



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

AD HOC JOINT COMMITTEE ON PROBING VIOLENCE AGAINST FOREIGN NATIONALS

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**Suggested follow-up areas flowing from the 2008
Report of the Task Team of Members of Parliament
Probing Violence and Attacks against
Foreign Nationals**

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2008 Report of the Task Team of Members of Parliament Probing Violence and Attacks against Foreign Nationals

- ❑ On 11 May 2008, a series of violent attacks against foreign nationals broke out in Alexandra Township in Gauteng and spread to other areas in Gauteng and other provinces.
- ❑ On 13 May 2008 the NA passed a resolution that established the Task Team of Members of Parliament probing violence and attacks on foreign nationals.
- ❑ The Task Team report on its oversight visit to Alexandra, Tembisa, Germiston and Reigerpark / Ramaphosaville on 26 May 2008 made several recommendations.
- ❑ 62 people including 21 South Africans died in the attacks and 14 647 people were displaced.

Centres of Safe Shelter established during 2008 crisis		
Province	Number of sites	Number of Displaced Accommodated
Gauteng	12	6602
Kwa-Zulu Natal	17	585
Western Cape	65	7460

2008 Report of the Task Team of Members of Parliament Probing Violence and Attacks against Foreign Nationals

Selected general recommendations to address xenophobia and violence

- **Hold joint sessions of relevant Parliamentary committees and hold public hearings on entire policy and legislative framework dealing with migration and immigration.**
- **Establish Parliamentary task teams in Gauteng and the Western Cape to monitor implementation of humanitarian programmes and reintegration of displaced persons into communities.**
- **Recall all resolutions of the 2001 UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and follow up on implementation of these resolutions.**

Selected 2008 recommendations to specific Parliamentary committees

- **PC Home Affairs:** ensure the Department of Home Affairs prioritise issuing foreign nationals with correct documentation, maintain adequate records and root out corruption.
- **Relevant committees:** Conclude the processing of the **Refugees Amendment Bill**.
- **PC Safety and Security (now PC Police) and Joint Standing Committee on Intelligence:** engage with report of inter-ministerial task team investigating root cause of violent attacks on foreign nationals.
- **PC Safety and Security:** establish the ability of (i) crime combating units to deal with crowd control to stem future attacks and (ii) police response to violent situations in general.
- **PC Foreign Affairs (now PC International Relations):** Monitor DIRCO programmes to ensure missions can deal with enquiries about violence and attacks, incl. Government initiatives to combat reoccurrence.
- **PC Justice and Constitutional Development:** monitor Special Courts progress in processing cases of violence against foreign nationals.
- **Security cluster committees:** review policies, practices regarding border security, ports of entry.
- **PC Housing:** monitor Department of Housing initiatives to disseminate information to communities about the national housing code and housing allocation criteria.
- **NA and NCOP: Labour, Provincial and Local Government, Finance cluster committees:** examine allegations that foreign nationals and undocumented migrants trade without relevant permits in contravention of provincial and local bylaws.

Government initiatives

- **Since the adoption of the 2008 Parliamentary Task Team report on violence and attacks against foreign nationals the South African Government has implemented various initiatives, some of which are on-going.**
- **E.g. National Development Plan 2030 and 2014-19 MTSF indicators on the development of a Plan on Social Cohesion (DSD) and a National Action Plan against Racism, Racial Discrimination, Xenophobia and Related Intolerance (DOJCD).**
- **Initiatives reported in South Africa's Third APRM Implementation Report.**

Selected South African Human Rights Commission (SAHRC) Recommendations (2010)

- **Army deployment in conjunction with the police in urgent cases to deal expeditiously with violence and restore law and order;**
- **Elevate national disaster management to Presidency to allow for better co-ordination of responses to crises such as xenophobic violence.**
- **Better co-operation and co-ordination between departments at local government, provincial and national level and integrated approach between crime fighting agencies and departments.**
- **Develop early warning systems as a preventative measure (SAPS).**
- **Improve work in respect of disaster management.**
- **Fast-track hate-crimes legislation (DOJCD).**
- **Finalise and implement a National Action Plan Against Racism (DOJCD).**
- **Ensure all social conflict disaster plans and reintegration plans include a clear and transparent policy on repatriation.**
- **Developing co-ordinated integration programmes and ensure monitoring and evaluation of ongoing programmes.**
- **The SAHRC also made recommendations to strengthen its own capacity to investigate and respond timeously to human rights abuses, incl. xenophobia.**

Selected Human Sciences Research Council (HSRC) Recommendations (2008)

- **Audit RDP houses and develop a policy on their occupation, sale and rental to ensure only South Africans occupy this form of housing.**
- **Strengthen border control.**
- **Grant amnesty period to illegal immigrants to apply for formal residence permits without threat of deportation.**

SUGGESTED AREAS FOR FOLLOW-UP

Update on status of current Policy and Regulatory Framework governing migration, immigration and 'Hate crimes'. These include, but are not limited to:

Status of hate crimes legislation:

- The DOJCD said on 23 April 2015 a comprehensive draft policy on hate crimes was submitted to Cabinet prior to the National Elections in 2014.
- On 15 May 2015 the matter was with the Ministry who must decide on the most appropriate Chpt. 9 institution (South African Law Reform Commission / South African Human Rights Commission / Commission for Gender Equality / Commission on Cultural, Religious and Linguistic Rights) to facilitate the public dialogues on the draft policy.

Status of White Paper on Migration:

- An overarching migration policy aimed at addressing the complex issues of security and development was tabled as a White Paper in 1999. The policy was abandoned for various reasons.
- In 2010 the Department of Home Affairs revived the policy as a priority.
- The proposed completion date of this policy was postponed each year from 2011 and is currently due to be tabled as a White Paper for discussion by Cabinet in 2015/16.
- Minister Jeff Radebe indicated in June 2015 that the Inter-Ministerial Committee on Migration will table a draft migration policy with Cabinet by 5 July 2015.
- The Department of Home Affairs will hold a Migration Policy Colloquium at the end of June 2015 to consolidate inputs gathered from several migration stakeholder policy roundtable discussions.

Status of Refugees Amendment Bill:

- ❑ On 27 September 2013 the Constitutional Court (CC) declared invalid section 21(5) of the Refugees Act 130 of 1998, as the provisions regarding the confidentiality of the hearings of asylum seekers were inconsistent with the freedom of expression guaranteed by s16 of the Constitution.
- ❑ The CC suspended the order of invalidity for 2 years but, in the interim, read certain provisions into the Act until Parliament remedies the defect. Parliament has until September 2015 to remedy the defective clause.
- ❑ The DHA indicated on 5 May 2015 that a comprehensive draft Refugees Amendment Bill (including amendments to section 21(5)) would be tabled in Parliament in April 2015.
- ❑ By 12 May 2015 it appeared the bill had not been tabled in Parliament as its tabling in Cabinet had been delayed due to unspecified technicalities.
- ❑ The PC Home Affairs introduced a Committee draft bill in May 2015 to address the defective section 21(5) to comply with the CC order. The draft bill was adopted for Gazetting on 9 June 2015.
- ❑ It is not certain when the Department of Home Affairs will table the comprehensive Refugee Amendment Bill.
- ❑ The 2008 and 2011 amendments to the Refugee Act have not yet come into effect as the required regulations are still outstanding.

Status of the Immigration Act:

- Amendments were introduced in 2007 and 2011 and related Regulations in 2014. (Considerable debate in public and private sectors on implications for tourism of more stringent measures due to regulations aimed at combatting fraud and human trafficking).

Recommended briefings:

- On the status of review of the current policy and practices to secure borders and ports of entry – (joint report done by Researchers to be published by next week)
- On the current ability of the SAPS' Public Order Policing units (POPS) to respond to attacks.
- From the Department of Human Settlements on initiatives to disseminate information on the national housing code and criteria for the allocation of housing, esp. RDP housing.
- From the Department of Home Affairs on its ability to fulfil its institutional mandate and to provide foreign nationals with correct documentation, maintain adequate records and ensure that corruption is rooted out. (Several Meetings were held by the PC on Home Affairs and can be made available).
- By the Department of Labour and other stakeholders on trading permits.
- Intersectoral briefing measures contained in the 2014-2019 MTSF that directly and indirectly relate to curbing xenophobia. Ensure regular and consistent follow up on implementation of actions (in line with targeted deadlines). Inc. monitoring (a) *the National Action Plan against Racism, Racial Discrimination, Xenophobia and Related Intolerance* (to be approved by Cabinet in July 2015) and its implementation in schools, (b) various social cohesion consultations, dialogues and summits and (c) *implementation of the Border Monitoring Agency and the development and implementation of border strategy.*

SUGGESTED AREAS FOR FOLLOW-UP

continued

Receive a briefing of the status of implementation of recommendations emanating from other reports, including the 2010 SAHRC and 2008 HSRC reports and the Third Report on the Implementation of South Africa's African Peer Review Mechanism programme.

These include but are not limited to:

- Elevation of national disaster management to the level of the Presidency, measures to improve disaster management and measures to ensure improved coordination at local, provincial and national levels.
- Clear and transparent policy on repatriation as part of the social conflict disaster plans and reintegration plans.
- Coordinated reintegration plans *versus* joint operations with SAPS and DHA deporting more foreign nationals.
- Status of police and other agencies' early warning systems.
- Status of the SAHRC reaction unit and the 'revival' of the 'Roll Back Xenophobia' campaign of the SAHRC (mentioned in APRM report).
- Status of recommended audit of former 'RDP' housing (recommended by HSRC) and development of housing policy in this regard.
- Policy on repatriations and assistance to displaced persons.