴⁰² A South African woman recalled an incident where a Somali woman called her from the police station requesting that she go to the Somali woman’s house to retrieve documentation confirming the Somali’s woman’s residence status in the country. “I went as quickly as my feet could carry me, I tell you, I went fast to help her!”⁴⁰³ This example demonstrates that South African citizens do empathise with Somali refugees.

The Iman encouraged people to be proactive in spite of the struggles they face. Members were encouraged to get involved in activities that benefitted the community. One such activity was volunteering at the Johannesburg Muslim Charity Organisation that provided assistance to the poor. **Hafiz Ashraf Ali of the Johannesburg Muslim Organisation – a South African citizen stated “we help all poor people, South**

³⁹⁹ Qu’ran An-Nisaa 4:34 <http://www.islamawareness.net/Neighbours/kindness.html> Accessed on 31 August 2007

⁴⁰⁰ Amin, E.M ‘Kindness to a non-Muslim Neighbour: Tips for Interaction’ *Islam Awareness* <http://www.islamawareness.net/Neighbours/kindness.html> Accessed on 31 August 2007

⁴⁰¹ Ibid.

⁴⁰² Dahir (2007)

⁴⁰³ South African woman interviewed on 31 August 2007 at a mosque in Mayfair, Johannesburg.

Africans, Somalis, all people. If you are poor we will help”.⁴⁰⁴ Sulega Dahir, also volunteers her services at the **Johannesburg Muslim Organisation** where she acts as translator for Somali women on their visits to hospitals and clinics.

During RBX, Madrasas in Soweto in 2000 served as platforms used by refugees to tell the local population who they were. Sulega Dahir recounts how well attended these meetings were.

Teachings at Mosques and Madrasas although well intention only scratch the surface of the problem because of the small percentage of black Muslim South Africans. There are 66,497 black South African Muslims of which 8,204 live in the Western Cape and 24,597 in Gauteng.⁴⁰⁵ Furthermore activities organised by Mosques will have very limited participation from non-Muslim. The church on the other hand is able to reach a wider demographic of people with there being 34,765,152 Christian black South Africans.⁴⁰⁶

Churches

Unlike the Mosques where Imams have not been publically vocal about integration, Dosso Ndessomin highlighted the fact that the Church has been very outspoken on the matter of refugees. The South African Council of Churches, made up of a majority of Christian denominations played a vital role in mediating xenophobic related conflicts that broke out in Gauteng in 2005: namely Diepsloot, Olievenhoutsbosch, and Freedom

⁴⁰⁴ Interviewed 31 August 2007

⁴⁰⁵ Statistics South Africa, 2001, ‘Table: Census 2001 by province, gender, religion recode (derived) and population group’, *Statistics South Africa*
<http://www.statssa.gov.za/timeseriesdata/pxweb2006/Dialog/Saveshow.asp> Accessed on 01 September 2007.

⁴⁰⁶ Ibid.

Park. Under the banner of peace-building and on the request from immigrant members, the Council of Churches addressed local community leaders in an effort to broker peaceful living arrangements for local South Africans and immigrants.⁴⁰⁷

Professor Russell Botman- president of the Council of Churches argued that “the Church has a central role to play in addressing the persistent racism, sexism, homophobia and xenophobia that continue to plague our society”⁴⁰⁸ One way of ensuring this has been by assisting the integration of immigrants in local communities. Programmes organised for refugees and immigrants ensured that local South Africans were present to interact with migrants. For example, Somali women and children took advantage of the Laity Training sessions organised by the Ecumenical Refugee Centre made up of the Anglican and Catholic Dioceses together with the Central Methodist Church of Central Johannesburg (CMC).⁴⁰⁹ Attendees to these arts and crafts classes were South Africans as well as refugees and asylum seekers. Attendees used this as a platform not only to gain skills but to voice who immigrants are and why they were in the country.

Dosso Ndessomin stated that some immigrant populations have deliberately chosen to attend churches where the plights of immigrants are openly discussed within the congregation. The Central Methodist Church is one such place. Although it provides accommodation for over 600 displaced persons⁴¹⁰ the majority being Zimbabweans affected by the recent problems in Zimbabwe, they were engaged in activities aimed at transforming their own lives. A Zimbabwean nurse stated that “this place gives me the

⁴⁰⁷ South African Council of Churches, 2005, *Annual Report 2005*, SACC, Marshalltown , p.13.<http://www.sacc.org.za/docs/AnRept05.pdf> Accessed on 05 January 2008

⁴⁰⁸ South African Council of Churches (2005) p.2.

⁴⁰⁹ Central Methodist Mission, ‘Ray of Hope’ *Central Methodist Mission* http://www.rayofhope.org.za/modules.php?name=About_us accessed on 05 January 2008

⁴¹⁰ CMM (2008)

opportunity to practise what I know [nursing] to people who need it”.⁴¹¹ She was referring to immigrants within the church and some of the South African congregation who would use the clinic facilities in the church. The church runs programs led by immigrants for the benefit of the entire congregation. Twice a month a meeting is held in the main church auditorium to discuss the progress of the various committees such as: drama, dancing, advocacy. The minutes demonstrated initiatives spearheaded by immigrants themselves. Two popular programmes with the South African members of the congregation were dance and sport. The dances classes were led by a woman from the Congo. Everyone contributed to the weekly collection that went towards paying cleaners to clean the building and pay the nurses in the clinic. From the minutes the largest amount of money collected in 2007 was R3,500.00. These activities demonstrate that immigrants are more than capable of meeting their own needs by pooling resources between themselves. They were also using visits from the local media (Sowetan, Mail and Guardian, Business Day, The South African Broadcasting Corporation -SABC) and the international media to broadcast their plight. On the date of the interview with Bishop Verryn there were journalists from France and Los Angeles.

The benefit of interacting amongst themselves and with the congregation was not only achieved within the church building. A homeless South African who also used the church facilities interviewed stated, “these Zimbabweans are not that bad you know. They are just like us [South Africans]. With the same problems. Struggling like us.

⁴¹¹ Zimbabwean nurse interviewed on 31 August 2007 at CMC, Central Johannesburg, Johannesburg.

Once you know them they are not that bad”.⁴¹² Implying his interaction with Zimbabweans had changed his perception of them.

The same could not be said of all the South African congregation attending the Central Methodist Church. Some South African members of the congregation were increasingly frustrated with decisions made by the church, particularly with reference to the housing of refugees on church premises. Parents of children in the toddler group called FLOC were very unhappy about a specific matter. They demanded that Bishop Verryn:

1) Remove his ‘so-called Refugees’... 3) Giving him 14 days to find alternative accommodation for his so-called Refugees... 5) failure to comply would mean court action...and 7) they would involve the police and private security companies to deal with the situation.⁴¹³

In response to the letter about overcrowding in our church- Bishop Verryn stated “they are welcome to call the police. And I hope the police are able to provide an alternative other than the streets or the rubbish bins.”⁴¹⁴ Bishop Verryn went on to explain that the church was a “conundrum”.

[Although] it would be ludicrous to imagine that you call yourself Christian and yet sustain an immovable prejudice against another human being for whatever reason, whether it be that they come from another country or are of a different age or gender... the church still has people that are very prejudiced... Beneath the surface there is truly a lot of suspicion and vitriol.⁴¹⁵

Irrespective of the fact that members of FLOC (a mother’s and toddler group) were all too aware of the plight of the immigrant members of the congregation, their priority was the health and safety and hygiene concerns of having their toddlers playing in areas that

⁴¹² Respondent was a homeless middle aged black South African man, interviewed outside of CMC building in central Johannesburg. From 7am in the morning to 7pm in the evening all those sleeping in the church are not permitted to be in the building during these hours.

⁴¹³ M.S. Nethononda, ‘Memorandum for the Attention of Bishop Paul Verryn’ From Chairperson of FLOC, 27 August 2007.

⁴¹⁴ Verryn (2007)

⁴¹⁵ Ibid.

had been slept in. Even though they knew all too well how every Saturday evening R5.00 was collected from everyone in the building to pay four cleaners to clean the building every day. The rest of that money was used to pay salaries of the two cleaners and two nurses in the clinic. The remainder of the money went towards the replacement of breakages.⁴¹⁶

Mosques and Churches allowed for the interaction between immigrants and the local black population. They have also been used as platforms for immigrants to showcase their skills. Moreover, they have made considerable progress in their local settings to highlight the plight of immigrants and assist with their integration into local communities. However they receive no overall direction from the religious governing bodies. Instead it is has been left to local branches to apply principles of the Bible and the Qur'an as they see appropriate. Therefore faith bodies have not been able to challenge behaviours of congregants nationwide. As evidenced by FLOC in CMC there are still members within faith bodies that are and will remain prejudiced irrespective of initiatives made to challenge behaviour. In spite of this, faith bodies immediately responded to xenophobic-related outbreak of violence by providing food and shelter to those affected as well as negotiating between affected parties. Following the May 2008 violence South African Council of Churches was reported to have provided assistance to six sites across Gauteng that were temporarily accommodating displaced immigrations.⁴¹⁷ CMC was used by UNHCR as a distribution centre for blankets, food,

⁴¹⁶ Bishop Verryn (2007)

⁴¹⁷ V. Igglesden, 2008, *Xenophobic Violence in South Africa in May 2008: A Humanitarian Response to the Gauteng and the Western Cape. A Narrative Account*, Forced Migration Studies Programme, Johannesburg, p.9

sanitary packs and first aid.⁴¹⁸ Mosques in Gauteng, Tshwane and Mpumalanga contacted the Somali Association to arrange for the transportation of affected immigrants in the region to safe spots.⁴¹⁹ Efforts made by faith bodies should therefore be encouraged, commended and applauded.

As lack of awareness amongst state officials was identified as a problem area, immigrants have utilised their network partnerships to address culture. For this reason and in order to contribute on a macro level to the debate on how to combat xenophobia the Somali Associations network partnerships have proved vital.

Coordinating Body of Refugee Communities

With the assistance of the Coordinating Body of Refugees Communities the Somali Association has made strides in the area of advocacy. The Refugee Act of 1998 came into force in 2000. From its inception in Somali Association's activities were two fold: namely to increase awareness of who refugees and asylum seekers were; and secondly addressing concerns relating to the recognition of refugees in South Africa particularly with reference of Refugee children.

The Coordinating Body for Refugee Communities was formed in October 1999 by Refugee Community Leaders from Somalia, Ethiopia, Sudan, Rwanda, Burundi, Comoros Island, Cote D'Ivoire, Cameroon, Malawi.

Dosso Ndessomin stated that:

The Mandate of the body was very clear. We are not going to be a service provider. We are a lobby and advocacy programme. Protecting and defending the interests of our constituency....[We] also aim to develop

⁴¹⁸ Ibid.

⁴¹⁹ S. Dahir, phone interview on 30 September 2008

strategies to link up with decision makers [with the objective] of informing policies.⁴²⁰

The logic behind setting up a 14-community strong organisation is strength in numbers.

Dosso Ndessomin stated that:

For us to reach local government and national government we learnt very early that we had to create alliances within the refugee community. If they get strong local community leadership on our side then it will be easy to affect policy formulation and policy implementation.

In terms of affecting legislation their partnership with Lawyers for Human Rights was critical. Lawyers for Human Rights established the Refugee and Migrant Rights Project in 1996 as a specialist programme that “advocates, strengthens and enforces the rights of asylum seekers, refugees and other marginalised categories of migrants in South Africa.”⁴²¹ They also provide free legal services to indigent asylum seekers, refugees and immigrants.

Dosso Ndessomin explained how they went to Lawyers for Human Rights with legal issues. “We go to them and they look at the legal implications for us and this is what helped us for instance to launch our campaign for access to education.”⁴²²

After September 2001 we had to launch the campaign called Access to Learning. Because there was again a cry so we were reacting. An Asylum Seeker from the DRC wanted to register his daughter in a Benoni School and he was told no “you’ve got an Asylum paper we cannot register your kid”. With the assistance of LHR we wrote to the Minister of Education and he gave us a platform. We met and we explained what the situation was. We were also accompanied by the Head of Human Resources at the Catholic Diocese together with the current deputy chair of SAHRC Dr Zonke Majadina. We put [forward] our plight and as a result we got the communication from the Minister informing all schools that asylum seekers have a right to go to school as everybody has a right to education as it

⁴²⁰ Ndessomin (2007)

⁴²¹ LHR, 1996, ‘Refugee and Migrant Program’, LHR, <http://www.lhr.org.za/programme/refugee-and-migrant-rights-project> Accessed 30 August 2007.

⁴²² Ndessomin (2007)

appears in the Constitution. And we used this paper to advocate and lobby and inform every school. We were registering asylum seekers children with the Department of Education who then circulated the list to all schools in the District in order for us to get an exemption.⁴²³

Kaajal Ramjathan Keogh highlighted that the basis for running the Refugee Children's Project was due to the fact that refugee documentation was not recognised by the schools or the department of Education.

This meant that refugee children were being charged international fees. Education was not the only sector where refugees' access to services was severely hampered. Healthcare was another area. Refugees would have to pay foreigner rates in order to access clinics as clinics did not recognise refugee documentation.⁴²⁴

The Coordination Body, and Lawyers for Human Rights opened avenues that would take the Somali Association a long time to do alone.

In the area of raising awareness regarding the rights of immigrants, they were able to get involved in a civic education and community mobilisation programme funded by the Netherlands Institute of Southern Africa (NIZA). Dosso Ndessomin explained that the manual is about " participation, democracy, and basic obligations."⁴²⁵ This is where the Somali Association got its idea of producing a short pamphlet for new arrivals. Part and parcel of producing manuals was to help refugees create a new identity for the label 'refugee' that did not portray them as a burden on the State. The Somali Association joined the Coordinating Body in taking assertive measures to educate their community members not to rely on handouts.

We educate our communities of the necessity not to rely on NGOs for feeding schemes. This was very disruptive for UN implementing partners who were saying we have money for food parcels, come and take your bed. We said we are urban refugees do not portray us as camp refugees. If we are in the city we are free. We want to use our space and try to express out

⁴²³ Ibid.

⁴²⁴ Kaajal Ramjathan Keogh is a Legal Counsellor for LHR, interviewed on 30 August 2007 at LHR offices in Braamfontein, Johannesburg.

⁴²⁵ Ndessomin (2007).

potential. So we discouraged our members to be reliant on food and shelter. You go to the shelters they say okay you can stay but after 3 months they kick you out. Where do you go? We had a problem with those that had already resided in camps or were coming from camps outside the country [namely] Rwandans, Burundians, and those from the DRC. It was very difficult to convince them. But thank God that they have listened. Lots of them understand and they are doing things for themselves like car wash. They are doing fine because I know many who have raised money to pay their school fees. There are three now. One is in Cape Town doing PhD and the other is in WITS University doing his Masters. One has finished his medical degree and is practising now at Joburg General. He did it by working at night. So if these people can do it we can all do it.⁴²⁶

In order to reach a wider demographic the Somali Association capitalised on the Roll Back Xenophobia campaign that was launched in 1998 by the rights-based organisations: SAHRC, UNHCR and the National Consortium for Refugee Affairs.

Roll Back Xenophobia Campaign from 1998

Prior to the campaign Dosso Ndessomin and Ahmed Dawlo mention how they used to go into the local communities, but their efforts were futile.

From 1996 we had undertaken the initiative of trying to identify leaders from immigrant communities to visit local South African communities. Our first outing was in Soweto in 1996. We went to meet representatives from the Orlando Soweto Communities at Hector Peterson Memorial. We gave a presentation on who refugees are because we knew that whatever they had received from the media in general had to be diffused. We used that same opportunity to get close to the local communities and introduce ourselves; who we are, where we are coming from, what is the reason why we are in South Africa. I know the first 3 rounds of outings were just fierce because we were literally chased by people who were shouting, 'we don't you! We don't want you. You must go back'! I remember one of the gentlemen became in 2004 the head of Refugee Affairs in Johannesburg Bramfontein (allow me not to name him). He was part of the team saying 'we don't them, we will chase all of them'.⁴²⁷

Under the auspices of the campaign more ground was covered and better results made.

⁴²⁶ Ndessomin (2007)

⁴²⁷ Ibid.

Joyce Ntlou⁴²⁸ stated that the Roll Back Xenophobia campaign was an education awareness programme formed in response to the killing of three non-nationals following a protest by unemployed South Africans protesting about the lack of employment.⁴²⁹ Furthermore it was jointly supported by government, NGOS, Community Based Organisations, and the general public. It addressed:

- Training of service providers;
- Acknowledgment of corruption, crime and poverty;
- The practising of cultural values;
- Public awareness;
- Southern African Development Community's economic policies
- The fact that South Africa has signed up to international conventions and needed to apply them
- Coordinated approach between government departments.⁴³⁰

Refugees were used as ambassadors in the outreach work. The Coordination Body for Refugees capitalised on the flexibility that the Roll Back Xenophobia campaign provided them and targeted a specific category of South Africans.

We started defining another strategy of having one on one relationship with other people to win the community. Now we will be calling people to come. The first meeting was at Vista University with students in Soweto in 1997/1998. For this one we invited the head of Roll Back Xenophobia Jenny Parsley to campaign. Because the Coordinating Body for Refugees was using the campaign as a way to get in we did our presentation. It made us very optimistic because these are students and if they can understand us it means the echo will go back into the communities.⁴³¹

⁴²⁸SAHRC National Director for Non-National, interviewed 6 September 2007 at SAHRC offices in Johannesburg.

⁴²⁹ See section in Chapter Two.

⁴³⁰ J. Parsley, 2000, "Roll Back Xenophobia Update" *SAHRC*, http://www.sahrc.org.za/roll_back_xenophobia_update1.htm Accessed on 09 March 2007.

⁴³¹ Ndessomin (2007)

A very pragmatic approach to take considering efforts in 1996 to speak to community leaders didn't work. However, the student demographic is not the same target as the group identified to be problematic- the perpetrators of xenophobic violence- the poor living in locations.

RBX's use of the SABC was crucial for the outreach to larger audiences. SABC was used as a public platform to target community leaders:

We started negotiations with SABC 2-VUYO and a presenter dealing with community based issues, human rights and gender issues. We tried to insert in the programme once every month a discussion about immigration and xenophobia. There was a panel with representatives from local communities and immigrant communities particularly refugees. Policy decision makers [were also on the panel].⁴³²

This opened up new doors for CBRC. In 2000 they were part of the steering committee at the National Conference Against Xenophobia (NCAR) in 2000. In 2001 Dosso Ndessomin recalls how CRBC was part of the steering committee at the WCAR in Durban. CBRC was in charge of producing for the whole week the conference newspaper- the daily news.

A central factor of RBX was to challenge negative connotations associated with being a refugee perpetrated by the media. Ahmed Dawlo and Dosso Ndessomin recount CBRCs involvement in the journalism workshops.

2003 to 2004 we had 5 journalism workshops to try to create awareness amongst the media and to try to sensitise them about what they are saying and the implications and so on. So we did this with Roll Back Xenophobia and the Institution of Journalism. This went very well because yes at the first workshop we realised that these people were talking about people they knew nothing about. They were talking about topics where they had no clue. I was facilitating part of the first workshop. I don't have a journalist

⁴³² Ibid.

background but it was very exciting because I came up with a map of Africa and then I emptied the continent and asked them to put the countries where they are supposed to be. I could see Cameroon next to South Africa, Malawi in the place of Cote D'Ivoire. Then it was very clear that when I put them in the right place we compared and realised they didn't know what they were talking about. So we agreed that we were going to have a series of communication. That is why there were other workshops with other mediums like TV, radio and newspapers. From that workshop series we made very strong ties with the STAR group: The Star, the Sunday Times, the Mail and Guardian, SA Fm for radio; SABC Mulwazi for rural community based radio. TV-SABC 2, ETV. We used then to disseminate information and have kept these relationships which is helping us lot to. When there are issues particularly related to xenophobia you have them contacting us.⁴³³

The Roll Back Xenophobia campaign permitted immigrant groups to access various aspects of South African society previously inaccessible to them. With the campaign waning in 2003 the Somali Association has been challenged to build on the successes gained during the campaign. They have maintained their media connections and have been called upon by media to provide insights into xenophobia. For instance with the outbreak of violence in Cape Town 2006 and in Gauteng 2008 the media elicited the perceptions of Ahmed Dawlo and Dosso Ndessomin.

Reflections

Non participant observations were used to observe the nature of interactions between South Africans and immigrants in the context of the Central Methodist Church and the beading class run by the Agency for Refugee Education, Skills Training and Advocacy- a non governmental organisation based in Cape Town that seeks to educate and provide skills for refugees and asylum seekers to enable them to become self reliant in South Africa.⁴³⁴ Even though these environments are controlled, much can be gained from

⁴³³ Ndessomin (2007)

⁴³⁴ See www.aresta.org.za

observing how to foster interaction between South Africans and immigrants. Firstly- adherence to a universal belief can bring about unity. Their faith has brought people at the mosques and in the Central Methodist Church together to worship. Faith transcends differences making interaction not only possible but fluid. Secondly engagement in kinaesthetic activities transcends language barriers that can impede communication. Confident in what they were doing, the stresses of communication that can lead to stilted interaction was absent when observing the six Congolese women and six South African women in the beading class.

From observations of immigrants in the church, mosque, beading classes and cultural events- they are very vocal in these environments on matters pertaining to their daily survival in the country. Even at meetings between immigrant organisations and their network partners for example the Coordination Body for Refugee Communities and CORMSA the coordinators did not cease to vocalise their concerns. However there were differences in what male respondents vocalised to those of female respondents. The three male migrant respondents interviewed were specific about the changes they wanted to see: namely an acceptance by state personnel of the rights afforded refugees by their identity documents; and an increase in awareness of who refugees are. “I am not a dog, I am human...this ID book (holding up his red refugee document) gives me rights. Our liberties that must be recognised.”⁴³⁵ The female respondents on the other hand were very vague about what changes they wanted to see and kept saying “we just want things to change. We are here now and they should just accept us and leave us in

⁴³⁵ Male Congolese respondent, Interviewed 29 August 2007 outside the Central Methodist Church in Johannesburg.

peace.”⁴³⁶ They wanted the freedom to work and care for their families. This demonstrates how gender has a bearing on how people experience a phenomenon.⁴³⁷

Men seemed to play a more prominent role in the public arena. For instance, it was very interesting to note that the coordinators of the immigrant-led organisations were all men, in their middle ages, with tertiary level education, and have had professional experience in their chosen careers before becoming directors or coordinators of their respective organisations. The leading role they play could rest in the fact that in African traditions, men are culturally seen as the head of the family, making decisions on behalf of the family- a deeply embedded patriarchy. Furthermore those that are well educated are highly regarded in African society. The coordinators of the immigrant-led organisations happen to be community leaders of their respective communities. It is therefore plausible to argue that the leadership structure of the immigrant-led organisations is an extension of traditional cultural-leadership structures. The formation of the Coordination Body of Refugee Communities, made up of 14-community leaders, is evidence that these coordinators acknowledge the value of community leaders as instigators for change.

Within the faith organisations- the leaders were male. This probably has more to do with the traditions of mosques and churches where men have been leaders-again, an established culture of patriarchy.

⁴³⁶ Female Congolese respondent, Interviewed 17 August 2007 at the premises of the Agency for Refugee Education, Skills Training and Advocacy in Athlone Cape Town.

⁴³⁷ C. Warren and J. Hackney. 2000, *Gender Issues in Ethnography*, Sage Publications, London, p.12

The coordinators of the immigrant organisations interviewed were openly proud of their achievements. (Dosso Ndessomin with the manuals printed; and Ahmed Dawlo with the fact that the Somali Association had offices in all the provinces). This sense of pride demonstrated the determination of immigrant non-governmental organisations to address the issue of xenophobia but served to motivate them as they had tangible proof of the progress they were making. Unlike the personnel of the Counter Xenophobia Unit who were very wary throughout the interview process, immigrant non-governmental organisations were very willing to provide information. Government officials could capitalise on interviews as a platform to dispel notions that they are doing little to address xenophobia. However their responses were very guarded, echoing only the government's official stance on xenophobia, not wanting their own personal beliefs and biases to colour the interview. They explained that in previous interviews and publications from researchers and the media they have been heavily criticised for their treatment of immigrants, and thus were very cautious about interviews.

It is imperative that immigrant non-governmental organisations appreciate the fact that they are part of the process in the fight against xenophobia. They must give credit where credit is due. There was a tendency for the coordinators of the immigrant non-governmental organisations to associate the success of a particular action to their own efforts. For instance Dosso Ndessomin stated that: 'it is clearly stated in the Immigration Act that Home Affairs needs to set up an institution to deal with xenophobia. We had to push for it and [eventually] we got it'. This is in reference to the Counter Xenophobia Unit. However the Unit was set up in response to the recommendations of WCAR. The impetus came from above rather than from below-the immigrant non-governmental organisations. Nevertheless, in their capacity as lobbyist

immigrant non-governmental organisations must hold government accountable to proposed measures.

The need to highlight their achievements may be related to the fact that immigrants in South Africa want to be seen as capable of advancing their own needs. For instance Dosso Ndessomin highlighted, without taking away from the successes CORMSA has made, that CORMSA can never truly be representative of the needs of refugees and immigrants in South Africa. In stating that “CORMSA does not hold a monopoly on immigrant matters” he argued that it was essential for immigrants to have their ‘own voice’ and represent themselves in matters that directly relate to them.

Blaxter argues that the researcher must consider how his/her age, sex, and class impacts and contributes to research findings.⁴³⁸ On a reflexive note, the researcher observed how social status affects the conduct of research.⁴³⁹ Knowing I was a researcher from an overseas institution based in the United Kingdom provided the researcher with legitimacy to conduct research. This had a number of effects. On the one hand immigrant respondents were quick to create time for interviews compared to a colleague from a South African institution who had to wait for longer periods before securing interviews. This could have been based on the perceived notion that an overseas researcher comes from a position of influence. This position of influence was interpreted differently by each sample group. As Stephens argues, ‘overseas researchers can be perceived as anything from agents of imperialism, to well meaning do-gooders capable and willing to suddenly appear with a large bag of cash’.⁴⁴⁰ For those awaiting refugee or asylum status even though I too am an African, the fact that I was based at an

⁴³⁸ L. Blaxter, C. Hughes, M. Tight, 1996, *How to Research*, Open University Press, Buckingham, p.76.

⁴⁴⁰ D. Stephens, 2009, *Qualitative Research in International Settings: A Practical Guide*, Routledge, London, p71

overseas institution, was perceived that I could provide monetary assistance, which they boldly asked for. To circumvent this, it was necessary to stipulate that as a student I had very limited resources. Once it was established that I could not provide monetary assistance different groups were interested in matters pertaining to networks. Some of the Somali refugees, asylum seekers and members of the Somali Association, were interested in ascertaining if I had any business contacts in the UK and Europe. The coordinators of the migrant led organisations were interested in experiences of immigrants in the UK and Europe in order to locate the experiences of, and efforts made by immigrants in South Africa within the global context. The findings of this research support studies that highlight how immigrants use their embeddedness and social capital to negotiate their existence in host countries.

Being associated with an overseas institution certified me as a bona fide researcher amongst the coordinators on the migrant-led non-governmental organisations, SAHRC, CORMSA, Lawyers for Human Rights and UCT Law Clinic. These are all highly educated individuals who understand the value of research. In spite of this Stephens correctly points out that researchers need to be aware of the fact that, ‘they are part of a community of scholars interested in collecting data for their own benefit and career advancement’.⁴⁴¹ So as much as the objective of this research is to provide policy recommendations on how to address xenophobia in South Africa, the research also counts towards gaining an academic qualification.

Being a Ghanaian who had lived in South Africa for sixteen years aided in gaining access to refugees and asylum seekers as it provided a level of identification amongst the sample group making it easier for them to be forthcoming with information.

⁴⁴¹ Ibid.

Observations of the Congolese women (who happened to be qualified nurses unable to practise in South Africa as they did not have the required paperwork proving their qualification) highlighted that although there were similar characteristics between us-African, educated and female, the similarities ended there. They pointed out how much of an outsider I was, unable to identify with their circumstances. Firstly age and life experience was a factor. Being much younger than the respondents one pointed out that, “you are not a mother. You don’t know how hard it is to live when people make your life difficult”.⁴⁴² Negotiating their survival has also been challenging for these women as one pointed out. “I am a qualified nurse. I had to leave my country with nothing and come to South Africa where even to make beads and sell them is challenging.”⁴⁴³ As enterprising as immigrants are, the experiences of the Congolese women demonstrated the challenges that being a refugee brings and the fact this is further compounded by their experience of xenophobia. One of the respondents made a comment that humbled me. She stated, “you are student who has come here to conduct research. You will go back [to wherever you came from] but for me, this is my life and I have to live and look after my family!”⁴⁴⁴ This statement reminded me of the fact that despite all the obstacles they face survival is central to their existence.

Conclusion

Immigrant non-governmental organisations conceptualised xenophobia as a result of: a lack of awareness of who immigrants are and what they were doing in the country; a struggle for the politics of access by South Africans; and a by-product of apartheid. This has directed their activity. In doing so, immigrants have taken positive steps in

⁴⁴² Female Congolese respondent 1

⁴⁴³ Female Congolese respondent 2

⁴⁴⁴ Female Congolese respondent 3

challenging myths surrounding immigration and negotiating their survival in South Africa. They must however consider how their activities have inadvertently exacerbated xenophobic sentiment. So although initiatives aimed at addressing xenophobia have been directed by immigrants conceptualisation of xenophobia as a phenomenon borne out of a lack of awareness, their public awareness programmes have the potential of creating discord rather than harmony. Lessons should be learnt from the Roll Back Xenophobia campaign which came to an abrupt halt in 2003. Spearheaded by a rights-based agency such as SAHRC meant that the campaign would also be strong in the area of advocating human rights issues. But as Joyce Ntlou pointed out, “SAHRC is unable to address root causes of poverty. We just advocate. We can’t do any more. With socio economic rights what can we do? South Africans have turned around to us to say ‘you can’t eat human rights’?”⁴⁴⁵ For this reason it is imperative for immigrants to consider the socio-economic conditions of South Africans. The concerns raised by the local populace suggests that immigrant initiatives must run in conjunction with government programmes that address socio-economic needs. Nonetheless immigrants must constantly engage in activities that address xenophobia in the country. In order to achieve this it is imperative that immigrant organisations have strong financial backing.

Financing has remained a challenge for immigrant non-governmental organisations. Michael argues that, ‘in order to effectively perform their duties organisations need to be well financed’.⁴⁴⁶ The Somali Association, the Coordinating Body for Refugee Communities and the Lawyers for Human Rights struggle in the area of finances. Ahmed Dalwo and Dosso Ndessomin stated that their organisations are funded solely by the generosity of their members. This therefore explains why they have not been able

⁴⁴⁵ Ntlou (2007)

⁴⁴⁶ S. Michael, 2004, *Undermining Development: The Absence of Power Amongst Local NGOs in Africa*, James Currey, Oxford, p.42.

to continue certain projects. Particularly those related to meeting with community leaders, as it is costly to book spaces large enough to cater for numbers attending. Migrant organisations therefore need to find sources of finances that are not only dependent on social capital.

The challenge still remains on how to curb xenophobic sentiment amongst the general populace which will take time. The general consensus amongst the coordinators of the migrant-led non-government organisations their target audience were not those that came to the meetings organised between refugees and the local communities. As Dosso pointed out “you find that those [groups that harbour xenophobic sentiment] that need to be there are not”. This hampers the ability to create a climate of tolerance when key players are absent.

The success of immigrant initiatives rests within the micro level where strong relationships have been developed and maintained with faith organisations. The extent to which immigrants can effect change is very much entwined with the level of participation local South Africans have with the faith-based organisation. However this does not mean immigrants should stop the already positive progress they are making through faith-based organisations.

Chapter 4

Promoting Tolerance and Interaction

Chapters one to three conceptualised xenophobia in South Africa, demonstrating how black South Africans, government officials and government policy, as well as migrants themselves contribute to the phenomena of xenophobia. The purpose of this chapter is to address the key question of who is (are) the agent (s) to curb and tackle xenophobia? They include the following: government; immigrants and the media. The first section of this chapter argues that these three parties are able to effectively address xenophobia through the use of resources that are already at their disposal. From a macro boarder policy level- the government must review its socio-economic policies in order to generate confidence amongst South Africans that it can deliver and alleviate unemployment. From a micro level government should utilise the legal instruments and the judicial system to challenge xenophobic behaviour. For immigrants good practice models have been established through faith based bodies and migrant led organisations concerned with interaction between immigrants and the local population. Lastly the media- particularly their efforts in changing how they report on migrant related issues all contribute to addressing xenophobic sentiment. The recommendations made in this chapter take into consideration how xenophobia is triggered and manifests itself. Failing to do so means that all measures are merely reactionary, treating the symptoms rather than the underlying causes. The chapter concludes by acknowledging that it is not possible to totally eradicate xenophobic sentiment and behaviour, but through increased interaction between immigrants and South Africans a culture of tolerance can be cultivated.

Before continuing it is necessary to note that the recommendations made address issues relating to immigrant policy. Hammar defines immigrant policy as ‘all the issues that influence the condition of immigrants that have been granted resident permits’.⁴⁴⁷ Borrowing his classificatory mechanism, recommendations advocated are either direct or indirect. Direct immigrant policy refers to ‘policy and special measures designed by the host government to address and improve the situation for immigrants. These measures do not apply to the non-immigrant population’.⁴⁴⁸ Indirect immigrant policy is ‘general public policy (relating to social, economic and political measures) that affect all inhabitants of a country- citizens and foreigners.’⁴⁴⁹ In order to effectively address xenophobia there needs to be a mixture of both types of approaches.

The Broader Policy Environment: Socio-Economic Policies

It is imperative that issues surrounding the socio-economic concerns of other migrants and South African citizens are addressed. The United Nations clearly identified socio-economic concerns of citizens as a trigger for xenophobic sentiment in their statement that “tensions and manifestations of racism and xenophobia are fostered by severe economic inequalities and the marginalization of persons from access to basic economic and social conditions”.⁴⁵⁰ This was echoed by Dosso Ndessomin of CBRC, Ahmed Dawlo of SASA, and Joyce Ntlou - who all identified socio economic factor as triggers of xenophobic sentiment.⁴⁵¹ It is argued in chapter one that xenophobia is an expression of vulnerability and desperation by South African citizens disillusioned with a government that has been slow to deliver on economic entitlements. Thus on a macro-

⁴⁴⁷ T, Hammar, 2006, “European Immigration Policy: A Comparative Study” in Messina, A & G. Lahav, ed., *The Migration reader: Exploring Politics and Policies*. Lynne Rienner Publishers London p.241. To mention a few: work and housing conditions, social services and benefits, voluntary associations and opportunities to participate in political affairs.

⁴⁴⁸ Ibid.

⁴⁴⁹ Ibid.

⁴⁵⁰ United Nations (2001), p.10.

⁴⁵¹ See discussion of these bodies in chapter 3.

level the incumbent government must establish confidence amongst ordinary South Africans of its ability to develop socio-economic policies that meet the needs of the people, particularly in the area of job creation. To achieve this objective the ANC under President Zuma must engage in discussion and consultation with South Africans on what constitutes delivery. It must also decide whether to pursue macro-economic policies or follow the direction of the Congress of South African Trade Unions (COSATU) and the South African Communist Party (SACP).

Unfulfilled expectations: RDP and GEAR

The ideological battles regarding which economic policy to follow has been raging on since 1994. From the onset former President Nelson Mandela in his inaugural address to the Joint Sitting of Parliament stated the new vision and commitment for government was to, “create a people-centred society of liberty that binds us in the pursuit of the goals of freedom from want, freedom from hunger, freedom from deprivation...these freedoms are fundamental to the guarantee of human dignity”.⁴⁵²

To achieve this aim the Reconstruction and Development Programme (RDP) was presented as:

an integrated, coherent, socio-economic policy framework...that promised sustainable and people driven programmes that would... [integrate] growth, development, reconstruction, redistribution and reconciliation into a unified programme...meet basic needs and open up previously suppressed economic and human potential in urban and rural areas.⁴⁵³

⁴⁵² Republic of South Africa (1994) *White Paper on Reconstruction and Development*. Pretoria. September

⁴⁵³J. Blumenthal, 1999, ‘The Post-Apartheid Economy: Achievements, Problems and Prospects’ in J.E. Spence, eds., *After Mandela: The 1999 South African Elections*, The Royal Institute of International Affairs, London, p.40.

The RDP proposed: 1)meeting basic needs 2)upgrading the economy 3)strengthening the economy 4)democratising the state and 5)reorganising the state and the public sector.⁴⁵⁴ It was meant to be people-driven in order to as Tom Lodge argues, ‘deepen democracy by enabling people affected by the development projects to participate in their planning’.⁴⁵⁵ What was regarded as ‘achievable targets’⁴⁵⁶ for the first five years included: building more than one million houses; electrification of two and a half homes; redistribution of thirty percent of land to the landless, provision of water and sanitation, access to affordable health care for ‘all’ the population. Provisions relating to employment included: ‘1) economic restructuring should be geared to increasing national investment in manufacturing, job creation and basic needs and 2) policies should ensure that foreign investment ‘creates as much employment and real knowledge transfer as possible’.⁴⁵⁷

However, under RDP unemployment rose from 16.9% in 1995 to 22.9% in 1997.⁴⁵⁸ So the government changed tact and adopted a more ‘market-friendly’ macroeconomic strategy entitled Growth, Employment and Redistribution (GEAR). It called for greater liberalisation of the markets. This meant privatisation and reform within the labour market.⁴⁵⁹ GEAR aimed to achieve the following:1) A competitive, fast-growing economy which creates sufficient jobs for all work seekers. 2) A redistribution of income and opportunities in favour of the poor. 3) A society in which sound health, education and other services are available to all.⁴⁶⁰

⁴⁵⁴ Lodge (1999), p.27.

⁴⁵⁵ Ibid.

⁴⁵⁶ Republic of South Africa (1994), Chapter 1.

⁴⁵⁷ African National Congress (1994), *The Reconstruction and Development Programme*, Umanyano Publications, Johannesburg, p28-29.

⁴⁵⁸ Statistics South Africa (2000), p.3

⁴⁵⁹ Department of Finance (1996), *Growth, Employment and Redistribution: A Macroeconomic Strategy*. Pretoria. June.

⁴⁶⁰ Ibid.

Blumenthal points that going into the 1999 elections the, ‘the South African economy was in recession with little foreign investment, the number of jobs required far exceeded the number created’.⁴⁶¹ Nevertheless Mbeki’s government pursued GEAR decisively from 1999. By 2002, the unemployment rate officially was 30.5%⁴⁶² with unofficial records by the Department of Trade and Industry at 40.3%.⁴⁶³ By 2006 unofficial rates stated employment was at 40.7%.⁴⁶⁴

Over the past 15 years under Mandela’s and Mbeki’s leadership South Africa has built 2.8million houses and managed to provide some South Africans with clean water and electricity.⁴⁶⁵ However with unofficial unemployment rates at 40%, and deficiencies in education skills training and health provision⁴⁶⁶ it is understandable that the populace has lost confidence in the government.

Confidence building

Przerwoski argues that confidence plays a crucial role in shaping popular reactions.⁴⁶⁷

For this very reason it is imperative that Zuma’s government makes explicit how it plans to meet its service delivery challenges. Hamill points out that Zuma’s election campaign placed, ‘emphasis on the importance of delivery in five priority areas: rural development, employment, health, education and crime which in total account for 60%

⁴⁶¹ Blumenthal (1999), p.33

⁴⁶² Statistics South Africa (2003), p.8.

⁴⁶³ DTI (2006)

⁴⁶⁴ Altman (2006)

⁴⁶⁵ C. Brooks (2009) ‘SA Hit by service delivery protests’ *Mail and Guardian*. 22 July

⁴⁶⁶ Ibid.

⁴⁶⁷ A. Przerwoski (1991) *Democracy and the Market: Political Reform and Economic Reforms in Eastern Europe and Latin America*. Cambridge University Press, Cambridge. p168 quoted In G. Mhone (2003), ‘Democratisation, Economic Liberalisation and the Quest for Sustainable Development in South Africa’ in G. Mhone and O. Edigheji (eds) *Governance in the New South Africa: The Challenges of Globalisation*, University of Cape Town Press, Cape Town 2003, p42.

of the national budget.⁴⁶⁸ However how does Zuma hope to achieve what he refers to as, ‘visible and tangible socio-economic development’?⁴⁶⁹ Developing an action plan creates the perception of a focussed, purposeful government which through its leadership is committed to meeting the needs of ordinary South Africans. Instead Zuma has engaged in the party political game of appeasing the left and right in government. His attempts, as Hamill states, to ‘streamline the governmental machinery... can become an end in itself rather than a means to enhance delivery’.⁴⁷⁰

What has come to be termed the ‘service delivery protests of July 2009’ illustrates the necessity of the ANC to develop an action plan that indirectly affects immigrants.

July 2009: Lessons from the service delivery protests.

Protests regarding poor service delivery occurred in July 2009 in Balfour Du Noon, Diepsloot, Dinokana, Khayelitsha, KwaZakele, Masiphumele, Lindelani, Sharpeville, Piet Retif and Samora Machel- townships in the poorest five provinces of South Africa.

Taking Sharpeville for instance, residents took to the street to protest against poor housing construction and lack of other basic amenities. Just like in other parts of the country it erupted into violent riots with homes of councillors and mayors burnt. Police Mzimkhulu Mthimkulu also pointed out that foreigners caught up in the riots had their belongings looted and were ordered to leave the area.⁴⁷¹

⁴⁶⁸ J. Hamill (2010), ‘South Africa Under Zuma: Restructuring or Paralysis?’ Forthcoming Contemporary Review, Spring, p.1

⁴⁶⁹ Ibid.

⁴⁷⁰ Hamill (2010), p.3

⁴⁷¹ IOL (2010) ‘We have lost hope of service delivery’ *IOL* 23 February 2010 Available at http://www.iol.co.za/index.php?click_id=13&art_id=nw20100223165853440C422246&set_id Accessed on 15 February 2010.

The first observation to come out of this is clearly summarised by the comment made by the Community spokesman Bricks Moloko who said: "people are angry, people are tired, we have lost hope of service delivery...We are told that we need to give the government a chance and each time they change the president we are told to give him a chance."⁴⁷² South African people are tired of being patient. Calls for patience by the ANC can no longer sustain a populace that have been waiting. Zuma acknowledged that the government had fallen short in the past 15 years. Speaking at a stadium in Kwazulu Natal he stated, 'the troubles we are seeing in our townships prove to us that there is much to repair.'⁴⁷³ But no mention is made of how the government plans to go about it.

The second observation can be found in the statement by spokesperson to the president Vincent Magwenga who stated that Zuma had warned that before the elections 'there would come a time when people will feel the consequences of non-delivery'.⁴⁷⁴ There have been indeed consequences to non-delivery. As demonstrated by the May 2008 attack on foreigners discussed in chapter two- where foreigners were scapegoated and will continue to be targeted unless fervent steps are taken. Secondly the protests, which is a constitutional right for people to gather and express their views, have had very violent outcomes. If the government does not take proactive steps violent outbreaks will become more common. In the comments made by a local unemployed South Africa resident in Balfour Mpumalanga where service delivery protests led to attacks on 100 foreigners who ran businesses in the area, he said; 'there are no jobs for us here. They are using people from other places to work the mines, so we are burning shops and

⁴⁷² Ibid.

⁴⁷³ Ibid.

⁴⁷⁴ M. Rossouw (2009) 'NO time for protesters' *Mail and Guardian* 31 July

building because we know we will get the municipality's attention'.⁴⁷⁵ There exists the danger that violence will be used as a means to get the attention of government rather than the use of formal democratic procedures. In agreement with Hamill, 'it does not bode well for democratic stability if a culture of violent protests becomes entrenched in politics'.⁴⁷⁶

Calls by COSATU spokesperson Patrick Craven stated 'we are urging people to direct their anger into constructive forms of protest and work with the government to achieve their goals'⁴⁷⁷, and ANC spokesperson Dumisa Ntuli that 'the ANC is tolerant of legitimate protest action, but violence will not bring development'⁴⁷⁸, will fall upon deaf ears if the issue of service delivery is not tackled head-on.⁴⁷⁹

In and of itself economic development will not eradicate xenophobic sentiment. However it will help to counter the notion that the politics of access can only be viewed through the lens of a zero-sum game.

Micro level Recommendations

1. South Africa must fulfil its international obligation to all migrants as codified in the Immigration Act 2002 and the Refugee Act of 1998.

This is an example of a direct immigrant policy. In relation to the Refugee Act the South African government passed the Refugees Act No.135 of 1998 to:

'formally adhere to international principles and standards relating to refugees, to provide for the reception of asylum seekers into the country, to

⁴⁷⁵ N. Lekotjolo and S. Evans, (2009) 'Balfour Mayor's Home Torched', *The Times*, 23 July

⁴⁷⁶ Hamill (2010) p.1

⁴⁷⁷ Rossouw (2009)

⁴⁷⁸ IOL (2010)

⁴⁷⁹ On service delivery it is important to note that there is also the rejection of the top down process by which South Africans are governed- the absence of a discussion between government and the people on what constitutes delivery.

regulate applications for and recognition of refugee status, and to provide for the rights and obligations flowing from such status”.⁴⁸⁰

This was in response to actions taken by the government in 1996 to ratify the 1951 United Nations Convention on Refugees and the 1969 Organization of African Unity Convention regarding the protection and treatment of asylum seekers and refugees.⁴⁸¹ However, these provisions have not been effectively implemented and have affected human rights provision to refugees and asylum seekers. Similarly, provisions relating to the classification, arrest, and detention of migrants in the Immigration Act No.13 of 2002 have not been implemented correctly leading to the abuse of migrants as examined in chapters one and two.

International obligations have a profound impact on the development of immigration policy. They serve to offer protection to immigrants and secondly hold states accountable. South Africa is bound to abide by provisions stipulated in the Constitution that places the respect of human rights at the heart of society. It is this very attribute that makes South Africa attractive to foreigners who seek protection under human rights legal instruments. In keeping with the culture of respecting and promoting human rights the government cannot deny migrants their human rights on any grounds. Lahav argues that ‘rights expressed in the form of constitutional norms and principles act to constrain the power and autonomy of states.’⁴⁸² The government cannot be selective of who it extends human rights to. Secondly, human rights are the basic and most fundamental right of people. According to Article 1 of the United Nations Declaration on Human Rights 1948 ‘all human beings are born free and equal in dignity and rights’. For this

⁴⁸⁰ RSA, 1998, *Refugees’ Bill, B135-98*, Pretoria: Government Printer

⁴⁸¹ De La Hunt, 1997, “Refugee Migration to South Africa: Past Present and Future”. Submission to task team the on Green Paper on International Migration.

⁴⁸² G. Lahav, 2006, “The Rise of Nonstate Actors in Migration Regulation in the United States and Europe: Changing the Gatekeepers or Bringing Back the State?” in Messina, A & G. Lahav, ed., *The Migration reader: Exploring Politics and Policies*. Lynne Rienner Publishers London, p.292.

reason human rights are considered inalienable, inherent and indivisible. It further states that each state party to the covenant undertakes to respect, apply the provisions of this covenant to all individuals within its territory and subject to its jurisdiction, irrespective of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.⁴⁸³ This is in accordance with the UNHCR who argue that ‘regardless of their legal status, refugees and migrants can never be denied their most fundamental human rights’.⁴⁸⁴ For South Africa the extension of human rights to non-nationals is therefore non negotiable.

The Department of Home Affairs is the key government body tasked with deciding who enters the country. As stated by the department itself ‘Home Affairs is vital to protecting the integrity of our country by deciding who may visit us, who may sojourn with us, and who may enjoy with us the beauties and benefits of our young democracy.’⁴⁸⁵

In relation to refugees, part and parcel of the refugee legislation is to achieve a somewhat fluid movement in the refugee application process from status determination to the acquisition of documentation permitting the individual leave to remain in South Africa. But as highlighted in chapter one, this is not the case. In full agreement with the recommendations made by the Consortium of Refugees and Migrants in South Africa the department of Home Affairs needs to:

⁴⁸³ Articles 2 to 27 of the International Covenant on Civil and Political Rights, General Assembly Resolution 2200 A (XXI) of 16 December 1966. Articles 6 to 27 of the International Covenant on Civil and Political Rights covers a broad range of civil and political rights ranging from right to life, integrity, liberty, security of the human person to the rights with respect to administration of justice, right to privacy, right to freedom of movement, religion or belief, opinion and expression, right to association, participation and the right to non discrimination and many other rights concerning civil and political rights of people.

⁴⁸⁴ Inter Agency (2001) p.18.

⁴⁸⁵ Department of Home Affairs, *Turnaround Strategy*, Department of Home Affairs, January 2004. p.6 <http://www.home-affairs.gov.za/dg/Turnaround%20Strategy.pdf> Accessed on 29 November 2009

2. Improve its bureaucratic administrative processes by:

a) increasing the number of refugee reception offices in the country;

b) ensuring that section 23 permits (transit permits providing time for applicants to lodge their claims at a reception offices), section 22 permits (permits that account for the time taken to process claims) and section 24 documents (that confirm the status) are issued in a timely manner;

so as to avoid refugees being unduly arrested for being the country with no paperwork which under the Immigration Act 2002 deems them as an illegal foreigner subject to arrest, detention and deportation.

Fatima Khan⁴⁸⁶ an Director of the Refugee Rights Project at the University of Cape Town Law Clinic pointed out what happens when permits are not provided.

According to Section 49 of the Immigration Act you are an illegal foreigner if you can't identify yourself, and if you cannot prove that you are legally in the country. You are therefore an illegal foreigner in terms of the Immigration Act. Many people are charged in connection to that section. However that needs to be reconciled with the Refugee Act, which allows for illegal entry into a country to seek asylum. Many refugees enter illegally and make every attempt to seek asylum but are denied access by the department of Home Affairs which is supposed to process the asylum claim. That is not happening for many reasons at the five reception offices. Or it may be happening at a very slow pace. You find that many people go there day after day. As they are undocumented-can't prove they are in the country seeking refuge or asylum- they can be arrested and charged under section 49.

In relation to migrants that have limited leave to remain:

3. They should be afforded the right to produce their paperwork when asked by an immigration officer before assumed illegal in the country.

⁴⁸⁶ Interviewed 16 August 2007 in her office at the UCT Law Clinic based at the University of Cape Town

There is some optimism that positive measures are being made by the department. The parliamentary monitoring group reported that Ms Z Balindlela (of the Congress of the People) stated that queues were very long at the refugee centres in Nyanga, Langa and Johannesburg.⁴⁸⁷ Incidents were reported of people bribing officials to avoid standing in the queues. Mr McKay of the Home Affairs portfolio committee admitted that there was a crisis at Home Affairs refugee reception centres and agreed that there were lengthy queues at all the Home Affairs offices but assured the Committee that the Department was attempting to deal with the problem. The Department planned to increase the number of refugee centres.⁴⁸⁸

In order to ensure the provisions of the Refugee Act and the Immigration Act are met:

4. It is necessary to utilise available administrative and structural mechanisms introduced by the 'Turnaround Strategy' that are already in place within the department to address concerns raised by immigrants. This is an example of indirect immigrant policy.

Developing on a plan initiated in 2004, Home Affairs Minister Nosiviwe Mapisa-Nqakula announced that under the leadership of the Director General, Mavuso Msimang, the Turnaround Action Team was tasked with creating a 'radically more efficient, customer and business friendly Home Affairs structure able to fight corruption effectively, deliver services on time, and serve the needs of the population and the

⁴⁸⁷ PMG, 2009, 'Department of Home Affairs on Progress made on the Turnaround Project' *Parliamentary Monitoring Group*, 15 September, <http://www.pmg.org.za/report/20090915-department-home-affairs-progress-made-turnaround-project> Accessed on 29 November 2009

⁴⁸⁸ Ibid.

expanding economy.’⁴⁸⁹ In 2004 the department stated that they were ‘aware that they were terminally under-resourced’⁴⁹⁰. Furthermore they wanted to develop a ‘service delivery project based on the premise that the client is always right. The purpose of the campaign was to change attitudes of staff towards our clients’.⁴⁹¹ They stated that as all South Africans and foreign visitors are their clients, they did not want to further expose them to ‘the frustrations of standing in queues, and being exposed to often dilapidated and badly equipped offices and poor service’.⁴⁹² The then Director-General Barry Gilder said the department was a prime target for corruption as it provided an essential service – documentation. Therefore the department had agreed on the need to implement a holistic approach to countering corruption. ‘This includes developing a plan with our colleagues in the intelligence and law enforcement community to tackle the syndicates that are perpetually corrupting our officials’.⁴⁹³ He also acknowledged that ‘immigration was one of Home Affairs’ most severely challenged services, with serious shortages in and lack of training among staff’.⁴⁹⁴

Unfortunately, the effects of the turnaround strategy had not been fully achieved. In 2007, the Minister of Home Affairs confirmed that the department had received more funding from the government which would make achieving the objectives more

⁴⁸⁹ Department of Home Affairs (2007) ‘Home Affairs Minister Mapisa-Nqakula Announces Turnaround Action Team’ *Department of Home Affairs*. Available at http://www.home-affairs.gov.za/media_releases.asp?id=401 Accessed on 29 November 2009

⁴⁹⁰ Department of Home Affairs (2004), p.7.

⁴⁹¹ Ibid. p.18.

⁴⁹² Ibid p.7.

⁴⁹³ Sebelebele, M ‘Home Affairs Turn-around Plan’ *South Africa* 27 November 2003 Available at http://www.southafrica.info/ess_info/sa_glance/government/homeaffairs-241103.htm Accessed on 29 November 2009

⁴⁹⁴ Ibid.

feasible.⁴⁹⁵ The restructuring of the entire department positively affects services provided to migrants who benefit from an efficiently run department.

By 2009, positive steps could be identified by the parliamentary monitoring group which reported the following. Ms Shimamane the Deputy Director-General of Human Resources in the Department of Home Affairs advised that measures were in place to deal with corrupt officials. Approximately 120 members of staff had been dismissed. The Department was developing a strategy and had employed specialists to deal with incidents of corruption.⁴⁹⁶ Such measures can be extended to immigration officers that are involved in bribing migrants as documented in Chapter one. This mechanism can also be used by the Counter Xenophobia Unit (discussed in chapter 2).

Ms Shimamane also confirmed that 80 -90% of Home Affairs staff members had completed the compulsory *Batho Pele* induction course.⁴⁹⁷ This extended to Immigration officials as well. *Batho Pele* is about putting people first. The principles were developed to promote a culture of service delivery excellence within the public sector in line with Constitutional practices. The other principles relate to: consultation, setting service standards, increasing access to services, providing information, promoting openness and transparency, redress, and lastly ensuring the public receive

⁴⁹⁵ Department of Home Affairs (2007) "Government has taken the decision to invest substantial resources in the complete transformation of Home Affairs," said Minister Mapisa-Nqakula. "We are determined that this very important organ of the state should be efficient, customer-friendly, and corruption-free because it is responsible for empowering our people from their first to their last days with the correct documentation, and for supporting growth and development by enabling skilled people, tourists, and investors to contribute to our economy."

⁴⁹⁶ PMG (2009)

⁴⁹⁷ Ibid.

services that are value for money.⁴⁹⁸ The purpose of these principles is to change behaviour. Mr Mkhize the Deputy Director General of Home Affairs stated that:

behaviour was not something that could be changed overnight. It was necessary to put mechanisms in place to improve accountability and to determine if personnel carried out their responsibilities. There were consequences if employees did not comply with the standards that had been set by the Department (such as dismissal).⁴⁹⁹

The department's Turnaround Strategy is a cost effective approach to addressing issues raised by immigrants. As they are already implementing a people centred approach to all users of the service (citizens and foreigners) thus:

5. The *Batho Pele* principles should no longer state 'a better life for all South Africans'⁵⁰⁰ but 'a better life for *all* living in South Africa.'

In relation to the Counter Xenophobia Unit it has become apparent that for it to be an effective agency it needs to:

6. a) Increase its capacity to more than six officials.
 - b) It needs to provide its personnel access to train officials in the various structures of the department of home affairs, as well as monitor employee behaviour and standards. Thereby the Counter Xenophobia Unit becomes an internal monitoring body with the department on the treatment of migrants and refugees.

As the department of home affairs is not the only body in contact with migrants, the police also play a vital role in the implementation of immigration policy. They are also

⁴⁹⁸ Department of Public Service and Administration. *Batho Pele*, Department of Public Service and Administration <http://www.dpsa.gov.za/batho-pele/Principles.asp> accessed on 29 November 2009

⁴⁹⁹ PMG (2009)

⁵⁰⁰ Ibid.

tasked with providing safety and security for all in the country irrespective of nationality.

7. a) It is therefore recommended that in order to effectively execute their jobs police require training regarding the promotion and protection of human rights of all peoples within the country. This should also include mandatory training on cultural discrimination. Lastly, there should be specific training provided on the rights of migrants in the country.

This is in conjunction to the recommendation made by CORMSA that the police need to engage in initiatives to sensitise its members to the rights and obligations of asylum seekers and refugees and to combat xenophobia within the police force. CORMSA states that they also need to work to protect the property and security of all community residents, regardless of nationality. CORMSA suggests that to do this effectively, the police must train all officers on the rights of those foreigners living in their communities.⁵⁰¹

- b) Based on the above all training should be made mandatory for police officials of all ranks.

This is in order to address the concerning results of the 2004 study by the Centre of the Study of Violence and Reconciliation who conducted research⁵⁰² on diversity and transformation in the police serve based on a case study of the Johannesburg policing area. It was found that there was a lack of training on cultural diversity. But what was even more interesting was that some did not believe that diversity training was

⁵⁰¹ CORMSA (2007), p.11

⁵⁰² G Newham, T Masuku and J Dlamini, 2005, **A Decade of Transformation of the South African Police Services: A Study of Police Perspectives on Race, Gender and the Community in the Johannesburg**, CSV, Johannesburg, p26

necessary. Attending training would mean that the police can serve as ‘ instruments of ongoing mediation and conflict resolution between nationals and the foreigners, the Community Policing Forums, local municipal governments and councillors when tensions arise.’⁵⁰³

Following on from training:

8. All crimes recorded should indicate whether the crimes were motivated by xenophobia.

This will assist in providing a holistic understanding of the nature of crime in South Africa, as well as contributing to the monitoring of xenophobic related incidents around the country. A number of police forces across European states use this process. For example, as of 1st January 2006 in Belgium, police reports on criminal offences included a field to be completed on whether 'discrimination' played a part in a particular offence. This was initiated as part of the country's Ten Point Plan against Racism.⁵⁰⁴ Since January 2005, in the Czech Republic a method for recording whether crimes are motivated by religious or 'ethnic' hatred has been introduced into the 'Evidence Statistic System' of the police head office.⁵⁰⁵ In Sweden in the period 13 February to 9 May 2004, the police authority in Stockholm ran a project to promote the recording of 'hate crimes' (including racist and xenophobic crimes).⁵⁰⁶ In Brandenburg Germany the police have developed a 'Police Concept on Victim Protection' which prescribes that all

⁵⁰³ CORMSA (2007), p.51

⁵⁰⁴ EUMC 2006 *The Annual Report on the Situation regarding Racism and Xenophobia*

in the Member States of the EU. EUMC, p.107 fra.europa.eu/fraWebsite/attachments/ar06p2_en.pdf
Accessed on 10 January 2008.

⁵⁰⁵ *Ibid.*

⁵⁰⁶ EUMC (2006), p.108

police officers should be able to ‘deal competently with victims’ and explicitly refers to, among others, victims of xenophobic crimes.⁵⁰⁷

9. It is time for acts of xenophobia to be criminalised in South Africa.

Xenophobia has been actively studied in South Africa since 1998 where seminars and conferences hosted start proceedings by posing the question “what is the definition of xenophobia? How is it triggered and how does it manifest itself?” These discussions have not reduced the increasing number of xenophobic related incidents in the country. It is time for the legislative system to move beyond definitions and develop a framework that permits the criminalisation of xenophobic acts. Legislation is fundamental in addressing issues of discrimination. This serves to identify xenophobia as a category of crime punishable by law. As argued by the UNHCR- legislation can “positively influence the societal behaviour of individuals; persons can be persuaded to act in certain ways”.⁵⁰⁸ Punitive legislation plays a role in challenging behaviour.

Fatima Khan highlighted her frustration at the absence of steps taken to criminalise xenophobia.

I have been to many conferences and [I’m] a little irritated that [we are still at the first stage of] defining xenophobia. And yet we are at the level where we have given several examples of how it manifests itself. And clearly it is not just ordinary discrimination or ordinary harassment. It is targeted and aimed at specific groups of people and it should be addressed.⁵⁰⁹

South Africa is showing itself to be more proficient at defining problems than addressing them. Fatima Khan pointed out there are laws that relate to discrimination.

⁵⁰⁷ EUMC (2006), p.108.

⁵⁰⁸ UNHCR (2001), p.26.

⁵⁰⁹ Khan (2007)

In terms of the general law you can prove that you have been discriminated against. We look at the constitutional definition of discrimination which plays itself out in different scenarios (labour, housing, education etc). Refugees have the same access to rights (health care, education) as South Africans.⁵¹⁰

Like new racism xenophobia is a form of discrimination based on the grounds of the person's ethnicity. Therefore acts motivated by xenophobia can be legislated under current racial discrimination where racial discrimination is defined in international law as being:

any distinction, exclusion, restriction or preference based on race, colour, descent or *national* or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on a equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.⁵¹¹

The regional preparatory meeting for the World Conference Against Racism, Racial Discrimination, Xenophobia and related intolerances differentiate between xenophobia and racism. Racism is defined as:

an ideological construct that *assigns* a certain race and/ or ethnic group to a position of power over others on the basis of physical and cultural attributes, as well as economic wealth, involving hierarchical relations where the superior race exercises domination and control over others.⁵¹²

Xenophobia on the other hand:

describes attitudes, prejudices and behaviour that reject, exclude and often vilify persons, based on the *perception* that they are outsiders or foreigners to the community, society or national identity.⁵¹³

For xenophobes the mere fact that the "other" is an outsider qualifies them for exclusion and vilification. It is a perception founded on the fear of the foreigner. For racists, not

⁵¹⁰ Ibid.

⁵¹¹ United Nations. The International Convention on the Elimination of All Forms of Racial Discrimination, Article 1

⁵¹² Asia-Pacific NGO Meeting on the Declaration on Racism, Discrimination, Xenophobia and Related Intolerance against Migrants and Trafficked Persons, for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Teheran, Iran. 18 February 2001.

⁵¹³ ibid

only is the “other” an outsider but owing to their attributes they are regarded as inferior and must be dominated. Racism has structural bearings as institutions and legislations are created to maintain these hierarchical beliefs and practices.⁵¹⁴ Nevertheless the outcome of both leads to the exclusion of the “other”. As Gladys Ndou pointed out: ‘xenophobia like racism is a form of discrimination. Just like racism it manifest itself in acts of violence’.⁵¹⁵

In countries where there was no legislation on xenophobia, cases were brought under racism legislation.⁵¹⁶ For instance, in Finland legal proceedings were brought against a reporter in 1997 for writing abusive material about people of black racial origin and refugees published by a newspaper with nationalist leanings. The reporter was found guilty under the Criminal Code.⁵¹⁷ In Belgium, offences by the press have been penalised. Article 150 of the Constitution makes offences by the press subject to exclusive jurisdiction of the Court of Assizes, in line with legislation in neighbouring European countries that penalises racist reporting. This Article allows for the immediate prosecution of the authors of the racist and revisionist articles.⁵¹⁸ In Spain, the Criminal Code which came into force in 1996 regards the incitement to racial or anti-Semitic

⁵¹⁴ This differs from new racism that dispenses with notions of superiority. Instead new racism is about “setting apart”. As Rathzel explains, ‘new racism argues that people from different cultures need to stay in their respective places [outside the community]’ as they pose a threat to the values and beliefs that are cherished by the community. N. Rathzel, 2002, ‘Developments in the theories of Racism’ in Evens Foundation, eds, *Europe’s New Racism: Causes Manifestations and Solutions*, Berghann Books, New York, p.7.

⁵¹⁵ Ndou (2007)

⁵¹⁶ There are a number of legal instruments dealing racism. Declaration on Race and Racial Prejudice (1978), Declaration of Principles on Tolerance (16 November 1995), UNESCO Universal Declaration on Cultural Diversity (2 November 2001), Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War (28 November 1978).

⁵¹⁷ EUMC, 1998, “Looking Reality in the Face: The Situation regarding Racism and Xenophobia in the European Community: Highlighting examples of good practise.” *Annual Report 1998*. European Monitoring Centre on Racism and Xenophobia, Rahlgass 3, A-1060 Vienna. p.34.

⁵¹⁸ EUMC (1998) p.32

hatred and violence and any act intended to deny, justify or defend genocide as offences.⁵¹⁹ In the UK, provisions have been made in the Code of Procedure for Crown Prosecutors where racist motivation is to be taken into account when determining whether a prosecution is in the public interest.⁵²⁰

This has been made possible through institutions dedicated to addressing issues of race in the country. For example, in Ireland in 1998 the Department of Justice, Equal Rights and Legal Reform set up a National Advisory Committee on Racism and Inter-Cultural Relations.⁵²¹ In the UK, the 1976 Race Relations Act provided for the Commission for Racial Equality that works towards abolishing discrimination, and the promotion of equal opportunity. It conducts research, publishes guides for good practices, provides information and advice, and supports non-governmental organizations that work to improve inter-ethnic relations.⁵²² All of these services are extended to migrants and refugees.

This means that:

10. The National Forum Against Racism should take the lead in creating legislation that addresses xenophobia.

However, there is nothing stopping South Africa from developing legislation that criminalises xenophobia directly. On the 19th of April 2007, following five years of deliberation the EU agreed on legislation that criminalised xenophobia. The text

⁵¹⁹ Ibid.

⁵²⁰ EUMC (1998), p.35.

⁵²¹ EUMC (1998), p.52.

⁵²² Inter-Agency (2001) ,p.17. See www.cre.gov.uk for more details.

establishes that the following intentional conduct will be punishable in all EU Member States:⁵²³

- Publicly inciting violence or hatred , even by dissemination or distribution of tracts, pictures or other material, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin.
- Publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes as defined in the Statute of the International Criminal Court (Articles 6, 7 and 8) directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin, and crimes defined by the Tribunal of Nüremberg (Article 6 of the Charter of the International Military Tribunal, London Agreement of 1945) directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin.
- The "Framework Agreement" was passed at a meeting of the Justice and Home Affairs Council in Luxembourg and specifies up to three years in prison for "public incitement of violence or hatred directed against people defined by reference to race, colour, religion, descent or national or ethnic origin."

Criminalisation of xenophobia is not enough. It is necessary to develop complimentary legislation that parallels judicial efforts. Education awareness programmes are central to addressing the socio economic concerns of South Africans. As a CORMSA personnel stated “We need to look at the nature of education. It cannot be geared at awareness of the human rights of refugees and migrants and stop there. One needs to ask what the aim of these education programmes are.”⁵²⁴ Two forms of education awareness models are discussed. The first which focuses on the role of literature and manuals, and a second which focuses on promoting actual physical interaction between migrants and South African nationals.

⁵²³ EU, 2007, “EU Justice Ministers agree on racism and xenophobia Proposal”. *EUROPA*, Luxembourg, 19 April, http://www.europa-eu-un.org/articles/en/article_6960_en.htm Accessed on 29 November 2009.

⁵²⁴ CORMSA personnel interviewed 16 August 2007, University of Cape Town Law Clinic, Cape Town.

11. Manuals and documents stipulating what rights are available immigrants, detailing their responsibilities in the host country and how to access services; should be made readily available to all migrants entering the country and those already within South Africa as well as South African citizens.

For instance the Lawyers of Human Rights provide hard copies as well as web access to their *Refugee Information Guide*.⁵²⁵ UCT Law Clinic produces the *Sustained Advocacy For Empowered Refugee (SAFER) Manual*.⁵²⁶ The Coordinating Body of Refugee Communities has developed a training manual entitled *Train the Trainer*.⁵²⁷ All these documents identify who immigrants are, their rights and how to access various resources from legal aid to healthcare. Unless immigrants are seeking legal aid not all of them get access to these comprehensive documents.

These documents did not proceed to include the reciprocal obligations of immigrants, namely that:

12. In order to facilitate their integration into society the documents should stipulate that immigrants should do everything reasonably possible to becoming contributing members of society.

⁵²⁵ LHR (2009)

⁵²⁶ Refugee Rights Project, 2007, *Sustained Advocacy For Empowered Refugee (SAFER) Manual*, UCT Law Clinic, University of Cape Town
<http://209.85.229.132/search?q=cache:X6FozXBjKTYJ:www.refugeerights.uct.ac.za/downloads/refugeerights.uct.ac.za/SAFER%2520Rights%2520Manual.doc+Sustained+Advocacy+for+Empowered+Refugee&cd=1&hl=en&ct=clnk&gl=za> Accessed 25 October 2008

⁵²⁷ NIZA, 2005, *Train the Trainer Manual. Participation. Civic Education and Community Mobilization*. NIZA, South Africa, 5 August.
http://www.kubatana.net/html/archive/edutra/050805niza.asp?sector=resour&year=2005&range_start=1
Accessed on 12 December 2007

This is not about adopting the assimilation immigration model in its entirety or even the multicultural immigration model.⁵²⁸ Instead it is about finding a middle ground that requires at the very minimum immigrants to learn the local language and become aware of the socio-economic conditions South Africans live in.

13. Furthermore, these documents need to be in the language of the immigrant concerned.

In relation to refugees and asylum seekers:

14. The UNHCR needs to, at the very least, provide funding to immigrant led organisation and government in their production of education awareness literature.

It was found that the UNHCR did not provide financial support to activities of migrant-led organisations, even when the organisation was run by refugees. An explanation provided by a UNHCR official was that given the increasing number of migrant led organisations the UNHCR did not want to be seen as providing preferential treatment. Secondly, these organisations provided services to more categories of migrants not just refugees therefore their objectives went beyond those of the UNHCR.⁵²⁹

⁵²⁸ Multicultural-immigration policy argues that although immigrants have their own customs, languages and religious practises they can be are incorporated society on the premise that there can be 'near equal coexistence of different cultures within a given society'. Assimilation-immigration policy introduces processes whereby immigrants and their descendents 'become increasingly similar to the majority population in their patterns of cultural, economic or political behaviours and perspectives'. Messina (2006), 13

⁵²⁹ Interview with UNHCR personnel on 4 September 2007 at the conference on *The Plight of Zimbabweans Entering South Africa* hosted by the Forced Migration Studies, Johannesburg.

15. The literature needs to present an unambiguous portrayal of refugees.

A recurring criticism levelled against the UNHCR by migrant-led organisations was that although the UNHCR is specialised at providing emergency assistance such as food and temporary accommodation to refugees they contribute to the creation of a condition of dependency amongst refugees and asylum seekers. It is this perception of dependency that migrant led organisations in South Africa aim to dispel. (See discussion by Dosso Ndessomin and Ahmed Dawlo in chapter 3).

Literature alone cannot effectively address xenophobia. Even if the documents are readily available there still remain the issue of illiteracy levels in South Africa. Therefore the key for creating a tolerant society lies in activities that promote interaction amongst migrants and South African citizens.

Good practise models have been established by Sisonke and the Alliance for Refugees in South Africa (AFRISA).

Good practise models

Sisonke (All of Us) is an initiative organised by a Cape Town-based NGO- Africa Unite in 2005. Africa Unite realised that much of the tension between citizens and immigrants arose out of conflicts over resources, with immigrants perceived as exacerbating the poverty that many citizens experience. In response to this, they established the Sisonke Savings Scheme, a project that encourages citizens and refugees to jointly save modest sums of money that are subsequently invested in income-generating projects. The

income that is generated is then shared by the members of the scheme.⁵³⁰ IDASA continue to note that Sisonke has since come to the attention of the South African Micro-finance Apex Fund (SAMAF), an initiative of the Department of Trade and Industry. With assistance from SAMAF Sisonke has become a loan and savings scheme that provides access to finance for previously disadvantaged individuals.⁵³¹

The Alliance for Refugees in South Africa (AFRISA) is a migrant led organisation based in Cape town. It provides bursaries to study English and Business skills for both refugees and South Africans.⁵³² George Pambason a refugee from Uganda is the Director of the organisation. He pointed that ‘on arriving in Cape Town, he knew no one but began to mobilise others like himself in an effort to ensure that refugees began to integrate into the community and contribute to its growth’.⁵³³

George Pambason⁵³⁴ depicts AFRISA as follows:

A refugee funded organisation based on the principles of mapping our destiny. Not being objects of development but being the means and ends of development. As human beings we need to participate on your own development and know what is good for you, what you require to grow and develop yourself. We are refugees yes but we have not lost our identities. We are still the same people that left our countries. So coming here does not incapacitate us to a position where we must wait for charity, constantly saying “give us food, give us shelter”. We need to drive the process of changing our own lives. It’s about being productive. What we say here is that we want to produce a refugee community that is of value to the host country and that contributes to the national economy. People regard refugees as buzzards and casualties of war. As such we are given medicine, [and transported]. This is a self defeating mechanism in itself as it [creates] dependency.

⁵³⁰ IDASA, 2008, ‘Migration and Social Cohesion’ IDASA, ed. 2, 24 November, p.8

⁵³¹ Ibid.

⁵³² AFRISA, 2007-2008, *AFRISA Project Plan 2007-2008*, AFRISA, Cape Town, p.1

⁵³³ Department of Law UCT, 2009, *Dialogue on Refugees Integration in South Africa: Ensuring Integration, Dignity and Safety for Refugees*, University of Cape Town, Cape Town, 18 June 2009 <http://www.publiclaw.uct.ac.za/news/?id=24>. Accessed on 23 December 2009

⁵³⁴ Interviewed on 15 August 2007 in Cape Town. The building was overcrowded with people queuing from the lifts down the corridor, with CVs in hand, wanting to filling out application forms in order to qualify for the training bursaries.

The idea of re-conceptualising the label of refugee was very evident from interviews conducted with refugee-led organisations. An identity that moves away from viewing refugees as dependent on State resources to one of self sufficiency. A tremendous amount of emphasis was placed onto ‘adding value and contributing in host countries’. This reciprocal relationship between the State and refugee is based on the premise that in exchange for the protection the host State provides refugees in turn have to be contributing members (politically, socially and economically) in their host countries. It must however be noted that talking of a ‘refugee-community’ might in itself spark xenophobic behaviour (see chapter 3).

What makes this organisation unique is its emphasis of giving back to the South African community. This can be found in the ethos behind providing the courses. The courses last for approximately six months and ensure that the student leaves with the skills necessary to enter the market place. Each year there are approximately 500 beneficiaries of its skills development courses.⁵³⁵ George Pambason noted that purpose of the training was to empower people to create their own jobs instead of relying on the job market.

Don't get money and train me in a course that is going to send me into the street to look for a job. This country has almost 40% unemployment. You are training me for 6months, at the end of which I get a certificate which dictates that I should go back to the street to look for a job. Without looking for a job I cannot benefit from that training I have undertaken. Now are you helping me or are you wasting resources? Train me in something that I will just wake up in morning and be able to earn money out of it. Train me how to make a jacket for example. And after training give me a sewing machine and material and send me on my way. That is empowerment. If you empower these people to wake up one morning and produce an item of value that they can put on the market and earn money from you are reducing the pressure on the job market.⁵³⁶

⁵³⁵ Department of Law UCT (2009)

⁵³⁶ Pambason (2007)

Such an approach encourages immigrants and South Africans to become income-generating members of society.

16. In order to receive some funding from government if not some sort of backing of government it must be stipulated by migrant led organisations when registering as an NGO that it will engage in activities aimed at involving South African citizens.

One of the premises behind developing the Immigration Act of 2002 was to fill the skills gap in the country. Organisations such as AFRISA and the Central Methodist Church (see Chapter three) provide a database of highly qualified migrants. George Pambason stated:

there is a shortage of skills in South Africa. We have a database of highly qualified refugees who are doctors and nurses. We want to cover the gaps where the country has shortages. And it should not be viewed that we are taking South African jobs, but rather that we are covering the gaps the country has.⁵³⁷

17. In order to address skill gaps in the country, the government needs to facilitate the process of verifying qualifications of foreigners in the country so that it can pool from this available resource.

The extent of their contribution does not end there. AFRISA is also involved in youth activities. George Pambason noted that:

There are South African youth that are involved in crime, using drugs and with HIV. The question is how do we intervene? Though our partnership with AZAAD Youth Services⁵³⁸ we train local youth in the area of African Arts. This training is provided for free. We do this as part of a quest to change the community.⁵³⁹

⁵³⁷ Ibid.

⁵³⁸ Azaad Independent Youth Services is a social welfare youth development organisation which was established in 1992. It is based in Cape Town.

⁵³⁹ Pambason (2007).

Their involvement with children includes providing aid to refugee and South African children in care (shelters or orphanages). George Pambason argues that:

These children would love somebody to give them love and compassion. Being a refugee child is traumatic. He doesn't get that love he could get from a parent or uncle. So we asked ourselves how can we raise the hopes of young children? So we went around and collected 100 children (refugee and South African) and took them to a soccer tournament we organised. They were given lunch and material donations (blankets, clothing, shoes, learning materials, linen). They came with their foster carers and mingled. And that is what we want.⁵⁴⁰

Efforts to improve the wellbeing of the youth has the long term effect of cultivating a culture of tolerance amongst future generations. South African children brought up in the company of migrants have the opportunity to interact with each other on a non-competitive platform.

What made AFRISA unique to other migrant led organisations such as CBRC and SASA is the local initiatives they had taken to promote interaction between migrants and South Africans.

A week long soccer tournament was organised end of June 2007 ending on the 1st of July 2007. As football is a universal language that brings people together George Pambason stated:

There where 16 African teams brought together including South African teams. The turn out was good. People enjoyed it, people liked it. After the event people talked about it and networked amongst themselves. This allowed people to understand each other.

On a provincial level AFRISA is actively involved in the African Cultural Festival hosted every year themed "One Continent One Stage". Together with the City of Cape Town the three day programme features various arts and cultural activities celebrating the various cultural backgrounds present in the City of Cape Town. This is depicted by

⁵⁴⁰ Ibid.

the flier which has a picture of Africa balancing on the symbol of Cape Town- Table Mountain. George Pamabason explained that “this (the picture on the flier) represents that Africa is in Cape Town”. It draws together migrant and South African artists to showcase their work.

As to how the festival promotes of tolerance George Pambason stated that:

If you take a popular musician and get them to sing songs about promoting Africanism, songs about refugees. You also bring those popular people who were in exile during the apartheid regime [to talk to] communities about their [experience] and help they gained when they were in exile. And explain why these people are also in exile here in South Africa. This is a very practical approach that creates the empathy in people that fliers and pamphlets don't convey. It creates quite an impact on people who hear this. They get to understand how he was treated. He was able to get education, accommodation, he got food, he was protected by the law and he was able to come back with an education and become a minister.

Thus it is imperative that influential people in South Africa share their experiences. From this it is recommended that:

18. Provincial governments host cultural events where all, South Africans and immigrants alike, are able to showcase their talent. Particular emphasis need not be given to specific categories of migrants however as part of society immigrants should be involved.

These cultural festivals can be duplicated at the national level.

19. The South African government should advocate the rights of immigrants and the fact that South Africa is part of the African continent on national public holidays.

These include Human Rights Day on 21 March, Freedom Day on 27 April, Youth Day on 16 June, Day of Reconciliation on 16 December. Gladys Ndou agreed that the Human Rights Day was an excellent opportunity to speak on the rights of all people living in South Africa.

During Freedom Day and Day of Reconciliation, education awareness programmes can be included aimed at increasing South African awareness of the African condition (poverty, disease, conflict, employment). The purpose of which is to demonstrate that difficulties faced in South Africa are not unique to the country but evident throughout the continent. The overall objective is to create a shared identity amongst the population at grass roots level.

20. It is on these public holidays that ideals such as *ubuntu* should be advocated.

Youth Day has also been identified as a day for promoting tolerance. Developing and advocating the notion of *ubuntu* amongst the youth builds a sense of belonging that transcends all other forms of identity, whereby future generations are more than comfortable and tolerant of African immigrants. A sense of belonging forged on the premise of togetherness- 'I am because you are'.

This approach isn't new. In September 1998, the Home Affairs Ministry in Germany together with churches, local and social partners organised an inter-cultural week themed "Openness for Europe-openness to others" The object of these events was to promote greater understanding between immigrants and nationals. There were a total of 2000 events including debates, conferences, exhibitions, competitions and musical

events organised in 150 towns.⁵⁴¹ In Spain, the Ministry of Labour and Social Affairs ran a number of public awareness campaigns such as “Young people against intolerance” and “Democracy means equality” which took the form of television slots, video clips and the distribution of leaflets.⁵⁴²

A major challenge to such an indirect immigrant policy is that it could exacerbate xenophobic sentiment on the grounds that too much emphasis was directed on improving conditions for immigrant populations. That is to say government was spending too much of its resources on advocating the rights of immigrants rather than focussing on the socio-economic concerns of South African citizens. To overcome this, the beneficial aspects of the programme should draw on commonalities rather than differences.

Civil society bodies, specifically faith-based organisations, are central to in the fight against xenophobia.

21. The Ecumenical Body of Churches needs be more publicly outspoken on matters relating to immigrants instead of one or two churches.

Churches are more than capable of positively affecting change. For example historically churches in the Southern Africa played an instrumental role in ushering democratic dispensations by ‘nurturing liberation movements that fought against colonial rule. In post-conflict societies they have been advocates for peace building’⁵⁴³. Church groups played an important role in South Africa in challenging apartheid and after 1994, in

⁵⁴¹EUMC (1998), p.58

⁵⁴² EUMC (1998), p.41

⁵⁴³ Ibid.

fostering social justice and reconciliation. Since they have established roots in Southern Africa, they constitute a powerful moral voice. In relation to creating a culture of tolerance sermons serve as excellent soft power tools to challenge behaviour.

22. Mosques in South Africa need to actively participate in raising their profile.

Apart from Voice of the Cape⁵⁴⁴ in Cape Town the Muslim community has not been very vocal on matters pertaining to xenophobia. They need to follow the example of Mosques in Germany that participated in ‘Mosque Open Day’ with the participation of Muslim organisations and institutions. It involved guided tours, conferences, debates, prayers for peace and exhibitions in mosques.⁵⁴⁵ The representatives from faith groups- Muslim, Christian, Jewish and Buddhist bodies launched an appeal for inter-religious events to be organised for ‘German Unity Day on October 3’ each year. The reason for this was published by the German intercultural council that ‘the fight against racism and xenophobia is one of the key priorities of the religious communities.’⁵⁴⁶

23. The Media

All awareness programmes require the involvement of the media. Print media has made significant progress from 2000 when it was heavily criticised for its negative portrayal of immigrants following the survey carried out by the South African Migration Project. The Institute of Journalism benefitted from the training workshops run by the Roll Back Xenophobia campaign whereby issues regarding reporting were addressed. However as media monitoring groups such the South African Media Monitoring Group highlighted there is still negative stereotyping occurring in the media.

⁵⁴⁴ A Muslim radio station based in Cape Town

⁵⁴⁵ EUMC(1998), p.59

⁵⁴⁶ Ibid. It also served to address Islamophobia.

Conclusion

Xenophobic sentiment can not be fully eradicated from society. A multifaceted approach is required in order to effectively address xenophobia, with contributions from all stakeholders. By combining efforts of government departments, migrant led organisations, faith bodies and the media it is possible to make positive advances in combating xenophobic behaviour. Recommendations therefore have to take into consideration the triggers and manifestations of xenophobia. The underlying premise of the recommendations suggested is social cohesion. According to the Institute for Democracy in South Africa, 'social cohesion' generally refers to the processes of bringing together and integrating a wide range of policies, including economic, social, educational and cultural policies, to facilitate the participation of citizens and non-citizens in society'.⁵⁴⁷ In the absence of activities that promote interaction between migrants and local South Africans, the development of legislation and making structural changes to the administrative practices of bodies such as the Department of Home Affairs and the police will not be effective. As correctly pointed out by the Institute for Democracy in South Africa 'being a socially cohesive society does not mean that there are no tensions and divisions, but rather that society works together to minimise the potential conflict that such tensions and divisions may cause'.⁵⁴⁸

⁵⁴⁷ IDASA (2008). p.2

⁵⁴⁸ Ibid.

Conclusion

*In practical and measurable ways, we have to keep pace with the rising sun, progressing from despair to hope, away from a brutal past that forever seeks to drag us backwards towards a new tomorrow that speaks of change in a forward direction.*⁵⁴⁹

Once the euphoria dissipated following South Africa's successful political transition the realities of life in South Africa have been laid bare for all to see. Like HIV/AIDS, crime and rising unemployment xenophobia is certainly a definitive blow to the image of South Africa, undermining its efforts to embrace and protect the human rights of all. This black-on-black antagonism parallels new racism as the end result is to exclude foreigners (who have a different culture and ethnicity) from the material benefits of New South Africa. In order to be, "free from fear, including the oppression of one national group by another,"⁵⁵⁰ xenophobia has been understood within the context of life in post-apartheid South Africa. In a struggle for access to the political, social and economic entitlements of the country, black South Africans have exercised their rights as citizens in very exclusionary terms. This has limited the operation of concepts such as *ubuntu* and human rights, making it difficult to embrace a consciousness of belonging together.

⁵⁴⁹ T. Mbeki, 1999, "Thabo Mbeki's Inaugural Speech as President of South Africa", *The Guardian*, 16 June, <http://www.guardian.co.uk/world/1999/jun/16/southafrica> Accessed 25 March 2010

⁵⁵⁰ Mbeki (1996)

This study illustrated that:

1. Xenophobic sentiment is about the politics of access; a struggle for political, social and economic entitlements.

State responses to xenophobia have been directed by the need to balance its international obligations of protecting immigrants with its 'realist' obligation to protect the national interests of its citizens. The state has had to absorb the consequences of poor or non-existent governance in African countries, whilst simultaneously contending with its poor service delivery that has the consequence of creating a disempowered populace who have not accessed or enjoyed the material benefits government promised. As evidenced from the July 2009 service delivery protests the government must engage in activities that empower its people before it deteriorates into a society where South Africans feel their needs can only be heard and met through violent protest. This study therefore located South Africa within the wider debate about effective governance, and what happens to societies where governments struggle to meet pressing needs.

It cannot go without saying that the government must be applauded for the legal and administrative changes brought in once the Refugee Act and Immigration Act were adopted. It still has some way to go in changing the legacy of apartheid that still resounds within the state apparatus where a culture of bias towards immigrants exists. Nevertheless in order to meet its international obligations of protecting immigrants, the government together with state officials must actively confront xenophobic behaviour at every conjuncture.

2. Immigrants exercise more agency than is otherwise perceived and despite the human rights abuses experienced from state officials and the local population they are not complete victims.

The Somali Association of South Africa, the Coordinating Body for Refugee Communities, and the Alliance for Refugees in South Africa; have done exceptionally well at defining a role for themselves in the country where the state has failed to identify them as a vulnerable group in need of protection. These non-governmental organisations have advocated for their rights, and by promoting and aligning themselves with bodies such as the South African Human Rights Commission and Lawyers for Human Rights their reputation is growing. However, as the May 2008 outbreak of xenophobic violence highlights, migrant non-governmental organisations still have a long road ahead of them in the area of challenging perceptions held by ordinary South Africans.

Just like the state, migrant non-governmental organisations have to contend with how some of their activities exacerbate rather than curb xenophobic sentiment. For instance efforts made by these organisations to increase awareness, amongst the local population, of who they are and their experiences in the country can create as much discord as it does harmony. In spite of this, immigrants cannot remain passive in their fight against xenophobia.

3. Opportunities for change are located within the South African socio-political system.

Xenophobia is not some unstoppable force of human nature that cannot be addressed. Opportunities for change are already present within South Africa, particularly its

legislature. To successfully address xenophobic sentiment the stakeholders identified in this study must embrace the SAHRC maxim of “know your rights, accept your responsibilities”⁵⁵¹ as well as *ubuntu*. Habermas argues that it is through dialogue that we are able to “develop our moral codes and thinking about justice...where we become aware of needs and interest and desires of others”.⁵⁵² Coser writes that “only when there exists open channels of political communication through which all groups can articulate their demands, are chances high that the political exercise of violence can be successfully minimized”.⁵⁵³

The challenge for future research is to analyse what South Africans themselves are doing in the fight against xenophobia. In particular the youth; women; and efforts being made by the local movement *Abahali baseMjondolo* (Shack Dwellers).

Immigrants and government must actively pursue measures that aim to curb xenophobic sentiment with renewed vigour, knowing that no matter how small the change, it is change nonetheless. Therefore, “whoever we may be, whatever our immediate interest, however much we carry baggage from our past, however much we have been caught by the fashion of cynicism and loss of faith in the capacity of the people, let us say today- nothing can stop us now!”⁵⁵⁴

⁵⁵¹ SAHRC, 2007, “South African Human Rights Homepage”, SAHRC, <http://www.sahrc.org.za/> Accessed 17 September 2007.

⁵⁵² R.E, Park, 2000, “The Nature of Race Relations”, in, Back, L. & Solomos, J. ed., *Theories or Race and Racism: a Reader*, Routledge, London, p.110.

⁵⁵³ L.A. Coser, 1956, *The Functions of Social Conflict*, Free Press, New York, p.49.

⁵⁵⁴ Mbeki (1999)

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