

# **A Foreign Experience: Violence, crime and xenophobia during South Africa's transition**

by

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The Violence and Transition Series is a product of an extensive research project conducted by the Centre for the Study of Violence and Reconciliation (CSVr) into the nature and extent of violence during South Africa's transition from apartheid rule to democracy. This series comprises a set of self-contained, but interrelated reports, which explore violence across the period 1980 to 2000 within key social loci and areas, including:

- Revenge Violence and Vigilantism;
- Foreigners (immigrants and refugees);
- Hostels and Hostel Residents;
- Ex-combatants;
- State Security Forces (police and military), and

- Taxi violence.

While each report grapples with the dynamics of violence and transition in relation to its particular constituency all are underpinned by the broad objectives of the series, namely:

- To analyse the causes, extent and forms of violence in South Africa across a timeframe that starts before the political transition and moves through the period characterised by political transformation and reconciliation to the present;
- To assess the legacy of a violent past and the impact of formal democratisation and transition on the contemporary nature of violence by researching continuities and changes in its form and targets;
- To investigate the role of perpetrators and victims of violence across this timeframe;
- To evaluate reconciliation strategies and institutions, such as the Truth and Reconciliation Commission, established to ameliorate future violence in South Africa;
- To develop a macro-theory for understanding violence in countries moving from authoritarian to democratic rule, i.e. 'countries in transition', and
- To contribute to local and international debates about reconciliation and justice for perpetrators and victims of gross violations of human rights.

Through these objectives, the Violence and Transition Series aims to inform and benefit policy analysts, government officials and departments, non-governmental and civic organisations, and researchers working in the fields of:

- Violence prevention;
- Transitional criminal justice;
- Victim empowerment;
- Truth commissions;
- Reconciliation;
- Human rights, and
- Crime prevention.

As a country emerging from a past characterised by violence and repression South Africa faces new challenges with the slow maturation of democracy. Violence today is complex, dynamic and creative in form shaped by both apartheid and the mechanisms of transition itself. In order to understand - and prevent - violence during transition in South Africa and abroad an ongoing action-research agenda is required. Through this series the Centre for the Study of Violence and Reconciliation offers an initial and exploratory, yet detailed, contribution to this process.

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## **Executive Summary**

This report examines the involvement of foreigners in violence during South Africa's period of transition. It grapples with the legal, political and social implications of foreigners in a changing social order. In so doing, the report examines a plethora of complex issues, including: the foreign experience of crime and violence in a context of increasing xenophobia; post-apartheid discourses about immigrants and refugees; and the transmigration of violence across national borders. The major findings of this report stem from interviews and focus groups conducted with more than 100 foreign respondents. These findings are supplemented and informed by an extensive literature review and secondary-data analysis.

### **Literature review and secondary-data analysis**

The literature review and secondary-data analysis set the foundations for the primary research of this project. They highlight a number of key issues, including the following details:

- There are various legislated categories of foreigners living in South Africa, including refugees, asylum seekers, migrants and immigrants. Approximately 52 000 asylum seekers and 16 000 refugees live in South Africa (May 2001 figures). Contrary to popular public perception, refugees are entitled to a range of socio-economic rights, including the rights to work and study. Asylum seekers, however, are not permitted these working/studying rights, at least for the first 180 days of their application, under Section 22 of the Refugee Act (1998). This is problematic because there is currently an enormous asylum-processing backlog, which thus prohibits genuine asylum seekers from earning a living for at least 6 months. This problem is compounded by the lack of state and civil assistance for asylum seekers/refugees who find themselves living, unsupported, in an urban context.
- During the early 1990s, a series of amnesties were granted to certain Mozambicans, miners and SADC-members entitling them to attain South African citizenship. However, application levels were unexpectedly low, partly due to ignorance, as well

as South Africa's climate of hostility, crime and violence. Of those who did apply for amnesty, a strong motivation for seeking South African citizenship was to reduce the constant harassment that goes with being foreign in South Africa.

- Whether documented or undocumented, foreigners are frequently treated as a homogeneous category of 'illegal aliens'. Xenophobic discourse prevails around this category and forms the basis for hostility, conflict and violence between South African citizens and (predominantly black) foreigners.
- Racism is a key feature of South Africa's immigration legislation and practice, both historically and, despite the country's transition to democracy and equality, currently. For example, the discriminatory and exploitative 'two gates policy', which differentiated between black migrants and white immigrants during the apartheid era, effectively remains legislated in contemporary immigration policy. Beyond the legislation, racism impacts on xenophobic practices, with black African foreigners bearing the brunt of xenophobic discrimination, both at the hands of the public and at an institutional level. In certain cases, South African citizens have also fallen victim to xenophobia because they are perceived in racist terms as 'too dark to be South African'.
- Corruption and xenophobic discrimination mark the institutional interface between foreigners and South African officials. These institutions include, according to the literature, the South African Police Service, the South African National Defence Force, the Department of Home Affairs, and the privately administered Lindela Repatriation Centre. Violence and hostility also form part of the process of repatriation (on trains and trucks).
- Farm labour practices systematically exploit undocumented migrants (along with many South African farm workers). Low wage levels and dangerous working conditions are exacerbated with the threat of deportation. Tensions also exist between undocumented workers and their South African counterparts who feel threatened by 'cheaper', non-unionised foreigners.
- Xenophobia and the economic exploitation of migrants is not peculiar to South Africa. International literature shows that the South African experience is part of a worldwide phenomenon. A key global trend is that of racism underpinning xenophobia, with black foreigners representing the common victims of violence and hostility. Xenophobia is particularly predominant in countries undergoing transition. Another key global trend, especially within these countries, is a tendency for governments to conflate foreigners with crime and use them as scapegoats for social problems such as unemployment and poverty.
- Most explanations and hypotheses describe xenophobia in South Africa as relatively new, a phenomenon produced during the country's political transition. For example, the 'scapegoating hypothesis' explains that foreigners are blamed for limited resources and dashed expectations regarding the transitional process. The 'isolation hypothesis' situates xenophobia as a consequence of South Africa's history of isolation from the international community prior to the 1994 elections. The 'bio-cultural hypothesis' explains that xenophobia operates through the level of physical

and cultural appearance. International literature on nationalism suggests that xenophobia is a negative consequence of nation-building.

- A solid body of research explains that a culture of violence prevails in South Africa, where violence is seen as the legitimate and normal way of solving problems in the country. In this report, violence-theory is utilised to strengthen theories of xenophobia. Xenophobia in the post-apartheid era is understood as a product of historical factors and the new South African nation-building enterprise, an enterprise that is underpinned by a culture of violence and racism, despite the formal transition to equality and democracy.

### **Primary-data analysis and findings**

Using the literature review and secondary-data analysis as a springboard, primary data was collected through a series of interviews and focus groups with foreign respondents. The respondents were predominantly refugees/asylum seekers and undocumented migrants, chosen according to a set of variables informed by the literature review, including: their experiences of violence or crime in South Africa, the countries from which they came, their legal status in South Africa, and their race. This information was analysed for the foreign experience of violence in South Africa according to chronology and sites for potential violence. Major findings include:

#### ***Background and violence***

##### **Push Factors:**

- Political conflict, war and economic instability are key reasons why foreigners have left their home countries (push factors.) For those who fall into the refugee/asylum seeker category, violence usually underpins and influences their decisions to leave. However, for many refugees/asylum seekers and economic migrants the decision cannot be reduced to a singular factor; out-migration is a complex and difficult process.
- Many respondents do not choose to leave their home country, as much as they feel forced to go and they are not in South Africa because they want to be. If they could, most would return home. This is pertinent to those who leave for both economic and political reasons.
- Once in South Africa, push factors of violence and political conflict continue to exert a strong influence on respondents, shaping their identities and contributing to how they understand themselves in the country.
- That many foreigners come from a background of violence is rarely recognised within South Africa. This has implications for service provision and intervention strategies. The trauma of violence-related push factors and the ongoing impact of past-violence on identity needs to be accommodated and addressed.
- Despite coming from violent contexts, many foreigners seem to be surprised by the high levels of violence in South Africa itself.

### **Pull Factors:**

- Respondents chose to come to South Africa for various reasons (pull factors). One central pull factor is South Africa's international image of democracy and freedom. Many expected to find protection, tolerance, and opportunities in the country. Certain African respondents also expected South Africa to 'return the favour' extended by their countries to exiles of the anti-apartheid movement. Another reason, although this is rarely stated directly by respondents (other than South African respondents) was South Africa's economic lure and promise of employment. However, regardless of the particular pull factors involved, once most respondents actually reached South Africa, their expectations were disappointed. This was largely through their experiences of crime, violence and limited opportunities for employment, education and health-care.
- A regional history of cross-border migration and family networks are pull factors for many from Southern Africa, and increasingly, those from further afield (as refugee networks, for example, begin to take root). Southern African respondents do not advance unchecked, 'unjustified' migration into South Africa but they do suggest that the country has to take some responsibility for the poor economic situation of the region and that the regional legacy of apartheid is a justifiable reason for immigration into South Africa.

### ***Journey***

- Respondents do not separate their foreign encounter with South Africa from their journey to the country: the experience of foreignness begins when people leave their home nation, not just when they arrive in South Africa. Similarly, many see South Africa as part of their journey, as a temporary, transitory phase, rather than a permanent abode. This finding (supported by the literature) contradicts the common xenophobic perception that foreigners 'flock to South Africa to stay forever'. It also testifies strongly to a hostile climate in South Africa, which contributes to the foreign sense of impermanence in the country.
- A sense of impermanence impacts on service provision and delivery in various ways. For example, refugees/asylum seekers may not even enter service delivery programmes. In trauma-work and counseling, impermanence represents an additional barrier to healing because the client never feels that their plight is 'over' or that they can begin to make a new life in South Africa.
- The high turnover of foreigners constantly leaving South Africa impacts negatively on the resources and service-providers that are 'left behind'.
- Travelers commonly report physical danger, hostility, language barriers, corruption and violence en route, particularly as they move further from their country of origin and closer to South Africa.
- There is, what this report terms, a strong 'economy of movement' in operation within Southern Africa. This economy rotates financially around the movement of foreigners across the region into South Africa. Within this economy, there is a

demand for movement from foreign travelers, many of whom, contrary to popular xenophobic myth, are relatively well-financed and resourced. There is similarly a supply of movement from a range of agents, who engage in both legal transactions (e.g. bus and train fares), as well as illegal activities for money (e.g. clandestine border crossings and the illegal issuing of visas). Exploitation is also a solid feature of this economy. It exists as crime and sometimes, violence, en route (e.g. theft, extortion of money, aggression and physical abuse to elicit extra-payment).

- Exploitation within the economy of movement and exposure to violence are largely determined by familiarity with the region and knowledge about how to reach and cross South Africa's borders. Those who are familiar with Southern Africa are less at risk than their northern counterparts who usually have to rely more heavily on agents of movement to secure their entry into South Africa.
- The situation for undocumented migrants, along with that of many legal entrants, is also characterised by an absence of remedial and reporting mechanisms for violations and abuses (i.e. they have no-one to turn to for assistance, particularly because the agents of movement are frequently authorities themselves).

### *Entry*

- The participation of border authorities in illegal entry is an important feature of this research. Contrary to the perception that illegal entrants are illegal because they go undetected, border patrols and controls seem relatively effective in detecting illegal entrants, if not preventing them. Most undocumented respondents report at least one encounter with border authorities on their way into the country. While logistical and physical impediments to detection cannot be undermined, it seems that the common call for tightening border patrols will not eradicate illegal entry provided authorities continue to exploit this status to their own ends.
- Exploitation of their positions, as well as lack of legal knowledge, pervade the actions of South African border authorities and it is recommended that they receive training to bring their actions in line with South African and international law, so as to protect the rights of immigrants and refugees. Similarly, abuse of power (e.g. corruption and violation of the principle of non-refoulement) must be criminalised and punished by the criminal justice system, in order to eradicate the culture of impunity that prevails along the country's borders.
- Any causal link between illegal entry and crime is firmly rejected by all of the undocumented respondents in this research. Their position contradicts the commonly held belief that 'illegal immigrants' are primarily responsible for crime, and/or the increase in crime, a belief that contains the potential to inflame vigilante violence against foreigners.
- Respondents who enter illegally are usually aware that their actions are unlawful, yet they 'justify' them in various ways: Asylum seekers rarely have documentation because they have been forced to flee their country of origin (and to speak of their entry as 'illegal' - which many South African authorities do - is a misnomer). Those respondents who do not qualify as refugees, or who have had their asylum



applications refused, commonly justify their undocumented status by appealing to a shared 'African' identity that does not require borders (pan-African argument). Others, particularly respondents from Southern Africa, typically argue for borders but maintain that undocumented border-crossings are a product of stringent, exclusionary South African legislation. Their argument suggests that entrants are willing to comply with the law and follow procedure if they are able to. Their solution to undocumented entry is to expand South Africa's legislation to accommodate the admission and working requirements of citizens from neighbouring states.

- The process of illegal entry, by virtue of its clandestine nature, creates the possibility for undetected human rights abuses, exploitation and danger (e.g. cramped, poorly ventilated trucks, wild animals and police dogs, razor wire, immediate repatriation (even for those with asylum claims), theft, extortion, corruption and beatings). Illegal entry also exaggerates the scope for abuse that exists within the legal realm because undocumented entrants feel that they have no recourse to protective mechanisms as their risk of secondary victimisation at the hands of the authorities is high.

#### *Institutional abuses, economic exploitation and xenophobia*

- A general climate of xenophobia renders foreigners vulnerable to exploitation and violence.
- Some human rights violations perpetrated against foreigners are motivated by financial gain and economic exploitation, rather than 'pure xenophobia', although the climate of xenophobia renders foreigners more vulnerable to such financial exploitation.
- 'Without money, there is no service' for many seeking to attain and maintain legal status in South Africa. Money and corruption are central to staying in the country. The guise of checking status (more than any concern with status per se) also creates a space for ongoing economic exploitation and sometimes, violence, at the hands of the South African authorities.
- Even those who hold valid, legal documentation are not exempt from corruption and extortion. In many cases, the authorities threaten to, and do, tear up documents unless they are paid a certain amount of money. In these cases, foreigners - whether legal or not - are often arrested and sent to Lindela where they face repatriation, unless they are able to buy their way out of the system.
- South Africans increasingly blame foreigners for corrupting South African officials, thereby shifting responsibility from the officials to foreigners.
- Although the institutional system renders foreigners vulnerable to corruption and abuse, many play an active role within it. This role is not exclusively that of 'victim' because corruption benefits those who can afford to pay (e.g. undocumented migrants), whilst simultaneously exploiting those, such as bona fide refugees, who should not have to pay.

- Many respondents report that they have been victims of 'ordinary crime' in South Africa (i.e. crime not motivated by their foreign status). However, because they often live in dangerous places (e.g. inner-city Johannesburg) and engage in dangerous professions (e.g. security guards and street vendors) they - by virtue of their foreign status - are rendered particularly vulnerable to 'ordinary crime'.
- Most of the respondents, including refugees, have been unable to open bank accounts in South Africa. This increases their vulnerability to theft and violence because foreigners are known to personally hold their money in the absence of a safe banking environment.
- It is recommended that South African banks adopt a consistent policy about refugees and asylum seekers and that, in lieu of South African identity documents, these institutions recognise the rights that are accorded to this constituency through their Section 22, 28 or 41 permits.
- Not all actions against foreigners are directed by economic exploitation and financial gain. In certain cases, xenophobia alone is responsible for their victimisation. Xenophobia takes many different forms. Alongside murder and physical violence, respondents report ongoing daily encounters with institutional discrimination, verbal abuse and public hostility.
- Although most respondents attempt initially to follow the appropriate legal channels when they are victimised, xenophobia is a strong disincentive for them to report crime and violence. Police, for example, neglect to follow up individual charges and commonly interrogate and further victimise the foreign complainant, resulting in a process of secondary victimisation.
- Ongoing human rights training, with a particular component on refugee rights, (of the nature initiated by the Centre for the Study of Violence and Reconciliation, the South African Human Rights Commission, and the Roll Back Xenophobia Campaign) is recommended for frontline workers such as the police and Home Affairs officials. 'Know your rights' training and awareness raising are similarly recommended for foreigners themselves. For example, through training community leaders and distributing educational pamphlets/posters (in the foreign languages most commonly spoken) to frontline workstations and border posts. Similarly, it is recommended that victims of xenophobia are included as a constituency within wider victim empowerment initiatives and that remedial alternatives, such as complaints desks and/or toll-free telephone lines are implemented to tackle incidents of secondary victimisation.
- In a context of secondary victimisation and xenophobia, there is potential for foreigners to perpetrate violence as a response to the daily frustrations that they encounter. There is similarly potential for violence to break out in relation to the few service providers who are working to assist foreigners, due to scarce resources and strong competition, both between South Africans and foreigners and foreigners themselves.

### *Internal conflict and violence between foreigners*

- This report finds that, in certain situations, conflict from various home nations is transposed onto the South African landscape by asylum seekers and refugees. It reveals that political conflicts can play out within exile communities living in South Africa, resulting in intimidation, kidnapping, rape, beatings, and sometimes death. These findings expose a large gap in protection services for refugees/asylum seekers in South Africa. They also highlight the need for inter-agency communication, co-ordination and protocol with regard to the few service providers that are working in the field. A co-ordinated national strategy is recommended to raise awareness and share information about the cross-border migration of political conflict as well as to create interventions for tackling this form of violence in a sensitive manner that avoids generating stereotypes of 'violent refugees'. A systematic study of ongoing political conflict within exiled communities in South Africa is also recommended in order to substantiate this finding. This must be complemented and balanced with a study of the 'commonalities of exile' and the positive possibilities that asylum holds for the peaceful resolution of conflict within refugee communities, as this appears to be the more typical scenario.
- Violence in the form of 'pure crime' also takes place between foreigners living in South Africa. For example, various respondents report victimisation at the hands of international crime syndicates. Similarly, xenophobia between foreigners and negative stereotyping about South Africans and other nationalities is commonplace. This finding serves as a reminder that foreigners are actively involved in producing and reinforcing discourses about their own foreignness. It also suggests that the foreign experience in South Africa impacts on identity and is a constant benchmark against which foreigners define themselves.

### *Foreigners' explanations for their reception*

- Most of the respondents explain their negative experiences in South Africa as a result of racism. This is in keeping with the literature, which suggests that black foreigners are at greater risk for xenophobic violence and economic exploitation than their white counterparts. However, in order to lend balance to this explanation, which has not been adequately tested, as well as to enhance an understanding of violence during transition, a future study of xenophobia in relation to white and Asian foreigners is required.
- While victims of xenophobia are predominantly black, perpetrators span the racial spectrum to include both black and white South Africans, as well as other foreigners. For most respondents, 'white racism' is not unexpected because it is seen as an extension of apartheid power relations. In contrast, many find 'black racism' surprising. They locate this phenomenon as a consequence not only of apartheid but also within contemporary governance and political transition.
- South Africa's period of transition has changed the nature and intensity of the problems, including xenophobia, facing foreigners over time. Part of this change results from foreigners themselves impacting on the demographics of the nation, particularly across the 1990s.

- Refugees and asylum seekers feel unsupported and unprotected in South Africa. They ascribe their circumstances largely to the South African government, which, they suggest, is not fulfilling its international and legal obligations. By contrast, the United Nations High Commissioner for Refugees (UNHCR) is seen less as an agency with current responsibilities to the refugee community, than as a future alternative to the South African government. This may reflect the constraints of the initial Memorandum of Understanding signed between the UNHCR and the de Klerk government in 1993, as well as limited knowledge of each agency's roles and responsibilities.
- It is recommended that an audit/evaluation of refugee agencies and service providers (such as that recently commissioned by UNHCR) be compared with refugee knowledge, attitudes and practices about available services in order to develop a system of accountability, responsibility, awareness and information dissemination.

### *South Africa's culture of violence*

Foreigners bring an outsider's perspective to practices that most South Africans accept as normal and conventional. They afford an opportunity to interrogate South Africa's norms and practices surrounding violence.

- Through the foreign lens, South Africa appears as a society that operates in terms of violence, where human rights violations persist despite, and because of, the overt transition to democracy.
- Violence pervades the smallest details of South African life and is frequently the usual solution to problems such as drunken behaviour.
- Gender relations between South Africans are marked by physical violence. Within this patriarchal setting, women are a real and potential source of violence between South African and foreign men.
- Limitations and failings in the South African criminal justice system play a role in perpetuating the culture of violence for South Africans and foreigners alike.
- Xenophobia must be understood in relation to the high levels of violence that persist within contemporary South Africa. Although it represents a new manifestation of violence, it also reflects continuities with other forms, targets and perpetrators of violence in the society.

### *The way Forward*

Broad recommendations for future research, training, institutional reform, service provision, informing policy and the national debate, and monitoring/evaluating functions are suggested. These are contextualised within the shortcomings and limitations of the research.

## Foreigners in South Africa

### Introduction

Foreigners within contemporary South Africa have received much media and political attention. This attention has fluctuated unevenly between negative exposure and positive sympathy within television documentaries, chat shows, newspaper letters, editorials, and political speeches. The run-up to the 1999 elections, as well as violent crimes involving foreigners, have also propelled this group to the fore. Although foreigners are regularly portrayed as a coherent, uniform group in South Africa, this ignores their internal diversity and complexity. It also does not recognise that certain foreigners are at greater risk for violence and hostility than others. Indeed, left homogeneous, 'the foreigner' as a term represents anyone without South African citizenship (literally, a world of people). It is therefore important to consider various categories of foreigner. Three broad categories that are utilised in South African legislation are those of refugee, migrant and immigrant. This section focuses on the definition and demographics of these categories in terms of contemporary South African law and popular public discourse. Their significance to current xenophobia will be explored through the historical focus of section two.

### Refugees

Refugees in South Africa form a relatively new category in terms of state policies and procedures. This category first emerged during the country's political transition in relation to returning exiles in the early 1990s. In 1993, as the political transition became a reality, the South African government reached an agreement with the United Nations High Commissioner for Refugees (UNHCR) regarding the return of exiles to the country. Alongside procedures for returning exiles, the agreement also defined criteria for determining refugee status. In this way, the foundations for refugee reception in South Africa were set. In 1995, South Africa ratified the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa. In 1996, the 1951 United Nations (UN) Convention Relating to the Status of Refugees and the United Nations Protocol of 1967 were also acceded to (Human Rights Review, 1999). This international legislation underpins the current definition of a refugee in the 1998 Refugee Act, an act developed from recommendations in the 1997 Green Paper on International Migration to deal specifically with refugees in South Africa.

In terms of the Refugee Act, a refugee is defined as a person who,

(a) owing to well-founded fear of being persecuted for reason of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his [sic] nationality and is unable, or owing to such fear, is unwilling to avail himself [sic] of the protection of that country, or who, not having a nationality and being outside the country of his or her former habitual residence is unable or owing to such fear, is unwilling to return to it;

(b) owing to external aggression, occupation, foreign domination or events seriously disturbing or disrupting public order in either part or the whole of his or her country of origin or nationality, is compelled to leave his or her place of habitual residence in order to seek refuge in another place outside his or her

country of origin or nationality (Draft Refugee White Paper, 1998, p. 24).

A refugee is thus 'a person fleeing from individual persecution, generalised human rights violations or armed conflict in their country of origin' (UNHCR, 1998, p. 2). While seeking refugee status, the applicant is known as an 'asylum-seeker'. 'An asylum-seeker is a person whose asylum claim has not yet been examined to ascertain whether his/her fear of persecution is well-founded' (UNHCR, 1998, p. 2). Currently, in South Africa, the bulk of asylum claims remain to be assessed. In 1999, for example, there was a backlog of approximately 50 000 asylum seekers awaiting decisions on their refugee status. Of the applications that had been processed then, just over 8 000 asylum seekers had been granted recognised refugee status (figures supplied by Department of Home Affairs, 1999). More recent figures suggest that 'there are currently about 68 000 asylum seekers in SA - most of them from other African countries, but also people from Pakistan. About 16 000 have official refugee status' (Thlomelang, cited in *The Star*, 2001)

The definitions utilised by UNHCR and South African legislation to decide on refugee status operate on two levels: an individual level and a collective level. The individual level involves assessing whether an asylum seeker has a well-founded fear of persecution in the home country, regardless of the broad social and political conditions of that country.<sup>1</sup> For example, someone who faces religious or sexual persecution in a country that is not 'at war' may seek asylum because of the risk to their individual being. The recent applications for asylum in South Africa from Zimbabweans persecuted for (homo)sexuality illustrates this point, as do those applications in Europe and the USA involving the fear of female genital mutilation (UNHCR, 1996).

By contrast, the collective level of refugee determination involves assessing refugee status for those who come from a 'refugee-producing country' engaged in civil war or general mass violence. Decisions based on whether the applicant comes from a 'refugee-producing country' are believed to be widely practised, although this is not the official approach. At an official level the Department of Home Affairs (DHA) is bound to determine status on individual merit. However, it appears that many decisions rest on whether a nation is considered to be a refugee producing one at the time. This results in a number of arbitrary decisions, with individuals from a certain country attaining refugee status in one month, but not the next. For example, during early 2000, a number of Ethiopians who had originally been granted refugee status, were refused renewals - in a blanket letter that went out to all applicants - on the grounds that there was 'sufficient protection' in their home nation. All these letters referred to a judgement from British jurisdiction regarding an application for asylum from Ghana. The DHA letter in the Ethiopians' case indicates that the DHA does not always practise individual assessments. Similarly, blanket refusals of this kind do not consider the changing nature of conflict in home nations: the Ethiopian-Eritrean conflict was renewed with official vigour shortly after these decisions were taken.

Prior to implementation of the Refugee Act in April 2000, refugee status in South Africa was accorded through a Section 28 permit. This permit pertained solely to recognised refugees and it brought with it a number of legal rights, including rights to:

- freedom and security of the person;
- human dignity;

- freedom from arbitrary arrest and detention;
- freedom from torture and other cruel inhuman and degrading treatment;
- protection from abusive use of state power or authority;
- freedom of movement and settlement;
- freedom of religion and belief;
- freedom of opinion and expression;
- the right to be considered as a person before the law and to have access to courts of law, and
- administrative action (UNHCR, 1998, p. 4).

In addition, there are particular rights accorded to recognised refugees in the country. These include the following rights:

- not to be deported to the country of origin (non-refoulement);
- to associate in non-political and non-profit making associations and trade unions;
- to acquire movable and immovable property, leases and other contracts;
- to engage in wage-earning employment, self-employment and liberal professions;
- to have access to primary, secondary and tertiary education;
- to have access to primary and emergency health care, and referral for further medical treatment;
- s to an identity card and a travel document, and
- s to pursue the unity of the family (UNHCR, 1998, p. 4).

Asylum seekers in South Africa are also granted certain rights as they await a decision on their status. Until April 2000 (with the enactment of the new Refugee Act), their position in the country was governed by a Section 41 permit. This entitled them to the same basic human rights as listed above, as well as the following specific rights:

- right to have the asylum application processed and decided upon in a fair and transparent procedure, including the reasons for rejection;
- right not to be deported to the country of origin pending a decision on the asylum application (non-refoulement), and the
- right to be treated according to basic humanitarian standards, including right to work, primary education for children, primary and emergency health care (UNHCR, 1998, p. 4).

Alongside these rights, refugees and asylum-seekers are bound by South African law and 'if they engage in illegal activities or commit a criminal offence they will be prosecuted [accordingly]' (UNHCR, 1998, p. 5).

Since the enactment of the Refugee Act in April 2000, asylum seekers and refugees are governed by a Section 22 permit. Unlike the Section 41 permit of the Aliens Control Amendment Act, Section 22 does not allow refugees to work or study until their applications have been approved (although in cases where adjudication exceeds 180 days, asylum seekers can apply for work and study permits). As the process of approval can take many months and as neither the government nor the UNHCR provides basic services for asylum seekers during this period, those people seeking refugee status have no safety net for material support whatsoever. This is compounded by the enormous backlog in applications that the Department of Home Affairs currently faces. In some instances,

asylum seekers have been waiting for more than six years to get their applications processed.<sup>2</sup>

It is important to recognise that refugees in South Africa have the rights to, inter alia, healthcare, education and employment, as these are frequently sites for conflict with South African citizens. It is also important to recognise that refugee status is granted under specific circumstances linked directly to conflict and that many other circumstances, for example, poverty and socio-economic hardships (often connected to conflict), are excluded from status determination. This is a legislated decision as the Draft Refugee White Paper (1998) indicates:

The government ... does not agree that it is appropriate to consider as refugees, persons fleeing their countries of origin solely for reasons of poverty or other social, economic or environmental hardships ... the task team does not accept that economic migrants should be able to use the refugee determination process in order to obtain residence, employment, the opportunity to carry out business, or to avoid the consequences of the law concerning illegal migration. (pp. 7-9)

At the level of the law, there is thus a clear divide between refugees and economic migrants. However, the following section reveals how tenuous and arbitrary in practice, these determining criteria are.

### **Migrants**

For the purposes of this literature review, the terms 'migrant' and 'migration' are read as synonymous with 'international migrant' and 'international migration'. Internal, national migration is excluded from the definitions presented below. Consequently, the category of migrants is broadly defined in terms of temporary cross-border movement. The White Paper on International Migration (1999) explains that, "international migration' means to travel across international boundaries so as to temporarily change one's place of residence' (p. 52). Migrants, in this definition, are people who are not permanently based in South Africa. It must also be noted that only non-South African citizens are considered as cross-border migrants in the legislation reviewed below. While certain South African citizens may migrate temporarily across international borders, their constitutional rights are not affected by a lack of permanent residence.

The constitutional rights pertaining to migrants in South Africa are not clearly explained within the legislation. It appears that non-South Africans in the country are largely protected by the Bill of Rights although the 1999 White Paper on International Migration states that 'we will need to determine the extent to which the circumstances of being an alien, either legal or illegal, may authorise government to provide them with a lesser degree of constitutional protection' (p. 13). As such, details of the legislative-framework regarding non-South Africans remain to be tested. The 1999 White Paper is, however, adamant that,

even though the Bill of Rights contains a limitation clause, ... [it] may not be invoked to prevent a class of people, however identified, from enjoying the total use and benefits of a given constitutional right ... . Therefore, in the absence of a justifying circumstantial and factual reason, one could not limit the



constitutional rights of, for instance, Muslims, or homosexuals or people of French origin. (Section 2.2, pp. 12-13)

From this statement, it appears that non-South African citizens living in the country are protected by the constitution except in specific circumstances which might limit their rights. The UNHCR (1998) makes this clear in the case of refugees, a case that can be extended to migrants and all non-South African citizens:

Even if refugees enjoy the rights [see above], the actual exercise of these rights depends on the availability of resources ... . According to the constitution of South Africa, there are some restrictions which may be imposed by the government on certain social and economic rights, on the basis of public welfare, public order, or for securing the rights and freedoms of others. (p. 5)

Despite the lack of clarity surrounding the rights of non-South Africans in the country, the legislation is clear that 'only citizens have the right to enter, to remain in and reside anywhere in the Republic' (White Paper on International Migration, 1999, p. 13). The State is entitled to regulate the entry, length of stay, and economic activities of non-citizens provided such regulation does not infringe on the rights of South African citizens.<sup>3</sup> Once issued, however, entry and work permits 'cannot be withdrawn at will' (White Paper on International Migration, 1999, p. 14).

Through temporary entry and work permits, the category termed 'migrants' gains legal definition. Although there is a transitory quality implicit in this category it is important to recognise that temporal and seasonal patterns of movement can be found. Also, many migrants are regular, if not permanent, foreigners in South Africa. In this regard, cross-border movement is ongoing. Reitzes (1996) captures this sense of repetition by defining the term 'migrants' as 'people who are either part of the formal contract migrant system or who perceive themselves as migrants, and continually migrate from one side of a national border to the other' (p. 5, emphasis added). Certain sub-categories of migrancy, as defined in the White Paper (1999), similarly allow for continual, if not permanent, movement across the South African border. For example, a 'commuter migrant' is 'a person who lives in a neighbouring state and commutes regularly for work across borders on a daily, weekly or monthly basis' (p. 56), while a 'seasonal migrant' is 'a person who travels across borders for work on a temporary seasonal basis' (p. 53). Other sub-categories in which regular migration may occur include 'labour migration', 'skilled transience', 'project-tied migration', and 'contract migration'.

### *The economic migrant*

As is clear from these definitions, an important reason for migration is that of employment and trade. This introduces a broad sub-category of migrant, namely the 'economic migrant'. This category includes any 'person who travels across borders for an express economic purpose such as employment or trading or self-employment' (White Paper, 1999, p. 52). A range of legal tools for controlling and monitoring economic migrants has been proposed in the 1999 White Paper. These include:

- temporary work permits;

- setting worker quotas for certain sectors;
- entry concessions for mining and farming industries;
- taxes on employers, and
- preferential admission to those with 'desirable' skills and qualifications.

These legal tools, together with the legal definition of economic migrants, suggest that the category has clear and manageable boundaries. In practice, however, this is a controversial and complex category. The White Paper's (1999) definition of 'economic migrant' is based on the intention to seek employment in South Africa and it does not consider the reasons why people migrate to the country for economic opportunities. These reasons include poverty, socio-political turmoil and economic disparity within other Southern African countries. As [Human Rights Watch](#) (1998) notes,

The causes of Southern Africa's economic stagnation are complex, and are at least partly caused by economic mismanagement and the pursuit of misguided economic policies in the region. The apartheid state's campaign to destabilise its neighbors is also an important contributing factor. (p. 25)

It is beyond the scope of this review to analyse the macro-economic and political situation of the region. However, it is crucial to emphasise that the apartheid regime was central to generating the ongoing instability of the region. During the 1980s, the state embarked on a 'total strategy' to destabilise its Southern African opponents (Human Rights Watch, 1998). This 'total strategy' involved a range of actions, including cross-border raids, covert and direct participation in conflict in Mozambique and Angola, and an economic embargo to disrupt activity in the Southern African Development Community (SADC) (Human Rights Watch, 1998). As a consequence of this 'total strategy', many people were displaced and impoverished within the region. Similarly, the destabilisation campaign initiated refugee-producing conditions of war and violent conflict, conditions that have not necessarily improved, or even changed, with time.

An historical perspective is necessary for understanding the phenomenon of economic migration into South Africa. The 'push' factors of poverty, political instability and socio-economic disparity in the home country are as relevant to economic migration as the 'pull' factors of employment and economic opportunity in South Africa are.<sup>4</sup> These push factors find their roots partially within refugee-producing conditions initiated by the previous South African government. Because contemporary South African legislation ignores the reasons behind economic migration, however, it becomes legally possible to separate the categories of refugee from economic migrant. A range of people who would have qualified as refugees during the 1980s are considered as economic migrants today, despite the fact that socio-economic circumstances in their home countries were caused by refugee-producing conditions and that these have not necessarily altered over time. The 1998 Draft Refugee White Paper admits that there is overlap and ambiguity between the two categories but does not reflect on the history that has generated this confusion:

[W]hile the task team believes that the government will remain alert to those situations where movements of people on apparent ... economic or social grounds may in reality be rooted in those causes recognised in the refugee definitions, it does not accept that its refugee policy should be cast so widely as

to include victims of poverty and other social or economic hardships, environmental disasters, or other factors not directly or secondarily recognised in refugee obligations. (p. 9, emphasis added)

In this way, the legislation clearly separates the government's current 'obligations' from those created by the past order.

The legal differentiation between refugees and economic migrants is significant because it has implications for who is legitimately entitled to stay in the country. This is especially relevant when the narrow entry criteria and tools for controlling migration are considered. The 1999 White Paper on International Migration proposes that migrants must offer 'desirable' skills and qualifications, a condition that does not apply to those seeking refugee status. Although work conducted by the Southern African Migration Project (SAMP) teaches that many migrants are highly qualified and skilled (Rogerson, 1997; Perbedy & Crush, 1998a.), as a rule, the new legislation will exclude those who are not. (The mining and farming sectors offer an exception to this rule and this is discussed below). Similarly, employers must be prepared to pay a higher price (in the form of taxes and a national training fund) for employing foreigners rather than South Africans.

### *The illegal migrant*

The new legislation intends to protect both migrants and citizens from exploitation and abuse. Reitzes & Simpkins (1998) explain that 'the lack of policy [until now] for regulating foreigners engaged in temporary work creates a legal vacuum which may, ironically, make them more attractive to employers ... one reason why foreign migrants enjoy a competitive advantage is because their unprotected status makes them more exploitable' (p. 22). Indeed, a fundamental premise of the 1999 White Paper is that many foreigners face exploitation in the workplace:

A migration system must address the perception, or the reality, that vast job opportunities are made available to foreigners at worse workplace conditions than those at which such jobs are available to South African nationals. (p. 19)

The intention to address 'worse workplace conditions' for migrants rests on legislative measures. This, in turn, relies on employers and migrants operating legally. The 1999 White Paper suggests various strategies to legalise the migrant system. For example, 'it might be necessary to impose stricter sanctions on employers who hire illegal [foreigners] and on communities who harbour them' (p. 19). Here, strict sanctioning of illegality within the migrant system is presented as a protective mechanism, as a way to defend migrants from exploitation and poor working conditions. This reads as an argument for 'human rights'. There are, however, two other discourses that work alongside this human rights argument to motivate against illegal migration, namely, discourses of 'competition' and 'criminality'. It is important to explore these discourses for they offer insight into public and popular representations of 'illegal' foreigners. They also point to legislative tensions between human rights issues and market-driven forces.

Before turning to the discourses of competition and criminality, a brief comment on language is necessary. Throughout the legislation, the term 'illegal alien' is utilised to

describe foreigners who are in the country unlawfully.<sup>5</sup> This term is not restricted to migrants. It includes immigrants and asylum seekers without documentation. There is, however, a perception that the majority of 'illegal aliens' in South Africa are comprised of foreigners from neighbouring states.<sup>6</sup> This perception has been generated through a number of different social mechanisms, including media articles, political speeches and popular beliefs. It is also reflected in border arrest figures and repatriation numbers. For example, consider the repatriation figures in Table 1:

**Table 1: Repatriation of 'illegal aliens'**

Citizens	1991	1992	1993	1994	1995	1996	1997	1998
Mozambique	47 974	61 210	80 926	71 279	131 689	157 425	146 285	141 506
Zimbabwe	7 174	12 033	10 861	12 931	17 549	14 651	21 673	28 548
Nigeria	-	3	22	48	61	49	23	57
China	7	2	43	32	74	37	62	58
United Kingdom	2	-	1	8	23	21	22	20
Canada	-	-	-	-	3	2	1	2
(supplied by DHA, 1999)								

In Table 1, Mozambicans and Zimbabweans comprise the majority of repatriations by an enormous percentage. This percentage persists across the seven-year period and implies that most 'illegal aliens' are from the region. However, these figures, when considered as percentage figures, are not necessarily indicative of 'reality'. Rather, they may merely reflect high levels of vulnerability and a lack of resources resulting in cross-border migrants 'being caught' more frequently than illegal immigrants from elsewhere. There is also a racist dimension to the perception that illegal aliens are migrants from surrounding states. (This will be explored more fully below). Because the term 'migrants' is regularly confused with the term 'illegal aliens', the latter is addressed in this section (although it is recognised that the term can be extended beyond migrants, to incorporate all foreigners).

Consider the following representations of 'illegal aliens' within the 1999 White Paper:

- they compete for scarce resources with millions of South Africans living in poverty and below the breadline;
- they compete for scarce public services, such as schools and medical care, infrastructures and land, housing and informal trading opportunities;
- they compete with residents and citizens for our insufficient job opportunities, and offer their labour at conditions below those prescribed by law or the applicable bargaining agreements;
- a considerable percentage of illegal aliens has been involved in criminal activities, and
- they weaken the state and its institutions by corrupting officials, fraudulently acquiring documents and undeserved rights and tarnishing our image locally and abroad (p. 16).

In these representations, 'illegal aliens' compete unfairly and undeservedly with South Africans for resources that they are not entitled to. They are also represented as criminal, and responsible for corrupting state officials. Representations such as these inform the legal motivation to strictly sanction and punish illegality. However, such a stance does not acknowledge the complexity and history of exploitation within the Southern African migrant system. Certain industries, for example, mining and farming have relied, and continue to rely, on cheap foreign labour. Reitzes and Simpkins (1998) comment that '[f]oreign migrants seeking to fill specific labour needs have been catered for in the past by South African law and regulation; in principle, they still are' (p. 20). The role of cheap foreign labour is actively accommodated in the contemporary legislation, which singles out the mining and farming industries as exceptions to the rule, offering them legal tools to employ cheap foreign labour. Whether migrant status is legal, as in the case of mine and farm workers,<sup>7</sup> or illegal, for many other occupations, the category of 'economic migrants' is open to much abuse and exploitation and it is fraught with legal and social conflicts.

### **Immigrants**

Foreigners who are categorised as 'immigrants' in South Africa share a permanence in their position here. Unlike migrants who are defined through the temporary nature of their stay in the country, immigrants are those who 'enter another country in order to make one's permanent life and home there' (White Paper on International Migration, 1999, p. 52). Immigrants fall into two broad categories, namely permanent residents and naturalised citizens, the latter of which denotes a greater degree of permanence because the home country citizenship is surrendered in favour of South African citizenship.

Although the definition of the term 'immigrant' appears straightforward, there is greater scope for ambiguity and overlap with the other categories than it initially suggests. This is because foreigners who enter as either refugees or migrants can be granted permanent status under certain conditions. For example, the White Paper on International Migration (1999) states that 'after five years of temporary legal employment in the country any temporary worker may by right become a permanent resident' (p. 32). Permanent residence could (also) be obtained by application on the basis of a permanent offer of employment but without the requirement of five years of prior temporary work within the country (p. 33). In the case of a refugee 'for whom going home may not be a viable solution in the foreseeable future', the Draft Refugee White Paper (1998) proposes that such 'a refugee, having been recognised as a refugee and granted asylum may, after a period of five years, make application for naturalisation' (p. 16). The flexibility and overlap between the three categories of 'refugee', 'migrant' and 'immigrant' must be borne in mind throughout this study, because the legal definitions themselves allow for ambiguity, while popular understandings of foreigners do not always conform to these legal differentiations.

## **An historical overview of cross-border movement**

### **South African legislation and the alien (1913-1999)**

Apartheid law has been fundamental to defining, and indeed generating, categories of foreigners. Even the current legislation which governs immigration in South Africa, the Aliens Control Amendment Act of 1995, remains firmly rooted in Apartheid ideology and prejudice (Green Paper on Immigration, 1997; Peberdy & Crush, 1998b; Peberdy, 1999). In

this sense, the law itself can be read as an institutional site of xenophobia and an arena for potential violence. Reading the law in this way, it is important to recognise that legislation defines who belongs and who does not belong in the country. The law determines citizenship and foreignness. An overview of South African immigration legislation highlights xenophobic discrimination at work across time. Consequently, the categories of foreign subjects (i.e. of aliens, migrants, immigrants and refugees) can be considered alongside the changing nature of South African law, as a way to not only define these categories but also to link them to the web of control, and possibly violence, which underpins them.

### *Immigration policy before 1990*

Peberdy & Crush (1998b) provide a detailed overview of the history of immigration in terms of the law. Reaching back to the Immigration Act of 1913, their analysis documents the chronological expansion of state involvement and control over immigration within the country. Through this historical lens, they highlight the legacy of colonialism, segregation and apartheid that has been carried over into contemporary legislation (Peberdy & Crush, 1998b). In this sense, they indicate that policy subsequent to the Immigration Act of 1913 (the first act to directly focus on the rights of foreigners in the new Union) has been largely continuous with its racist foundations. This racism can be traced through the application of the term 'alien', a category of foreigner against whom the legislation has been utilised in the past.

### *The white Aliens have landed*

We will prevent aliens entering this land in such quantities as would alter the texture of our civilisation. We intend to determine ourselves what the composition of our people shall be. (Minister on introduction of 1937 Aliens Act to parliament, quoted in Peberdy & Crush, 1998b, p. 26)

The term 'alien' is utilised globally within immigration legislation to denote a person who is not a citizen or permanent resident of the home country and, as such, it is not unique to South African discourse. It has, however, been applied to specific groups of non-citizens within the country and the roots of prejudice and racism can be identified via its application through time. Peberdy & Crush (1998b) trace the first South African application of the word 'alien' to the 1937 Aliens Act. Within the act, the word 'alien' did not neutrally denote all foreigners, but rather, became synonymous with 'unwanted immigrant' (Peberdy & Crush, 1998, p. 26). In 1937, a time just prior to World War Two, these unwanted immigrants were Jewish. Indeed, Peberdy & Crush (1998b) show that the 1937 Aliens Act was specifically formulated to exclude Jewish immigrants. This act governed and steered immigration policy up until the 1995 Aliens Control Amendment Act and it 'carried a strong anti-Semitic message' through the 'language of aliens and alienation' (Peberdy & Crush, 1998b, p. 26).

Moving across time, Peberdy & Crush (1998b) highlight shifts and continuities in the demographic profile of the alien. At the most immediate level, immigration policy was used as a racist tool by the apartheid state to generate black aliens and to cement the racist relations of power within the country. Apartheid immigration law furthered racial inequalities through a complex system of categorisation and control. This was done not

only across races but within racial groupings too. Before discussing the specifics of black control and alienation through immigration legislation, it is important to recognise that white immigrants were not treated as a homogeneous, unified group to encourage at all costs (Peberdy & Crush, 1998b). Peberdy & Crush (1998b) explain that during the 1950s and 1960s, Protestant north-western Europeans (for example, Germans and Britons) were actively sought out to bolster the white skill base in the country. Whites moving from 'newly independent African countries also found welcoming arms in South Africa' for political reasons (Peberdy & Crush, 1998b, p. 31). In contrast, southern Europeans (for example, Portuguese, Italians and Greeks) were actively discouraged from immigrating to South Africa at this time because, as Roman Catholics coming from a less-industrialised part of Europe, they did not conform to apartheid ideals (Peberdy & Crush, 1998b). The 1937 Jewish alien from Europe was thereby expanded to include all white immigrants who did not meet the political, religious and economic objectives of the apartheid 'ideal'.

### *The black Aliens emigrate*

While certain white foreigners were classified as aliens, black foreigners were not overtly categorised as such during much of the apartheid era. The reasons for this are complicated but broadly, they appear to be tied up with an economic dependence on labour from surrounding states, and the subjugation of nationality beneath race as the pervasive level of discrimination. Blackness, rather than foreignness, was the criterion that governed discrimination, although immigration policies were utilised to reinforce racism in three phases, namely 1913-1970, 1970-1990, and 1990 onwards.

From 1913 to the 1970s, internal controls on black South African movement were inseparable from the state's external focus on black foreigners. Immigration legislation was used as a fundamental tool for controlling black South Africans (Peberdy & Crush, 1998b). Peberdy & Crush (1998b) explain that the 1913 Immigration Act 'maintained and reinforced internal barriers to the movement of black South Africans' by restricting inter-provincial movement (p. 22). For example, entry into the Orange Free State was totally prohibited. Through the act 'black South Africans were defined, not as full citizens with rights of free movement, but as 'non-citizens', as 'aliens' subject to the same piece of legislation that governed entry to the country by non-South Africans' (Peberdy & Crush, 1998b, p. 22). In this way, immigration legislation alienated all black people, regardless of whether they were foreign or South African. Here, the alien was determined by race and not by nationality.

Although early immigration policy did not distinguish between the South African black alien and the foreign black alien, the labour requirements of South African industry, particularly the mines, demanded a degree of flexibility in immigration policy. The black foreigner was wanted as a source of labour but not as a permanent immigrant. Consequently, through various clauses and exemptions, the concept of a 'migrant' was slipped into immigration legislation (Rogerson, 1995; Peberdy & Crush, 1998b). In this way, 'the voracious demands for cheap labour precipitated a spatial extension of South Africa's 'labour empire' with major flows of migrants from other regions of Southern Africa and beyond' (Rogerson, 1995, p. 110). Creating a migrant category effectively allowed the state to 'have its cake and eat it' for black migrant labour could be easily imported, without rights, and then sent 'home' again following full exploitation (Peberdy & Crush, 1998b).



Until the 1970s, the legislation on immigration governed blackness, rather than nationality. In the 1970s and 1980s, however, a clearer separation emerged along national lines. These lines developed as a result of geographical changes to the South African border, changes initiated by the new 'independent homelands' of Transkei, Venda, Bophuthatswana and so forth. These 'states' were granted independent national status by the South African government, a status that entailed the erection of new national barriers. Under the Aliens and Immigration Laws Amendment Act of 1984, the definition of a foreign black alien was expanded to include those resident in the homeland states (Peberdy & Crush, 1998b). Through this law, many black people who had previously been South African became foreign. As a consequence, they automatically became international migrants who had to cross 'national' borders to work.

Through the Aliens and Immigration Laws Amendment Act of 1984, the black alien literally emigrated to the homeland areas. This legislation, in conjunction with the homeland system, shifted apartheid's locus of racial control from a generalised, overall racism in which nationality did not apply, to a more specific, catalogued racism based on crossing borders. At this point, racism under apartheid moved towards incorporating a xenophobic dimension too. Prejudice became based on nationality as well as on race. That is, racial prejudice was also linked to the status of being non-South African.

The black alien became increasingly externalised during the 1980s. This process must be read alongside the foreign policy of 'total strategy' at the time. As discussed in the previous section, the total strategy campaign was aggressive and aimed at destabilising surrounding SADC countries (Human Rights Watch, 1998). An important, but complex, consequence of regional destabilisation was the displacement of an estimated 2 million Mozambicans (Crush & Williams, 1999). Of these 2 million, an estimated 350 000 Mozambicans sought refuge in the northern 'homelands' of Gazankulu and KaNgwane (Human Rights Watch, 1998). As is discussed below, these displaced Mozambicans have generated a series of policy decisions revolving around amnesty and status in contemporary South Africa. Regarding their impact as refugees in the 1980s, it is important to recognise that the South African government did not accord them formal refugee status. An agreement was reached with relevant homelands 'to house the refugees [but] this agreement restricted the refugees to the homelands' (Human Rights Watch, 1998, p. 29). Just as black South Africans were alienated through the Aliens and Immigration Laws Amendment Act of 1984, so refugees in the region were kept beyond the national borders of the old South Africa.

### *Immigration policy post-1990*

Immigration policy during the 1990s must be contextualised within South Africa's political transition from apartheid to democracy, that is, from an authoritarian state legislated on racism, to a democracy governed by constitutional equality.<sup>8</sup> In the early part of this decade, the pre-democracy South Africa, also known as the 'old South Africa', was marked by change. Political prisoners were released from jail, the African National Congress (ANC) and the South African Communist Party (SACP) were unbanned, and many political exiles began returning to the country. In order to accommodate returning exiles, the South African government signed an agreement with the UNHCR in 1993 (Human Rights Committee, 1999). In terms of this agreement South Africa indicated its willingness to co-operate with the office of the UNHCR concerning the return of exiles to the country, as well as to institute refugee status determination procedures and to grant asylum to certain



refugees (Human Rights Committee, 1999, p. 90). As a direct consequence of political change, two groups of people crossing borders for political reasons, namely, returning exiles and refugees, became central to South African politics. Indeed, the development of institutional measures to deal with returning exiles resulted in the simultaneous development of instruments to recognise and accommodate refugees.

Although the early 1990s were marked by political change, and institutions such as the UNHCR were admitted to South Africa, immigration policy was generally manipulated by the apartheid state in a bid to 'entrench the policies of the past and set the parameters within which reform and reconstruction would take place' (Peberdy & Crush, 1998b, p. 33). Peberdy & Crush (1998b) explain that the 'apartheid government introduced its only major piece of immigration legislation, the Aliens Control Act, as recently as 1991' (p. 33). This act,

[c]onsolidated the numerous acts controlling the entry and lives of immigrants into a single omnibus piece of legislation. Many of the act's provisions were inherited from existing legislation, which had been passed by governments of the apartheid and pre-apartheid eras to serve racial and other imperatives and to extend the absolute powers of the state, unfettered by democratic checks and balances. The act also entrenched the 'two gates' policy, which distinguished between white immigrants and black migrants. Section 41 retained the exemption clauses that allowed white farmers and the mining industry to recruit migrant labour outside the country under special dispensation. (Peberdy & Crush, 1998b, pp. 33-34)

The Aliens Control Act of 1991 ensured that racism remained entrenched within immigration policy. This is important for two reasons. Firstly, the act maintained racism during the early 1990s and guaranteed that the alien remained a black alien across that period. Secondly, it formed the basis for the 1995 Aliens Control Amendment Act, which continues to govern immigration legislation in South Africa (and will do until the White Paper on International Migration is enacted). Despite certain amendments to the 1991 Act, contemporary immigration policy has been built on a racist foundation (Peberdy & Crush, 1998b). This is discussed below in relation to the socio-political climate of the mid-1990s and the birth of a new nation.

The elections of 1994 heralded a new era in South African politics, an era of the 'new South Africa'. This new era has been represented by many symbols and practices, including a new flag, a new anthem, a new position in international sporting and cultural events, and a new constitution (cf. Hook & Harris, 1998). In this new era, racial inclusiveness and equality for all citizens has been legislated. The overt racism of the apartheid years has been replaced by democracy and protection of human rights.

In terms of immigration policy, the blatant prejudice contained in the 1991 Aliens Control Act appeared as incongruent and unacceptable for a new nation built on democratic, non-racial principles. Consequently, the act was overwritten by the 1995 Amendment Act, which 'has made some substantive changes to the 1991 act, removing some of the more blatant violations of the rights of undocumented immigrants' (Peberdy & Crush, 1998b, p. 34). However, despite the eradication of blatant racism from its predecessor, the 1995 Aliens Control Amendment Act remains rooted in a racist framework (Draft Green Paper

on International Migration, 1997; Peberdy & Crush, 1998b; Cooper, 1999). Peberdy & Crush (1998b) suggest that 'serious questions need to be asked about whether the new democratic and non-racial state of South Africa should be promulgating and implementing legislation which is so deeply rooted in policies whose purpose was racial exclusion and domination and the extension of unfettered state power' (p. 34).

The 'serious questions' surrounding the Aliens Control Amendment Act of 1995 have resulted in the development of three legislative instruments to redress immigration in contemporary South Africa. These are The Green Paper on International Migration (1997), The White Paper on Refugees (1998) (enacted in April 2000), and The White Paper on International Migration (1999). Broadly, the Green Paper challenges the existing focus on 'control and expulsion rather than facilitation and management implicit in previous immigration policy' (p. 3). It suggests that migration be managed and planned, rather than reactive, and it offers a human rights-based alternative to the racism contained in the Aliens Control Amendment Act of 1995. It also recommends that 'refugee policy ... is a human rights remedy to a problem of forced migration and not an immigration issue as such (and thus) deserves its own treatment in policy and law' (p. 22). As a consequence of this recommendation, two separate White Papers - one on refugees and the other on international migration - have resulted.

The White Papers on Refugees (1998) and International Migration (1999) have both developed out of the Green Paper on International Migration (1997). However, in the process of their development, the Department of Home Affairs (DHA) has made various amendments to the recommendations of the Green Paper. These amendments have been criticised for being conservative and punitive (Cooper, 1999; Williams, 1999). Cooper (1999) contends that Home Affairs is becoming increasingly hard-lined about foreigners. She explains that the institution has adopted a strong sovereignty principle of governance in favour of international and constitutional emphasis on individual human rights (Cooper, 1999). The potential for human rights abuses is strong within both White Papers. This is because the legislation imbues the Department of Home Affairs with vast administrative powers, powers that multiply the potential for corruption and bribery because there is not a democratic system of control over the granting of status in the country (as either a refugee or a legal immigrant or migrant).

The legislation also locates responsibility for surveillance and control of foreigners within the hands of the public. It enlists public participation in the 'detection, apprehension and removal of 'illegal aliens'' (Williams, 1999a, p. 2). Williams (1999a) points out that 'in the context of high levels of xenophobia and intolerance towards foreigners, it is likely that the actions of South Africans will not be limited to mere reporting. There is the danger of South Africans taking the law into their own hands, even considering it their patriotic duty to take action against 'illegal aliens' (assuming they can distinguish between various categories of foreigners in the country)' (p. 2). The envisaged role of the public in controlling and reporting 'illegal aliens' is thus one that seems likely to fuel and disseminate xenophobia and related acts of violence amongst more South Africans.

While the White Paper on International Migration, in conjunction with that on Refugees, spreads the risk of violence involving foreigners directly to the South African public, it also retains existing points of potential xenophobic conflict through affording privileges to the mining and farming sectors. In the paper, these sectors are singled out for their reliance on

the foreign labour market and a macroeconomic argument is made concerning 'benefits' of employing migrants. Despite the market force explanation, the proposed concessions concerning foreign employment within these sectors suggest exploitation of migrants. Indeed, the White Paper acknowledges that 'aliens work in conditions which are inferior to those that would most likely emerge through collective bargaining if only South Africans were employed in the mines' (White Paper on International Migration, 1999, p. 20). As such, the discriminatory and exploitative 'two gates policy', which differentiated between black migrants and white immigrants during the apartheid era, effectively remains legislated in contemporary immigration policy.

While the Refugee Act (1998) came into effect in April 2000, the International Migration Bill (1999) is still to be enacted. For both, their implementation and impact on immigration policy remains to be seen. However, placed in a context that is hostile towards foreigners, their conservatism does not bode well for human rights protection.

### *The new citizens*

Alongside the emergence of new legislation such as the Amendment Act of 1995, The Green Paper on International Migration (1997), and the resultant White Papers on Refugees (1998) and International Migration (1999), the transitional period has brought to light issues of citizenship and nationality. It is no longer legal to discriminate between black and white South Africans. Rather, all South Africans have been granted full citizenship in the 'new South Africa'. Through the political transition, there has been a shift from racial segregation to national inclusiveness. In this way, the 'new South Africa' represents a new nation. The idea of a nation is central to the new discourse. This nation is constantly reproduced in the social and political actions that comprise South African society. From Mandela's inaugural 'rainbow nation' speech through to car bumper stickers and radio jingles, South African nationalism is constantly reinforced.

The shift from overt racism to nationalism shines a spotlight directly onto foreigners and citizens. It impacts on who is legitimately entitled to be in South Africa and on who the foreign alien is. Although the country has become racially inclusive, it has become nationally exclusive. Peberdy (1999b) comments that 'the line between citizen and non-citizen is being drawn more clearly than before' (p. 21). She explains that '[t]he Constitution, through the Bill of Rights, differentiates between the rights of citizens and non-citizens. Some rights are held by all, others are for citizens only' (p.22). The notion of citizenship has been made salient since the early part of the decade. For example, in the run-up to the first democratic elections, voting rights were expanded to include all black South Africans as well as 'migrant workers who entered South Africa legally before the threshold of 13 June 1986 and were 'ordinary residents' in the country. Many miners fitted this description and were issued with voter cards. They were also exempted from the requirement of possessing a permanent or temporary residence permit under the Aliens Control Act of 1991 and were entitled to apply for South African documents (Lockey, 1999, p.23). By getting voter cards and South African identification, migrants who had been foreign, became new citizens of the country. This happened in conjunction with black South Africans also attaining citizenship through the elections.

Following the 1994 elections, the 'new South Africa' was faced with various groups of foreigners who had lived in the country for many years and who had participated in the

apartheid economy, in many cases contributing substantially to building the country's wealth. Through the migrant labour system, these foreigners were not really foreign by virtue of cross-border relationships and family ties that had developed over decades. However, with the shift to democracy and nationalism, their foreignness was emphasised and contrasted to South African citizenship. This resulted in a state focus on who was eligible to form part of the new nation. Crush & Williams (1999) explain that in 1994, the government formulated a series of amnesties granting South African citizenship to certain foreigners from the region. These foreigners were representative of three broad groups, namely,

- 200 000 foreign miners working on contract in South Africa's mining industry;
- 300 000 or more Mozambican refugees living primarily in the rural areas near the Mozambican border, and
- an unknown number of non-citizens of various immigration categories - legal and illegal - who had been in the country for lengths of time varying from decades to days (Crush & Williams, 1999, pp.2-3).

The first amnesty, known as the 'miners' amnesty', was announced in October 1995. 'To qualify for this amnesty, miners had to prove that they had (a) been working on South African mines since before 1986; and had (b) voted in the 1994 national election' (Crush & Williams, 1999, p.3). The second amnesty, known as the 'SADC amnesty', was announced in June 1996.

In contrast to the miners' amnesty, the SADC amnesty applied to people from throughout the [Southern African] region and was not confined to one economic sector ... . Applicants had to prove (a) that they had been living in South Africa for at least five years; (b) that they were engaged in productive economic activity in the formal or informal sector, or were in a relationship with a South African partner or spouse, or had dependent children born or living lawfully in South Africa; and (c) that they had committed no criminal offence. (Crush & Williams, 1999, p.3)

The third amnesty, known as the 'refugee amnesty', was announced in December 1996 but it was implemented only in late 1999 (Johnstone, 1999a). Targeted at the estimated 350 000 Mozambicans who were given refugee status by the homelands during the 1980s, the 'primary criterion [for amnesty] is that applicants need to be able to prove that they entered South Africa as bona fide refugees, at a time when the then South African government did not recognise them as refugees' (Williams, 1999b, p.85).

Through these various amnesties, the foreign applicants were eligible for South African citizenship. However, much to the surprise of policy makers and the government, very few people applied for the amnesties (Crush & Williams, 1999). Miners eligible for the first amnesty were estimated at between 100 000 and 150 000 people. However, only 51 504 applications were received (Crush & Williams, 1998). Similarly, for the 'SADC amnesty' only 201 602 people applied out of a population estimated at between 500 000 and 1 000 000 (Crush & Williams, 1999). Details of the third amnesty are not yet available. However, Johnstone (1999b) warns that unless a number of barriers to the application procedure are addressed, the numbers of Mozambican applications will be low too. Various reasons have been offered for the unexpectedly low levels of applications. These include,

- limited access to information about the amnesties;
- accessibility to DHA (especially in the rural areas);
- costs of applying;
- difficulties in proving length of stay and refugee status;
- limited duration of the amnesty period;
- gender-bias (male authority required in practice, for example, 'women who came alone were asked to come back with their husband if they were married' (Johnstone, 1999b, p.52), and
- low levels of confidence in the process, including fear of repatriation and corruption (Johnstone, 1999b; Reitzes & Crawhall, 1999).

Another possible reason for low numbers of amnesty applications relates to migrants' future plans and intentions to stay permanently in South Africa. A survey of 501 migrants currently living in the country suggests that most respondents 'do not intend to stay in South Africa forever' (McDonald, Mashike & Golden, 1999, p.29). As Table 2 indicates, only 6 percent of those surveyed suggested that they would like to stay in South Africa permanently. But even the notion of 'permanence' needs to be questioned. As outlined in Table 2, the desire to stay in South Africa decreases dramatically as the degree of permanence increases. Hence, while 53% of respondents would like to become permanent residents of South Africa, only 24% want to become citizens, 18% would like to retire in the country, and only 9% would want to be buried in South Africa (McDonald, Mashike & Golden, 1999, p.28).

**Table 2: Future plans of migrants (%)**

<b>Intended length of stay in South Africa</b>			
Leave as soon as possible	9		
A few days/weeks	2		
Up to six months	10		
Six months to a year	5		
A few years	37		
Indefinitely	15		
Permanently	6		
Don't know	16		
<b>Responses</b>	<b>Yes</b>	<b>No</b>	<b>Unsure</b>
Do you want to become a permanent resident of SA?	53	38	9
Do you want to become a citizen of SA?	24	66	9
Do you want to live in SA when you retire?	18	68	14
Do you want to be buried in SA?	9	80	11

N=501

*Does not include those who said 'Do not know' or who 'Refused to disclose amount'  
(3% and 7% of total sample, respectively)*

These figures contradict the popular perception that South Africa is the land of milk and honey, and that all foreigners want to stay in the country forever (Johnstone, 1999a; McDonald, Mashike & Golden, 1999). Instead, it seems that South Africa's climate of hostility, crime and violence, along with pull factors in the home nation, such as family, culture, land ownership and patriotism, have all contributed to low levels of amnesty applications. Of those who did apply for amnesty, a strong motivation for seeking South African citizenship was to reduce the constant harassment that goes with being undocumented in the country (Johnstone, 1999b). Johnstone (1999b) explains that in the case of Mozambicans who were considered refugees until the amnesty announcement in December 1996 and who were then left undocumented (and hence illegal) whilst waiting for the third amnesty to be implemented,

[o]btaining a legal identity document was regarded as crucial in resolving other status-related problems, including access to employment, land, infrastructural services and freedom of movement . . . . In addition to labour abuse, Mozambicans are vulnerable to crimes such as robbery and extortion. They have little recourse to the law. The amnesty offered the possibility for legal protection. (p.47)

South African citizenship, for many, is a means to an end, rather than an end in itself. And this means is related to the high levels of hostility and xenophobia meted out to foreigners in contemporary South Africa. The following section considers the various institutional and public levels at which foreigners experience violence and abuse.

### **Violence and Abuse: law enforcement**

Contemporary legislation regarding foreigners is underpinned by racism and prejudice (see previous section). This chauvinism is not restricted to the administration of legal documents and definitions of who can and who cannot live, work or study in the country. Prejudice and discrimination also operate through the enforcement of the law and the policing practices that it entails. The potential for abuse spans the entire criminal justice and asylum systems, ranging from the police to the deportation process. The enforcement of the law generates a range of institutional points at which violence might occur. This section considers institutional abuse of foreigners in terms of the police, the army, the Department of Home Affairs and Lindela, which is a private detention facility for those awaiting repatriation. Drawing on reports by Human Rights Watch (HRW) (1998), the South African Human Rights Commission (HRC) (1999a), and the media, this review focuses on racism and xenophobia at each institutional point.

#### **The South African Police Service (SAPS)**

The police serve various functions regarding the enforcement of immigration law in South Africa. These include apprehending and detaining undocumented migrants; investigating foreigners involved in illegal activities, for example, drug and arms trading; and working

with other institutional bodies, such as the Department of Home Affairs and Lindela, as part of the immigration enforcement system. The SAPS are active in tracking foreigners who are in South Africa illegally. In this regard, a national Aliens Investigation Unit and a number of Internal Tracing Units have been established to monitor and trace undocumented migrants (HRW, 1998). More generally, all police officers are given legal powers to apprehend individuals who are suspected to be undocumented non-citizens. Section 53(1) of the Aliens Control Act 96 of 1991 is the 'primary statutory authority used by immigration officers and police officers picking up persons with a view towards repatriation' (HRC, 1999a, p.xx). It reads:

If any immigration officer or police officer suspects on reasonable grounds that a person is an alien he may require such 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 so entitled, such officer may take him into custody without a warrant and if such officer deems it necessary 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. (HRC, 1999a, p.xx, emphasis added)

The law thus allows for the apprehension of suspected undocumented foreigners. If a foreigner cannot 'satisfy' the officer of his/her legal status, then the officer may apprehend him/her. In this way, the law gives strong powers of apprehension to police officers. These powers rest on subjective terms such as 'reasonable grounds' and 'satisfy such officer'. Consequently, there is scope for abuse within the law. For example, a personal vendetta or extortion-scheme may lie behind the 'reasonable grounds' on which a person is apprehended (HRC, 1999a).

Alongside the legal potential for abuse, it seems that arresting officers do not always work within the confines of the law. The HRC (1999a, p.xx) found that 'there was a substantial failure of enforcing officers to comply with even [the law's] minimal requirements'. For example, it is not a legal condition that individuals carry proof of identification and the 'official policy adopted by the SAPS is that individuals should be accompanied to retrieve their ID if an officer suspects that they are illegally in the country but they allege they do have valid documents' (HRC, 1999a, p.xxi). However, in practice, it appears that apprehending officers seldom do this. Suspects are rarely given the opportunity to collect any valid documents that they might have. Rather, they are apprehended immediately (HRW, 1998; HRC, 1999a). This practice has been criticised as a new form of apartheid because it effectively forces foreigners to carry documented proof of their legal status, in much the same way as black South Africans were obliged to carry pass books to prove their status during the apartheid era (HRW, 1998; Peberdy, 1999a).

Even if suspects are able to identify themselves, this is no guarantee that they will not be arrested. HRW (1998) and HRC (1999a) report that documents are regularly destroyed by enforcing officers.

My documents were destroyed by the police at Diepkloof Zone 5 on the 26th November. Now I have no more documents. I was never given the chance to tell the police or Home Affairs about my documents. I'm afraid to get beaten. (HRW, 1998, p.54)

The way police [apprehend suspected illegal immigrants] is unsatisfactory, because even if you have ID they just tear it up, they don't want to listen to any explanation. (HRC, 1999a, p.xxvi)

The destruction of documents is often linked to corruption and extortion. If suspects refuse to pay a set amount, they are usually detained and any documents they have are destroyed. At the same time, undocumented foreigners may be able to secure their freedom by paying for it.

There is strong evidence of the existence of market rates for release. While these rates may vary according to police precinct and the stage of custody, we found remarkable consistency in the allegation that R50 was the minimum amount required to obtain release upon initial apprehension. While release may be secured for as little as R50 at the initial stage of apprehension, it seems to rise to above R100 by the time an individual is brought to a police station. (HRC, 1999a, p.xxx)

The payment of a bribe is not necessarily an assurance of freedom, however.

I was arrested by two black officers and taken to Roodepoort police station. Upon arrival they told me that if I gave them money they would release me. I gave them R110 but [they] did not release me from the cell. They promised to release me the next day but did not. I was taken to Lindela on April 4th and did not receive my money. (HRC, 1999a, p.xxxi)

Similarly, the payment of a bribe may only buy temporary freedom. HRW (1998) reports that corrupt police officers often extort money or goods from foreigners on a regular basis in return for 'no longer arresting us' (p.58). Consistent harassment and police intimidation appear as part of daily life for many foreigners in South Africa.

The abusive role of the police is not restricted to corruption, intimidation and destruction of documents. Both HRW (1998) and the HRC (1999a) report that physical violence is a regular feature of the arrest and detention process. Similarly, various newspaper articles report incidents of violence at the hands of the SAPS. The following incidents appear to be typical representations of police brutality:

[Police approached us]. My brother ran because he was illegal. Three policemen caught him and beat him until he fell down and died on the spot ... . [Another foreigner reports a similar experience] 'We were hit with belts by the policemen. Then they asked if those with money did not want to be taken to the border. Some agreed and paid over R100 and they were released'. (The Star, 1999a)

They took me to Hanigu street police station and asked my origin. When I told them it's Pietersburg they hit me with a klap and I agreed I am from Zimbabwe and came to SA because of suffering economically ... . They then took me to the cells. The blood came out of my mouth because of the klap and it was becoming painful in the cell. They also had hit me with an iron pipe. (HRC,



1999a, p.xxxv)

The reasons for physical violence are varied. They include extortion and bribery but also incorporate more general, abstract reasons such as xenophobia and hostility towards foreigners, a sense of patriotism, and abuse of power (Morris, 1998). It is also important to recognise that social stereotypes feed into police actions. For example, Morris (1998) explains that:

[x]enophobia and the perception that most Nigerians are involved in drug-dealing has led to the police actively seeking out Nigerians ... . Almost all of the Nigerian interviewees had a tale of police brutality, corruption or intimidation ... . There were constant accusations that the police plant drugs when their search of an apartment is unsuccessful ... . Almost all of the Nigerian interviewees mentioned their fear of being kidnapped [for ransom money] by the police ... . Interestingly, none of the Congolese informants complained of police harassment or brutality. This was probably due to their minor involvement in the drug trade and the police having a more positive image of them. (pp.1130-1131)

Certain nationalities appear to be at greater risk for apprehension, detention and abuse than others, solely by virtue of stereotypes surrounding them.

Stereotypes about particular nationalities do appear to inform certain of the SAPS actions. More generally, there appears to be a racial stereotype in operation too. Reports by HRW (1998) and the HRC (1999a) show that people are apprehended for being 'too dark' or 'walking like a black foreigner'. Black, foreign-looking people are actively targeted by the police for their (real or imagined) foreignness. In this regard, the mechanisms of identification are arbitrary and racist (HRW, 1998; HRC, 1999a). This racism spills across national and legal lines. That is, 'foreign-looking' black South African citizens might be arrested, while 'non-foreign-looking', undocumented foreigners might go undetected. Pityana (1999) explains that 'many South Africans are caught in the immigration-control web. South Africans (especially those with darker skin) often get picked up as illegal aliens and find themselves subjected to the same treatment as people from other countries' (Pityana, 1999). Similarly, the Human Rights Commission (1998) notes that over 10% of the detainees at Lindela detention facility claimed South African citizenship and 11.5% claimed to hold legal status. None of these detainees were white. It is thus crucial to recognise the overlap between racism and hostility towards foreigners. Xenophobic violence is not meted out equally to all foreigners and is simultaneously not restricted to non-South Africans. In this way, xenophobia is both narrower and broader than the category termed 'foreigner'.

Xenophobia and racism underpin various police actions towards foreigners. By the same token, police actions fuel xenophobia within South African society. Police anti-crime operations regularly conflate crime and undocumented migrants (HRW, 1998; Peberdy, 1999a). For example, a newspaper article entitled '1000 arrests in 'iron-fist' clampdown' (*The Star*, 1999b) explains that police 'clean-up' operations resulted in two arrests for murder, 'four for attempted murder, 15 for robbery, 18 for burglary, 32 for assault, 36 in connection [with] the illegal possession of firearms, 12 for suspected stolen property and 642 suspected illegal immigrants'. Operation Crackdown, a three-year,

national 'anti-crime' campaign launched in March 2000, clearly reveals that the conflation of illegality with crime is not just about rhetoric. Rather, foreigners are regularly and actively targeted during crime operations, as the following figures reveal:

### ***Operation Crackdown***

During the week-long launch (mid-March 2000) of Operation Crackdown in Hillbrow over 1 000 police and military personnel were deployed to search 22 568 vehicles, 293 buildings and over 205 324 people (Pelser, 2000). 'Some 7 068 people were arrested on the suspicion that they were illegal immigrants' (Pelser, 2000, p.8). In contrast, only 14 individuals were arrested for serious crimes such as murder, rape and robbery (Pelser, 2000).

More broadly, in a 2 month period of Operation Crackdown, 10 000 suspected 'illegal aliens' were arrested, 7 000 of whom were taken to Lindela (cf. <http://www.queensu.ca/samp/news/2000/mar.htm> for further information). Throughout the operation, there have been allegations of violence and corruption at the hands of the police and SANDF. Similarly, refugees and asylum seekers holding legitimate permits have reported police and army members tearing up their documents. In March 2000, the Nation Consortium for Refugee Affairs (NCRA), the Human Rights Commission (HRC), The Law Clinic at the University of the Witwatersrand, Lawyers for Human Rights (LHR), and Human Rights Watch (HRW) sent a letter to the Departments of Home Affairs and Safety and Security to express their concern over the implementation of Operation Crackdown. The group was criticised by government officials, ministers, the police and various political parties for this stand, which was represented as 'interfering' with legal processes, supportive of crime and unpatriotic (cf. <http://www.queensu.ca/samp/news/2000/mar.htm> for further information).

In the Operation Crackdown example, as in many others, the crime of being undocumented is linked closely to criminal activities such as murder and assault. In this way, foreigners are criminalised. Undocumented migrants may be easier to track down and arrest than hardened criminals and so including them in crime sweep arrest figures may improve the image of the police. However, it also increases the perception among South Africans that there is a strong link between crime and undocumented migration (HRW, 1998, p.44).

### **The South African National Defence Force (SANDF)**

The SANDF plays a similar role to the police regarding the tracing and arresting of foreigners. Indeed, many police operations are supported by the army and the two institutions work closely together. The SANDF regularly assists the police with activities throughout the interior of the country. For example, 'an estimated 6 490 soldiers are deployed each month to help combat crime, and these soldiers arrested 38 902 undocumented migrants, compared to 5,075 criminal suspects between January and December 15, 1997' (HRW, 1998, pp.45-46). However, the army's main function, with respect to foreigners, rests at the borders of South Africa. That is, it involves patrolling South Africa's land and sea borders for 'border jumpers' who attempt to enter the country without documentation.

Cooper (1999) suggests that South African border patrols and controls have been increasingly strengthened during the 1990s. Despite a brief diversion of financial support

away from the borders in 1994, she explains that there has been a large focus on controlling immigration at the (legal and illegal) entry points to the country. Peberdy (1999a) notes that:

[i]n 1994 the SANDF located about 5,000 of its 90 000 troops on the border to patrol the boundaries. In 1995, it increased the number of soldiers posted on the border to 55 companies (about 8 200 soldiers) plus 34 sections of part-time troops. From December 1996, the South African Airforce started to keep an Alouette helicopter and Cessna light plane on the border in a bid 'to stem the flow of illegal immigrants'. (pp. 289-290)

The *Sowetan* newspaper reports that in 1999, 'about 17 000 people who crossed the border illegally were arrested' by the SANDF (11.2.2000). The same article goes on to say that '[n]early 400 illegal immigrants crossing the Beit Bridge border post from Zimbabwe into South Africa are arrested daily at Messina, Northern Province' (*Sowetan*, 11.2.2000).

Troops that patrol South Africa's land borders with Mozambique, Zimbabwe and Botswana for border jumpers are assisted by '220 km of potentially lethal electric fence which runs along sections of the borders' (Peberdy, 1999a, p.289). Erected in 1986, this fence electrocuted at least one hundred people prior to February 1990, when it was turned down to non-lethal mode (HRW, 1998). HRW (1999) reports that even the lower, non-lethal current 'brings its own problems, with people 'sticking' to the fence on occasion' (p.46), resulting in physical damage and injury. Currently, the fence is only turned onto detection mode, which means that people can be detected if they attempt to cross over it, but they are not shocked in any way. While the fence does not harm people at the moment, the threat of 'turning it back on' to lethal mode is sometimes toted. For example, an article in *The Sunday Times* 'reports that the Norex fence could be switched back to lethal mode in an effort to stem the flow of illegal immigrants entering SA' (13 .03 .1994).

The electric fence offers a physical barrier and potentially injurious obstacle to border jumpers. More generally, the geographical terrain of South Africa's land borders is harsh and dangerous. Peberdy (1999a) comments that

sections of the border are protected and demarcated by the Kruger National Park, the Limpopo and Orange rivers, and by a dense sisal barrier planted in the 1970s. The rivers are home to crocodiles and hippos which pose a very real threat to people crossing them, as do the lions in the Kruger Park ... . South African newspapers regularly carry reports of people, usually assumed to be undocumented migrants, being killed and eaten by lions, crocodiles and hippopotamuses. (p.289)

This terrain comprises much of the 7 000 kilometres that make up South Africa's land borders (Peberdy, 1999a). Because of the vast distances involved, as well as the hostile environment, South Africa's borders are difficult to police. Many border jumpers may go undetected. At the same time, many abuses conducted by the SANDF and other parties involved with foreigners, for example slave-traders who sell Mozambican women and children 'into forced servitude or sexual bondage' in South Africa (HRW, 1998, p.43),<sup>9</sup> may go undetected. 'The clandestine nature of border crossings between South Africa and

Mozambique and the rural remoteness of the South African border region make it difficult to monitor such abuse' (HRW 1998, p.43).

As with the SAPS, it appears that the SANDF has also been involved in a range of human rights violations and abuses during the apprehension-detention process (HRW, 1998; HRC, 1999a). Reports cite corruption, extortion and the destruction of documents, as well as physical violence and brutality (HRW, 1998; HRC, 1999a).

The soldiers destroyed my ID document a week before. They looked at my inoculation mark and told me my ID was false and ripped it up. They said I couldn't be a South African with a mark. (HRW, 1998, p.50).

They stopped the van and took us out to cross-question us. They were wearing camouflage uniforms. We insisted that they had taken our money, and then they beat us badly. When we were on the ground, they jumped on us with their heavy boots. My ribs were very sore. (HRW, 1998, p.62)

#### **The Department of Home Affairs (DHA)**

The Department of Home Affairs is responsible for:

- aliens control and admissions, and
- refugee/asylum affairs (Schraevesande, 1999).

Generally, work in both of these areas entails granting legal status to foreigners (temporary, permanent or refugee status), processing and renewing permits, and repatriating or deporting 'prohibited persons'. At this point, it is important to differentiate between the terms repatriation and deportation. Repatriation involves returning undocumented foreigners to their home countries. That is, people who are in South Africa illegally, either because they entered the country without documents or because they have overstayed the legal time that was granted to them. Deportation involves returning foreigners convicted of a crime to their home countries. That is, people who have committed a crime, such as murder or robbery, and who have served a sentence in South Africa for that crime. Following their sentence, these foreigners are deported (Schraevesande, 1999). Repatriation and deportation figures supplied by DHA show that the majority of foreigners, by far, are repatriated, rather than deported.

**Table 3: Repatriation figures**

<b>Citizens</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>
Mozambique	47 974	61 210	80 926	71 279	131 689	157 425	146 285	141 506
Zimbabwe	7 174	12 033	10 861	12 931	17 549	14 651	21 673	28 548
Nigeria	-	3	22	48	61	49	23	57
China	7	2	43	32	74	37	62	58
United Kingdom	2	-	1	8	23	21	22	20

Canada	-	-	-	-	3	2	1	2
<i>(supplied by DHA, 1999)</i>								

**Table 4: Deportation figures**

<b>Citizens</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>
Mozambique	42	75	166	9	287	257	455	356
Zimbabwe	4	4	37	21	59	65	96	104
Nigeria	-	-	2	4	14	7	26	25
China	-	1	1	2	1	5	2	-
United Kingdom	1	1	-	4	5	3	1	5
Canada	-	-	-	-	-	1	1	1
<i>(supplied by DHA 1999)</i>								

It is important to emphasise the difference between repatriation and deportation because they are regularly confused in popular perceptions. People often speak of 'deportation' instead of 'repatriation'. This contributes further to forging a public link between foreigners and crime. The link is erroneous, however, because the high repatriation figures only reflect the 'crime' of being in the country without proper documentation.

The DHA decides the status of particular foreigners in the country. As such, the department yields much power over individual lives. For example, a decision might mean the difference between life and death for someone seeking asylum here; if asylum status is refused, the applicant could be sent back to death, torture or imprisonment in the home country. While the legal system of checks and balances, appeals and repeals, is intended to prevent such a scenario (known as 'refoulement'), it seems that the system is open to abuse by corrupt individuals (Cooper, 1999; Duncan, 1998; Peberdy & Crush, 1998). Corruption and fraud are common features. Foreigners who are legally entitled to be in South Africa report having to pay 'extra' for the processing of their documents and to secure their status (Duncan, 1998). Duncan (1998) cites the case of a Mozambican, eligible for the 1996 amnesty, being told to pay R800 for fingerprints at the Randburg Home Affairs office. Similarly, those who are not legitimately entitled to documentation, are often able to buy legal status from corrupt officials. This may result in the purchase of forged passports and ID books or, more commonly, the purchase of bona fide South African documents that are illegally granted to the buyer (Schraesande, 1999). Duncan (1998) explains that

[t]here are apparently two ways in which people 'buy' their way into relative security. One is to pay an official in the department to do the necessary [that is, to fraudulently process documentation]. The other is to pay someone outside the department (but often in collusion with someone employed there) for the documents. We believe that the corruption and fraud is extensive. (p.155)

While the anti-corruption unit has made a number of recent arrests and the department is committed to eradicating corruption, Schraesande (1999) recognises that corruption and

the manufacture of fraudulent documentation are significant problems facing the DHA.

The work of the department is not restricted to status determination and issuing documents. Officials are also mandated to trace and apprehend undocumented foreigners (Schraivesande, 1999; HRW, 1998). In this regard, the department works closely with the police and the defence force to find and detain suspects. HRW (1998) reports that officials from Home Affairs perpetrate similar abuses to those of the SAPS and the SANDF during the apprehension-detention process. These include using arbitrary and racist identification measures, taking bribes, and physically assaulting detainees (HRW, 1998).

Once suspects have been apprehended by the DHA, the police, or the army, the department is responsible for processing and repatriating undocumented migrants (HRW, 1998). This processing stage offers another opportunity for corruption. Foreigners who are able to pay corrupt officials are often released at this stage, or their repatriation is 'speeded up' so that they do not spend unnecessary time in detention (HRW, 1998). In contrast, foreigners who are unable to pay officials may be detained for long periods, while awaiting repatriation. HRW (1998) reports that officials manoeuvre departure dates in order to extract bribes':

When people want to go home, they don't let you be deported until you pay them money. Home Affairs wants you to pay 100 to 400 rands, whatever you've got. Otherwise, you just stay here [in detention]. They let people go without ID, just give them some money. (p.59)

By law, the processing period between apprehension and repatriation (i.e. the detention period) cannot exceed 30 days without judicial approval; that is, without the case being reviewed by a judge of the High Court (HRW, 1998). In practice, however, it appears that many foreigners are detained unlawfully beyond the 30-day limit (HRW, 1998; HRC, 1999a, Keeton, 1999). For example, Keeton (1999) notes that in September 1999, 'the Lindela Repatriation Centre had records of 150 people who had been held for more than 30 days' (p.2). Similarly, in an urgent legal application against the DHA, the South African Human Rights Commission secured the release of 40 foreigners who had been detained beyond the 30-day limit at Lindela (Keeton, 1999). Unlawful detention is an infringement of the right to liberty and is therefore a violation of the South African Constitution (Rens, cited in Keeton, 1999). In this regard, the Department of Home Affairs has been criticised for violating the human rights of foreigners. The Human Rights Commission consequently applied for a legal motion to require 'Home Affairs and Lindela, run by private security company Dyambu, to put in place the right procedures and capacity to prevent illegal detentions' (Keeton, 1999, p.2).

#### **Lindela repatriation centre**

Lindela is a holding centre for foreigners awaiting repatriation. It is owned and administered by the Dyambu Trust, an organisation set up by members of the ANC women's league in 1996 (HRW, 1998).<sup>10</sup> The Dyambu Trust is responsible for housing and feeding detainees through a contract with the Department of Home Affairs (Masina, 1999). While Dyambu Trust facilitates the basic living conditions of detainees, the DHA has an immigration office on the premises to administer the repatriation process (Masina, 1999). The Trust itself is not responsible for documentation and repatriation. Lindela is situated in Krugersdorp, which is approximately 30 kilometres from Johannesburg, and it serves the

Gauteng region. It is not restricted to Gauteng, however, and foreigners from as far afield as Cape Town, Durban and Port Elizabeth are brought to the facility on occasion (HRW, 1998). Lindela was set up to alleviate overcrowding in police cells and prisons and it is the only private detention facility for foreigners awaiting repatriation in South Africa.

On a daily basis, Lindela accommodates between 1 200 and 1 800 people (HRW, 1998). During its first year of operation, 73 378 people were detained there (HRW, 1998). It is important to note the demographics of these detainees because they reflect the racism that underpins the apprehension of foreigners in South Africa. It seems that the majority, if not all, of the inmates at Lindela are black. HRW (1998) notes that 'during our entire investigation, all persons we saw in detention were black (including Indian and Pakistani detainees)' (p.50). The HRC (1999a) also comments that they were not 'aware of any white person held at Lindela during the period' (p.xv) of the research. Most of these detainees originate from Southern Africa. Lindela statistics for the period August 1996 to October 1998 reflect the following percentage breakdown of nationalities:

**Table 5: Nationalities at Lindela (%)**

Nationality	%
Mozambique	63.9
Zimbabwe	26.8
Malawi	3.6
Lesotho	2.7
Swaziland	0.6
Botswana	0.2
Other	2.4

*quoted in HRC, 1999a, p. xvi*

Although it is not reflected in Table 5, a significant number of detainees in the studies by HRW (1998) and the HRC (1999a) claimed to be South African citizens. Most were apprehended for 'being too black' or 'looking foreign', reasons which support the contention that xenophobia in South Africa is racist.

The majority of detainees at Lindela are male. In the HRC (1998) study for example, 84% of the sample were men and only 16% were women. Despite this heavily-weighted male sample, the HRC (1999a) explains that '[p]roportionately, the number of women detained, as a percentage of the combined total detainee population is very small. Our sample [of 16%] is proportionately over-representative of women' (p.xv). There is no clear answer as to why so few women are detained at Lindela. One possible reason may relate to sexual politics and gendered interactions during the apprehension process. That is, at the stage before foreign (or 'dark' South African) women are taken to Lindela. For example, HRW (1998) reports the following incident which is governed by gender:

[a]fter dropping the male refugees off at Woodstock police station, Ms



Stuurman and another woman were driven around for several hours and were insulted again whenever they asked what was happening. Finally, at 3a.m., they were dropped at the Kuilsrivier police station. The next day, the same policemen came to pick the two women up and threatened to bring Ms Sturrman to Pollsmoor prison after she refused to respond to their personal advances. (p.110)

Although the woman in this particular incident did not respond to 'their personal advances', it is possible that sexuality and gender-based relations of power are used by, and/or forced on, women as bargaining chips to secure freedom before being taken to Lindela.<sup>11</sup> A newspaper article about 'illegal aliens' working at an expensive Johannesburg brothel called The Ranch similarly suggests that sexuality can play a central role in who is apprehended and detained (Kirk, 2000). The owner of The Ranch is quoted as saying '[i]n exchange for money and sex the cops would look the other way [to the illegal status of the sex-workers]. And what happened at The Ranch is going on all over' (Kirk, 2000). This is an area which demands further exploration. So too does the treatment of women who are at Lindela. The HRC (1999a) suggests that '[t]here is evidence that female detainees may at times be subjected to degrading verbal treatment which may amount to sexual harassment' (p.Iii). The form and extent of such harassment need to be assessed in greater detail.

A range of ages is represented at Lindela. For example, the HRC (1999a) study reflects a range of 15 to 60 years, with an average age of 25. It appears that the bulk of detainees are relatively young and single. Schraivesande (1999) describes the average detainee as 'young, single, male, between the ages of 18 and probably up to 30'. The HRC (1999a) also notes 'that there were a number of infant children detained at Lindela, apparently with their mothers' (p.xv). There is no further information about the conditions of detention for such children and their mothers, however.

For those predominantly black, young, single males who are taken to Lindela, their experiences seem to reflect the workings of the whole apprehension-detention system. Indeed, the HRC (1999a) comments that '[a]s the central holding facility, Lindela functions in some respect as a magnet of the Home Affairs detention system' (p.xii). It also appears to function as a central point for human rights abuses and violations (HRW, 1998; HRC, 1999a; Krost, 1999a). Krost (1999a) explains that 'reports of abuse continue to surface from South African citizens, and legal and illegal foreigners, who were picked up and 'paid their way out of Lindela', as well as others who were assaulted and suffered inhumane treatment' (p.2). Both HRW (1998) and the HRC (1999a) report similar patterns of ongoing abuse and corruption.

On Monday a man by the name of Joshua here at Lindela said if I give him money I can leave this place. I gave him R440.00. After I gave him the money he took 4 of us to an office at 7 p.m. and he hit me (and another man with me). He hit me with a baton (stick) on my buttocks. And he took a plank of wood and hit me on the side of my head. After that he said he is not going to give us our money back. (HRC, 1999a, p.xiv)

In response to reports such as these by the Human Rights Commission (1999a) and Human Rights Watch (1998), as well as the November 1999 court actions initiated by the HRC



against Dyambu Trust and the Department of Home Affairs for unlawful detention of foreigners, Lindela has recently appointed a Facilitator for Human Rights. This facilitator is responsible for investigating any allegations of abuse and for preventing human rights violations (Masina, 1999). Similarly, Lindela has agreed to grant the Human Rights Commission 24 hour access to the property so that the situation can be monitored (Swanevlder, 1999). Surveillance cameras are also being erected and 'hotline' telephone numbers have been posted around the facility so that abuses can be reported to the HRC (Swanevlder, 1999).

### *Institutional overlap and collusion*

The apprehension-detention process is marked by racial discrimination and human rights violations. Abuses seem to span all of the institutions involved. That is, the SAPS, SANDF, DHA and Lindela. While each of these institutions performs a particular function, they also work closely together to apprehend, detain and repatriate undocumented foreigners. As such, human rights abuses and violence may result from collusion between the institutions. To illustrate this point, two examples of institutional overlap are discussed below in relation to repatriation trains and trucks, and farm labour practices.

### **The Repatriation Process: trains and trucks**

Following their detention at Lindela or in police and prison cells, undocumented foreigners face repatriation, that is, being sent back to their country of origin. The police and the Department of Home Affairs work together to repatriate foreigners, and officials from both institutions usually accompany returnees on their journey (*City Press*, 1999a). Various modes of transport are utilised to return people, depending on the distances and numbers involved. For example, repatriations to China, Europe or Central Africa involve flight, while repatriations to Southern Africa rely on trains for large numbers of people, and trucks for smaller numbers (HRW, 1998; Schraivesande, 1999). These trains and trucks are often overcrowded and poorly ventilated and the trip is long and unpleasant. The transportation process also affords South African authorities the final opportunity to commit human rights violations and abuses. For example, an article in the *City Press* (1999a) reports that Mozambican immigrants 'transported back to the motherland every month claim they are treated harshly and abusively by South African police on the trains. In the latest incident, 40 immigrants claim they were assaulted and robbed on the train'. HRW (1998) relates similar details of harsh treatment and corruption.

We are made to squat with our head between our legs [sitting chafkop]. The police sjambok us on the train to make sure we keep our heads down. They ask if we have money and they beat us all the way to Ressano Garcia [the Mozambican border post]. It takes a long time, about ten hours. We have to sit like that the whole time. It gets very painful and people get swollen. Many people are bleeding, many people become unconscious. The police just laugh. If you straighten your head, you have to pay fifty rands, or you get beaten. (pp. 102-103)

The transportation process also offers detainees a final opportunity to gain freedom, to 'escape' from corrupt guards who allow them to jump off moving trains for money. Consider the following article by Ancer (1999):

Kenneth Simango, an 'illegal immigrant', bribed a guard to let him jump from the window of a moving train deporting him back to Mozambique. While he was waiting in a line for his turn to 'escape', Simango saw a man leap from the train. He heard a heavy thud and saw sparks. Simango is certain the man fell under the train and was crushed. The HRC's Jody Kollapen says he has not heard accusations of people being thrown off trains, but that he believes the levels of corruption uncovered at Lindela, and the fact that only 800 immigrants of 1200 who board the train arrive at the destination, makes this possible . . . . Domingo Hlongwane, a 22-year-old 'illegal immigrant', says that the first time he was deported to Mozambique he was penniless, but he managed to slip into the group that paid the guards for their freedom. The second time he was too scared to fool the guards because he alleges that he witnessed a guard shoot an immigrant through the hand after he refused to sit 'chafkop'. Hlongwane had only R20 with him on the train, but the guards decided to give him a discount. He claims the guards had boasted that they had a profitable journey, netting R3 700 from the immigrants. He leapt off the train and injured his foot.

Not only are people 'allowed' to jump off the trains for money, it appears that some are actively pushed or thrown off the trains by South African officials. Gifford (1999) reports a Mozambican's experience,

I had R250 hidden in my collar. They [the officials] took it and pushed me off the train. I hit my head and face and I was coughing blood . . . . We heard a woman screaming as she was thrown onto the tracks. Both her legs were cut off by the train.

The Mozambican police commander at Ressano Garcia confirms that 'those that were repatriated also claimed that some of their companions had been severely assaulted by members of the South African police and thrown out of moving trains. [He] also says South African nationals suffering from mental problems are dumped at Ressano Garcia with the repatriated Mozambicans' (SAFM Radio Network, 1999). As with the apprehension-detention process, it appears that repatriation is not restricted to undocumented foreigners. South African nationals, who are 'too dark' or who 'suffer from mental problems' are also victims of repatriation.

### **Farm labour practices**

There is a history of foreigners working on farms in South Africa, particularly in the Northern Province and Mpumalanga. These are the provinces that border Mozambique and Zimbabwe. Both countries offer a large pool of labour and cross-border recruitment is common (Eveleth, 1999a). While South African legislation does allow for seasonal foreign workers in the farming industry (White paper on International Migration, 1999), many such workers remain undocumented and exploited in practice. Those who are documented, often have to 'buy' their permits from corrupt border officials (Eveleth, 1999a). And these documents are commonly kept as collateral by the farmers; a procedure that leaves workers at the mercy of their employer and effectively imprisons them on the farm (Mamaila, 1999). Mamaila (1999) gives the example of six women who 'were beaten up before they were fired. They said their work permits were destroyed by the farmer who wanted to criminalise their presence in the country'.

The farming industry is known for worker exploitation. Wages are generally very low - ranging from R5 to R15 per day (Eveleth, 1999a). Mamaila (1999), for example, reports that Zimbabwean women who come across the border to pick tomatoes receive 30c per crate picked. Working conditions are harsh and hours are long (HRC, 1999b). Human rights violations are common. In a series of hearings regarding violations of farmworkers' rights, the Human Rights Commission (1999b) notes that:

[n]umerous complainants at these hearings described deplorable working conditions, paltry wages, unfair labour practices and widespread abuses in the criminal justice system including police harassment, unlawful arrest, unjust detention and unfair collusion between the farmers, the police, prosecution services, the magistrates and immigration officials.

While abuse affects both South African and foreign farmworkers, the foreign status of migrant workers renders them extra-vulnerable to exploitation. Farmers exploit the insecurity that comes with being undocumented and foreign. This exploitation takes on various forms, including lower wages, restricted movement, physical control and even slavery. 'A common ploy is for farmers to engage Mozambicans at the beginning of the month and then to call the Prohibited Immigration Unit just before payday' (Dolan & Nkuna, quoted in Marshall, 1998, p. 64). Workers are consequently repatriated without pay; a practice that renders them slaves. The involvement of the police and immigration units in repatriations of this nature (day-before-pay-repatriations) appears to be widespread and a product of collusion with the farmers (HRW, 1998; HRC, 1999b). Evidence for such collusion appears in the low numbers of farmers who are actually prosecuted for employing 'illegal aliens' (HRW, 1998). Immigration legislation provides for the prosecution and fining of those who employ undocumented migrants (HRW, 1998; White Paper on International Migration, 1999). That police and Home Affairs officials are able to repatriate undocumented workers on a regular basis, without prosecuting the employers, points to collusion between the various stakeholders involved.

Foreign workers do not just suffer from human rights violations at the hands of farmers and immigration authorities. Their exploited foreignness also results in conflict with local South African workers. Eveleth (1999a) reports that fights are common between South African and foreign workers because the latter are seen to take scarce jobs from locals. Foreigners are also used by farmers to undercut unionisation efforts and workers' rights. Local workers who join unions are often fired and replaced by foreigners (Eveleth, 1999a). This causes resentment between workers. Alternately, local workers who join unions run the risk of being called foreign and handed over to the police by the farmer. For example, Eveleth (1999a) quotes the experience of a 40 year old South African woman who joined the Trade Union of South Africa Authority (TUSAA),

[The farmer] made a list of the people from TUSAA and said we were too dark so we must be Zimbabwean. He called the police and 11 of us were arrested.

Once again, foreignness is exploited to control 'unwanted' South Africans, as well as African foreigners, in order to maintain a racist and economically unjust status quo. Similarly, foreignness has been used as a tool to impede the transition to democracy: farmers are legally unable to prevent unionisation and to abuse workers' rights but, through foreign labour, they are able to undercut any efforts at real democracy.

## **South Africa's general climate of xenophobia**

It is important to recognise that intra- and inter-institutional violations of foreigners' rights do not occur in a vacuum. Rather abuses take place in a broad context of xenophobia in South Africa.

In general, South Africa's public culture has become increasingly xenophobic, and politicians often make unsubstantiated and inflammatory statements that the 'deluge' of migrants is responsible for the current crime wave, rising unemployment, or even the spread of diseases. As the unfounded perception that migrants are responsible for a variety of social ills grows, migrants have increasingly become the target of abuse at the hands of South African citizens, as well as members of the police, the army, and the Department of Home Affairs. Refugees and asylum-seekers with distinctive features from far-away countries are especially targeted for abuse. (HRW, 1998, p.4)

This general climate of hostility towards foreigners takes many forms, three of which are explored in this review as the media, political statements, and public violence and vigilantism.

### **The Media**

The media play an important role in disseminating information about foreigners to the South African public. They also offer a platform for the public to comment on foreigners through letters to the editor, talk-shows and television debates. Contemporary research shows that the media do not just conduct and carry information to the public (cf. Wilbraham, 1994; Fairclough, 1995; Duncan, 1996). They are not a neutral vessel that reflects the workings of society. Rather, they also produce certain ideologies and discourses that support specific relations of power (cf. Wilbraham, 1994; Fairclough, 1995; Duncan, 1996). For example, Duncan (1996) reveals that racism is constantly produced and repeated in South African print media and Wilbraham (1994) shows that women's magazines generate patriarchal discourse. In looking at representations of foreigners in South African media, it is thus crucial to consider what is reported and how it is reported. This is because the media are not just a way to gauge public perceptions of foreigners. They are also active in creating these perceptions.

While the media play a central role in producing and reproducing public understandings of foreigners, very little research has been conducted in this area (Danso & McDonald, 2000). All of the research that has been done focuses on print media; there is no available analysis of radio or television. In the South African context, where between 10 to 15 million people are 'functionally illiterate' and many cannot afford newspapers, the print media have a relatively small direct audience (Danso & McDonald, 2000, p.7). However, as the following section reveals, this is an important medium for commentary on foreigners and it offers valuable information about the ways in which they are represented in South Africa.

Generally, it appears that South African print media represents foreigners in a negative and stereotypical manner. In their analysis of press coverage of illegal immigrants and refugees over the period April 1994-September 1995, Dolan & Reitzes (1996) conclude that '[w]ith some exceptions, the tenor of press reporting and comment is hostile to immigrants' (p.23).

Danso & McDonald (2000) concur: '[o]ne of the most damning indictments of the print media in South Africa is that they perpetuate negative stereotypes about migrants and contribute to xenophobia in the country' (p.13).

Foreigners are regularly connected with crime, poverty, unemployment and large social costs. Linked to this, extensive media focus is also directed at undocumented migrants. Minnaar & Hough (1996) show that letters written to newspaper editors express common stereotypes about 'illegals', including the following:

- Illegals are involved in criminal activities;
- Illegals are infiltrating the cities, suburbs, townships and squatter camps and taking away the available housing;
- The growing numbers of illegal aliens add to the decay of inner cities;
- Illegals take away jobs from South Africans;
- Illegals are prepared to work for very low wages and are thus destroying the workers' struggle for better pay and working conditions, and
- Illegals are a threat to the Reconstruction and Development Programme (RDP) (pp. 178-180).

Much of the media reporting on foreigners focuses on their socio-economic impact (i.e. what is said) and this is portrayed negatively (i.e. how it is said) (Dolan & Reitzes, 1996). The negative portrayal of foreigners occurs on two levels, namely through commentators (i.e. who says what about foreigners), and through the media slant given to commentators (i.e. how the article represents and critiques what is said by commentators). It seems that certain commentators are given more media space to present their views on foreigners than others. For example, Dolan & Reitzes (1996) explain that in their study,

the Department of Home Affairs is quoted more than twice as often as any other source ... the three government departments responsible for controlling immigration, Home Affairs, the police and the defence forces, are quoted more often than all the other sources combined. Immigrants themselves receive only about 2 percent of the quotes, while specialists researching or analysing immigration are not quoted once. The clear implication is that immigrants are much talked about in the news columns, but do little talking themselves. (p.12)

In this way, certain commentators, such as Home Affairs representatives, are given an asymmetrical share of media exposure. This lends authority to their views and understandings. It also ensures that other views, such as those of foreigners and researchers, are marginalised and do not reach the South African public. This is a matter for concern because, as the preceding section reveals, institutions that deal with immigration often hold negative views on foreigners in the country. If these views are most commonly expressed in the media, then it is difficult for the public to contest them in any objective way.

The impact of the media on public perceptions does not rest solely on who comments about foreigners. The way in which these comments are framed and presented is also significant. For example, a newspaper article by Sylvester (1999) opens as follows:

Is political correctness and a fear of being branded a xenophobe blinding many

South Africans to the hard facts when addressing criminal activity perpetrated by people from elsewhere in Africa? Are those who point a finger at Zimbabweans or Nigerians, even with concrete evidence to substantiate their claims, being branded as racist hatemongers?

The rest of Sylvester's (1999) article focuses on African foreigners in a hostile and over-generalised manner. It ends with an emotional appeal to patriotism and interprets the concept of xenophobia as an impediment to fighting crime and catching criminals, many of whom are foreign, according to Sylvester (1999).

To combat crime effectively, it is essential to identify and acknowledge the source. The preoccupation with xenophobic witch-hunts only hampers the process and the very authorities capable of putting an end to crime, which continues to tear our country apart.

Reporting that adopts a negative and stereotypical slant on foreigners, particularly African foreigners, is common. There is little critique and interrogation of the hostility that is exhibited towards foreigners (Danso & McDonald, 2000). Morris (1998) explains that this impacts on public perceptions and attitudes towards immigrants,

there has been little endeavour by the authorities or the media to construct narratives that would counter xenophobia directed against Nigerians and Francophone Africans. It has been shown that public opinion towards immigrants is shaped by the attitude of the media and the authorities, and that progressive legislation and positive reporting can alter perceptions over time (p. 1126).

Contemporary public perceptions of xenophobia are echoed and influenced, largely through the press, by politicians and public officials.

#### **Political statements**

A number of public figures and politicians have made hostile, xenophobic statements about foreigners in South Africa. In his introductory speech to parliament, for example, Mangosuthu Buthelezi, the Minister of Home Affairs, stated,

if we as 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 Programme. (quoted in HRW, 1998, p.20)

Negative and unsympathetic statements about foreigners abound. At Africa Refugee Day in June 1999, the Director of Residence in the Department of Home Affairs, Michael Thlomelang, 'tried to justify the term amakwerekwere. And he tried to suggest that we are all equally vulnerable to crime and to play down the fact that there have been incidents of xenophobic violence' (Kollapen, quoted in Eveleth, 1999b). Similarly, in the run-up to the 1999 elections a range of political parties used anti-immigration discourse to garner votes. Reitzes (1999) observes that

[i]n an unlikely show of alliance politics, the Pan African Congress (PAC) and Freedom Alliance (FA), as well as the New National Party (NNP) and the

United Democratic Movement (UDM), raised the spectre of the negative impact that foreigners are assumed to have on South Africa's economy and society. The election manifestos of the UDM and the FA explicitly advocated stricter immigration controls. Images of the NNP's Marthinus van Schalkwyk walking along South Africa's borders and promising to seal them against illegal immigrants were flashed across our television screens.

A link between foreigners and crime is commonly created by public officials. In 1997, the then Defence Minister, Joe Modise, remarked,

[a]s for crime, the army is helping the police get rid of crime and violence in the country. However, what can we do? We have one million illegal immigrants in our country who commit crimes and who are mistaken by some people for South African citizens. That is the real problem. (quoted in HRW, 1998, p.124)

Similarly, the commander of the Brixton murder and robbery unit has said that 'at least 60% of bank robberies and serious house robberies [are] perpetrated by Zimbabweans' within the Johannesburg region (Krost, 1999b). Likewise, the communications officer for the Hillbrow police station has stated that '[t]he Nigerians are involved in every aspect of crime in this country - from drugs to money laundering to forgery, from prostitution to 419 letter scams' (Grange, 2000). When tempered against figures depicting the nationality of arrestees, these statements appear outlandish and xenophobic. Consider Table 6 supplied by the South African Police Service.

**Table 6: The nationality of arrestees, 1998 (supplied by the South African Police Service)**

Crime	No. of Arrests	% RSA	% Zimb	% Mozam	% Unknown	% Other
Murder	11 884	97.9	0.1	0.3	1.3	0.4
Attempted murder	8 795	98.9	0.1	0.1	0.6	0.3
Robbery (aggravating circumstances)	15 259	97.4	0.4	0.4	1.4	0.4
Rape	20 480	98.8	0.1	0.3	0.5	0.3
Assault GBH	73 617	98.9	0.1	0.2	0.4	0.4
Common assault	34 719	98.9	0.1	0.2	0.4	0.4
Burglary - R	37 949	98.6	0.1	0.4	0.6	0.3
Burglary - B	19 800	98.3	0.1	0.4	0.7	0.5
Other robbery	12 988	98.4	0.2	0.2	0.6	0.6

Illegal possession of firearms	9 162	97.3	0.2	0.2	1.2	1.1
Drug-related crime	37 104	96.2	0.1	0.2	1.5	2.0
Car-jacking	1 663	97.6	0.2	0.7	1.0	0.5
Robbery-cash in transit	31	81.0	-	-	19.0	0.0
Bank robbery	132	87.1	3.8	-	9.1	-

Out of all of the arrests made in 1998, South African citizens comprise an average of 98% of the nationality breakdown. The arrest rate of foreigners points to very low figures, figures that rarely exceed 1% for any grouping. It is also important to recognise that these figures depict arrests only; they do not indicate prosecutions and convictions, that is, people actually found guilty of perpetrating crimes. Given the vulnerability of African foreigners to arrest (see preceding section regarding undocumented migrants boosting police arrest figures), this is significant. HRW (1998) warns that,

[b]y constantly linking the issue of undocumented migration to rising crime in South Africa - the latter a topic of extreme public concern - the link between these two separate issues has now become accepted as a matter of course . . . . In turn, this unfounded link between crime and migration increases resentment against migrants, and increases the potential for violent attacks against them. (p. 126)

Along with crime, foreigners are often linked to unemployment in South Africa. A body called the Unemployed Masses of South Africa (UMSA) has been especially vocal about foreigners 'taking our jobs'. According to a SAPA (1998) report, the organisation has issued a number of xenophobic statements and has participated in various marches against 'illegal aliens' whom it holds responsible for unemployment. Following an UMSA march protesting unemployment and 'illegal aliens' in September 1998, three foreigners (a Mozambican and two Senegalese) were killed on a train while 'trying to flee from a mob of angry people who accused them of stealing jobs from South Africans' (SAPA,1998). While no arrests were made, it is commonly held that UMSA members on the train were responsible for these deaths (SAPA,1998).

In a letter to the Democratic Party-aligned Unemployed Masses of SA . . . SAHRC chairman Barney Pitjana warned the group that whipping up emotions against foreigners would not reduce unemployment. Pitjana said he believed UMSA supporters were responsible for the murder of two Senegalese and one Mozambican. (SAPA, 1999)

As the deaths of the three foreigners on the train appear to indicate, statements made by influential public officials and politicians are often connected to actions and violent practice. Certain organisations, such as the Inkatha Freedom Party (IFP),<sup>12</sup> have explicitly threatened action, including 'physical action', against foreigners if the government does not



'make sure that all South African citizens are employed' (Minnaar & Hough, 1996, p.184). It is in this climate of xenophobic speech and sentiment that vigilante actions are explored below.

### **Public violence and vigilantism**

The South African public holds a largely negative attitude towards foreigners. Studies by the Community Agency for Social Enquiry (CASE) (Isserow, Morrison, Belvedere & Selebi, 1998) and the Southern Africa Migration Project (SAMP) (Mattes, Taylor, McDonald, Poore & Richmond, 1999) reveal high levels of hostility and resentment towards refugees and migrants. Such public sentiment appears to have developed via hearsay (through instruments like the media), rather than through direct contact with foreigners (Mattes et al., 1998). Indeed, it appears that most South Africans have had no contact with foreigners (Mattes et al., 1999). It also appears that most South Africans have very little knowledge about the rights accorded to refugees and migrants in South Africa (Isserow et al., 1998). Amongst those few South Africans who do have knowledge and awareness about foreigners, there seems to be a marked lack of concern about their rights and plight. This lack of concern, coupled with limited knowledge, implies a huge potential for ongoing xenophobia and public actions against foreigners.

Public actions against foreigners have emerged largely in relation to the perception that foreigners threaten jobs and commit crimes. As a consequence of this perception, public marches and protests against foreigners have taken place regularly since 1994. The informal sector, in particular, has seen a number of protests and conflicts between South Africans and non-South Africans. For example, the African Chamber of Hawkers and Independent Businessmen (ACHIB) has embarked on a campaign against foreigners (Minnaar & Hough, 1996; HRW, 1998).

ACHIB believes that 40 percent of all hawkers are foreigners. ACHIB blames foreigners for rising crime, overpopulation, and falling wages, and accuses foreign hawkers of selling stolen, rotten and expired goods. ACHIB has organised a series of anti-foreigner meetings and marches, and it has successfully negotiated a 'neighbourhood watch' programme with the police, in which ACHIB-affiliated hawkers place suspected undocumented migrants under community arrest and hand them over to the police. (HRW, 1998, p.129)

Local hawking organisations and unemployment bodies such as UMSA and Malamulela Social Movement have similarly organised protest marches and round-up actions against foreigners. The scope for human rights abuses within 'neighbourhood watches' and community-initiated 'arrests' is great (HRW, 1998). For example, *City Press* (1999b) reports that in Vosloorus, Johannesburg, members of the Malamulela Social Movement 'have harassed and robbed business men from Mozambique, charging they were in the country 'illegally' and taking jobs and business opportunities from locals. Their victims were ordered to produce IDs, passports and work permits before their properties were ransacked ... Police allegedly stood by watching and failed to lift a finger during the raids'. Minnaar & Hough (1996) cite similar incidents of community involvement and vigilantism in Alexandra between December 1994 and January 1995. Across this period, a campaign entitled 'Operation Buyelekhaya' (go back home) was run by

armed gangs of youth, claiming to be members of the local ANC, South African Communist Party (SACP) and South African National Civic Organisation (SANCO) ... [who] carried out a concerted campaign of intimidation and terror to rid the township of illegal aliens ... . They specifically targeted Shangaan-speakers and Zimbabweans and other residents with 'dark complexions' by throwing them and their possessions out of their homes and flats. Some of those targeted had their homes burnt down and their possessions looted. Others were frog-marched to the local police station where it was demanded that they be removed immediately. (Minnaar & Hough, 1996, pp.188-189)

The involvement of communities in rounding up foreigners regularly deteriorates into physical violence, as do the marches and protest actions against immigrants (Minnaar & Hough, 1996; HRW, 1998). HRW (1998) reports that,

[i]n August 1997, local hawkers in Central Johannesburg attacked their foreign counterparts for two consecutive days, scattering and looting their belongings and beating the foreign traders with sticks and knobkerries and sjamboks ... . A few days later, on August 18, 1997, local hawkers attacked foreign hawkers at the Kerk Street Mall in Johannesburg, severely beating several Senegalese hawkers ... . On October 23, 1997, approximately 500 hawkers marched again in Johannesburg, chanting slogans such as 'chase the 'makwerekwere' out', and 'down with the foreigner, up with South Africans' ... . In November 1997, the Greater Johannesburg Hawkers Association called for a boycott of goods sold by 'makwerekwere', including Pakistanis, Chinese, Indians, Senegalese, Somalis, Nigerians, Moroccans, Zimbabweans, and Mozambicans. (pp. 129-131)

Incidents of violence and conflict have not been restricted to central Johannesburg. Hawkers in Kempton Park, Germiston and Yeoville have reported similar attacks (HRW, 1998). The 1998 train killings of two Senegalese and one Mozambican, following an UMSA march against unemployment (discussed above), took place between Pretoria and Johannesburg. More generally, attacks and violence have been reported within the large metropolis zones of South Africa, spanning Cape Town, Durban, Port Elizabeth, as well as Gauteng. An article in Fugee (1999) states that in 1998, 'the CTRF [Cape Town Refugee Forum] has recorded as many as 22 deaths as well as stabbings among people whose only crime is the fact that they are refugees' (p.4).

Many attacks on foreigners stem from marches and organised actions protesting their presence in the country. Some of these incidents have also developed in conjunction with community arrests and police complicity. Various other attacks appear to be more spontaneous and localised. Local incidents of hostility on the street or in taxis and trains are common. For example, *The Star* (1999c) reports that 'a Rwandan refugee living in South Africa believes minibus taxi drivers beat him up ... because he was a foreigner ... [he] sustained cuts on his right ear and face, a swollen hand and bruises to the body'. More generally, foreigners face insults such as 'makwerekwere' and negative interactions with South African citizens on a daily basis.

## **Resistance to xenophobia**

In general, South Africa is a xenophobic country. This is supported by mainstream media representations of foreigners, and public actions and statements against them. Within this hostile context, however, there has been resistance to xenophobia. Not all media reporting has been negative. A minority in the press 'is more accommodating and thoughtful in its coverage and attitude towards immigration, highlighting the positive impact of labour migration on the development of the economy and national reconstruction programmes, and coverage tends to be more analytical' (Danso & McDonald, 2000, p.5). Similarly, organisations and public officials who make positive statements about foreigners are sometimes given a platform in the media. For example, an article entitled 'SA needs immigrants' reports on work conducted by the Centre for Development and Enterprise (CDE) into the economic benefits of migrants (Chetty, 2000), and media exposure has been given to abuses at Lindela. Letters to the editor also offer an opportunity to combat xenophobia and these do appear on occasion (see *The Star* 20.9.1999: Give Nigerians here a break; *The Star* 7.10.1999: 'Judge Nigerians fairly please'; Mail & Guardian 29.10-04.11.1999: 'Why we hate South Africa').

Various research- and social action- organisations, as well as refugee-bodies have also contributed to the fight against xenophobia. In response to various instances of xenophobic violence, including the train killings of three foreigners in September 1998, the South African Human Rights Commission (HRC), the National Consortium on Refugee Affairs (NCRA), and the United Nations High Commissioner for Refugees (UNHCR) published the Braamfontein Statement in October 1998. This document 'condemns the manifestation of xenophobia as a violation of human rights, and defines basic principles for its combating' (p.3). Following the Braamfontien Statement, a national plan of action titled 'Roll Back Xenophobia 1999' was launched by the NCRA. This plan of action 'urges on a large number of stakeholders to condemn, confront and challenge xenophobia, and where necessary to design their own strategies and methods in this endeavour' (p.1). It also outlines six focal issues that need to be addressed in South Africa, namely,

- The violence against foreign hawkers;
- The violations of the rights of migrant workers;
- The plight and rights of refugees and asylum-seekers;
- The conduct of police and civil servants in dealing with refugees, asylum- seekers and migrants;
- The media coverage on refugees, asylum-seekers and migrants, and
- The role of education in combating xenophobia (Roll Back Xenophobia 1999, p.1).

As these six focal issues illustrate, xenophobia pervades many different aspects of South African life. Despite efforts to the contrary, hostility and violence towards foreigners remain a dominant South African feature.

## **Regional location and occupation**

It is important to recognise the efforts to contest and resist the general climate of xenophobia in South Africa. It is also significant to recognise that within this general context of hostility towards foreigners, regional variations do occur within the country, that is, in relation to where particular foreigners are represented and found. Linked to this, it is

also important to consider occupational variances amongst foreigners, that is, the type of work being performed by foreigners (or in relation to foreigners), as this seems to have an impact on their reception. In many instances, regional location and occupation work hand in hand. For example, miners and farm workers are tied to mining and farming areas, while hawkers are usually located in busy metropolis zones. There are also certain areas of the country in which local trade and industry is linked to the presence of foreigners. Areas that are popular tourist destinations, such as the Cape and game reserve districts, benefit from the foreign exchange and spending power of foreign tourists. However, in these areas the type of foreigner may also impact on hospitality levels, with tourists being welcomed but refugees and economic migrants facing possible xenophobia. More generally, border towns in South Africa often benefit from cross-border trade. For example, a large number of Mozambicans cross over the border to do their monthly shopping in Nelspruit and many travellers from Botswana stop-off in Zeerust, en-route to Johannesburg. In areas like this, foreigners may receive a warm welcome because they are clearly connected to the economic wealth of the region and they are not perceived as a threat to the local economy.

In certain areas, historical and cultural ties also influence perceptions of foreigners. Human Rights Watch (1998) comments that:

[e]thnic groups in border areas can often be found on both sides of the border: Shangaans live in both South Africa and Mozambique, and Swazis live in both South Africa and Swaziland. Cross-border traffic is frequent, and special procedures even exist to facilitate border crossings for people living in border areas. (p.51)

Reitzes & Simpkins (1998) explain that in the North-West Province foreigners from Botswana are received positively. This is largely attributed to a shared 'language, culture and history' which operates across the border (p.16). Indeed, the border itself is an artificial product of colonialism which divides the Batswana in the area. Here, cultural, ethnic and linguistic commonalities appear to be more important to local relations than nationality does. Similarly, culture and history play a significant role in the Northern Province and Mpumalanga, along the border with Mozambique. Johnstone (1999) points out that when Mozambicans sought refuge in these areas during the 1980s, they were largely welcomed by the homeland states and were integrated into local communities. The process of integration was assisted by cross-border familial ties and shared language. However, Johnstone (1999) continues, now that Mozambique is considered to be stable again, tensions within the northern areas of South Africa have developed between local South Africans and former-Mozambican refugees. The South Africans feel that it is safe for Mozambicans to return and that they should 'go home'. In other words, the region's history of instability and subsequent stability has impacted on the degree of hospitality extended to Mozambican nationals.

The migrant labour system has also impacted on local relations between South Africans and foreigners, particularly those from Mozambique, Lesotho, Zimbabwe, Swaziland and Botswana. Reitzes & Simpkins (1998) explain that in the platinum-rich North West Province, 'many foreign migrants were originally attracted to the area by employment opportunities on the mines. The mines also attract contractors who usually bring their own workers; they specialise in very cheap labour, usually foreigners' (p.15). Reitzes & Simpkins (1998) suggest that there is a broad urban-rural divide in the way that migrant

workers have been received. Generally, there is:

more hostility to foreigners in towns such as Mafikeng, Mmabatho and Rustenburg [towns in North West Province] than in rural villages. Historically, urban dwellers have scorned rural migrants, including miners, whom they view as unsophisticated and parochial. The trend is more pronounced in Gauteng. Johannesburg is a highly developed conurbation, whose inhabitants have had little contact with miners who were historically confined to mine compounds. The low esteem in which miners are held is illustrated by the tendency of South Africans to shun this work, which historically necessitated the recruitment of foreign migrant labour for the mines. (Reitzes & Simpkins, 1998, p.15)

While the hostel compound system has isolated miners from local communities in many areas, tensions within compounds - between miners - have resulted in incidents of physical violence. Minnaar & Hough (1996) explain that violence on mines around the country during 1995 was largely underpinned by xenophobia. They cite clashes between South African Xhosa speaking miners and Sotho-speaking foreigners from Lesotho at the Vaal Reefs Gold Mine near Orkney in the Orange Free State, in which 14 miners were killed and 56 injured.

The fighting was attributed to antagonism between Xhosa and Sotho-speaking miners, with Xhosa speakers being accused of being unwilling to accommodate workers from neighbouring African countries. Mine management also claimed that foreign migrant workers had become concerned about job security and feared that they would be the first to lose their jobs in the ongoing restructuring taking place on the mines. (Minnaar & Hough, 1996, p.192)

Here, the context of transition and high levels of unemployment must be considered when explaining the mine violence during the mid 1990s. Reitzes & Simpkins (1998) comment that traditionally South Africans have shunned mine-work, 'which historically necessitated the recruitment of foreign labour for the mines' (p.15). The rise in unemployment and large numbers of mine retrenchments have, however, created tensions between miners fearful of losing their jobs. The transitional emphasis towards nationality offers a new division through which to express these tensions, namely that of South Africans versus foreigners.

Worker relations on the South African mines, like those on the farms, are complex and cannot be reduced simply to South African actions against foreigners. Indeed, as Hamber (in personal communication) points out, divisions on the mines are a product of the apartheid/pre-apartheid mining system, where hostels were separated along ethnic lines and the 'boss-boy' was usually from a different (often foreign) group to his subordinates. Hamber (in personal communication) explains that many theorists have linked ethnic/national hostel segregation to 'faction -fighting' on the mines and that continued violence between foreigners and South Africans must be recognised as part of the 'divide and rule' strategy deployed since colonial times. It is beyond the scope of this review to provide a detailed analysis of the changing nature of migrant labour. However, it is important to recognise that nationality does impact on mine dynamics and social networks. One visible expression of this can be found in the arrangement of space on many mines. Minnaar & Hough (1996) point out that:

[a]fter the violence at Vaal Reefs the hostels there effectively became divided into two camps with the Xhosa and Pondo-speakers occupying certain hostels and the rest occupied by Shangaans, Sothos and Swazis. The non-South African miners all expressed fears, not only about their personal safety and security, but also about their future residence in South Africa (pp.192-193).<sup>13</sup>

For foreigners, residential patterns of living in South Africa are largely connected to issues of safety and security (Sinclair, 1998; Morris, 1999). Beyond spatial groupings on the mines, the general climate of xenophobia is reflected in 'clusters' of nationalities within certain areas, particularly inner city spaces, such as Hillbrow and Berea in Johannesburg (Morris, 1999). Sinclair (1998, 1999) points out that living-space-clusters serve not only to ease the social transition for foreigners, they also serve as a defence against the hostility and crime that foreigners in South Africa face. This seems especially pertinent to the 'new' African immigrants from Central and West Africa, that is, those who moved to South Africa post-1994. In his research on Nigerian and Congolese immigrants, Morris (1999) estimates that at least 3 000 Nigerians and 23 000 Congolese were living in Hillbrow by 1997 (although it is very difficult to attain an exact figure). He explains that,

[t]here is no doubt that amongst both Nigerian and Congolese immigrants there were dense social networks ... . The treatment meted out by indigenous residents and the police reinforced a tendency for Francophone Africans - and more especially the Nigerians - to live in particular localities ... . Also, their economic status meant that most could only afford to live in buildings in the inner city. Some inner-city blocks of flats and streets have become Nigerian or African Francophone enclaves ... . In Hillbrow the issue of security also encouraged clustering: 'Most of the Congolese like to live in the same flat because in case of something happening. Because of that violence that is why people want to live together'. (Morris, 1999, p.325)

Similarly, a high concentration of Somali refugees can be found in the Mayfair-Fordsburg area of Johannesburg. Certain areas in townships are informally demarcated according to nationality, for example, 'Maputo' and 'Harare' in Alexandra, where high numbers of Mozambicans and Zimbabweans live. Generally, foreigners who live in townships are more likely to be from South Africa's immediate neighbours and to have lived here for longer periods than the 'new' African immigrants (Morris, 1998; Reitzes & Simpkins, 1998), although many Zimbabweans and Mozambicans do also live in inner city areas. The impact of safety issues on living space appears to result in 'clustering' of particular nationalities in particular areas (both within the inner cities and townships). However, such 'clustering' may paradoxically result in an unintended consequence, namely that of attracting crime and violence. This is because foreigners are a vulnerable social group. They stand as 'easy targets' for crime, especially in South Africa where there is little institutional support or remedial recourse for foreigners.<sup>14</sup> Consequently, areas that are known to be occupied by foreigners may invite crime and violence. This point is made strongly by a police officer at Hillbrow Police Station who, when being interviewed for this project, described Hillbrow as 'The ATM of South Africa', that is as a place renowned for corruption and bribery due to the high concentration of vulnerable foreigners living there (personal communication).

The tendency for immigrants and refugees to 'cluster' in certain areas due to safety

concerns, shared language, culture and economic status is not unique to the South African context. Areas in many international cities reflect a history of immigration through names like 'Chinatown', 'Little Italy', 'The Tokyo District', and 'Lagos' for example. As in the South African context, a world wide paradox appears to exist when certain foreigners live in close proximity for, amongst other reasons, mutual protection: they simultaneously attract hostility and violence as a vulnerable group.

### **International experiences of xenophobia**

The vulnerability of foreigners to corruption, extortion, harassment and physical violence is not unique to South Africa. International comparisons reveal trends and patterns of xenophobia similar to those which have emerged in South Africa over the last decade. A key global trend is that of racism underpinning xenophobia. Hobsbawm (1996) notes that '[n]ational xenophobia shading into racism is almost universal' (p.262). Throughout the world, it appears, non-white foreigners suffer a greater risk of hostility than their white counterparts. Indeed, in much of the international literature, particularly that from Europe and North America, xenophobia is written purely in terms of racism. For example, Witte (1993) lists various incidents of racist (yet nationality-based) violence in Europe as follows:

- In August 1981, 80 National Front sympathisers rampaged about the Brechwood area of Dundee, Scotland, attacking Asians and their property. When the police arrived six Asians who had tried to defend themselves were arrested.
- In March 1990, African street vendors in Florence, Italy, were frequently under racist attack. Pamphlets were distributed stating that 'the hunt for blacks and other minorities had started'. The Italian Head of Police, Parisi, went to Florence and had 240 policemen sent in to seal off the city center to African street vendors.
- In August 1992, a racist siege of asylum-seekers and migrants in Rostock, in Germany, lasted a whole week. Just a few weeks later, a German-Romanian treaty was signed concerning the repatriation of some 40 000 Romanian asylum-seekers. Romanian gypsies constituted the vast majority of this group of asylum-seekers in Germany. They were the first and main target of the racist attacks in Rostock (p. 139).

While racism aimed at foreigners is a common trend in Europe and America, it has received particular attention in societies undergoing transition, such as that of post-unification Germany. Hammer (2000) comments that in 1999,

right-wing extremists committed 746 acts of violence in the former East Germany, according to government records. That figure, up 5 percent from the previous year, represents half of the rightist violence in all of Germany in 1999, though the eastern states account for less than a fifth of the total population ... . [This is] another reminder that, in the east, foreigners lack basic protections - and democratic values have yet to take root. (p.19)

Another key global trend, particularly relevant to societies in transition, is that of governments conflating foreigners with crime and using them as scapegoats for social

problems such as unemployment and poverty. A search of news clippings collected and distributed by the SAIMMIG newsgroup confirms that such scapegoating usually results in the arrest and detention of suspected illegal immigrants. Consider the following examples:

- Kenyan security forces have detained at least 600 illegal aliens living in eastern Nairobi suburbs and other slum areas, blaming them for a growth in crime (*Agence France Presse*, 3 .9.99).
- Zambia has arrested about 100 suspected 'illegal aliens' in the past week ... in a crack-down on foreigners entering the country illegally ... . [They] have been accused of contributing to an escalation of crime in the country (*Xinhua News Agency*, 25 .07 .1999).
- Authorities in Cote d'Ivoire are worried about what they describe as the high foreigner presence in the country. 'The tolerable threshold has been surpassed calling for urgent measures to prevent a major foreigner invasion' ... . [In a report by the government's think tank on socio-economic issues, it was recommended] that adequate dispositions should be undertaken so that 'we are not invaded by strangers. It is not xenophobia. It is a question of national protection', the report said (M Dzisah, PANA, 20 .05 .1999).

Alongside heavy-handed state responses to suspected illegal immigrants, black market activities ensure the illegal presence of certain foreigners in countries. These activities include corruption, forgery and human smuggling. For example, Tenthani (1999) explains that 'Malawi's Anti-corruption unit has set up a high-level probe into the Malawi immigration department in the wake of an increasing incidence of passport forgeries'. The death of 58 Chinese migrants being smuggled into Britain in an airtight refrigerated container testifies to the violence that can accompany the international migration trade (cf. *Newsweek*, 2000).

Xenophobia is not just restricted to particular countries. It is also experienced in transnational organisations such as those working for refugee relief. Comparisons between (black) refugee camps in Central Africa and (white) refugee camps in the Balkans, for example, show up financial and material inequalities, which have 'raised uncomfortable questions about the reasons for (these inequalities) -a complex mix, according to humanitarian groups, of logistics, culture and race' (The Los Angeles Times, 1999). Fisher (1999) comments that the UNHCR has been 'spending about R7,50 per person in Kosovo ... and less than 70c (per person) in Africa'. Similarly, The Los Angeles Times (1999) reveals stark differences between the two regions in the availability and quality of medicine, food, water and shelter, differences which are explained through 'standards of living' and 'lifestyle':

U.N. officials and aid workers say they must give European refugees used to cappuccino and CNN a higher standard of living to maintain a sense of dignity and stability ... . World Food Program officials say both Europeans and African refugees are getting about 2,100 calories per day of food rations. But for the Kosovo Albanians, those calories come in the form of tins of chicken pate, foil-wrapped cheeses, fresh oranges and milk. In some ready-made meals, there's even coffee and fruit tarts. The camps in the Balkans have mobile phones that



refugees can use ... Such extras are nonexistent in Africa, according to those who have worked in both areas. 'Compared to the refugee camps in Africa, Stankovac is a five-star hotel,' said Marion Droz, a Red Cross field worker ... 'You've got to maintain people's dignity,' said Bob Allen, a camp manager who has worked in both Africa and Europe for the relief agency CARE. 'The life in Africa is far more simple. To maintain the dignity and lifestyle of Europeans is far more difficult.'

In looking at the material differences between refugee camps in Africa and Europe, racism is deferred to arguments that draw on 'lifestyle' and 'standards'. However, 'others offer a blunter assessment. They say that wealthy, first-world donors and the aid agencies they support feel more sympathy - and reach deeper in their pockets - for those with similar skin color and background' (The Los Angeles Times, 1999). While the issue of racism regarding refugee camps is complex and beyond the direct scope of this project (see Ogata in *The Star*, 22.6 1999 for an overview of why the 'Kosovo question (has) gone to the top of the agenda'), work in this area is important because it exposes inequalities which can be generated at the intersection of race with nationality.

Given the international backdrop of xenophobia and the pervasiveness of hostility towards black foreigners in South Africa, the following section interrogates the possible causes of xenophobia in contemporary South Africa.

### **Explaining xenophobia**

In the dictionary, the term 'xenophobia' is defined as a 'hatred or fear of foreigners or strangers or of their politics or culture' (Collins English Dictionary, 1991, p.1775). More commonly, the term is used to denote a 'dislike of foreigners'. However, Kollapen (1999) warns that in South Africa, xenophobia is not just an attitude of dislike but is rather accompanied by violence. Similarly, Tshitereke (1999) suggests that,

[x]enophobia represents a deep fear and dislike of the unknown. This subjective fear and absolute dislike seems to have translated itself into intense tension and violence by South Africans towards immigrants. (p.4)

For the purposes of this research project, the word 'xenophobia' is used to denote both negative attitudes about, and violent actions against, foreigners in South Africa.

### **The origins of xenophobia**

Various explanations for xenophobia can be found in the literature. Most locate the phenomenon as something new to South Africa, a practice linked to the process of transition. For the purposes of this discussion, these explanations have been grouped into three hypotheses, namely, 'the scapegoating hypothesis', 'the isolation hypothesis', and 'the bio-cultural hypothesis'. Each is outlined below.

#### ***The scapegoating hypothesis***

The scapegoating hypothesis locates xenophobia within the context of social transition and change. Hostility towards foreigners is explained in relation to limited resources, such as

housing, education, health-care and employment, coupled with high expectations during transition (Morris, 1998; Tshitereke, 1999). Tshitereke (1999) suggests that In the post-apartheid epoch, while people's expectations have been heightened, a realisation that delivery is not immediate has meant that discontent and indignation are at their peak. People are more conscious of their deprivation than ever before . . . . This is the ideal situation for a phenomenon like xenophobia to take root and flourish (p.4).

This hypothesis suggests that South Africa's political transition to democracy has highlighted the unequal distribution of resources and wealth in the country. In this context, Tshitereke (1999) notes, people often have a sense of relative deprivation, frustration and anger. Relative deprivation theory suggests that 'a key psychological factor in generating social unrest is a sense of relative deprivation. This arises from a subjective feeling of discontent based on the belief that one is getting less than one feels entitled to. When there is a gap between aspirations and reality, social discontent is likely to result' (De la Rey, 1991, p.41). Tshitereke (1999) explains that 'people often create a 'frustration scapegoat' (p. 4), usually non-national minorities, against whom they may direct their anger in a violent form. Similarly, Morris (1998) comments that,

[r]esearch and historical events have indicated that if a majority group is in a perilous economic position they are more likely to feel threatened by minorities, especially if they are foreign. (p.1125)

The scapegoating hypothesis of xenophobia explains that the foreigner represents a scapegoat, someone to blame for social ills and personal frustrations. However, the hypothesis does not clarify why the foreigner, and not another social group or individual, comes to signify unemployment, poverty and deprivation. It does not explain why nationality is the determining feature of such scapegoating. In contrast, the isolation hypothesis of xenophobia situates foreignness at the heart of hostility towards foreigners.

#### ***The isolation hypothesis***

The isolation hypothesis understands xenophobia as a consequence of South Africa's history of seclusion from the international community. Morris (1998) argues that apartheid insulated South African citizens from nationalities beyond Southern Africa. In this hypothesis, foreigners represent the unknown to South Africans. With the political transition, however, South Africa's borders have opened up and the country has become integrated into the international community. This has brought South Africans into direct contact with the unknown, with foreigners. According to the isolation hypothesis, the interface between previously isolated South Africans and unknown foreigners creates a space for hostility to develop. '[W]hen a group has no history of incorporating strangers it may find it difficult to be welcoming' (Morris,1998, p.1125).

The isolation hypothesis suggests that suspicion and hostility towards strangers in South Africa exists due to international isolation. The hypothesis also explains contemporary xenophobia by recourse to internal isolation, isolation between South Africans, as a consequence of apartheid:

There is little doubt that the brutal environment created by apartheid with its enormous emphasis on boundary maintenance has also impacted on people's

ability to be tolerant of difference. (Morris, 1998, p.1125)

Because of the creation of strict boundaries between South African citizens, as well as between the country and other nations, South Africans in this argument are unable to accommodate, and indeed, tolerate difference. According to the theory of isolation, South Africans find difference threatening and dangerous (Morris, 1998). In this understanding, xenophobia exists because of the very foreignness of foreigners. It exists because foreigners are different and unknown.

Complementing the hypothesis based on South Africa's isolation is an argument made by Hobsbawm (1996) to explain xenophobia in contemporary European societies. He conceptualises the phenomenon in terms of change, as something that works parallel to rapid social transition. For him, the 'old ways of life (in Europe) have changed so drastically since the 1950s that there is very little of them left to defend' (p.264). Because old, traditional ways of life have corroded, Hobsbawm (1996) argues, xenophobia, separatism and fundamentalism 'are comprehensible as symptoms of social disorientation, of the fraying, and sometimes the snapping, of the threads of what used to be the network that bound people together in society. The strength of this xenophobia is the fear of the unknown ...' (pp.264-265). In Hobsbawm's (1996) reading, 'xenophobia is understood as the product of social transition, as a defence against the anxiety induced by 'the unknown''. This applies directly to the isolation hypothesis, which situates xenophobia in the South African context of change and a large 'unknown' world 'out there'.

#### *The bio-cultural hypothesis*

The isolation and scapegoating hypotheses of xenophobia provide a general explanation for the phenomenon. In both theories, however, the foreigner is treated as a homogeneous category; there is no scope for differentiation between various types of foreigner. As the literature indicates, xenophobia in South Africa is not applied equally to all foreigners. African foreigners seem to be particularly vulnerable to violence and hostility (Human Rights Watch, 1998; Human Rights Commission, 1999). The bio-cultural hypothesis of xenophobia offers an explanation for the asymmetrical targeting of African foreigners by South Africans.

The bio-cultural hypothesis locates xenophobia at the level of visible difference, or otherness. That is, in terms of physical biological factors and cultural differences exhibited by African foreigners in the country. For example, Morris (1998) suggests that Nigerians and Congolese,

are easily identifiable as the 'other'. Because of their physical features, their bearing, their clothing style and their inability to speak one of the indigenous languages, they are in general clearly distinct and local residents are easily able to pick them out and scapegoat them. (p.1125)

In this example, Nigerian and Congolese foreigners are scapegoated as a result of bio-cultural factors such as physical appearance and the 'inability to speak one of the indigenous languages'. These factors apply to the identification of Africans from Southern Africa too. Consider, for example, the identificatory methods used by the Internal Tracing units of the South African Police Service:

In trying to establish whether a suspect is an illegal or not, members of the internal tracing units focus on a number of aspects. One of these is language: accent, the pronouncement of certain words (such as Zulu for 'elbow', or 'buttonhole' or the name of a meerkat). Some are asked what nationality they are and if they reply 'Sud' African this is a dead give-away for a Mozambican, while Malawians tend to pronounce the letter 'r' as 'errow' ... . Appearance is another factor in trying to establish whether a suspect is illegal - hairstyle, type of clothing worn as well as actual physical appearance. In the case of Mozambicans a dead give-away is the vaccination mark on the lower left forearm ... [while] those from Lesotho tend to wear gumboots, carry walking sticks or wear blankets (in the traditional manner), and also speak slightly different Sesotho. (Minnaar & Hough, 1996, pp. 166-167)

In this hypothesis, the biological-cultural features of hairstyles, accents, vaccination marks, dress and physical appearance signify difference and point out foreignness in a way that is immediately visible. These features do seem to play a common role in prompting xenophobic actions. For example, a report by the South African Human Rights Commission (1999) on the arrest and detention of persons in terms of the Aliens Control Act observes that 'at least ten percent' of the subjects<sup>15</sup> interviewed in the study were apprehended 'on the basis of appearance, with nothing more' (p.xxii). Similarly, Boullion (1996) reports that for French-speaking Africans language is a 'handicap, as they feel hostility in the way people react when they realise their inability to speak any African South African languages ... . Dress and hair are (also) handicaps in the context of rife street crime on the one hand and the 'sniffing out' methods adopted by the Internal Tracing Units of the South African Police ... on the other hand' (p.10).

While the bio-cultural hypothesis explains that xenophobia operates through the level of physical and cultural appearance, it does not explain why certain biological and cultural features come to take on xenophobic significance. Why are black Africans predominantly targeted as victims of xenophobia when their white counterparts also have accents?

The most obvious response to this question is racism. This is a response that seems to be missing from the three hypotheses outlined above. Racism, which in the post-apartheid context, manifests through a variety of subtle and overt layers of discrimination, appears to play a key role in xenophobic discourse and practice. One way to understand why African hairstyles, accents and vaccination marks take on xenophobic significance, is to consider how foreign Africans are represented in society. The generalisations and stereotypes that are commonly spoken regarding Africa and African immigrants offer insight into the hostility that meets this group.

### **Representations of African Foreigners**

Peberdy (1999a) suggests that Africans are represented in a number of negative, stereotypical ways throughout the South African society. She is particularly concerned with the role of the state in these representations. Her analysis shows that the state commonly portrays foreign Africans as criminals and social contaminants.

The state's negative attitudes to both immigrants and migrants is most evident ... in the ways it argues non-South Africans threaten the nation by endangering

its physical health, its ability to provide resources, employment and levels of crime. The language ... is replete with images of Africans as carriers of disease. (p.15)

Peberdy (1999a) theorises that,

[t]he focus of the state on what it sees as the parasitical relationship of non-South Africans to the nation's resources, and the way that the state criminalises them, suggests that the state sees immigrants, and particularly undocumented migrants, as a threat to the nation and the post-1994 nation building process. The language of the state, which rarely attaches the pre-fix African, shows that it conceptualises most immigrants as Africans, and Africans as potentially the most dangerous of all 'aliens'. (p.296)

Two important points are made by Peberdy (1999). Firstly, she comments that foreigners in South Africa are represented as a threat to the nation. Secondly, she explains that these threatening, dangerous foreigners are African, even although this is rarely stated explicitly in public discourse.

A similar position is adopted by Morris (1998):

Foreign black Africans, especially those originating from countries north of South Africa's neighbours, are being portrayed as a major threat to the success of the post-apartheid project. (p.1117)

### ***The new South African nation***

The arguments offered by Peberdy (1999) and Morris (1998) situate xenophobia within a context of nationalism. They suggest that foreign black Africans are represented as a threat to the new South African nation. It is beyond the scope of this review to detail the mechanics of nationalism in contemporary South Africa but it is important to recognise that South Africa's political transition has introduced a new form of nation-building and patriotism (cf. Harris (pending) for further details). Hook & Harris (1998), for example, explain that South Africa's transition to democracy has coincided with a discursive shift away from legislated racism towards 'inclusive' nationalism, a shift from the old divided South Africa to the new unified nation. This shift has, according to them, generated new 'enemies' and 'outsiders'. In this political and discursive transition the foreigner can be read as one such 'enemy', an enemy of the new nation and a target of nationalism.

'Nationalism' is a hotly debated concept. A vast field is dedicated to defining and critiquing the term (cf. Bjorgo & Witte, 1993; Billig, 1995; Reitzes, 1995). For the purposes of this review, 'nationalism is identified as the ideology that creates and maintains nation-states' (Billig, 1995, p.19). It is tied directly to the process of nation-building that marks the new South African discourse and is generated through the everyday practices that constitute the nation. Wetherell & Potter (1992) locate xenophobia firmly within the ambit of nationalism. They proclaim that 'patriotism and pride are the 'positive' face, and xenophobia and chauvinism the unacceptable face of nationalism' (p.141). Here, xenophobia is conceptualised directly in relation to nationalism. It is seen as one side of a nationalism

coin. Wetherell & Potter's (1992) argument is important because it ties xenophobia to the process of nation-building as a negative consequence. In the South African context, this argument suggests that violence against foreigners is implicitly linked to the mechanics of the new South Africa.

### **South Africa's violent culture**

The argument that xenophobia is an integral aspect of South Africa's nation-building enterprise can be strengthened and supplemented by literature from another quarter, namely, research into the workings of violence within South Africa. A solid body of research highlights what has been termed South Africa's 'culture of violence' ([Simpson, Mokwena & Segal, 1992](#); [Hamber, 1998](#); [Hamber & Lewis, 1997](#)). The culture of violence can be described as a situation in which social relations and interactions are governed through violent, rather than non-violent, means. This is a culture whereby violence is proffered as a normal, legitimate solution to problems. '[V]iolence is seen as a legitimate means to achieve goals particularly because it was legitimised by most political role-players in the past' (Hamber and Lewis, 1997, p.8).

The culture of violence is a legacy of apartheid. It finds its roots in the 1980s when violence was predominantly political in nature. That is, 'where the dominant motivation [for violence was] based on political difference or the competing desire for political power' (Simpson, Mokwena & Segal, 1992, p.202). During this period, violence was utilised and sanctioned across the political spectrum (Hamber, 1998). The politics of the 1980s effectively laid the foundation for an ongoing culture of violence in the 1990s. According to analysts, the form of violence has altered across this period. Hamber (1998) explains that 'whilst levels of political violence have generally dropped ... the transition has been characterised by dramatic increases in violent crime' (p.3). Violence today is described as criminal, rather than political, in nature. Although the form of violence may have altered across time, violence itself still persists as the dominant means to solve problems in South Africa.

The explanation of South Africa's violent culture accommodates an understanding of xenophobia as a contemporary form of violence. This is because violence is presented as the norm in South Africa, which is, importantly, a new South Africa concerned with nationalism and nation-building. The culture of violence explanation thus reinforces the explanation that xenophobia is a product of nationalism. When contextualised within South Africa's transition, Billig's (1995) words seem particularly pertinent:

it should be remembered that violence is seldom far from the surface of nationalism's history. The struggle to create the nation-state is a struggle for the monopoly of the means of violence. What is being created - a nation-state - is itself a means of violence. The triumph of a particular nationalism is seldom achieved without the defeat of alternative nationalisms and other ways of imagining peoplehood. (p.28)

As suggested through this literature review, an international climate of xenophobia, together with the pervasiveness of hostility towards black foreigners in South Africa, argues for a closer analysis of the links between violence and nationality within contemporary South Africa. The following section explores these links through the primary data collected and analysed for this research project.

## **Analysis and Findings**

### **Research Framework**

#### *Aims and Objectives*

This study aims to explore the 'foreign experience' of violence within contemporary South Africa. It forms part of a broad project concerned with the nature of violence during transition, namely, the Violence and Transition Project (VTP) at the Centre for the Study of Violence and Reconciliation. The VTP research postulates that the nature of violence has changed during South Africa's transition from authoritarian rule to democracy. It suggests that South Africa's political transition has resulted in new targets (for example, foreigners) and forms (for example, xenophobia) of violence today. As an overarching objective, the Violence and Transition Project is therefore concerned with the creative character of violence and its ability to undergo change during times of political transition. It is within this context that foreigners, particularly undocumented migrants and refugees, have been identified as the primary research constituency for this aspect of the research process.

#### *Methodology*

Primary data was collected during the period spanning May 1999 to April 2000. This data was largely attained by way of in-depth interviews and focus group discussions with:

- Key informants and experts in the fields of refugee studies, xenophobia, migration and violence; and
- Refugees, asylum seekers and undocumented migrants.

(Because of its centrality to the primary data collection, the interview/focus group process is discussed in detail below.) Information was also obtained from a survey on 'violence and home nationals'. This was sent to all of the foreign representatives (embassies, consulates, and home offices) in South Africa. A total of 100 such surveys were faxed and posted. Twenty-five responses were received. While this number is not large enough to constitute a statistically representative sample, the responses contributed to follow-up interviews and qualitative detail. Similarly, a 'snap survey' on attitudes to foreigners was administered to participants (both South African and foreign) at the 1999 Africa Human Rights Day celebrations. Again, the information provided is not statistically representative but it was utilised to supplement the overall research process and confirm certain findings. In addition to these sources, the primary data was continually supplemented by media reports and informal conversations with relevant roleplayers. It was also informed by a range of activities, such as meetings, seminars and public education campaigns that took place during the course of the project.

#### *In-depth interview and focus group schedules*

Informed by the available literature, media articles and key informant meetings, a comprehensive list of questions was developed for in-depth interviews and focus groups. Before conducting the actual fieldwork, these schedules were vetted by the CSVR Research Committee for their content, relevance and ethics. Also, two internal seminars on xenophobia and the research process were given and a team of CSVR researchers and

Trauma Clinic practitioners working with refugees was established. Consequently, organisational support and advice was solidly structured into the research process.

The involvement of CSVR Trauma Clinic staff was particularly important given the sensitive, trauma-related nature of the research. Their input into managing trauma-related issues as they arose throughout the interview/focus group period was invaluable, as was their support through the referral system, which complemented the research process with individual and family counseling sessions for participants who were alerted about, and at times, referred to, these free services.

The in-depth interview and focus group questions were carefully ordered according to two broad research dimensions:

- chronology, and
- sites for potential violence

In the chronology dimension, the questions were arranged according to time and history in South Africa. The questions 'began at the beginning' by establishing the respondents' motives for coming to South Africa, that is, background prior to entering the country. Then, the respondents were asked about entering South Africa, journeying to their current location, and living and working in the country across time. The sequential arrangement of the questions was intended to structure the interviews in a logical order and to allow for a narrative to develop.

Working alongside the chronological dimension, the questions were also designed to explore certain areas, or sites, at which the potential for violence exists, including:

- entry into South Africa (through official and unofficial border crossings);
- travel within the country;
- abode;
- work-place;
- authorities, including the SAPS, SANDF, Department of Home Affairs and Lindela, and
- institutions, including schools and hospitals.

At each such site (if, and as, it was mentioned during the narrative), respondents were asked about their experiences and coping strategies. These sites were tracked across the chronological account offered by the respondents and were mapped as variables within the narrative of the foreign journey to, and experience within, South Africa.

Along with providing a useful way to structure the actual interview and focus group discussions, the dimensions of chronology and sites for possible violence have also been utilised to structure the analysis of this report. There are two reasons for this. Firstly, much of the information gathered through the interviews and focus groups adheres to these dimensions and is thus conducive to this analytical format. Secondly, as the literature review reveals, the various sites for possible violence and foreigners' experiences over time, play an important role in understanding the forms of violence involving foreigners in contemporary South Africa. Consequently, the data has been analysed within a structure



that encapsulates both dimensions.

### *Respondents*

The bulk of the interview and focus group fieldwork was conducted over a six-month period (November 1999-April 2000), although key informants were generally interviewed prior to foreign subjects. Based on findings from the literature review, foreign respondents were chosen according to their experiences of violence or crime in South Africa, the countries from which they came, their legal status in South Africa, and their race. These criteria were included for the following reasons:

- 1) The literature reveals that xenophobia is practiced asymmetrically in South Africa, with black African foreigners representing the primary victims/targets of xenophobic violence. Thus, most of the respondents were black Africans from across the continent, although 3 white women (German, Norwegian and Brazilian), and 5 'non-African' men (Chinese, Indonesian, Turkish, Spanish and Pakistani) were also included in a bid to further explore the race/nationality-xenophobia connection.
- 2) In order to investigate how violence in home countries impacts on exile in South Africa. Hence, countries that are currently reflected by the nationalities of political asylum seekers and refugees in South Africa, particularly those from the African Great Lakes region (Burundi, Rwanda, Democratic republic of Congo, and Congo-Brazzaville), were deliberately targeted.
- 3) In order to explore the connections between legal status (undocumented, asylum seeker, refugee) and the reception of foreigners (by South Africans and foreigners alike) in South Africa.
- 4) In order to establish whether there are any connections between familiarity with the Southern African region (and the accompanying knowledge of language, culture, history etc.) and levels of xenophobia and tolerance within South Africa.

Recruitment followed on a snowball basis and translators, who were refugees (except in the case of the Zimbabwean focus groups where the translator was a South African), assisted in making initial contact with the chosen communities. Certain interviews were conducted in English but most interviews and all of the focus groups were conducted in the first language of the respondents, through a translator, who also assisted in the facilitation of the process. This was a deliberate strategy in order to make the research process as accessible as possible to respondents (given the emotionally and psychologically difficult content of the topic), as well as to capture the nuances of their stories (best expressed in a home language). The interviews and focus groups were recorded and transcribed by the translator. Over 100 foreign respondents participated in the research (through in-depth interviews and focus group discussions). A list of participants (by nation and gender) is supplied in Appendix A. Please note that this list is not fully representative of all the respondents, as information was also supplemented by a range of telephonic and informal discussions with central figures in the field. Please also note that confidentiality was guaranteed to the respondents, except in cases where individuals were speaking in their official capacity as representatives of certain organisations. In these situations, the principles of informed consent were strictly applied. In the analysis below, respondents are coded according to nationality, gender and interview reference code.

For example, a man from Angola, interviewed at/on/by BL, will be coded as:

(Angolan man, BL).

Nationality and gender are included because they indicate important variables throughout the analysis. Please note that the interview reference code is for internal research purposes only and, in order to protect the confidentiality of the respondents, will not be elaborated on in this report.

Square brackets [] are used to denote edited sections of respondents' speech. This makes for smooth reading of the spoken word but does not alter the meaning of the statement.

## **Results: the foreign experience of violence in South Africa**

### **Background and violence**

The reasons foreigners leave their home countries and come to South Africa can often be separated into two categories, namely, push factors and pull factors. The push factors denote the motivations for leaving home, for moving away from the country of origin. The pull factors explain the choice to move to South Africa in particular, out of a number of possible destinations. The division between the push and pull factors is artificial and, as the section below illustrates, often these factors work as different sides of the same coin. However, it is important to consider them separately because both reveal different dimensions of foreignness in South Africa. The push factors provide a context and background to foreigners 'here' that is in South Africa. The pull factors explore the perceptions and attractions of South Africa from there, that is, from the international perspective. In combination, the push and pull factors offer insight into the causes of immigration into South Africa.

#### **Push factors: reasons for leaving**

##### *Violence and conflict as primary cause*

Political conflict, persecution and war are common reasons for leaving the home country. Indeed, they appear to be the primary push factors for respondents from a range of nations, including Angola, Burundi, The Democratic Republic of Congo (DRC), Ethiopia, Nigeria, Pakistan, Rwanda, and Somalia. Consider the following justifications for leaving:

And my coming to South Africa is because of the political situation that we are living in our days in Angola. (Angolan man, V1, emphasis added)

I came to South Africa because there is war in my country. (DRC woman, V4, emphasis added)

Well, it was post the '92 India-Pakistan riots and I wanted to get out. (Pakistani man, F2, emphasis added)

according to the situation I face in my country, I was thinking to go as far as possible ... because in our country we've got conflict problem between ourselves; it's an ethnic problem (Great Lakes region man, A3, emphasis added)

While the form of conflict varies in these statements, ranging from 'war' to 'riots' to a general 'situation', it is important to recognise that violence pervades the backgrounds of many foreigners in South Africa. It is a common prompt for leaving. The direct link between violence and the decision to leave is clearly illustrated in the case of a young Rwandan woman, living with her two small children, her sister and their female cousin.

You see what happened to my daughter [points to badly burnt face and arms of 7-year-old daughter] ... . During the war, they came in our place and burnt the house so she was burning inside the house. And my brother passed away. So I say let me come to South Africa, maybe it's better even there ... because there is no war. Any refugee does not choose the way to go, do you understand?  
(Rwandan woman, A1)

Another female refugee relays how her husband and two sons were murdered in front of her in her home country. A month later, she was 'fucked by ten men' and then discovered that she was pregnant. It was then that she decided to come to South Africa. She sees her son, who is now three years old, as a constant reminder of the violence that surrounded his conception and resulted in her leaving.

Not only does violence initiate out-migration for many people, it also defines the process. Thus, violence is central to how respondents understand themselves leaving home, getting to, and living in, the host nation. For example, the word 'refugee' is frequently used by respondents to describe their status in South Africa, regardless of their legal standing in the country, that is, regardless of whether they are categorised as refugees, or asylum-seekers, or migrants, or illegals in terms of the legislation. 'Refugee' conveys the notion of having to flee conflict and it brings with it a certain identity for respondents, namely, that of being persecuted and forced to leave. It is thus important to recognise that home conflict is crucial to the ways in which respondents define themselves.

This has implications for service delivery and intervention strategies within South Africa where the trauma of violence-related push-factors and the ongoing impact of past-violence on identity need to be accommodated and addressed.

While war is interpreted as forcing people to leave, it is also seen as preventing people from returning home. Respondents commonly portray violence as the central obstacle to returning. In the process, they present themselves as not wanting to be in South Africa, as much as having to be in the country. Because of violence, there is no choice in the matter. This is illustrated in the following interview extracts:

[South African people tell me] 'it is better you must go back to your country'. Then I tell them sometimes: 'Why must I go back to my country? There is a war'. You understand? I can't go back to my country. (Rwandan woman, A1, emphasis original)

I: You said you have no problem [in South Africa]

R: Not bad but compared to Somalia, Somalia is better had it not been for the war. (Somali woman, M2)

[R]efugees they run away from their country, you see, where they got war. You can't take them back to where they got war ... . When you do that, it seems that you want to kill him. (Central African man, BL)

[B]ut where I go [if not here] because my mother she's from Eritrea, my father is Ethiopian? When I was in my country, the [Ethiopian] government kicked out all of us. My mother, she went to Eritrea ... . Me, I have to come here. [I cannot go back there as the] government, it doesn't accept me. (Ethiopian man, P1, emphasis added)

The sense of being forced to leave and the impossibility of going home because of conflict are important themes because they counter a common perception amongst South Africans that foreigners 'flock' to the country out of desire and want. Instead, it seems that many foreigners would not be in South Africa without violence in their home nation.

#### *Violence and conflict as secondary cause*

While violent conflict is a central push factor for many, it is not the only factor that motivates out-migration. Within violent societies, conflict may result in other reasons to leave, for example disruption to social services and education. A student from the DRC explains that because of conflict at home, she was unable to pursue her studies there. Rather, she had to leave in order to continue with her education:

There is war in my country and I cannot study there, in the Congo [therefore I left to study elsewhere]. (DRC woman, LL1)

In this example, limitations to education, and not violence, are the primary reason for leaving, even although conflict is indirectly responsible for the decision.

#### *Violence alongside other reasons (multiple causes)*

In other cases, conflict may merely co-exist with various push-factors, as one of many reasons to leave. For example, a Somali woman locates her motives for leaving between violence and famine.

We decided to come to South Africa because we have problems in Somalia, our country, that is, civil war and famine. (Somali woman, M1)

Here, out-migration is motivated by 'problems' which include, but are not restricted to, civil war. Although this is a complex example, and the relationship between famine and civil war needs to be fully explored.

#### *Economic reasons as primary cause*

Depending on the political situation within the home nation, as well as on personal motives, violence may not feature at all as a push factor. Zimbabweans, for example, explain that economic difficulties and unemployment in the home nation are key reasons for leaving.<sup>16</sup> Consider the following focus group interchange between Zimbabwean men.

I: What is the reason for you to come here to South Africa?

R1: Seeking for a job.

I: [addresses R2] Why did you come?

R2: To make my life easier.

R3: It is obvious that there are no jobs in Zimbabwe. If you could find a job [there, then you wouldn't leave]. (Zimbabwean men, Z1)

In this extract, unemployment in Zimbabwe is presented as the sole reason for leaving. There is no mention of political conflict or violence. The narrative here takes on a different form to explanations which rotate around conflict and political prejudice. Economic push factors in isolation do not seem to pervade identity to the degree that political-violent factors do. For the Zimbabwean respondents, unemployment is not about who they are in their home nation, unlike those who are embroiled in ethnic or religious or political conflict at home, for example as 'Hutus' or 'Tutsis', or 'Igbos'. It is also not about who they have become in South Africa, in contrast to those who define themselves as 'refugees'. Rather, they have left to find work, and that is all. This point is exhibited in a focus group discussion about travel between South Africa and Zimbabwe:

R: [although we've lived in South Africa for a number of years] we travel [to Zimbabwe] on holidays.

I: You still have your families living there?

R: We just came to work here. We still have our houses in Zimbabwe.

I: Do most of you still have homes in Zimbabwe?

R: Yes, I go home twice a year.

I: Since 1979, have you been back quite often?

R: Yes. (Zimbabwean men, Z1)

In this interchange, the respondents explain that they are able to return to Zimbabwe on a regular basis. They still have strong family ties and houses in Zimbabwe and they move between the two countries frequently. There is a degree of flexibility and fluidity about their stay in South Africa, unlike refugees who cannot return to their home nations at all due to conflict.

Although these respondents can and do go home with regularity, they always leave again. Their reason for leaving - unemployment - is presented as compulsory: 'If you could find a job [there then you wouldn't leave]'. This push factor is portrayed in much the same way as violent conflict is, that is, as something which forces people to leave. There is no scope for choice in the matter. As with refugees who flee their home countries, the Zimbabwean

respondents see themselves in South Africa because they cannot be at home, rather than because they want to be in the country. There is a sense that if home conditions change, they will return permanently. As one respondent comments:

I think all other African countries should be economically viable so that they can keep their citizens. (Zimbabwean man, Z2, 11)

It is interesting to note that commentators who motivate against the presence of certain foreigners in South Africa draw on the same economic argument to make their point. For example, a spokesperson for the Unemployed Masses of South Africa (UMSA), comments:

I mean part of the problem [for 'people who come here because of the poor economies of their country'] is Robert Mugabe [pause]. If Robert Mugabe [pause] followed sensible economic principles and policies, the, the people that enter South Africa from Zimbabwe [pause] would be reduced in number. (spokesperson, UMSA)

Similarly, a representative for Admissions and Aliens Control in the Department of Home Affairs suggests that,

The root causes [of 'illegal migration' are what need to be addressed], and that is the discrepancy between the economies of our neighbours, especially Mozambique, and ourselves ... . Mozambique has improved dramatically since '94. And I think maybe that also has an influence on the numbers [of illegal entrants, which are lower now, then they were then]. Now we have Mozambique improving but Zimbabwe is going down hill. Um, so the solution is far away, but that is the solution. (DHA representative)

Violence, war and economic instability are important reasons for leaving the home nation. For many, however, the decision to leave cannot be reduced to a singular factor and it is crucial to note that out-migration is a complex and difficult process. It is also significant that many respondents do not choose to leave, as much as they feel forced to go and that they are not in South Africa because they want to be. This is pertinent to those who leave for both economic and political reasons. Once in South Africa, push factors, particularly those of violence and political conflict, continue to exert a strong influence on respondents, shaping identities and contributing to how they understand themselves in this country.

While a complex range of push factors motivates people to leave their home countries, they do not necessarily explain why foreigners come to South Africa in particular. They do not describe the 'pull' factors specific to this country. These must be considered alongside the push factors to enrich the understanding of foreigners in South Africa, as well as to account for those who are not pushed as much as pulled into coming to the country.

#### **Pull factors: reasons for coming**

#### ***South Africa's international image***

For many respondents, a specific image of South Africa attracted them to the country. Consider these comments:

[I came in 1993 and] I was *politically intrigued* about South Africa and the similar politics as were happening in India and Pakistan but there, people were turning against each other after hundreds of years living together, whereas here was another country where *people were coming together*. It seemed like an *emotionally* nice place to come to also. (Pakistani man, F2, emphasis added)

I came to South Africa because this the only place I heard *welcomes* and *recognises* refugees and [refugees] are given some documents. (Somali woman, M2, emphasis added)

[W]e knew that it is a is a new country and then democratically organised. We, we thought that things are still in a good way, I mean in order. (Great Lakes region man, A3, emphasis added)

I was told that [South Africa] is a *good* place! (Somali woman, M2, emphasis added)

Here, a particular image of South Africa emerges. This is an image that is developed outside of the country, independently of the respondents' experiences, prior to their arrival in South Africa. In this sense, it can be labelled as an external or international image. It is an image that correlates closely with the country's political transition during the early 1990s. The promise of democracy and equality for all, including refugees, is a strong component of this image. More generally, this external, international perception of South Africa captures the ideals of newness, optimism about the future, tolerance, freedom, peace, and opportunity; ideals that are represented in the 'new South African' discourse within the country. Consider these comments about South Africa made by an inspector at the Hillbrow Police Station:

I: And why do you think people come here in the first place?

M: Gauteng! Gold, there is gold, [laughs] there is *money* here. There's money, there is freedom for everybody and I think it's a free country, *democracy* is found. People love South Africa, you know. Love South Africa because they know, they know when they're here they've got rights, you understand, at least *constitutional rights* or whatever are protected. You've got rights, irrespective [of whether] you are a prisoner or whatever. (SAPS inspector, Hillbrow Police Station, emphasis added)

This respondent notes that the economic lure of South Africa represents an important pull factor. Although employment is implicit in the economic push factors described by foreign respondents in the preceding section, most do not make overt reference to this as a pull factor, unlike their South African counterparts who commonly suggest that foreigners 'come to steal our jobs'. In addition to economic opportunity, the respondent suggests, South Africa's image is one of rights, freedom and democracy. A representative from Admissions and Aliens Control in the Department of Home Affairs makes the same point:

You know that a Nigerian drug dealer finds himself well situated in South Africa, hey? ... He's covered by a *constitution* in South Africa that he's not

covered by in Nigeria. He's covered by a judicial process which is far *fairer* than what is available to him in Nigeria . . . . And the same applies to the Chinese as well. (DHA representative, emphasis added)

Similarly, such an image is actively promoted abroad by the government. This has not escaped the attention of foreigners living here, who suggest that South Africa deliberately cultivates a reputation for liberal refugee legislation and a welcoming climate in order to build international trade and diplomatic relations and to promote investment in the country:

R2: South Africans don't want foreigners to do anything in the country, they want them to come here just to *draw the international attention that they are good, they are happy foreigners*. But this is a turn-off. I mean, I should call it . . . you know a grave painted with white paint, but inside it's a deadly soul. They *invite foreigners so that the international community would say 'no, South Africa is doing great [let's give them money]'*. They will give a recommendation for certain foreigners, but they would begin to kill them, murder them like chickens in their country. (Nigerian man, N1, emphasis added)

R4: South Africa must not try to pretend that they are the best when it comes to refugee status [which is what they do to the international community]. They are the worst. (Nigerian man, N1, emphasis added)

#### *South Africa's relative attractiveness*

The positive international image of South Africa works as a strong pull factor in its own right. However, this image is also developed and generated in relation to alternative destinations. In this sense, it is a relative factor, weighed up against external images and personal experiences of other countries. The following respondents, for example, explain how they chose South Africa through a process of evaluation and elimination:

We *could* reach other European countries and the other African countries. Though South Africa is far from Somalia, but if you *compare* it to other African countries like Kenya, where you can't even move a step because of police harassment who will ask for documents or be raped or ask for money or even jail you . . . . The same applies to Tanzania, Zambia, Malawi and even Mozambique. The only place we saw as heaven on earth was South Africa. And this is only because of the document you are given which enables you to move freely without police harassment. (Somali woman, M1, emphasis added)

So if you're *near your country*, it's a little bit dangerous, because you found your, your enemies around there. That's what I didn't like. I wanted to go as far as//I didn't want to see them [pauses: 4 seconds]. Hm, so that's why I, I thought to come *down* to South Africa. (Great Lakes region man, A3, emphasis added)

Frankly speaking, I left my country because of the civil war. I came here to seek for peace of mind. Hopefully I might get a job. I am still young with a small baby so generally speaking I *want to look for a future* in South Africa. I couldn't go to Kenya because in Kenya you can't get a job. Also I didn't have money to start a small business. (Somali woman, M2 - new arrival, emphasis added)



I came to South Africa to purposely seek everlasting peace of mind, shelter and I also heard that the medical facilities *are better than* any other African country. (Somali woman, M2, emphasis added)

[We had a good life in Ethiopia]. When we reached Nairobi, there's not any solution to survive our lives, there's no job [and we heard that the UNHCR no longer accepts refugees there] ... really, life is very expensive in Nairobi, if you haven't got money, you can't survive there ... . So some guys told us South Africa is alright, you can run some small businesses there. (Ethiopian man, P1)

The process of elimination and weighing options reveals much about alternative destinations. Places such as Kenya, Tanzania, Zambia and 'other African countries' are portrayed in negative terms. They are represented as dangerous, hostile and unwelcoming. There is a strong fear of 'police harassment', restricted freedom and exposure to 'enemies'. In other words, a fear of human rights abuses. There is also concern about material conditions and opportunities, particularly in relation to jobs and medical facilities. These reasons are repellants, or negative pull factors. They deflect respondents from particular countries. In this way, South Africa is chosen on negative grounds because it is not Kenya, Tanzania or Mozambique. At the same time, these reasons also reveal positive expectations behind the decision to come to South Africa. Prior to reaching South Africa, respondents expected human rights protection, employment, health care, and employment/educational opportunities. They expected to be welcomed and to make a future in the country.

#### *Return the favour...*

Expectations of welcome point to a related pull factor in South Africa, namely, 'returning the favour'. This pull factor rests on the particular relationships that were developed between various African countries and South African exiles during the apartheid era. Certain respondents suggest that their countries, and often they themselves, played a significant role in hosting political activists during the 1970s and 1980s. Foreigners from Kenya, Tanzania and Nigeria comment that, for many years, South Africans were welcomed in their countries and were given financial and moral support during their stay. They speak of 'sacrifices' that were made both nationally and personally to assist South Africans in the fight against apartheid.

We believe that [South Africans suffered during apartheid], when they suffered, we contributed. I was seven years old when I was hearing about South Africa. We [as seven-year-olds] contributed ten rand, ten mera in our currency, just for the suffering in South Africa. Okay, okay, now during their suffering time, we were in good health, we had our oil boom ... [but] now that our own country is inflicted with problems and stuff, we run to them [to South Africa, for help]. (Nigerian man, N1)

The historical involvement of other countries with the anti-apartheid movement, particularly the African National Congress (ANC) and the Pan African Congress (PAC), is touted as a reason to seek similar protection and support in post-apartheid South Africa. For many African foreigners, the expectation before reaching South Africa was that the government and ordinary citizens would 'return the favour', now that they are in a position to do so.

It is interesting to note that respondents from Mozambique, Zimbabwe and Angola do not refer directly to the historical role that their countries played, or the consequences that they suffered, during the apartheid years. Unlike those from central and west Africa, there is not as clear a sense of 'pay back time'. Rather, pull factors are spoken of in terms of material opportunities and historical networks (discussed below). There is not the same macro-political argument at play here. However, at an indirect level, reference is made to South Africa's responsibilities in the region. Consider the following comment by a Zimbabwean respondent about recent floods in Mozambique and Zimbabwe and the possibility of new refugees coming to South Africa:

In my view, I don't think the whole country is in floods, people must seek help somewhere in their own country ... . It does not mean they should always run to South Africa. Then the other countries could assist the governments [of Mozambique and Zimbabwe] with aid like food, or blankets, whatever they need. I think this could solve the problem because this is not a problem for South Africa ... . They should not flock to South Africa because South Africa is not the cause. That is a natural disaster (floods) for the countries concerned. (Zimbabwean man, Z2, emphasis added)

This statement absolves South Africa from responsibility for 'natural disasters'. At the same time, the speaker implies that the country is responsible for non-natural disasters, such as unemployment, in the region. Because unemployment is a primary push factor for many Zimbabweans, the allocation of regional responsibility for this to South Africa is of central importance. It also suggests that there are certain 'rules' for moving across the border, 'rules' that confer responsibility on South Africa: for this particular respondent, migration is justified because South Africa is seen to have caused unemployment; however, it is not justified in the case of floods.

'Rules' such as this one are not hard and fast and they may apply more at an individual level, than they do collectively. However, they do highlight two important issues. Firstly, foreigners themselves do not advance unchecked, 'unjustified' migration into South Africa. From the foreign perspective, there are limits to immigration; it is not a random, uncurtailed process and there are reasons which do not justify moving to the country. This is contrary to popular South African beliefs supported by the literature, that foreigners want a 'free for all' society. It is, however, important to recognise that these 'rules' are constructed retrospectively, by respondents who are already living in South Africa, and who are able to justify their personal entry into the country.

Secondly, these 'rules' do, for a large part, comment on perceptions about South Africa's responsibility within both the Southern African region, and the continent. Movement into the country is justified by South Africa's previous actions and the idea that South Africa has a responsibility to welcome and support foreigners here. This finding reinforces that of McDonald, Mashike & Golden (1999) who comment that '[m]ost migrants feel that South Africa has a moral obligation to the African countries that took up positions against apartheid, and should therefore embrace and welcome foreign migrants' (p.2). It also supports a minority voice amongst South African officials and citizens, a voice which advocates 'pay back time' and suggests that South Africa has a responsibility to the region.

### *History and networks*

The regional history of cross-border migration is a pull factor for many respondents from Southern Africa. Zimbabweans and Mozambicans, for example, explain that the tradition of coming to South Africa for work continues to attract them to the country. This tradition is reflected in the dates when Zimbabwean respondents first arrived here - 1962, 1970 1979, 1987, 1989. As these dates indicate, many have been crossing the border for years.<sup>17</sup> While the initial pull is usually employment, local networks of family, friends and trade have also developed through this process. These have become pull factors in their own right. A Mozambican citizen explains that:

I travel back and forth all the time [between South Africa and Mozambique]. I have two sisters here. One stays in Durban. She's lived there for twenty years [and I go to see her] ... [I also] come here for the shopping. You must see Nelspruit on Fridays and Saturdays. It's full of Mozambicans. (Mozambican man, F1)

Similarly, Batswana mining and engineering students explain that, since the fall of apartheid, they have been granted scholarships to study in South Africa rather than overseas, because of similar geographical conditions, trans-border corporate ties, nearness to family, and cheaper travel and tuition costs.

These networks of people and trade suggest that many Southern Africans move into the country on a temporary but regular basis. This is an important point because it contests the common perception among South Africans that foreigners come to stay permanently. Certain reasons for coming, such as shopping visits and tertiary education, also undercut the general image of foreigners exploiting the economy. Rather, Mozambicans contribute to sustaining local business in Nelspruit, for example, and students contribute to the South African economy by paying fees and generating knowledge.

African foreigners who originate beyond Southern Africa do not have as solid a weight of history to pull them to South Africa. In contrast to their Southern African counter-parts, none of the other African respondents interviewed arrived prior to 1990, and most only came post-1994. However, history is slowly being produced as networks are solidified and roots established in South Africa. A young Somali woman who arrived in January 2000, for example, came to South Africa because:

My father was already in Johannesburg and waiting to receive us. (Somali woman, M2)

Similarly, a Rwandan woman who has lived in South Africa since 1996, tells how her Burundian cousin came to join her here in 1999, and a Kenyan man explains that:

I came to South Africa. It was 1993. My sister she married here. The one man he was from MK [and had been living in Kenya, where she met him] so we moved here. (Kenyan man, BL, 7)

An Ethiopian man says that he came to South Africa, to Tzaneen,

Because there was a friend of mine [there]. And I don't want to be dependent on people I don't know. (Ethiopian man, S1)

### *Chance and idiosyncratic reasons*

Given the range of foreigners who come to South Africa, it is impossible to document a complete set of pull factors. Rather, a number of factors, many of which intertwine, are involved. These factors may be arbitrary and a matter of chance, as the following extracts reveal:

I myself, I did not prefer to come to South Africa ... I went to Asia and [got information about going to] Australia. But, in bad luck, the ship that I got onto got lost in Durban. I did not plan to come to Africa. (Indonesian man, BL)

Originally, I wanted to go to East Asia, Thailand, or somewhere, but at the travel agent I found I could get cheaper flights to Kenya. And they told me that from there, it was easier to get cheaper flights within Southern Africa. And when I arrived, I met my partner, who is South African. (Pakistani man, F2)

I came here the first time in 1995 to South Africa to do voluntary work and to work in the homes for children for one year, then I went back home [to Germany]. I found a South African boyfriend [there and] then I came back the beginning of last year because of my boyfriend and because I wanted to study in South Africa. (German woman, F3)

I think it is more or less a dream that I always wanted to visit somewhere in Africa but I never had any contact or any address that I could go. So eventually I got an address of a certain woman in Johannesburg. So that's how I ended up in [South Africa]. (Norwegian woman, F3)

As these respondents indicate, idiosyncratic reasons, individual choices, and chance, have all contributed to their being in South Africa.

The pull factors shed light on the specific attractions and incentives of South Africa, or, more accurately, they shed light on the ways in which South Africa is perceived externally. The expectations that many foreigners have prior to reaching the country take on significance when matched against the actual experiences of entering and living in South Africa. Similarly, the reasons that foreigners leave their home nations, that is, the push factors, also offer a watermark for measuring and assessing the South African experience. Having established the broad causes of migration to South Africa, the following section focuses on the journey and border crossing into the country.

### **Journey**

Respondents continually volunteer information about their journey to South Africa. This is not a primary focus of the research and yet people discuss their experiences of South Africa (which is the primary focus) in a way that is continuous with the journey to the country. This suggests that the foreign encounter with South Africa cannot be neatly separated from experiences en route. As such, this shows that someone becomes a foreigner as they leave

their home nation, not just when they arrive in South Africa. It also suggests that the journey is integrated into foreign identity within South Africa, a point that emerges from the following extract:

[We went from Angola to Windhoek]. From there, our life started in a very difficult way. We saw different people and brothers and everything was very beautiful as a different view, but concerning our brothers and sisters ... *they were despising us like people from a different planet.* (Angolan man, V1, emphasis added)

For this respondent, the journey through Namibia, towards South Africa, is the 'start' of a very difficult life. The disruptions, inconveniences and hardships of the journey are but the beginning of being foreign in South Africa. It is thus important to consider the process of reaching South Africa because, for many foreigners, this is part of the process of being in the country. That foreigners conceptualise their journey as contiguous with their stay in South Africa also suggests that South Africa is seen as part of the journey, as a temporary, transitory phase, rather than a permanent abode.

This impacts on service provision in various ways. For example, in trauma-work and counseling, it represents an additional barrier to healing because foreign clients, particularly refugees/asylum seekers, may never feel that their plight is 'over' or that they can begin to make a new life in South Africa. Similarly, the high turnover of foreigners constantly leaving South Africa, impacts negatively on the resources and service-providers who are 'left behind'. A careful debriefing strategy needs to be secured for such service-providers to accommodate the unique challenges that a transient client engender.

With this in mind, the en route difficulties are briefly considered here, with a particular focus on the monetary exchanges that circulate within southern Africa.<sup>18</sup>

Depending on the reasons for leaving and the resources that people have, the journey to South Africa can be a long, difficult and costly process. Often, those who do not fly directly into South Africa face great distances, unreliable transport, and dangerous, sometimes violent, physical conditions:

[S]ome people lost their lives along the way, going through all the bad channels, going through the bush. I know some people that their body was ate by a lion. How we detected, we found their passports, they were lying down [next to the bones]. (Nigerian man, N1)

[My mother, my small brother and I] came by plane from Somalia to Djibouti and then by train to Ethiopia. And from Ethiopia, we came by bus up to Zimbabwe. From Zimbabwe, we went by train to Zambia and to Mozambique and finally we jumped through the fence to South Africa [with the assistance of some people that we paid money to]. (Somali woman, M2)

From Ethiopia, I went to Nairobi by lorry, then to Tanzania, then Mozambique. From Mozambique I went through Swaziland to Johannesburg. It was very, very difficult. It takes one month; it was very difficult. In Northern

Mozambique [for example] the road was full of mud and it was too much raining and the lorry was very crowded. (Ethiopian man, P1)

I passed through Namibia. I took a bus, also I did walk for a long distance through Namibia. (DRCongolese woman, V4)

Travelers also encounter language barriers, local hostility and corruption en route, particularly as they get further from their country of origin and closer to South Africa. The following narrative is a typical example of the sub-continental journey because it captures a number of different obstacles that the average traveler encounters. Owing to reporting constraints, this is a synthesised version of the original account. However, care has been taken to retain the meaning and wording offered by the respondent.

In Maputo, we tried to catch a bus to South Africa but were told that we could not go without visas. So, we paid a man US50 dollars [to take us to South Africa]. He told us to wait in his minibus while he went for lunch. But he didn't come back. Then another man came and said 'you know, this is not his car. If you want to go to Jo'burg, I can take you to the border but you must give me R25' [which we did]. When we reached the [Swaziland] border, we paid two other men US200 dollars to help us across. [But, we still had to pay the border guards, who were drunk, another US100 dollars to get through]. In Swaziland, the men who were helping us said that the money was not enough. But we had no more money to give them. [They tried to fight with us but eventually] they left us ... . It was very dangerous, full of dark, rain and some animals. We took some documents and clothes from our bags and made a fire with them and we heard a lion shout [makes roarrrrrring noise]. We were shocked and for thirty minutes we prayed, 'just save us Lord' ... (Ethiopian man, P1)

As is illustrated above, respondents speak of having to pay for their passage - legally and illegally - at a number of points. Payment usually takes the form of US dollars and the journey is expensive. It is interesting to note that respondents locate bribery, theft and hostile human interaction largely within the Southern African region, particularly, on the South African borders. Indeed, a central feature of the journey in this region is clandestine coercion and exploitation. In this regard, there is what may be termed a strong economy of movement in operation within Southern Africa. There are three central features of this economy of movement, namely, demand, supply and exploitation. These are discussed below in turn.

Firstly, there is a demand for movement by travelers themselves. People need to move through the region and many are able to pay to get to South Africa. In this sense, the system works for those who can afford it, solely because they are able to get to the country. At the same time, the system works against those who are not financially/materially resourced because they do not have the currency to buy movement.<sup>19</sup> In this regard, it must be acknowledged that many people, especially those from afar, 'make it' to South Africa because they have financial resources to get to the country. This is an important point because, in keeping with the literature, it contradicts the popular South African belief that foreigners, and particularly African foreigners, come from impoverished backgrounds and arrive without financial resources. Personal resources are also often supplemented through

an intricate network of friends and relatives who live elsewhere. For example, an Ethiopian respondent explains that when his traveling party ran out of money in Mozambique they were able to contact relatives for funds:

My girlfriend has got a mother in America and we already phoned her and she sent some money [through a priest's bank account]. And my friend has got one sister in America, [another friend] has got one brother in Germany, and [while two of us] don't have any relatives, we helped each other out. (Ethiopian man, P1)

Secondly, there is a supply of movement by local agents within the region. For a certain price (which is usually quoted in US dollars), suppliers are able to provide transport and guidance across the region, into South Africa. This supply involves a range of players, from transport operators, truck drivers, and fence guides, to border guards and immigration officials. It also spans the legal-illegal divide to include legal transactions such as the payment of bus or train fare, as well as clandestine border crossings and the illegal issuing of entry visas, for example. Alongside these agents and personal networks of friends and relatives, travelers are also assisted by generous individuals and organisations on their journey. While this assistance is not a pervasive feature of the trip, it does bolster (supply) the financial and material needs that travellers encounter. Religious groups, for example, play a significant role in providing shelter, financial assistance and directions to refugees trying to reach South Africa.

Thirdly, there is exploitation within this economy of movement. Exploitation here is defined on two levels. On the first level, it denotes the intrinsic imbalance of power between travelers and local agents; the travelers, who are both unfamiliar with the region and who want to reach South Africa, are in a weaker bargaining position than the agents of movement.<sup>20</sup> On the second level, exploitation exists in the system over and beyond the negotiated rate of movement. It exists as crime, and sometimes violence, en route. Many respondents tell of paying for an agreed service, such as transport across the border, or guidance to a particular destination, only to find themselves deserted and unable to retrieve their money on the way. An Angolan man relays his experience as follows:

[In Namibia] we went to a truck port where we spoke to some guys who were South Africans and they agreed to take us [across the South African border] but we had to pay them. We were five guys and we had to hide ourselves. We were to enter South Africa illegally ... but when we got to the border, they said they could not take us and did not give us the money back ... . So we had to wait for another truck ... and we paid again. (Angolan man, V1)

Respondents also tell of having their belongings stolen and facing aggressive, threatening situations when agents demand more money to complete a trip.

Familiarity with the region and knowledge about how to reach the border contribute largely to both levels of exploitation. This is made apparent by contrasting experiences of foreigners from afar (that is, strangers in the region) to those from Southern Africa. Consider the following focus group interchange with Zimbabwean men:

I: So when you cross at the border, is there someone who helps you through?

R1: No, you jump over the fence.

I: [D]o you just know where to go or do you pay someone to help you?

R1: No, you know.

I: To go back to the border, do you just come around it on your own or do you have to pay anybody to help you?

R2: No, you just have to do it on your own. You don't have to pay, you just walk through the fence. (Zimbabwean men, Z2)

For these men, who are familiar with the area and who know how to cross the border, there are no agents of movement. They are able to complete the journey to South Africa independently, unlike their more northern African counter-parts. The high costs of the journey therefore also indicate the degree to which certain travelers are vulnerable to exploitation en route.

## **Experiences in South Africa**

### **Entry**

Entry into South Africa is an important focal point of this research for two related reasons. Firstly, entry represents the initial point of physical contact between foreigners and South Africa as a nation. Geographically, the border is the first site of interchange between citizens and non-citizens.<sup>21</sup> In this regard, entry constitutes the ways in which foreigners enter the country and the treatment they receive at the borders, that is, the direct interface between foreigners and South Africans. This interface introduces the potential for violence, corruption and illegality and is discussed as practices of movement below. Secondly, entry entails symbolic contact with foreigners, a form of contact that is encapsulated by immigration legislation, political will and public opinion.<sup>22</sup> 'The border' represents a significant symbol of immigration and control. It serves as a platform for the promotion of political interests and agendas, particularly in relation to illegal migration. Indeed, it is difficult to separate undocumented migration from 'the border' and entry in general. For example, consider this comment made by a spokesperson for UMSA:

If one asks Home Affairs: 'How do all these *illegal immigrants* get into the country?' They will tell you: 'Through *the borders*'. Whose responsibility is it to patrol the border? It is certainly not Home Affairs, but it is both the SAPS and the SANDF. Now I ask you the question, what are they doing about this? Nothing. (UMSA spokesperson, emphasis added)

Here, the border is intricately connected to the issue of 'all these illegal immigrants'. It is located as the place through which entry occurs.<sup>23</sup> This affords the UMSA spokesperson a platform for political commentary about the SAPS and SANDF, who are held responsible for patrolling and controlling access, and therefore, for illegal migration. By extension, a



political comment is made about these institutions and the government itself.<sup>24</sup> During the 1999 general elections, 'the border' was used for similar political commentary; media coverage revealed politicians inspecting the border whilst discussing problems of illegal migration.

## **Illegal entry**

### *Representations of illegality*

The issue of legality and entry forms a cornerstone of the immigration debate, as well as xenophobic discourse. Illegal entry is a hotly contested notion and it is represented as problematic by a number of key players. For the Department of Home Affairs, illegal entry is a problem for logistical reasons:

To prevent people from entering illegally is always going to be our biggest problem. Our most difficult problem, if not our biggest. You know the length of our borders, what is it, something like 3000, just on 4000 kilometres of border. And some of it very ill defined and it's very difficult to control that piece. So to actually physically stop them is never going to be possible. We might reduce it but we will never stop it. (DHA representative, Admissions and Aliens Control)

Here, the physical difficulty of patrolling the border to control and legalise access is the central problem with illegal entry.<sup>25</sup> Illegal entrants themselves are framed as problematic for two separate reasons,

And, when we look at these illegal aliens we feel that we find there are two separate problems. Very separate problems. The one being the large numbers of illegal aliens from the specific country. And the other being, what nonsense that country would get up to. That country's nationals will get up to. You will find with the Nigerians and the Chinese that the numbers of their illegal aliens in South Africa is far, far, far below the Mozambicans. But we have far more problems from them from a criminal point of view than what we would from the Mozambicans. So they're a problem. Not only because of their numbers. But also because of their activities in the country. (DHA representative, emphasis original)

From this comment, it appears that the Department of Home Affairs separates illegal entry from criminal activity and this is done along national lines. Illegal Nigerians and Chinese, for example, are problematic for Home Affairs because of their activities in South Africa, while illegal Mozambicans are problematic because of their large numbers. Clearly, the division of nationalities in this way contributes to negative stereotypical representations of certain foreigners and, ultimately, they cannot escape the conflation of crime with illegal entry. However, that the respondent separates the numbers of illegal entrants from criminal activity is important. Provided they do not 'get up to nonsense' in South Africa, illegal entrants are problematic because of their numbers (which increases the logistical pressures at the border) and that is all. Another DHA spokesperson from Aliens Control reiterates this point:

[Nigerians are here for other purposes]. And [they're] using South Africa for other purposes. If you look at Mozambicans [however] ... they're a young bunch of naughty boys, really. To a very large extent. That's why it's not even dangerous for you, as a woman, to go [into Lindela]. There might be a thousand of them ... in there. It's not dangerous because, as I said [laughs] it's a bunch of young naughty boys. (DHA representative, emphasis original)

While reinforcing negative stereotypes about Nigerians, this DHA representative interprets illegal Mozambicans as 'young, naughty boys' who are not dangerous. Within the category of illegal entrant, there is a typology of nationality in operation, with certain nationalities viewed as sophisticated criminals, and others as childlike wrongdoers.

While the Department of Home Affairs problematises the issue of illegal entry (divorced from criminal activity) in terms of volume and logistical difficulty, other commentators do not make as clear a distinction between illegal entry and crime. A spokesperson for the Unemployed Masses of South Africa (UMSA), for example, locates illegal entry as a criminal offence.<sup>26</sup>

We do not want illegal immigrants in this country. They're committing a crime by being in the country illegally ... . If a person enters the country illegally, they are violating the Aliens Control Act. That's a law ... . So they've committed a crime. (UMSA spokesperson)

Unlike the DHA interviewees, this UMSA representative does not differentiate between illegal entry and criminal activity. They are seen as one and the same issue. And this, according to the UMSA spokesperson, is the reason why UMSA does not want illegal immigrants in South Africa.

The South African Police Service also draws a clear link between illegal entrants and criminal activity.

[Being illegal] sounds like a lesser crime but at the end of the day, the goal [of arresting 40 undocumented foreigners per day] works because ... you find that they are the ones who are committing some crimes ... at the end of the day crime goes down. (SAPS inspector, Hillbrow Police Station, emphasis original)

We hear it at our management meetings that in a lot of cases, almost 80% of the perpetrators in South Africa are illegal immigrants, people from Nigeria, people from Mozambique, Zimbabwe, Malawi, Zambia. (representative, provincial police psychological services)

In accordance with the literature, the conflation of illegal immigrants with crime constantly pervades xenophobic and anti-migrant rhetoric. Perhaps this is because the category of illegal migrants is the most direct and 'acceptable' level through which to make hostile statements, based, as it is, on a legislative foundation. This makes it easier to shroud xenophobic commentary in legal jargon. Also, illegal entry is not just interpreted as a literal transgression. Rather, it is used to symbolise a threat or danger to the nation. Consider the following depiction of illegal immigrants:

R: As far as the research and investigations that we've done show, illegal immigrants take jobs away from South Africans. That's an *undisputed* fact. They take away housing which is supposed to be allocated to South Africans. They cause general confusion and mayhem wherever they go. They deal in drugs, they deal in drugs openly through out Johannesburg. They commit *various* crimes. They perpetrate violence against each other and blame South Africans ... . They don't pay taxes. They commit crimes ... and they just disappear after committing those crimes. They cause school principals to forge certificates by bribing the school principals so they can register the births late. They cause Home Affairs officials to be corrupted because they bribe them into providing false identification documents for them ...

I: Surely Home Affairs and head masters must take some responsibility for their own dishonesty ...

R: Sure. Granted. That is the case. We are not saying that they are innocent. I mean, they are party to these crimes that are being committed. However, the root cause of all of this here is these illegal immigrants. (UMSA spokesperson, emphasis original)

In this extract, illegal migrants are held responsible for a range of national social ills, from crime to corruption, to fraud, to violence, and competition for employment and housing. UMSA spokesperson's list clearly conflates illegality and all other social problems and he lays the blame for these squarely on illegal migrants. He goes so far as to say that 'the root cause of all of this here is these illegal immigrants'. Statements such as this are not restricted to UMSA. For example, in a radio talk show programme a caller commented that 'illegal Zimbabweans commit most, if not all, of the crimes in South Africa' (Crwys-Williams, 2000) and a representative from the provincial police psychological services comments that,

In a lot of cases they [illegal immigrants] don't have respect for this country, they don't have respect for the possessions and the people of this country ... they are trigger happy, they are extremely violent. (representative, provincial police psychological services)

The public-political confusion of illegal entrants with crime and other social problems creates and reinforces a symbolic threat to 'the border'. It also has a direct impact on public actions towards foreigners who are living here. For example, UMSA follows a clear strategy of action about illegal migration:

We will march, we will prepare memoranda to hand over to the necessary minister and we will pressurise [government] until they do the right thing [by taking responsibility for illegal immigrants through detaining, charging and deporting them]. (UMSA spokesperson)

It is important to note that following one such UMSA demonstration, three foreigners were killed on a train carrying UMSA supporters to Johannesburg (see literature review for more details).<sup>27</sup> While UMSA involvement was not directly established in this incident, the point

still holds that hostile, inflammatory accusations against foreigners, whether disguised as a legal argument or not, result in a climate that is conducive to vigilante violence of this nature.

*A word of caution*

From the outset, it is significant to note that any causal link between illegal entry and crime is firmly rejected by undocumented foreigners themselves:

[If] he doesn't have documents or he's illegal, doesn't mean that he's a criminal.  
(Tanzanian man, BL)

I am not a crime. (Kenyan man, BL)

It is also important to recognise that not all foreigners in South Africa are undocumented and that the research focus on illegal entrants is not intended to suggest that all foreigners enter the country illegally; many enter via official border posts with proper documentation. Also, this focus must not imply that all illegal entrants remain undocumented and illegal once they are in South Africa. Rather, a number of respondents who arrived in South Africa as undocumented entrants have attempted to legalise themselves once in the country. For example, asylum-seekers usually go directly to the Department of Home Affairs to declare their status.

When I and my husband and children arrived in Durban [on a ship from Mogadishu] there was nobody to receive us, hence we came directly to Johannesburg. In Johannesburg we were waiting for 20 days to get a document. We used to sleep in front of the Home Affairs office so as to get the document.  
(Somali woman, M1)

I: And when you came to Cape Town (by ship) did you come to the harbour or did you come through the authorities?

R: I just came direct. There were no officials present. I was received as a refugee in Johannesburg when I went to the Home Affairs office. (Somali woman, M2)

Because the category of illegal migrants is contentious and most frequently utilised to promulgate xenophobia in South Africa, it is important to explore the actual practices and experiences of undocumented border movement.

*Movement on entry*

On reaching South Africa's borders, travelers can enter the country in two ways:

- unofficially, through clandestine crossing places, and
- officially, through formal border posts.

In terms of immigration legislation, unofficial entry into the country is illegal and it confers undocumented status on the entrant. Entry through a recognised border post may be legal or

illegal, depending on whether:

- i) the entrant receives documentation, and
- ii) the documentation is authentic and granted through legal means.

It is thus possible to gain illegal entry status in a number of ways.<sup>28</sup>

Respondents who enter without documentation or through unofficial points - illegal entrants - are usually aware that they are entering illegally. For example, a refugee from the Great Lakes region confesses that,

[Four of us] came through the, it was what you call Messina border, between South Africa and Zimbabwe. On the Zimbabwe side there is one guy who told us that he gonna show us how we gonna jump ... *We didn't have passport but we decided to force [ourselves over]*. (Great Lakes region man, A3, emphasis added)

Similarly, an Angolan asylum-seeker admits that,

We were to enter South Africa illegally ... . We did not see the border. We were *hiding* ourselves and we just knew that the truck stopped in one place. According to our feeling, it was the border. (Angolan man, V1, emphasis added)

And a Congolese man comments that 'all over our travel, we took only those unlawful borders' (AL. emphasis added).

Zimbabwean respondents also tell of crossing unofficially into South Africa, aware that they are transgressing the law. For example, a man tells of being smuggled through the border on a train:

[We came to South Africa] by train. We had no tickets. We used the Mafikeng route. There are security officers there at the station. And that's the only way we could get through. It's difficult. We were fortunate enough because the security officer we liased with was from Zimbabwe as well. We told him that we were from Zimbabwe and he made means for us to go through. (Zimbabwean man, Z2, emphasis added)

And others tell of jumping over the fence, or walking through unfenced crossings at various places, because the official border posts are 'small, small, small' in relation to the physical distance that spans the two countries, a fact of which the Department of Home Affairs is well aware, as the above section indicates.

There are a number of dangers and obstacles associated with clandestine border crossings. For example, people who are smuggled through official posts in trucks tell of cramped, uncomfortable traveling conditions in poorly ventilated spaces. The case of 18 people who suffocated to death in a truck coming from Zimbabwe, through Botswana, to South Africa in 1998 (*Newsweek*, 2000), highlights the extreme consequences of such illicit travel. Those

who cross by jumping through the fence encounter sharp barbed razor wire and wild animals. Also, while the fence is not currently electrified beyond detection mode,<sup>29</sup> this has not always been the case. For example, a respondent explains that in 1994,

We gave the Zimbabwean [scout] 300 Zimdollars . . . . There were four steps of fence . . . . There is one step that is electrified and we were not lucky because it was the first one that day . . . [and] one of my friends got a shock; it was very painful. [Also] when you touch it, it gives off an alarm to the border, then they come to look for us. But anyway, we managed to escape inside South Africa [because the Zimbabwean held the fence up with a wooden stick]. (Great Lakes region man, A3)

Being detected at the border fence, either through the alarm signal, or by passing patrols of border police and military personnel, is also a risk factor for undocumented entrants. Detection may result in immediate repatriation. For example, a Somali woman reports that,

R: We were jailed immediately we jumped through the fence.

I: Were they ordinary police or military personnel?

R: They were ordinary police. They gave us some papers and ordered us to leave the country immediately, and go back to Somalia. But we managed to sneak through another entry point.

I: When they knew that you were from Somalia, did they still insist that you go back?

R: Yes, they told us to go back. That is the normal treatment they give to Somalis at the border.

I: How did you feel when they told you to go back to your country?

R: I felt bad because I was running away from the war in my country and looking for peace. (Somali woman, M2, emphasis added)

As in this example, instant repatriation is particularly problematic for refugees, who are returned over the fence without being granted the opportunity to seek asylum. It violates the legislation and infringes on the principle of non-refoulement. It is also not an effective or permanent solution to illegal entry - as this respondent comments, 'we managed to sneak through another entry point'. In cases such as this, instant repatriation appears to be motivated by xenophobia and is not based on the law. Neither is it determined by the financial vulnerability of the individual. Rather, it is based purely on the entrant's nationality as 'normal treatment' for Somalis. This is unlike other cases where instant repatriation is used as a threat in order to extort money from undocumented entrants.

I remember in 1997, I was from Zimbabwe when I jumped over the Mafikeng border gate. I was with my younger brother. We had only R20 on us. Police caught us, asked us where we were going. We told them that we are looking for

work. They asked us for money and we said we didn't have any. *They said it would be better if we went back home otherwise they'll arrest us.* We ultimately showed them the R20 we had. They took it. They also beat us on the back with the back of their rifles [but, once they had the money, they let us go on to Mafikeng]. (Zimbabwean man, Z2, emphasis added)

In this example, the respondent and his brother are not repatriated. However, they are threatened with going 'back home' and are beaten by the South African police with rifle butts. The threat of repatriation, along with the violence they experience, results in them showing the police their R20. This is then taken from them. Once the money is 'paid', they are able to continue, undocumented, with their journey. Here, it appears that extortion of money is the primary aim of the police. They do not arrest or return the illegal entrants. Rather, they threatened and beat them until they obtained their money and then they allowed them to proceed into South Africa. In this case, as in the Somali example, the police do not abide by the law. However, their actions, including the use of violence, appear directed at the vulnerability, and thereby, exploitability, of undocumented entrants, rather than at their nationality per se.

Theft and extortion by South African border authorities and guides are not uncommon, as the following extracts indicate:

R: [The police caught us as we crossed the border]. They took us to a small room where they started questioning us, 'where are you from etc?'

I: How did they treat you?

R: They looted our belongings and luggage.

I: So they stole from you?

R: Yes, they stole from us. (Somali woman, M2)

[The police caught us as we jumped through the fence]. We were very hungry; we told them to give us some food. Instead, they started looting our goods. (Somali woman, M2)

I came to South Africa in 1995, all by myself. I was helped by South Africans and they asked me for a certain amount of money or they'd call the cops. (Zimbabwean man, Z2)

Along with theft and extortion, corruption at the border is also a widely reported practice.

I came through Botswana. I managed to jump through. I only paid for my wife ... I paid R40. (Zimbabwean man, Z2)

[I came through a soldier post in the Northern Province]. There were many South African soldiers [there]. So I have to pay my money. Now they allowed me because at that point now, Nigeria had a very good image because of the cup

we won at the Olympics ... so they were very happy to see a Nigerian ... . They allowed me to come in. (Nigerian man, N1)

These examples of corruption, extortion and theft reveal that illegal entrants are vulnerable to economic exploitation. They also suggest that the regional economy of movement (discussed in the journey section above) operates on the South African side of the border too. In this regard, South African authorities play a pivotal role in the economy of movement, a role that is frequently underpinned by illegal activities such as corruption and extortion.<sup>30</sup> Certain illegal entrants also benefit from the system of illegality. For those with financial resources, it is relatively easy to enter the country without documentation.<sup>31</sup> Various respondents even depict illegal entry as a somewhat positive experience. For example, a common description is that of soldiers and police accepting money from respondents and then actively assisting people over the fence and providing food and water before directing them to the nearest road.

The congeniality between illegal entrants and South African authorities is particularly apparent when nationality is either not an issue, or is seen as something positive. For example, in one extract above, the Nigerian entrant was well received because of Nigeria's popularity at the time. As he comments: 'they were very happy to see a Nigerian ... [and] they allowed me to come in [once I had paid]'. This is in direct contrast to another case described above, where the 'normal treatment' of Somalis at the border, according to the respondent, is xenophobic and hostile. In both examples, there is abuse of power from the authorities. However, the form (corruption, stealing, or violence) and tone (congenial or aggressive) of this abuse of power is influenced by, inter alia, perceptions of specific nationalities. The way in which a specific nation is perceived in South Africa, whether positively or negatively, impacts on practices of movement. In this regard, the symbolic level of entry influences the practical level.

The vulnerability of illegal entrants to abuse of power is not restricted to economic exploitation. Entrants also face physical threats, for example, being beaten by border personnel. As the Zimbabwean respondent above indicates: '[the police] also beat us on the back with the back of their rifles'. Other physical dangers include being shot at/near and meeting police dogs.

While we were jumping the fence, we met some policemen who started shooting in the air and they caught us. (Somali woman, M2)

There were some sniffer dogs which detected where people were jumping through the fence ... . We managed to run away from the dogs but those behind were caught. (Somali woman, M2)

I was arrested in Durban. There at the harbour. You can see all over here the dog was biting me [gestures to big scars all over his thighs and calves] ... I was open all over. All of my body was bitten by dogs. (Indonesian man, B1)

Corruption, theft, violence and/or xenophobia are often at the heart of illegal border activities on the part of South African authorities. Occasionally, however, the authorities appear to 'turn a blind eye' to illegal entry out of sympathy for the entrant's position. For



example, a Zimbabwean explains that,

[The SANDF] caught me crossing and asked me where I was going. I told them I was looking for work. They saw I was unarmed. They allowed me to continue. (Zimbabwean man, Z2)

In this case, it is lack of activity that constitutes a transgression on behalf of the border authorities. They do not take money or use violence but rather ignore the illegal entry of the respondent.

The participation of border authorities in illegal entry is an important feature of this research. Not only does it highlight the economy of movement at the border, it also suggests that border patrols and controls are relatively effective in detecting illegal entrants, if not preventing them. Indeed, the economy of movement regarding South African authorities is largely built on, and sustained by, such detection. This is supported by reports from most respondents of at least one encounter with border authorities on their way into the country. Such information contrasts with the perception that illegal entrants are illegal because they go undetected. While logistical and physical impediments to detection cannot be undermined, it seems that the common call for tightening border patrols, for example (see UMSA spokesperson above), will not eradicate illegal entry provided authorities continue to exploit this status to their own ends.

South African authorities themselves play a large part in the process of illegal entry. Officials are also central to human rights violations and illegal actions on the border, such as excessive use of force and denying individuals the right to apply for asylum in South Africa. However, this does not mean that all authorities are corrupt, violent or xenophobic. There are cases where the authorities attempt to eliminate illegal entry, without self-gain or excessive force. Consider the following extracts:

[Once over the border], we walked from midnight to early in the morning ... . Then one pick-up [truck] came and they ask us nicely 'Where are you going guys? Okay, we are going to Jo'burg too, come in'. We jumped in ... and we started to laugh and touch the hands of each other [makes 'high five' gesture]: 'Eh, we are going to Jo'burg'. But we didn't realise that they are policemen ... . [We only realised] when they didn't take the main road ... and we found even the doors of the police station opened, waiting for us. (Great Lakes Region, man, A3)

I: How was your journey from Mozambique to Kwazulu-Natal?

R: Ah! We went to the border and the police check us [spotted us] and put us in jail. After ... they took us to Durban.

I: How many days were you in jail?

R: Around 2 weeks.

I: They beat you?

R: No. Only they did investigate to find if we were refugees or not.  
After that they sent us to Home Affairs. (Rwandese man, V2)

Here, illegal entrants are detected and apprehended by the authorities. Whilst attempting to eliminate illegal entry however, the authorities do not always comply with the law. In the second extract, for example, the respondent is detained for a two week period prior to being sent to the Department of Home Affairs.<sup>32</sup> Even when there is no self-gain involved in border authorities' actions, it appears that the legislation is not always applied in a lawful manner. Training to bring border staff actions into line with South African and international law and protect the rights of refugees and immigrants is therefore strongly recommended to diminish future incidents of this nature.

It is interesting that many respondents speak openly about the clandestine nature of their entry into South Africa. Perhaps this is because illegal entry is presented as continuous with the journey to the country and is justified in close accord to the push and pull factors of leaving. Within their own narratives, individuals are able to justify their illegal entry. Similarly, many do not perceive illegal entry to be a major transgression. For example, those who are fleeing war and persecution regularly justify and accept illegal entry as part of the process of being a refugee. As one respondent explains,

*I passed to the border when the Namibians were sleeping because they are crazy people. How can they ask for a visa from a person who came from the war?.* (DRC woman, V4, emphasis added)

Indeed, the pragmatics of being forced to leave the home country do not always allow for visa or passport applications. In this way, to speak of 'illegal entry' is a misnomer because a lack of documentation is often a central feature of being a refugee.

Individuals who are not eligible for refugee status or who have had their applications rejected also offer justifications for their clandestine actions. One common explanation is that of shared commonality and identity beyond borders: an appeal to 'Africanness'. For example, Kenyan and Tanzanian inmates at Lindela, awaiting repatriation, comment on their reasons for entering South Africa illegally,

Africa is our continent. We are all the same. (Kenyan man, Lindela, BL)

We are Africans. (Tanzanian man, Lindela, Bl)

African people ... let us be united as blacks ... . To all African governments and leaders [I say] that if I decide to travel to any country of human beings like me, don't kill [or arrest] me ... governments are making people to be cruel ... if we could be one, and one language [then this would not happen]. (Tanzanian man, Lindela, Al)

The general argument being made here is one for free, undocumented movement across the continent. By appealing to a pastoral, stateless ideal, illegal entry is justified by certain respondents. The extreme solution to illegal entry within this argument is to do away with documentation and national differentiation and to focus on pan-Africanism instead. This

perspective would be interesting to interrogate in light of the African Renaissance discourse that currently circulates within South Africa. It also coincides with a popular xenophobic myth that South African borders have been 'opened' to the rest of the continent. Indeed, the xenophobic myth and the appeal to pan-Africanism subsist as opposite sides of the same coin. Both revolve around the notion of 'open' borders: the myth rests on a perception that the pan-African 'ideal' has already been realised, the pan-African ideal promotes the very notion of openness and thereby justifies illegal entry. This justification partially fuels the xenophobic myth, although the origins of the myth cannot be reduced to pan-African practice. This is because not all of the respondents draw on an argument for open borders to justify illegal entry and other mechanisms, such as media reporting and racism, must also be considered.

Certain other undocumented respondents, particularly those from the Southern African region, rarely utilise an 'African' identity to justify their clandestine border crossings. Rather, they explain illegal entry with recourse to South African legislation, which is presented as excessively stringent, exclusionary and inflexible. In this argument, illegal entry is justified because South African legislation does not permit Zimbabweans and Mozambicans, for example, to enter, live and work legally in South Africa. The solution to illegal entry, from this perspective, is to expand the legal framework to accommodate the entry and working requirements of Southern Africans. Unlike the pan-African argument, it is not to completely eliminate documentation and nationality, but rather to legalise entry from Southern Africa. This is an important point because it suggests that entrants are willing to comply with the law and to follow procedure if they are able to. Respondents want to be documented, as these comments by Zimbabweans suggest:

R1: [If we could] we would make getting work permits easier.

R2: It should be easy to get an ID so as you could work. (Zimbabwean men, Z1)

R1: If [the government] could introduce some system, to say maybe those who did not get IDs [in the amnesties] should come back and apply for them so that later they can apply for permanent citizenship in this country.

R2: I think the government should give us permanent documents as foreigners.

R3: I feel the government should arrange for us to get permanent citizenship or whatever documents we could use to live here. (Zimbabwean men, Z2)

From these extracts, it is clear that there is a (Southern) African regional approach to cross-border movement that differs from both a Pan-African approach and a refugee approach. That Southern Africans advance cross-border legislation and documentation suggests a trend in regional development and co-operation, a trend that is not one of uncontrolled 'open' borders but rather a trend towards organised and documented cross-border movement.<sup>33</sup> This trend also suggests a particular Southern African identity. This identity ties into the history of cross-border migration in the region, as well as the close physical proximity between Southern African states. It differs from the broader 'African' identity advanced by various other respondents.

This section has focused on undocumented, illegal entry. This is because undocumented entrants are particularly stigmatised and scapegoated within xenophobic discourse; as a category they bear the brunt of South African hostility. Similarly, the process of illegal entry, by virtue of its clandestine nature, creates the possibility for undetected human rights abuses and exploitation. It also exaggerates the scope for abuse that exists within the legal realm. Illegal entrants are more vulnerable to exploitation within the border areas, than their legal counterparts are. This is because they are in a particularly tenuous and vulnerable position, where recourse to the law is restricted by the fear of being caught as undocumented.

### **Institutional exploitation of foreigners**

Documentation represents one visible area in which foreigners both exploit and are exploited. This persists beyond the borders, into South Africa. The difficulties that entrants face continue to play out in their daily experiences of South African life. The 'entry experience' consequently offers a useful template for exploring daily challenges within the country. For example, corruption and exploitation remain central to 'legalising' status in this country. Consider the following comments:

[You can be the first person in the queue but] you may be fortunate to get a Nigerian to be a first person [attended to], believe you me. If you don't give hundred rand or fifty rand for that day, even then you gonna be the last person to go [and probably not on that day] ... . Why? Because is a Nigerian. (Nigerian man, N1)

*I gave birth to a child here in South Africa in 1997 and up to date, that child doesn't have any official document and in the hospital they have refused to give me any document.* (Somali woman, M1, emphasis added)

R: The staff of [DHA], all are employed and paid by the government but, without bribery, it is unthinkable that they will solve your problem. Home Affairs are totally corrupted.

I: So have you had to pay to get your documentation? What is your experience?

R: Yes, from the day of issue until now, when I want to renew my permit, I pay every three months.

I: Is there a going rate the people [at DHA] charge?

R: Yes, for Ethiopians, the first permit, they charge R250. To renew it, they charge up to R80. To reapply for rejection letters, you will be charged R100. But it differs according to your nationality. Ghanaian, Senegalese, Nigerians, Pakistanis, Chinese - they have different rates each to pay. At the maximum, there are some nationalities who pay up to R1000. *Without money, there is no service there.* (Ethiopian man, S1, emphasis added)

As these extracts reveal, 'without money, there is no service' for many seeking to attain and maintain legal status in South Africa. Money and corruption are central to this process, which, at the borders, is captured by an economy of movement (based on getting to a destination). Within the nation, this process is captured by an economy of stillness (based on staying in the country). It is important to recognise the role that foreigners themselves play in the system of corruption. This role is not exclusively that of 'victim'. Rather, corruption is a double-edged sword in that it 'benefits' those who can afford to pay, whilst simultaneously exploiting those, such as bona fide refugees, who should not have to pay. For example, a Zimbabwean admits to purchasing a South African identity document:

R: I went to the Home Affairs Department to apply for a work permit. I applied for a South African ID document and I paid R500.

I: Was that the man from Home Affairs you paid R500 to?

R: Yes. (Zimbabwean man, Z2)

Regardless of whether foreigners themselves are complicit in the system of corruption, the centrality of money to documentation and legal status suggests that they are vulnerable to economic exploitation. This is fueled by a perception that foreigners - legal and illegal - are a source of 'easy money'.

[DHA] is corrupt, especially when they see Nigerians. They think that Nigerians are billionaires. (Nigerian man, N1)

If [the police] find that you are illegal they will catch you. They will then say if you have money to give them, they will release you. You are supposed to give them money just there ... especially on month's end [when they know you've been paid and have money] ... they want R200. If you give them R50, they will say it is too little then they can't release you. (Zimbabwean man, Z2)

[I went to the police station to report that I had been kidnapped and stabbed. They asked me for my papers]. I produced even the paper, they [told] me that I am lying ... and do it like this [tears up imaginary document] and throw it away. Then they arrest me because I'm 'illegal in the country. I don't have a paper.' ... [They locked me up for the weekend. Two of my friends came]. They brought me food. So the policeman told them 'Okay, look for five hundred [rand] we [will] take him out now, otherwise he's gonna go to Sun City [prison]'. (Burundi man, A2)

As these extracts suggest, it is not just the process of getting and maintaining legal status that is open to exploitation. It is also the process of checking status that is subject to corruption and abuse. In the above examples, this is illustrated by police destruction of valid documents,<sup>34</sup> and the extortion of money from undocumented migrants on pay day. These examples suggest that it is often more the guise of checking status rather than any actual concern with status per se that creates a space for abuse. In this regard, the Department of Home Affairs is not the only institutional site through which exploitation occurs. Respondents indicate that corruption, harassment and brutality take place at the

hands of the police, the army and Lindela officials too. More generally, these practices are also reported at the hands of the South African public. There are two broad levels at which to assess these practices: namely, economic exploitation of foreigners and xenophobia. These will be discussed below. While treated as separate entities, it is important to recognise that they are closely inter-related because they have at their mutual root the vulnerability of foreigners within South Africa.

### **Economic exploitation, crime and violence in South Africa**

Financial and material gain underpins and motivates certain criminal actions towards foreigners. In this regard, Kollapen (1999) suggests separating the experience of 'ordinary' crime/violence from the experience of crime/violence as a result of foreignness. In this division, the former is not directly related to nationality, while the latter is. Respondents acknowledge that certain incidents are not contingent on their nationality but are rather fortuitous indications of ordinary crime. This is reflected in the following extracts:

R: [Five young guys carrying knives, stole my portable radio from me].

I: Why do you think that this happened to you?

R: I think they do these things because, not for me, is for everybody, not for foreigner only. (Rwandese man, V2)

[I was attacked and had my money stolen]. Of course [the robbers] didn't know me personally. Also, they were not expecting me [they didn't know that I would be there] to rob. These people are doing this business as a serious business and they were waiting [for] anybody who came from that direction. (Ethiopian man, S1)

These respondents see themselves as victims who could as easily have been South African. For other situations, the division between ordinary crime and crime-based-on-foreignness is not as clear cut. As a Rwandan puts it:

Firstly, we're staying in the dangerous cities. Here in Johannesburg, especially Hillbrow, Yeoville, Berea, Bertrams [there are many killers] ... . [Secondly] when those thieves, robbers, gangsters, pickpockets etc learn that you're a foreigner, that exacerbates the situation. (Rwandan man, A2)

For this respondent, there is an overlap between being a foreigner on the one hand, and vulnerability to ordinary crime/violence on the other. He suggests that foreigners (by virtue of their foreignness) are located in dangerous places and this enhances their vulnerability to 'ordinary' crime and violence. A Rwandan woman echoes this, when she tells of her experience in Ponte City, an inner city building in Johannesburg, renowned for foreign occupants.

[Two men entered our flat]. Then one of them pulled out the gun and another pulled out a knife [from my kitchen] ... they said that if I don't give them money, they are going to open my stomach. And they were serious ... I gave

them money, 500 US dollars, my jewelry, then my chain and my three rings and a cell phone ... they said they wanted more money and I told them I didn't have more money ... then they said they are going to throw [my female cousin] through a window ... . They were so cruel to her, they thought she understood English ... . They bring the wire, they tied us to the bed. After that, they locked the house, they left ... . Sometimes those people outside, they come and rob you, especially if you are foreigners. (Rwandan woman, A1)

Similarly, the spatial arrangements of inner city zones (as can be found in Hillbrow, where many foreigners are concentrated) lend themselves to violent crime, such as rape:

[My young cousin had just come to South Africa from Burundi and could not speak much English. It was around 6pm, she was coming from the post-office in Hillbrow. Near Checkers, in a *side-alley*, she was raped by three men. They were South African. She did not report it to the police.]. (Rwandan woman, A1, emphasis added)

Along with dangerous living circumstances, foreigners (again, by virtue of their foreignness) often find themselves in dangerous jobs. For example, various male respondents report that they work in the security industry because they are unable to pursue other occupations. As security guards, they face concentrated 'ordinary' crime.

[A Nigerian medical doctor friend of mine could not get work in his field here. So he worked as a security man in End Street, Johannesburg central. In 1998, he was shot in the neck by robbers at the building he was guarding]. (Nigerian man, N0)

Similarly, jobs such as hawking<sup>35</sup> and public phone-booth operations<sup>36</sup> also expose foreigners to greater crime and violence risks. Respondents comment that they sell goods on the streets because they have limited work alternatives. This brings them into direct contact with an oft-times hostile public as well as criminal opportunists.<sup>37</sup> For example, a Somali woman reports that:

I didn't have any money so I went to the Jesuit Refugee Service(JRS) who gave me R1200. I bought some items like shoes so as to sell as a hawker ... . While I was still selling, all my items were stolen by thieves. (Somali woman, M1)

And an Ethiopian hawker explains that:

[About five men] dropped on my work place in Daveyton. They took all of my stuff. They came with knives ... . They told me, 'Go out from my country, go out from my country, otherwise we'll kill you, it's not your country' [and no-one helped me]. (Ethiopian man, P1)

As this extract indicates, the socio-political climate, which is hostile towards many foreigners, facilitates economic abuses. Respondents also report that they are either unable to open bank accounts or face general banking difficulties (by virtue of their foreign status).<sup>38</sup> This similarly encourages exploitation because foreigners are known to carry their

money, in the absence of bank accounts.

You cannot open an account. That's why we get robbed everyday because when we get money, we carry it ... in our pockets. (Burundian man, A3)

The problem is that we have to come with our money. Our banks at home are not the same, we can't transfer money directly. (DRCongolese woman, LL)

South African banks need to adopt a consistent policy about refugees and asylum seekers, in particular. This policy must recognise that, in lieu of South African identity documents, refugees/asylum seekers are accorded rights through their Section 22, 28 and 41 permits.

In many situations, it is consequently difficult to separate the foreignness of a victim from their experience of ordinary crime. Indeed, foreigners are often targeted for ordinary crime due to their tenuous position in society.

The foreign experience of crime in South Africa plays out in many spheres and assumes various forms. For example, theft is a common complaint.

The time [the police] arrested me, they take 520 000 nickels, 400 Singapore dollars and 100 US dollars. (Indonesian man, BL)

Theft is often accompanied by the threat of violence. Consider these accounts:

My watch - I bought it for R25 000 in Spain. [The police] stole it. They say 'it's nice, nice, nice'. When I go there [at the police station], they steal it and you can't talk. If you talk, they will beat you. (Lindela man, BL, emphasis added)

I was in Braamfontein speaking on my cell phone - to my sister - so I was speaking Portuguese. And four guys came to me with knives. They said: 'We are fed up with these fucking Nigerians. Give us the phone'. So I said 'Sure'. I mean, why risk my life for a lousy phone? And they took it. (Mozambican man, F1)

In these extracts, the threat of violence is sufficient to achieve the objective of theft. In other cases, actual violence is utilised as a regular component of theft.

[The police asked for my refugee papers, which had not yet expired]. They say that 'fuck you' and they just tear the paper and seize my money and cellphone ... . So then, what they do is take me to the police station. I was shouting and crying that 'Why did you tear up my paper?'. One of them just removed something like a little shocker. He was shocking me, shocking me. Say that I was to shut up at once and if I wasn't shut up, he was going to shock me until I die. Then I had to keep my mouth [shut]. (Sierra Leonian man, BL)

Where violence is reported in muggings and robberies it serves as a means to an end (that is theft) but is also frequently an end in itself. This point is illustrated in the following incidents:



[I was walking near Ponte City at 6am when] six robbers [with knives] circled me and started *fighting* against me. Right after that, they took R550. The police arrived and controlled the situation ... they searched the robbers and found the money and took it for themselves. Also, they took the robbers with them in their van but after 20 metres, they released the robbers and they came to *attack me again*. Fortunately, my friends ... reached me and saved my life but I was very disappointed by the police. They didn't do their job honestly. They must be loyal to the law and to the people. (Ethiopian man, S1, emphasis added)

[My nephew was waiting for a train at Lentiril Station in Cape Town, one evening]. Six guys came towards him with the *intention to assault* him; he dressed in beautiful tekkies. As they approached him, they demanded him to take off everything he had on. He challenged them by running away. As they were armed, one of them took a gun and shot him in the stomach and he fell down. Unconsciously, lying on the ground, they came and *took everything he had on and they put him across the railway*. (Angolan man, V3, emphasis added)

In both of these incidents, theft is achieved through violence. For the Ethiopian, R550 is stolen after he is attacked; for the Angolan, clothes and personal possessions are taken after he is shot in the stomach. Once both men have been robbed, the violence does not subside. Rather, it persists beyond the objectives of theft. The Ethiopian is attacked again and the unconscious Angolan is placed across the railway line. The reasons for the persistence of violence here are unclear but it seems that violence goes beyond theft; it is an end in itself. This is in keeping with a culture of violence in South Africa, where violence is upheld as the normal solution to problems. (The culture of violence is discussed below, as well as in the literature review).

Economic exploitation of certain foreigners is not restricted to theft. Extortion, bribery and corruption are common and are often accompanied by violence, as the following extract reveals.

Four guys put a gun to my head and told me to get in the car. They told me that 'makwerekwere' have got bucks and that I must give them money. They took my three hundred rand and those shoes I bought. And then they were beating me. And one stabbed me here [points to scar on left side of the abdomen]. Then they told me that they would let me live on one condition: 'each and every month we gonna come and fetch three hundred rand' ... . And those men came every month for the money. They threatened me that they would kill me and I did it for three years. (Burundian man, A)

### **Xenophobia as a cause of hostility and violence**

Many of the criminal and violent actions meted out to foreigners in South Africa relate to financial exploitation. However, not all hostility and violence is underpinned by material gain. Certain incidents are motivated directly by the foreignness and/or nationality of individuals. These incidents can be labeled 'xenophobic'.

It is important to highlight a subtle distinction behind the form of xenophobia, that is, to

separate 'foreignness' from 'nationality' as the underlying impetus. In the former, hostility is motivated by a general sense that the individual is not-South African. It is not their specific nationality as much as their foreignness, or non- (South African) nationality, that prescribes xenophobia. This translates into statements and actions that are justified in broad, general terms.

[At the hospital, the doctors say] 'You are a foreigner, you don't deserve such special treatment'. (Somali woman, M1)

Variations of this 'general xenophobia' include comments and actions directed at refugees, illegals, and 'makwerekwere'.

[I went to the Benoni Police station to report that my goods had been stolen but] they even refused to write my statement. They just laughed and waved me away by saying that 'you are just a refugee'. (Somali woman, M2)

[I went to the hospital for high blood pressure, the doctor gave me tablets and told me to return in a week. After a week, ]I was complaining to [Lindela authorities] that 'I want you take me back to the hospital'. [But, they said] 'You are a refugee' and they were saying that they don't care. And my tablet was finished since. (Kenyan man, BL)

[I]t's not as difficult as it may appear as to whether a person is here legally or illegally. The lifestyle of people that come into the country can be analysed by any South African. And they can reach certain conclusions. (UMSA spokesperson, emphasis added)

Foreignness, rather than nationality per se, is the direct focus of this form of xenophobia. In this way, an implicit comment is simultaneously made about attitudes and practices towards the non-foreign, that is, South African citizens. Consider these examples:

There is a house ... which was invaded one morning by thugs with pistols. They were three men [and] they started beating the [Somali] occupants with pangas. While the thieves were trying to escape, the Somali boys got hold of one of the thieves and started beating him and even snatched his pistol from him. They left the man unconscious and called the police. When the police came, they were very cross with us. They started shouting at us by saying: '*How can you refugees beat a civilian/citizen of South Africa?*' Even if he breaks into your house, you are not supposed to beat any civilian. We have a great problem ... since the law is always against us [foreigners]. Even the ambulance diver told us that: '*You are foreigners, yet you have the courage of beating a citizen of this country.*' You will all go back to Somalia'. (Somali woman, M1, emphasis added)

I have a complaint. It is about the South African policemen. If they see a foreigner, they write a fine. I was a witness [to an accident]. The police stopped us and another car with a black South African in it. They gave no fine to him but write a R200 fine to us. (Turkish man, LL)

In these incidents, foreigners are discriminated against by virtue of their foreignness. Simultaneously, South African citizens are privileged by the authorities solely because they are not foreign. This form of xenophobia operates in terms that are relative to South African identity and nationality. It operates at the boundary of South African versus non-South African.

The general form of xenophobia contrasts to xenophobia that is motivated by nationality. This is more specific and focused. It feeds into stereotypes about particular countries of origin and comments directly on national membership.

R: But the most bad thing is for the Tanzanian. They are suffering too much [here at Lindela]. The Tanzanian people.

I: Why?

R: I don't know. Maybe they hate Tanzanian people. They say: 'Hey you Tanzanian people go to your home' ... . We don't know what the Tanzanian could have done to them. (Kenyan man, BL)

You stand the whole of your day there [at the DHA] and even not only that, the officers involved they issue you your document, *they will abuse you* ... as far as you are a Nigerian, they would dump your papers one side and forget about you. You would be there the whole day, dying of hunger, dying for whatever it is, because you are a Nigerian. (Nigerian man, N1, emphasis added)

[The Nigerians are our biggest problem here at Lindela. They fight and challenge us and disobey the rules. No South Africans would want a Nigerian in the country. They must go to Zimbabwe instead]. (Lindela official, BL)

You can hear from his accent. The guys from Mozambique, they've got a scar here [points to lower left forearm - inoculation mark], the Zimbabweans, you can see and the Mozambican, what I picked up, he's got a [type of] smell. Jhus! [wrinkles face in distaste], that one can stink. [laughs]. Ja, no, you have to be sharp to identify them. (SAPS Captain)

This level of xenophobia perpetuates myths and generalisations about specific nationalities. It operates in a context of asymmetrical media reporting and public sentiment about 'Nigerians', 'Chinese', 'Zimbabweans' and other particular national groupings. To say that Mozambicans 'can stink' and that Nigerians are 'violent' and 'disobedient' contributes to this hostile climate. This, in turn, directs xenophobic actions towards specific nationalities.

Xenophobia, whether based on foreignness or nationality, plays out across a range of institutions and personal interactions; and in varying degrees of severity, with physical violence and even death representing one outcome, as the following extract indicates:

[My brother was a new arrival in South Africa. On his way to Home Affairs to apply for a permit, he was apprehended by the police and taken to prison (while a friend went to get his passport). There, the police beat him and when they saw

that he was being sick, they took him to Home Affairs. When he reached DHA, he was really about to die. He lay down and told a friend that he had been beaten. Suddenly, he passed away and the police immediately left. The immigration officers called the ambulance but it was already too late.] (Burundian man, V5)

Violence and murder are not the only expressions of xenophobia. As the Roll Back Xenophobia Campaign (1998) recognises: 'there is more to xenophobia than killings and attacks in the streets of South Africa. Extortion and abuse at the hands of some sections of police and civil servants, and discrimination in areas of education, health care and labour markets are but examples of institutions and segments of society where xenophobia manifests itself' (National plan of action, p.1). For many respondents, including those who have experienced xenophobic violence in South Africa, it is the ongoing, daily encounters with institutional discrimination, verbal abuse, and public hostility that predominate their negative perceptions of South Africa. It is thus important to acknowledge xenophobia as part of a whole system. This system permeates each tiny aspect of daily life for foreigners in South Africa and it operates because of their vulnerable social position.

One central, daily practice that many foreigners face within this system of xenophobia is that of public hostility. Respondents confront constant harassment and insults from ordinary South Africans. 'Makwerekwere, go home' is a familiar refrain from a range of social players, such as shoppers, pedestrians, passengers, neighbours, and work-colleagues. Xenophobic actions infiltrate the smallest social relations. This is illustrated in Case Study 1.

#### **Case Study 1: The joker**

This incident illustrates how xenophobia, according to the respondent, is enacted through language and nationalism. Notice how he understands his experience in terms of bio-cultural factors such as accent, language and national identity. (The bio-cultural hypothesis of xenophobia is outlined in the literature review).

#### ***As told by a young Burundian man:***

I was in those, those small taxi. Eh, there's just one lady, one big mama who came to me \\  
you know another thing they always want to talk to us in their own language, they don't realise that we don't understand, and if you are mistaken there it's a problem. When they tell you 'kunjani' [and] if you don't respond, [they say] 'ay these 'makwerekwere'.' So I get a problem with that mama. She [greeted me in Zulu], I respond very well because at that time it was 1996 [and I had learnt a bit]. There I catch a little bit of their words [or] language. She told me 'kunjani. I said 'sikhona', but she realised that the accent is not South African. She start to ask me 'ay guy where are you from?' I start to joke a little bit: 'No I'm South African, ... Mandela is my President, and South Africa is my country' ...

She kept quiet [until we got to the taxi rank when] she start to tell people, 'ay this kwerekwere, what what' ... . People came to me they start to shout. They searched me. They nearly want to beat me. But there is one guy who was responsible. Always [in those cases], you find someone who can understand things. [It] is the one who always maybe

keep them quiet or [something] like that. There is one guy ... a taxi driver. He came and [calmed] them down, he keep me [safe] and took me and I escaped that day, but it was very bad, because I didn't know that it should happen like that. The way I was talking [with] that lady, I didn't know that \ and she kept quiet, when we reach there she know that there is many people there, when she start to shout. Anyway they will beat me ... maybe. She start to tell me 'hey guy you're lucky, go you're lucky' (Burundian man, A1).

In Case Study 1, an instance of xenophobia almost results in vigilante violence. It is interesting to note that such violence is averted by a 'responsible guy' and that, according to the respondent, 'you always find someone who can understand things ... and calm [the crowd] down'. This position of responsibility requires further exploration because it:

- indicates that not all South Africans are xenophobic;
- has implications for understanding situations when vigilante violence does occur; and,
- may be utilised to avert public xenophobia.

A future study of the mechanisms and social conditions that either prevent or encourage public xenophobia is therefore recommended.

For many foreigners, language, accent and appearance play an important role in signalling their foreignness and triggering public conflict.

R1: It is not only the thieves (who target you). If you are in a taxi or a bus and they hear you in another language ... (shakes head).

R2: You don't speak another language on a bus. Not Portuguese, not English. You just keep quiet.

R3: Maybe for whites it is not a problem. If you are black and you speak English. I know that I have to learn, I am not against learning Zulu because I am living here. It is good to learn the language. But I am only here for 5 months. I cannot be fluent in Zulu. How can they expect me? (Angolan and Congolese focus group participants, LL)

The accent always sells us out. We once went to a hospital, but, as we can speak Zulu, the nurse who was attending us, just decided to leave us like that because of our accent, though we were speaking Zulu. (Zimbabwean man, Z2)

I went one day with a Kenyan truck driver; his delivery truck had been booked by a Soweto resident. He wanted to move to another place but he had some problems with his neighbours and we didn't know it. So they came to stop him to move. When they saw that we were foreigners, they just went to bring petrol to burn the truck ... as if we were involved in their conflict. (Rwandan man, A2, emphasis added)

Another common daily practice that foreigners encounter is that of secondary victimisation

at the hands of the authorities. 'Secondary victimisation', as a term here, refers to the ways in which foreigners are further marginalised and actively victimised by the authorities when they go to report a primary incident of victimisation. This is illustrated in the following incidents:

We told the police that the landlady has our deposit and we want it so that we can look for another house. The policemen threatened us by saying 'Go back to your country. In fact, you are not supposed to be here in South Africa.' They started moving all of our belongings and threw them out. (Somali woman, M1)

I went to the police [to report that I had been attacked. They could see that I was bleeding and hurt] but they didn't even ask me questions. They just took my refugee papers and tore them up. Then they arrested me, saying that I'm illegal in the country, that I don't have a paper. They put me in jail for the weekend. (Burundian man, A1)

A man from the Congo was attacked and he cried but no-one helped him. And after the thief had gone, the people on the sides said that 'because you are crying in English, we didn't help you. If you are crying in Zulu, we will help you'. Then he went to the police and was told that 'you are not our brother, we can't help you'. (DRCongolese woman, LL)

As these extracts suggest, the South African authorities are frequently unsympathetic to foreigners' experiences of crime and violence in the country. Respondents report that members of the South African Police Service, for example, refuse to investigate and follow-up specific complaints and charges. Not only do the authorities neglect to pursue individual cases, they actively interrogate and victimise the victim further. This is done by means of a range of tactics, including verbal abuse, the destruction of valid documents, arresting the complainant, and sometimes, physical violence. Xenophobic attitudes and practices stand as a strong disincentive for foreigners to report crime and violence to the police.

I would go to the police if there was justice but my first experience was with the wrath of the police. So, where must I go if the police themselves are doing such actions on me? (Ethiopian man, S1)

Many foreigners attempt initially to follow legal channels when they are victimised. However, the hostility and secondary victimisation that they frequently encounter with the authorities, are significant deterrents to their future actions. This contains the potential for vigilante actions and violence from foreigners who feel that there is no legal recourse available to them.

While foreigners are victimised within the system of xenophobia, there is also potential for them to perpetrate violence as a response to the daily frustrations that they encounter. For example, a Nigerian explains that,

At times you hear that the Nigerians are fighting there in the Home Affairs. Why? Because they are being denied the right [to make applications for asylum]. They [DHA] would call the Somalian first, [then] they call the

Angolans, they call the Zairans ... . And then to move out of that place [in the queue], you beg your brother for money [because with R50, the DHA] go out of their way to make recommendations [for you]. (Nigerian man, N1, emphasis added)

Similarly, there is also potential for violence to break out on the periphery of the system, that is, in relation to the few service providers who are working to assist foreigners within the confines of a broadly hostile institutional framework. For example, various service providers have been threatened and even physically attacked by refugees for 'not helping more' or for 'helping others but not me'. This is linked to a situation of scarce resources and strong competition. Ironically, limited means and a climate of xenophobia may expose service providers to violence and aggression from their own constituency.<sup>39</sup>

### **Internal conflict and violence between foreigners**

#### **Political conflict**

Newcomers to South Africa usually rely on networks of friends and relatives to assist them in their transition to a new society (cf. Sinclair, 1998; 1999). Support structures based on commonalities such as the same nationality, shared language, and foreignness are particularly important in attracting foreigners to specific places in the country.

I came here in June 1999, in South Africa. I had an address of a woman, a countrymate. She was staying in Pretoria [so I went and stayed with her]. (Rwandan man, A2)

Once [my brother] arrived in South Africa [from Angola], he went to stay at Berea Hotel for three months ... as it is well known that Berea is a place where you find thousands of foreigners. (Angolan man, V3)

We just came to Johannesburg because most of the Somalis were coming here. (Somali woman, M2)

Sinclair (1998, 1999) points out that these networks serve not only to ease the social transition for foreigners, they also serve as a defence against the hostility and crime that foreigners in South Africa face (see literature review and discussion). They may also serve to overcome political differences and ideological backgrounds within communities in exile, as the 'commonalities' (including experiences of hostility) imposed by asylum overcome home-based differences. While this may be so, it is important to recognise that such networking also compounds the potential for internal conflict within particular communities, especially those that have a background of conflict, war and political tensions. As one respondent comments:

They nearly want to even to kill each other, but the only problem is because all of them they're out of their country ... they don't have anything [to argue about], just to kill for nothing. (Burundian man, A3)

Through this exploratory study, it appears that, in certain situations, home nation conflict is

transposed onto the South African landscape by asylum-seekers and refugees. For example, an Ethiopian respondent explains that

Most of us [Ethiopians here] are genuine political asylum-seekers ... . [But] also there is a group who have called themselves 'Hagerfiker', which means the 'Lovers of the Nation'. They are organised and financed by the embassy and work as the agent[s] of the ambassador to infiltrate in the true refugee community. They have section 41 documents like any asylum-seeker and [yet] also they have valid Ethiopian passports ... they [have given] our names to the embassy [so that] we are already blacklisted. When time comes, they may attack us. (Ethiopian man, S1)<sup>40</sup>

Case Study 2 reveals the complexity of exile politics within certain refugee communities in South Africa. It illustrates the dangers of internecine conflict and the ongoing impact of civil war beyond the home nation. It also exposes certain difficulties that refugee agencies in South Africa confront when dealing with internal politics.

#### **Case Study 2: The death's candidate**

##### **As told by a male Rwandan asylum-seeker in his early 20s.**

Note: this respondent spoke with a flat, unaffected tone throughout the interview. He rarely made eye-contact and conveyed a sense of despair:

I came here in June 1999. After a few days, I met two people from my country. As we were chatting, I saw that they were not happy of me. They wanted to know how long I have been here, where I am staying etc. They told me they are here from 1994 (during the war/genocide in Rwanda). A few days later, they came to my door with another Rwandan. I knew him. He was a member of Militia Interahamwe (civilians organised as local police in small areas of Rwanda). We were staying in the same area (in Rwanda) and I think he is one of those who killed my family. They showed a gun and they said: 'We know you very well. We know your mission here in SA. We will kill you before you achieve your goal. You came here as an intelligence's agent from the Rwandese army.' I think since the first day we met, they were convinced that I'm a soldier, that I came [on] a specific mission All they know is that almost all Tutsi young men are now soldiers since the 1994 genocide. Most of people who were involved in the killings of around one million of people fled out of the country and went in many countries of Africa. Rwandese government tried to get some co-operation in order to repatriate them to Rwanda. And I think that contract does exist between SA and Rwanda. They said: 'You will be killed any time! You came here to identify us, to see what we are doing, where we're staying, so that we can be arrested'. Then they beat me on the head but fortunately a police car happened to drive by and they fled. I reported the incident to the police but they only ask you if you can identify them, their address, name - I don't know these details and I believed there was nothing that the police could do. So I left Pretoria because I couldn't feel safe there, and came to Johannesburg to be out of that situation. But after two weeks, the same three men found me in Johannesburg. They know all places where refugees are staying especially Rwandese refugees. They found me while I was selling cigarettes and sweets with a friend. They said: 'We know you, we are still after you, we will kill you any time' ... we're in control of this country, we have our men who can kill you everytime and everywhere' ...



I went to (a refugee service agency). There's a Rwandese, a Hutu, who is working there. He told me: 'I can't talk to Inyenzi' (The translator explains that 'this is an abusive term used by genocide theoreticians to humiliate Tutsis'). I was discouraged and went home. I came here (to CSV) because the interpreter told me that there is a white woman who is investigating about all kinds of violent cases. I feel that there can be a help through these NGOs but unfortunately, some of them, when you go to them you easily feel you are unwelcomed ... You can give me maybe a paper to show those NGOs?

I'm only worried about my own life [how it is in danger]. I never feel that I'm okay here. I always think that I'm the death's candidate ... I'm especially concerned by those three men, rather than that general situation of violence and crime here. I think that's what we're sharing with all foreigners (Rwandan man, A2).

Following this interview, a referral letter was written to the UNHCR protection office and an appointment was made for the respondent to meet with a protection officer. However, at 3am the following morning, he returned to CSV with a friend and slept in the corridor, having been threatened again. UNHCR agreed to move the appointment forward and both asylum-seekers were relocated.

In Case Study 2, the asylum-seekers had recourse to the protection of UNHCR. However, similar situations are not always as clear-cut or 'resolvable'. For example, in another case, where two Rwandan asylum-seekers were similarly threatened and physically attacked by people speaking kinyarwanda, the UNHCR was unable to offer protection because the men 'confessed to participation in genocide' (this is a barring factor for assistance). In yet another incident, two Burundi asylum-seekers, who were kidnapped by kinyarwanda speakers but managed to escape, were refused a protection hearing based on 'confidential information' held by the UNHCR. The South African Police Service also refused to intervene because the victims were 'not eligible for witness protection'. And as a criminal case of kidnapping, no investigation took place because the asylum-seekers could not identify their kidnappers, even although they knew where they had been held.

Cases such as the one involving 'participants in genocide' highlight ethical concerns of working with victims (in this case, victims of violence in South Africa) who are often perpetrators (in this case, perpetrators of violence in their country of origin) too. They similarly reveal a large gap in protection services for refugees in such situations. There are very few organisations that offer services to refugees, especially in regard to safety and protection issues. Amongst these few service providers, there is limited inter-agency communication and co-ordination. Similarly, knowledge of procedure needs to be expanded and made accessible to agencies that are faced with cases of home nation conflict. Inter-agency protocol must include issues of confidentiality and access to information, as well as practical details of 'what to do' when safety is a concern.

It is recommended that information dissemination and training take place at a national, as well as local, level, and that governmental structures, such as National Intelligence and the SAPS, are made aware that, in certain circumstances home nation conflict may persist within South African borders. In light of South Africa's xenophobic climate these issues need to be tackled with sensitivity to avoid generating stereotypes of 'violent refugees'. A

systematic study of ongoing home conflict within South Africa is also recommended to better understand the ways in which this conflict may be carried into the country and the forms of violence that may accompany exile politics in the country. This must be complemented and balanced with a study of the 'commonalities of exile' and the positive possibilities that asylum holds for the peaceful resolution of conflict within refugee communities, as this appears to be the more typical scenario.

### **Crime and violence**

Violence that is unrelated to internal political conflict is also experienced between foreigners in South Africa. For example, various respondents report that they have been targeted by organised international crime syndicates. Case Study 3 explores the actions of one particular organisation that reportedly operates at the Johannesburg International Airport, targeting new arrivals from Angola.

#### **Case Study 3: The high flyers**

As told by Angolan students

R1: I arrived at the Johannesburg International Airport. I was leaving the airport and near Kempton Park ... at the traffic lights a car parked in front of [my] car and shot at back of my neck. I was shot, They wanted to steal the car and money and take it to Angola. This was in May 1999.

R2: It seems that there is a well organised group who know who is on flights specifically from Angola and who is carrying cash and money.

R1: Yes, they target us, they are well organised.

I: So who is in this group? Is it Angolans or South Africans or both?

R1: We don't know where the information is coming from, information from Luanda. There was one girl who was killed, last month ... one bullet in the head.

I: And was she also targeted by this same organisation?

R1: Yes, they followed her from the airport and they killed her [for her car and money].

R3: I was one of seven Angolans. We came from Rwanda ... . It was my first time in Johannesburg and I was stabbed. We came from the airport to the place where we were staying. And then four people drove up in a BMW and a combi. They were asking for money. I resisted so I was stabbed right here (points to left side of torso). The police [were called] and they took ... maybe one hour to get there. The first aid came [more quickly] - maybe 15-20 minutes. They took me to hospital and I was there from Saturday to Sunday. They were good at the

hospital ... [the incident] was a big surprise for me. I never imagined that it could happen to me. The thieves, they took US dollars 15 000 from my colleagues and suitcases. I don't know if I was lucky or unlucky because my money was safe - I was just stabbed ... . But we do believe that there's some connection between groups from Luanda to Johannesburg. [People in Luanda] tell the group here that there's [a man with money on this flight], wearing such and such, recognise and stop him.

In Case Study 3, respondents suggest that they are specifically targeted for their newness in the country, a fact indicated by their place of arrival - the International Airport. Crime such as this rests largely on knowing the whereabouts and movement of new comers. It is also, therefore, prevalent amongst tourists and short-term business visitors in South Africa. For example, media reports suggest that 'prime tourist spots are becoming targets for muggers and robbers' (Cape Argus, 17.5.99) and that 'attacks on township tourists could do immeasurable harm to South Africa's tourism business' (*The Star*, 15.2.99).<sup>41</sup>

The engagement of foreigners in crime and violence in South Africa is not restricted to international syndicates or cross border movements. Individuals may operate within the country in a variety of ways. One important arena for crime is that of documentation. South African involvement in bribery, theft and forgery of documents has been discussed in the section above. This involvement may include foreign participation too. For example, a Burundian respondent explains that,

R: I bought a Malawian passport somewhere ... I just changed the picture. [It cost me about R200].

I: Who did you get the passport from?

R: You know those South Africans can rob Nigerians or Malawians and they come to sell it to me. (Burundian man, A3)

Similarly, refugees report that fellow nationals, acting as interpreters at the Department of Home Affairs, accept bribes from citizens who are not eligible for refugee status, in order to declare them 'genuine' refugees. For example, a Burundian translator may declare a Tanzanian or Kenyan citizen to be from Burundi, thereby securing the applicant asylum status. This practice appears to be widespread and it brings with it the potential for violence from genuine applicants who feel frustrated and angry that their asylum applications are undermined by 'fake citizens'.

An Ethiopian respondent makes a related point about the potential for abuse within the refugee system:

You can group the refugee communities, who is the innocent one? We know them already. They are refugee groups who are working [with] a lot of illegal businesses and there are groups who are working legal businesses only ... Senegalese, Ethiopians and some Somalians are working on the legal basis of this hawking business. So, if we see the Mozambicans and some of other

people, Zimbabweans they are doing against the laws of South Africa, such as human trafficking and drugs. They cross the border themselves and they show another nationality also. (Ethiopian man, S1)

In his argument, specific nationalities, including 'Senegalese, Ethiopians and some Somalians', are awarded 'innocence' as genuine refugees. These same nationalities are seen to be involved in legal businesses. By contrast, the respondent suggests that other nationalities such as Mozambicans and Zimbabweans, misrepresent their citizenship as 'another nationality'. They are also, according to this respondent, involved in 'illegal businesses'. While attempting to highlight the ways in which the refugee system can be abused, this respondent simultaneously makes generalisations about particular nationalities. He associates illegality and crime with Mozambicans, Nigerians and Zimbabweans. In so doing, he inadvertently makes another point regarding conflict between foreigners, that is, xenophobia and national stereotyping are not restricted to South Africans but take place within the non-South African community too.

#### **Xenophobia between foreigners**

Many respondents draw on stereotypes about other foreigners in South Africa. For example, consider the following comments about Nigerians:

With Nigerians, they are well known all over the world that they are drug dealers. (Mozambican man, Z2)

If a Nigerian is selling drugs, it does not mean that a Rwandan is selling drugs. If they are robbing someone [not that they rob], maybe if they are marrying ladies because Nigerians like to marry South African girls ... it does not mean that a Zairian or Congolese would do it. So [South Africans] must know on people and judge on their own way. (Burundian man, A3)

Similarly, consider the following generalisations about Zimbabweans:

R1: The Zimbabweans have held the Nigerians hostage in Hillbrow for four to five years ... . They havetaken advantage of us. They just shoot a Nigerian.

R2: The Zimbabweans will come with their truck. Stop. And see you as a Nigerian walking alone in the street. They'll just stop you and they can take all that you have, leave you naked with only your shoes.

R3: Now the Zimbabweans that are around in this area, they are the force that started calling the Nigerians 'kwerekwere' ... They just speak Zulu and say you are a kwerekwere. (Nigerian men, N1)

This extract reflects a multi-layered process of stereotyping about Nigerian perceptions of Zimbabwean actions towards Nigerians. It is based on negative generalisations about Zimbabweans who are presented as violent criminals. It also comments on perceptions of belonging and foreignness within South Africa. For these Nigerian respondents, Zimbabweans, and not South Africans, have made them feel foreign. They are 'the force that started calling Nigerians kwerekwere'. Here, foreignness is defined through language -

Zimbabweans are able to speak Zulu while Nigerians are not and this gives them a sense of belonging (in the eyes of the Nigerians). It is beyond the scope of this study to fully unravel the complexities of identity, language and degrees of foreignness. However, extracts such as these serve as reminders that foreigners themselves are actively involved in these discourses about their own foreignness, which they too produce and reinforce.

## **Explanations for reception**

### **Racism**

Respondents recognise that they are vulnerable to both economic exploitation and xenophobia in South Africa. Such vulnerability is not uniform across the foreign spectrum, however. In keeping with the literature, it appears that black foreigners are more vulnerable than others.<sup>42</sup> For many, racism lies at the heart of their negative reception in South Africa. Black respondents explain that they receive differential and discriminatory treatment in relation to their white counterparts.

In South Africa, there are not only black foreigners, there are also white foreigners [but nothing happens to them]. (Lindela man, BL)

We know that there are refugees from Europe but we never see them standing in the queue ... as far as I know, they have different assistance and they receive support every single month, they receive some money. I can't prove this but I've heard. After two years they give them ID books so that they don't have to go [to DHA] everytime, they give them one year extensions to stay - things like that and you'll only find African refugees in Home Affairs. (Angolan man, V1)

Everybody would believe that all black people are foreigners. But what about those whites that are living in the suburbs? Sometimes from Portugal, some from European countries. But nobody believes they are foreigners. (Nigerian man, N1)

According to the respondents, black foreigners are at greater risk for xenophobic violence and economic exploitation than white foreigners. The perpetrators of such asymmetrical xenophobia are both black and white South Africans; racism cuts across racial divisions at this level.

R1: The black people don't like the stranger, (they say we) get job, get money. I have one friend, a black South African, and he asks me everyday 'Why do you not go to your country? Go home.' It is there, I can feel it.

R2: There was this programme on TV about xenophobia. Many black South Africans were talking about strangers but only the black strangers. But there are other strangers here [gestures to R5] - Brazilian strangers. And the white South Africans were talking about strangers but in general, not just the black strangers.

R3: And they want to make African renaissance.[Laughs] (Angolan, Congolese)

and Turkish respondents, LL)

For most black respondents, there is no critical interrogation of white racism. This is generally accepted and explained away by recourse to relations of power during apartheid. In contrast, respondents express surprise that many black South Africans are xenophobic and racist. This directly contradicts expectations of a common 'African solidarity' in post-apartheid South Africa.<sup>43</sup>

When we came to South Africa, we knew that as we are black ... maybe the blacks [in South Africa] will take care of us. [We thought] we cannot even get the problem when the black [South African] is there. (Burundian man, A3)

Rather than finding African unity and empathy, however, the general experience is one of prejudice.

In fact, our African brothers that we helped in the past are the people who complain more. They discriminate against us much more than any other people in South Africa. (Angolan man, V1)

There is some kind of apartheid between the [South African] blacks and the black foreigners. (Lindela man, BL)

I'm saying this: xenophobia here is in two ways, it is a black war - black man against black man, [and] it is a racial thing, you see. (Nigerian man, N1)

The seemingly paradoxical situation of 'black apartheid' is largely understood through recourse to South Africa's past, in relation to apartheid. Consider the following interview extracts:

During the apartheid regime, before ANC with Mandela took power, the black community was oppressed by the minority whites so, according to their experience, they look suspiciously at the outsiders. That is why when we meet anywhere, they ... say, 'it is South Africa, go back to your country'. To my understanding, we can sort out this idea from the brain of the black community by teaching them [that] we are brothers and sisters, not enemies. (Ethiopian man, S1)

People here are so closed and narrow minded. If there is one thing that apartheid achieved, it was to fuck up the minds of the black people here. Really, they are fucked up. And I can say that strategically, apartheid won because of this. It was an 'achievement'. (Mozambican man, F1)

While different in tone, both of these extracts situate apartheid at the heart of current black South African perceptions of foreigners. In the first extract, the respondent adopts a sympathetic stance towards black South Africans. He ascribes xenophobia to the experience of oppression during apartheid and suggests that 'suspicion of outsiders' is reasonable in this context. In the second extract, the respondent is less sympathetic towards black South African attitudes of xenophobia, suggesting that they are 'closed and narrow minded'.

However, he too ascribes this to an 'achievement' of apartheid.

Both of these draw on notions of suspicion and narrow mindedness to suggest that black South Africans are closed to 'outsiders' because of the experience of apartheid. Other respondents build on what could be termed an 'isolation argument' (in the same vein as the isolation hypothesis outlined in the literature review) to comment more generally about a lack of (black and white) South African knowledge regarding the rest of the world.

[M]ost [South Africans] don't even know where Ethiopia is located and why we came here. Very few of them know about the famine of 1984. So they guess that we are here for food and shelter. They are not aware that we are victims of the ongoing human rights violations by the tribalist government. (Ethiopian male, S1)

South Africans are not well traveled. They are confined to one place. They don't know what is happening in other countries. They think that where we come from we don't live normally. They should travel and see, then they will accept us as brothers and sisters. (Zimbabwean man, Z2)

I want to ask: 'Don't South Africans realise that the world is not only South Africa?' I don't think so. They think we are animals who have never had any decent life before. They don't know that we are here only because of the problems in our country. (Somali woman, M1)

### **Ongoing apartheid**

For many, the role of apartheid is not restricted to generating attitudes of xenophobia and 'close-mindedness' in contemporary South Africa. Racist relations infiltrate daily activities and small practices at the South African/not South African boundary. For example, they impact on the type of music that South Africans play, a factor which, for the following respondent, reflects South Africa's approach to the continent:

South Africans are quite selective and possessive. I'll just take the radio stations playing in this country. I've never heard a single Zimbabwean song playing on Radio Zulu or Radio Xhosa. They are much more Westernised than Africanised. In our country, we play international songs like Venda, Shangaan. To South Africans, other African countries are nothing. (Zimbabwean man, Z2)

Similarly, white foreigners comment on the persistence of racial barriers in their daily interactions, such that they are seen to be 'white' before 'foreign', by most black South Africans.

I don't think [black South Africans] appreciate me more because I am from Europe. [To them], white is white and South African [white is] Afrikaans. (Norwegian woman, F3)

I think generally with black South Africans, I have been more generally categorised as a white woman, rather than a foreigner. (German woman, F3)

For these respondents, racial stereotypes and generalisations play out at the level of language too.

I'm not an English speaker but I find myself to be categorised as such ... . The resentment for not speaking Sotho or Zulu or whatever: I think it feels the same like white South Africans who don't bother to learn [a black South African] language. (German woman, F3)

Some respondents explain their negative experiences with black South Africans by recourse to a white status quo that maintains apartheid relations of racism. Consider the following comments, for example:

And now the white people who are in [the police] force are using the black officers to go after their black brothers. (Nigerian man, N1)

R1: [When I agreed that there was a difference between black and white South Africans] I was not saying that whites are more friendly. They can notice that you are a foreigner by your language. Maybe they can hear that I am speaking with a French accent. But they are not as rude as black. I am sorry, it's true. I have experience. I have never been afraid of white people in the street. But when black follow us, I am scared.

R2: But who are the thieves reporting to? Are they black or white? (DR Congolese woman (R1) and Angolan man (R2), LL)

Historical relations of racism are also drawn on to explain daily practices of bribery and corruption. Consider the following interchange between Zimbabwean men:

R1: White policemen don't ask for bribery but black policemen do. White policemen take you straight to Lindela.

I: Why do you think black police will accept bribes but the white ones won't, but would rather take you to Lindela?

R1: Because I think it's according to the salaries. A black police gets less money than his white counterpart so they are trying to make more money for themselves.

R2: I think it goes with their sympathy to let you go [they know you are] working for the people you have left behind at home. On the other hand, they are making money for themselves. (Zimbabwean men, Z2)

This interchange is interesting because it does not reject corruption as solely negative. Instead, the men interpret black police actions as a consequence of racial inequality within the police service: 'a black police gets less money than his white counterpart'. Black police corruption is therefore seen as almost necessary to combat this perceived inequality: 'they are trying to make more money for themselves'. They also comment that corruption



operates as a flexible, useful tool, which allows them to stay in South Africa, rather than being repatriated. Black police actions here are interpreted as sympathy for their illegal situation and the Zimbabweans thereby evoke a degree of racial solidarity. Not all respondents agree with this 'sympathy' argument, however:

R3: In my way of thinking, I could say they are partly sympathising with us and partly not. If they were sympathetic enough, we would give them money only once, not every time they see you. They know you are a Zimbabwean, you become a target and you have to part with money always. It is no longer sympathy now they are making money on us. (Zimbabwean men, Z2)

Others seek to contextualise their experiences of racism in the broader social milieu, suggesting that personal interactions are racialised, that the degree of social contact is significant, and that 'black brothers have more social problems'.

I will say the only problem with white South Africans is that they are racist but as long as they don't disturb me or act negatively toward me, I am okay. Here where I stay, there are many white people. We just greet each other in the morning and after [that] we do not have business to do. For our fellow black brothers ... they have more social problems. They are more involved in crime and are the people we have more contact with everyday. That's why we have much problems [with them] and we have less contact with whites. (Angolan man, V6)

#### **Role of the government**

Apartheid's influence on contemporary xenophobia is also held to impact directly on the present political order. For example, a Nigerian respondent explains that political continuities with apartheid persist in the ways that foreigners are currently governed:

They have the wrong man at the head of the Home Affairs, Mangosuthu Buthelezi. He's a typical racial man [as his involvement in apartheid shows]. How can you bring a man who hates foreigners, to make him a head of Home Affairs? ... So now he's doing his job [based] on his personal animosity and hatred to foreigners ... . So that's why Home Affairs is like this [discriminatory and hostile] [and] that is why [the government] put him there. They believe that when they put somebody who is human in that position, maybe is going to allow foreigners to get studies and stuff. (Nigerian man, N1)

In this extract, the respondent makes two related points. Firstly, he suggests that apartheid is literally carried over into the Department of Home Affairs through the figure of Mangosuthu Buthelezi. He sees the minister as 'a typical racial man' due to his involvement in the past and suggests that these ties set the tone for discriminatory governance of foreigners. In this way, he represents the DHA as hostile and xenophobic. Secondly, his explanation for xenophobia is not restricted to Buthelezi's past. Rather, he suggests that the present government is responsible for appointing him and that this is a strategic appointment. For this respondent, a xenophobic Department of Home Affairs serves the current government's interests. This is because the department will not 'allow foreigners to get studies and stuff'.

Here, the respondent links xenophobia to both the government and to resources such as education and employment. His argument consequently forms part of what can be labeled a 'scapegoating explanation' for hostility. The 'scapegoating hypothesis', which is discussed in the literature review, links xenophobia to social conditions and the political climate. It suggests that immigration issues are politicised such that political figures and members of the public blame foreigners for social ills, such as crime, unemployment and poverty. This is common in South Africa and, as the international literature suggests, in many other countries.

R: When there has been a burglary committed in the suburbs, even before they catch them, you'll hear them saying that it's Zimbabweans. They always suspect Zimbabweans. I think they don't like us.

I: Why do you think that?

R: Maybe it's because they feel, and they even say, that *we are taking their jobs*. South Africans are very lazy and we are hard workers. (Zimbabwean man, Z2, emphasis added)<sup>44</sup>

In line with the scapegoating hypothesis, various respondents comment on the role of the media in disseminating negative information about foreigners:

It is unfortunate that people like Felicia Mabuza-Suttle [who hosted a television chat show about Nigerians in South Africa, gave such a negative impression about us. She] was supposed to be protecting the society [to] enlighten people. Let them know the positive approaches to life. Let them know who is who, even the societal structures [that] are not doing their job. People like Caesar Molebatsi of Two Way [another talk show], they are not doing their job ... I know what African enlightenment is, is part of psychology. You model people. (Nigerian man, N1)

The problem is the media because they have to talk to South Africans, [tell them] that refugee is like them. You know, sometime they say we came to take jobs. I think they have to educate those people but the problem is very generalised. (Rwandese man, A2)

Foreign respondents draw on the scapegoating hypothesis to understand their experiences of xenophobia in South Africa. This hypothesis has also been used by South Africans, but to a different ends, namely, to deny the existence of xenophobia. For example, during a conference about migration in the region, a representative of the Department of Home Affairs commented that 'when crime affects South Africans it becomes a statistic, when it impacts on foreigners, it becomes xenophobia'.<sup>45</sup> A similar viewpoint is expressed in Case Study 4:

#### **Case Study 4: A fight for survival**

As told by two DHA representatives

R1: I don't think that the person in the street in Johannesburg is getting involved in violence against aliens, is perpetrating that violence, just simply because that person's an alien. I don't think anybody wakes up in the morning and says, 'let's go kill an alien'. I think what they do do is wake up in the morning and try and earn some money. And there they find somebody else earning the money that they might be wanting to earn. Now what they do? If it's a South African citizen walking on the pavement where he wants to walk, how does he go about getting rid of this person? It's not so easy because he has the same claim to fame as what the person who is now aggrieved has. But if the person happens to be a foreigner. Now they latch onto this thing. Now what is the foreigner doing here? How did he come? And it's a fight for that space on the pavement. As opposed to a fight against an alien. All they found is something to hang onto to try get rid of this person. And that is ... the first thing. The second thing is ... we've never been quite sure to what extent this is true. But a lot of the aliens are walking on the street are middle Eastern and far Eastern origin. And they're selling stuff at a price that a South African cannot sell it. And the origin of that stuff is suspect. Now they're saying, here this bloke is. In the first place he is not a South African and therefore we don't want him here. And in the second place he's selling stuff that we cannot sell at the same price because he smuggled it into South Africa. And those ... are the underlying problems. Not xenophobia. Now how do we come to have a country that allowed at one stage 20 000 Portuguese to come in the past? At another stage 250 000 Mozambicans ... without any hassles. And, and we're told that we're a country of xenophobia. How do you and I fit into this process if this xenophobia is what it's supposed to be? And really we don't believe that this xenophobia is quite what its cracked up to be. Every time you speak to anybody about xenophobia they'll say, 'ah throwing Senegalese off the train and killing them'. That happened once. And two people were killed. And while they were getting killed, quite a few South Africans got killed at the same time, you know. And that act was xenophobic, there's no doubt about that. But that was one act. It was isolated and I don't really think that the underlying violence against foreigners is xenophobia. It's a fight for space and a fight for opportunities.

R2: You must also remember that those, the people that threw those guys off the train, were the people that had arrived back from a march on the Department from UMSA, Unemployed Masses of South Africa. And they were complaining about not having jobs. And on the train they found themselves with these same guys. And these guys probably had jobs. What we do find, once again as I've said before, is we have this differentiation between the two classes of illegal aliens ... I have yet to see violence against the higher group.

R1: Or indeed the white group ...

R2: Of any level. So, the actions that we've seen was on the lowest level of competition for jobs ... . Alright on the higher level there is action against these illegal aliens who are taking jobs. But it's done in totally a different way. The information is conveyed to us and we deal with it. So, yes. The fight is down on grassroots levels for survival. Really and truly.

R1: You know, you'll find Germans walking around the streets of Johannesburg stands out like a sore thumb. You know, you can see a German from a distance and you can hear from an equal distance ... . The public isn't doing anything about them. Nobody is concerned

with them, simply because they are not a problem to them. But when they become a problem that's when the action starts and then that's not xenophobia, that's something else. As bad as what it is. You know, we're not saying this is good or anything. Not that we're talking it away. It's just that's not what xenophobia means.

R2: We feel one has to see it in its true perspective. [We looked at the statistics] over the last 3 years or 4 years there were only 20 persons that were involved in violence of that nature. Dr Matlou has the statistics ... .

R1: You'll see like that women from the Embassy that got raped here in Pretoria and the robberies on the Embassies and the thefts of their motor cars and the killing of that guy from Zimbabwe. Those all [unclear] ...

R2: Those are crime.

R1: Nobody stood up in the morning and said let's go rape somebody from Greece. They decided to rape somebody. Unfortunately, the fact is that she was from Greece. And the fact is that this guy that they shot totake his car, happened to be from Zimbabwe. If it was a South African driving that car, he'd have got shot just the same, and the car was the issue. Not the foreigner.

I: So can I just ask what you understand xenophobia to mean?

R1: It means the unfounded fear or dislike of foreigners. And the symptom of that would be violence against foreigners or actions against foreigners. And if that symptom that we see, that action against the foreigners, is caused by the xenophobia, then we're saying right this is a xenophobia related issue. What I'm saying that guy who got shot for his car, had nothing to do with him being a foreigner. It has to do with him having a motorcar, he happened to be a foreigner. And the lady that got raped, happened to be a foreigner.

R2: One of a big statistic.

R1: Ja, a very, very big statistic. And these people that got chased around on the pavement, happened to be in employment or happened to be hawking. And by the way, they were foreigners. I don't deny for one minute that there is xenophobia in our community. And maybe more than what is the international average although I don't believe that either, I think Germany has a far higher, um, level of xenophobia than what we ever have had or are going to have. And England, by the way.

R2: We have the interesting position that we have so many different ethnic groups that really and truly everybody is used to having somebody of a different ethnic group to himself around him.

R1: Xenophobia doesn't only go to people outside of your country borders, you know, its people other than yourself, who are different to yourself. How did we come to be living in a society as diverse as what [R2] says with xenophobia, you know?

R2: And if you go to Natal . . . . That is the closest you can get to xenophobia, but it's not really xenophobic, that is political. It's the same people fighting the same people, for, for political reasons again.

In Case Study 4, these DHA representatives reject the notion of xenophobia, deferring instead to 'fight for survival' and 'it's just crime' explanations. Unlike many of the foreign respondents, they separate xenophobia from political violence when they comment that Natal 'is the closest you can get to xenophobia, but it's not really xenophobic, that is political.' In this way, they divorce governmental structures and political statements from xenophobia in South Africa. They also draw on the notion of diversity to justify their argument, suggesting that 'we have so many different ethnic groups that really and truly everybody is used to having somebody of a different ethnic group to himself around him'.

The appeal to diversity contradicts the isolation argument of xenophobia that is mentioned in the previous section. It also disaggregates the current social climate from the influence of apartheid, thereby lending an a-historical, de-contextualised understanding to xenophobia. This is in sharp contrast to many of the foreign respondents who conceptualise xenophobia not only in terms of apartheid's influence, but also as part of the political transition over the last decade. Consider the following interview extract:

Most of the refugees, they like Mandela because he allows [us] to work in South Africa, without any problem and get the freedom for refugees. But now . . . the government I think it doesn't understand the problem of the refugees . . . . Now, [especially over the last two years] . . . all of the refugee numbers increased. Most of the black group here in South Africa, the citizenship . . . they work the same like refugees [they have learnt to do what we were doing, so the refugee] can't survive like before, you see? [So, the government] must be allowed to give the UNHCR refugees. After that, the UNHCR must find some [other] countries to support the refugees. (Ethiopian man, P1)

For this respondent, the problems that refugees face in contemporary South Africa have evolved over the decade. He identifies two distinct phases in the reception of refugees here: the Mandela era and the current one. He understands the Mandela era as more sympathetic to refugees because they were able to work and study 'without any problem'. Now, he suggests, refugees 'can't survive like before'. This is for two reasons. Firstly, he explains, refugees themselves have changed the demographics of the South African work force by increasing in volume across the time period, and teaching South Africans their skills; factors which, for this respondent, have competed 'old' refugees out of the workforce. This is an important point because it recognises that foreigners actively influence and shape their social, political and economic environment.

Secondly, he suggests that the government is not taking responsibility for refugees. In the absence of governmental protection, he identifies a role for the United Nations High Commissioner for Refugees (UNHCR) to step in and 'support the refugees'. This is a point made by many respondents:

If the government can't protect the refugee community, they must deliver all the refugee community to the UNHCR . . . . If they can't protect us from the crimes

and robbers here in South Africa, UNHCR must take this role. (Ethiopian man, S1)

It is interesting that respondents separate responsibility for refugees into an either-or issue, as something that either the government or the UNHCR undertakes. It is also interesting that within this dichotomy, the government is seen as the initial agency of responsibility, with the UNHCR representing the second alternative. Through this separation, very little commentary is made about the UNHCR in South Africa and the role that it plays. It is upheld as an alternative to the government and, in this way, appears more as a future option, rather than as an agency with current responsibilities to the refugee community. This requires further investigation, particularly because the UNHCR has been instrumental in working with the South African government to draft refugee legislation that impacts directly on the refugee community.<sup>46</sup>

Legislation and the rights accorded to foreigners are also cited by respondents as factors in their negative reception. For example, a Zimbabwean comments that,

Because I'm a foreigner. I don't have a right. If I had my rights, I would be equal to a South African. [But now] if I have committed a crime with a South African, my name will come first. (Zimbabwean man, Z2)

The perception that foreigners do not have rights (both by foreigners themselves and South Africans) is important to understanding the violence that occurs in both xenophobia and economically motivated crime. This abuse of human rights is not exclusive to foreigners, however. And respondents do recognise that South Africa is a violent society.

Crime is everywhere. In New York ... . But here in Johannesburg ... the thieves are very rude. They can kill you for nothing. (Angolan man, LL)

### **South Africa's culture of violence**

Foreigners, by virtue of their foreignness, offer valuable commentary on South African society. They bring an outsider's perspective to practices that most South Africans accept as normal and conventional. In this way, a study of violence involving foreigners in South Africa is not just about foreigners. It also affords an opportunity to interrogate South Africa's norms and practices surrounding violence.

For most respondents, a central feature of South African society is the prevalence of violence and crime.

[South Africans are involved in shooting, murdering, raping] But now the police have their attention to Nigerians, and if [drugs] are the only [problem] they have in this country, now I wanna ask a question: if Nigerians leave the country and there is no more drugs, what happens to rape, murder, killing and raping? Is it gonna go away like that? So what I am saying is this: drug is not the only problem South Africa have as a country in terms of crime. There are many, many deadly crimes that are going on in this country. (Nigerian man, N1)

This respondent points to a general range of 'deadly crimes that are going on in this country', crimes that span 'shooting, murdering, raping and drug dealing'. At a less macro level, foreigners comment on the insidious ways in which violence infiltrates their daily lives in South Africa. For example, it impacts on gender relations. Consider the following extracts:

R1: South African women love us.

R2: It's a problem that South African women love us.

I: Why?

R2: The men hate us because they say we are taking their wives from them. Because I do everything for her as I take her as my wife. She comments that people tell her I am much better to her than her previous South African boyfriend.

R1: It is true, South African men don't know how to treat women.

R3: South African men always beat their women. We don't do that. This is one of the reasons the South African men hate us. (Zimbabwean men, Z2, emphasis added)

Now when he comes to handling of women, South African men, I can say that they are not good [unlike us]. We are brought up in a country whereby you treat women like angels [you do not beat them] ... . So that is why they are even more jealous about that aspect [they say] '[foreigners] are taking our women away from us'. (Nigerian man, N1)

I know South African women say that Congolese men are kind. Because South African men are brutes. They are very violent. (DRCongolese woman, LL)

You know, [South African men] say 'you steal our jobs and our wives'. It's a matter of probability. If I come here for 3 - 5 years, the chances are, of course, that I'll have a South African girlfriend. I mean. I might find a German or whatever but it is much more probable that she'll be South African. Still, they say that we steal their wives ... . Education is just completely different. Here, patriarchy and tradition go hand to hand. In Mozambique it was good; the revolution input [taught that] women must be respected and treated as equals ... . [Men would never beat women like they do here] That would never happen in Mozambique. If it did, your neighbours would come out and beat you. Men beat other men, not women [because of physical strength] ... . Here, these guys can't be gentlemen because of patriarchy and tradition. It's a national feeling (Mozambican man).

These extracts reveal two important dimensions to gender relations in South Africa. Firstly, they suggest that there are high levels of violence operating between South African men and women in the domestic sphere. South African men are represented as 'brutes' who do

not respect the rights of women. It is largely for this reason, many respondents argue, that South African women prefer foreign men. The underlying suggestion is that foreign men respect women and are not violent towards them.<sup>47</sup> This point testifies directly to the strong culture of violence that operates within ordinary South African interactions.

Secondly, these extracts reveal that women are a real and potential source of violence between South African and foreign men. The South African accusation that 'they steal our women' comments not only on a strong patriarchal social order, it also connotes a hostile, negative attitude towards foreign men. A constant threat of violence rests within this attitude - as respondents indicate, 'this is one of the reasons why South African men hate us'.

The prevalence of violence, especially between men, also intrudes into banal activities such as drinking in a bar:

I was with my friends. My friends do drink beer. We were at a shebeen and were drinking with another guy. Suddenly, there was a fight from nowhere ... . They caught me and stabbed me. (Zimbabwean man, Z2)

[I was in a bar in Rosebank with three of my friends. We went there and we listened to the music and started to dance but then the other customers were very quiet inside. We were drunk and we started to dance when the customers started to beat us.] (Burundian man, A3)

Clearly, the violence that these respondents report is not restricted to foreigners. But that is the point. In South Africa, violence pervades the smallest details of daily life and is frequently the usual solution to problems such as drunken behaviour.<sup>48</sup> This is, however, surprising to many respondents, who do not expect to deal with daily obstacles in this way. Their surprise and shock offers insight into the functional role that violence serves in South African society.

The centrality of violence to daily life in South Africa is particularly jarring when read against comments by those who come from violent home nations.

I do not carry a weapon and I don't need it because I left that behind, that was the main reason to leave [Angola]. (Angolan man, V6).

We are strong fighters but we are here not for fights ... I'm not here for fighting. Not to say we are scared for fighting them [guards and authorities at Lindela]. No. I can defeat them. But I am here for my own problem. I ran away from my country because of fighting. So I can't come and start fighting again. (man, BL)

These respondents reject violence as a solution to the difficulties that they encounter in South Africa even although they have, like South Africans, inherited a violent background.

For some, especially those who are fleeing violence and war in their home nation the encounter with violence and crime is contrary to their initial expectations about South Africa (refer to push and pull factors above). For example, asylum-seekers comment that,



It's not like they told us. The story in Jo'burg, when we get here, is a very, very heavy life ... even especially the crime is not safe. It's too much crime. They are robbing me three times here in Jo'burg. (Ethiopian man, B1)

The way I am suffering here. I left my country [Sierra Leone] to this place because of what I am suffering. Then I came to South Africa to make a good life, [but] then I'm suffering. (Sierra Leonian man, BL)

For others, South Africa's external image is not one of harmony and peace, but rather, is portrayed in terms of violence, danger, and high crime rates.

Before I came here, people used to say that *South Africa has a lot of crime*, especially in Johannesburg ... . Yes, I remember my travel agent asking me if I really wanted to go there, knowing that it was a dangerous city. (Norwegian woman, F3, emphasis added)

This thing [of crime] is not really that much new for everybody else. Even the people and the families who are out of South Africa, they know that the crime rate here in South Africa, especially Johannesburg, [is high]. When we are communicating with our families, they will tell us before hand: 'So [South Africans] will thief everyday'. *See it is like that here in South Africa*. (Ethiopian man, S1, emphasis added)

South Africa's portrayal within the rest of world regularly feeds back to foreigners who are living in the country. Where many South Africans are broadly insulated from these external impressions, foreigners in the country find their actions and attitudes influenced in an ongoing, international manner, as the following extract indicates:

I can say that when I came in 1995, I was very naïve and very innocent ... at first I had a lot of courage. I always went out on my own to town, which I don't do anymore. I think it has to do a lot with when I get back home, I get a lot of feedback and questions which gives me this panic, which is more than the panic I had initially. (German woman, F3)

However, foreigners who live in the country are also not insulated from the culture of violence that pervades South Africa. This plays an influencing role on their attitudes and actions too. For example, consider the way in which the following incident is reported:

R: There was this woman from Cameroon. It was her first time in South Africa. She was at the Johannesburg International airport and was followed by South Africans. When she arrived at her place, they took her suitcases and her money. When wanted to get through the ... gate, the thieves they stole everything, passport, money.

I: And did they injure or threaten her in anyway?

R: No, they were, I can say, kind. They just took everything.

I: Did they have a gun?

R: Yes, yes and they stayed in the car.

I: What did she do? Did she report it to the police?

R: Yes but they have done nothing. (DRCongolese woman, LL, emphasis added)

This respondent, who has lived in South Africa for over a year, is surprised that the thieves do not engage in violence. For her, it is noteworthy that they are 'kind' and she points this out. Unlike many newcomers, she is also blasé about the lack of action taken by the police. Rather than expressing outrage, she comments in a resigned tone that, 'they have done nothing'.

The foreign experience reveals that the criminal justice system plays a role in perpetuating the culture of violence for South Africans and foreigners alike. For example, a respondent comments that,

Not only us as foreigner, even the South African population ... complains about the work of the South African police. (Angolan man, V3)

The institutional perpetuation of a violent system includes the direct involvement of authorities in violence, for example, through instances of police brutality and corruption. As a respondent points out in less violent systems,

You're not supposed to be scared of the authorities, you're supposed to go to the authorities and not run away from them. (Nigerian man, N1)

Institutional support also includes indirect and inadvertent involvement in the culture of violence, for example, when the police do not investigate cases or the courts do not prosecute perpetrators. One reason for this links directly to the ongoing experience of violence for the police themselves:

[I was beaten and hit by five men, who stole my wares]. Immediately, I go to the police station in Daveyton. When I report it to them [I said], 'Please, I know the one guy [who robbed me]. He lives around here ... please take me to him and ask, maybe he'll give you the evidence' ... . The policeman said 'No, I'm sorry we can't go out there because he is in South Africa, too much, [with] a gun. When we go there with you, maybe they'll shoot us. I'm sorry, we can't help you'. (Ethiopian man, B1)

And that group [of men who attacked me and extorted money from me] is known even by the police ... . Go around Hillbrow and ask about Mr Big ... he is the chief gangster ... he was arrested many times but [whenever he is] arrested, after one day, [he] walks ... . Even at the police, if you go and tell them, [they say] 'Ah, Mr Big! Oh! It's your problem'. (Burundian man, A3)

The general impact of violence, along with the specific instances of xenophobia and exploitation that foreigners in South Africa experience, contributes to a sense of impermanence and transience in the country. For example, consider the following extracts:

I: What are your plans once you've finished your degree here? Will you go back to Mozambique?

R: Definitely. I am not staying here. To tell you what's in my heart, I would like to have a house in Mozambique, as I have, and a house here. I love Johannesburg even although there is all of the crime and the brutalisation. I really love it here. But to avoid brutalisation, I would have to come here for 6 months, go there for 6 months. Mozambique and SA are (entwines fingers) so related. There we have great weather and prawns. The shopping and modern world is here. (Mozambican man, F1, emphasis added)

[If I could, I would go immediately to Europe] I think [it] is true, European countries are well organised in respect of human rights [much more than African countries, including South Africa]. (Burundian man, A3, emphasis added)

Through the foreign lens, it is possible to see the strangeness of South African society. This is a society that operates in terms of violence, where human rights violations persist despite the overt transition to democracy. Indeed, it is because of the transition to democracy that new forms of violence such as xenophobia have emerged.

## **Conclusion**

The findings of this research project suggest two broad areas through which to understand the 'foreign experience' of violence in contemporary South Africa, namely:

- 1) The vulnerability of foreigners to violence at the hands of South Africans (through both xenophobia and economic exploitation), and
- 2) The violence of exile.

Within each of these areas, refugees, asylum seekers and migrants face particular challenges and difficulties. South African service providers and policy makers similarly confront these complexities. Developing solutions and sustainable intervention strategies is not an easy task, particularly because incidents of violence and xenophobia take place within a broader context of hostility. This context facilitates violations, abuse and exploitation at a number of different sites (e.g. entry, travel, abode, work-place, authorities, institutions, and the public). Their multiplicity and breadth of diffusion renders these sites difficult to control, patrol and monitor, particularly because many abuses are supported by strong financial interests and certain political objectives. Additionally, 'the foreign experience' cannot be divorced from high overall levels of violence within South Africa. Nor can it be isolated from the country's history of racism. Rather, as this analysis illustrates, xenophobia is a product of historical factors and the mechanics of South Africa's period of transition. It does not exist separately from other manifestations of violence but symbolises continuity, as well as change, from previous and contemporary forms. Thus,

violence prevention and victim empowerment strategies need to engage with *both* the specifics of the 'foreign experience' *and* violence more generally.

It is crucial that the findings of this research are fed into existing violence prevention and victim empowerment programmes. They must be developed into sustainable intervention strategies in consultation with relevant stakeholders, including those working generally with violence prevention and victim empowerment in South Africa, as well as those specifically focused on refugees, asylum seekers and migrants. A holistic model of intervention needs to be generated for tackling the unique challenges facing a foreign constituency whilst simultaneously integrating foreigners into the South African approach. This model must be complemented with ongoing evaluation and monitoring, as well as further research into 'the foreign experience' of violence. Existing and possible areas for intervention and research include:

### ***Training***

Aimed at Frontline workers (e.g. police, department of Home Affairs, primary health care workers, educational authorities)

- Human Rights training with specific modules on refugee rights, trauma-management, and anti-racism/anti-xenophobia.
- Legal knowledge to prevent abuses through ignorance (e.g. instant repatriation in violation of the principle of non-refoulement).

Aimed at refugees/asylum seekers and migrants

- 'Know your rights' training and awareness-raising to diminish the possibilities of secondary victimisation.
- Conflict resolution training to reduce any possible incidents of home-nation conflict within the South African context and to develop the positive experiences of 'commonality in exile' into constructive mediation processes (short-term benefit), whilst simultaneously equipping refugees with conflict resolution skills in the event that they are eventually repatriated to their nations emerging from conflict (long-term benefits).
- Training in reconciliation processes (e.g. developing a pilot reconciliation programme within a particular refugee community).
- Trauma-management training to address the effects of trauma and to raise awareness about the possible consequences (including violence) of war, conflict, flight, and xenophobia on individuals and communities.
- Skills training to build capacity and self-sufficiency within refugee communities (as a way to reduce the general vulnerability of this group within society and to capitalise on the skills that already exist among refugees/asylum seekers).

### ***Service provision and institutional reform***

- Capacity building and support for service providers and NGOs who address the specific requirements of refugees and asylum seekers. (While the violence aspect of this research suggests an emphasis on protection and trauma, a holistic model demands careful attention to all layers of service provision and delivery in order to

diminish the high levels of vulnerability that these constituents face).

- Integrating refugees and asylum seekers into South African service provision facilities (e.g. schools, primary health care, policing services).
- Establishing reporting mechanisms and lines of accountability to address incidents of secondary victimisation (in the form of violence, the destruction of documents, bribery, threats, and verbal abuse) and to ensure that reported crimes are taken up by relevant authorities. Reporting desks (e.g. the CPF-Police reporting desk at the Hillbrow Police Station); the presence of the Human Rights Commission at Lindela; and the monitoring efforts of the Human Rights Committee at the Braamfontein Department of Home Affairs represent important starting points. However, a sustainable and consolidated system needs to be implemented as part of a wider process of reform within the criminal justice and asylum systems.
- Forging partnerships between service providers and NGOs to maximise efforts and resources.

#### *Informing policy and national debate*

- Awareness raising and education about:
  - the plight of refugees and asylum seekers in South Africa (i.e. reinforcing certain objectives of the Roll Back Xenophobia Campaign and the National Consortium on Refugee Affairs)
  - the plight of undocumented migrants in South Africa (i.e. reinforcing certain objectives of the Roll Back Xenophobia Campaign)
  - the transposition of conflict from the home nation to the South African context that can, in certain cases, accompany the politics of exile.
- Informing policy decisions about cross-border movement, the regional impact of the economy of movement, the violence of exile, and the risks that accompany undocumented crossings.
- Anti-racism advocacy, initiatives, policies and programmes.
- Challenging, where necessary, legislation and monitoring the implementation of the Refugee Act and the pending immigration legislation.
- Feeding public debate about xenophobia (i.e. reinforcing certain objectives of the Roll Back Xenophobia Campaign)

#### *Research*

- Undocumented migration and its particular risks - researching the factors that render undocumented migrants vulnerable to violence, xenophobia and economic exploitation within South Africa and at the country's borders, where specific risk factors impact on illegal entry.
- Violence and the 'refugee experience', with particular emphasis on the impact of past-violence (in the country of origin, during flight) and xenophobia on refugee identities and coping strategies in South Africa.
- Researching and developing a trauma model appropriate to the needs of

refugees/asylum seekers in South Africa.

- Expanding CSV research on ex-combatants to include refugees/asylum seekers who have been involved in war. Developing a regional research focus to accommodate the complexities that accompany cross-border conflict and demobilisation.
- Unaccompanied minors and children - researching the specific needs and challenges that a youthful foreign constituency brings to, and encounters in, South Africa. Investigating the impact of flight and violence on child soldiers.
- The transposition of conflict from the country of origin to South Africa (the violence of exile). What forms does this take? What factors contribute to its possibility? How widespread is violence of this nature? What factors contribute to peaceful relationships between communities in exile? How can the 'commonalities' of the asylum experience be harnessed into constructive reconciliatory initiatives?
- Human trafficking and smuggling - exploring the links with arms and drug trafficking. What are the violence risks associated with these practices? Who are the traffickers and trafficked, with particular emphasis on women and children (sexual violence)?
- Racist violence and hate crimes - how has South Africa's period of transition impacted on racism? To what extent is race a factor in contemporary manifestations of violence? What is the relationship between xenophobia, racism and reconciliation? How do concepts of nation-building, patriotism and citizenship impact on feelings of belonging/exclusion?
- Farm labour practises and exploitation with a particular emphasis on whether (and how) foreign labour may contribute to cycles of violence on farms and in rural areas.
- Evaluative research of existing and planned intervention strategies.

***Monitoring and Evaluation of:***

- Training of service providers, frontline workers and foreign constituents;
- Current institutional practices;
- Institutional reform processes;
- Action research programmes;
- Advocacy strategies
- Legislation and its implementation

**In order to**

- Ensure the maximal impact and efficacy of each intervention,
- Discourage and highlight unintended consequences; and
- Assess and define new areas of direction/intervention.

### *Research shortcomings and limitations*

The recommendations listed above are deliberately broad and sketchy. This is because each demands a careful design and implementation process. Similarly, a coordinated approach is required to avoid duplication within the field and to maximise the impact of each strategy. There are also many gaps within these recommendations, as well as the research project more generally. A thorough evaluation and critique of the process and findings is recommended to identify these gaps. In this way, the project can be utilised to develop focused, in-depth research that 'fills in the spaces'. This project is also limited by its very subject matter, namely, violence during transition. The field itself is constantly changing. Legislation, policy, refugee numbers, demographics, regional events, and public trends are all in transition too. Thus, certain research findings are premised on ever-changing statistics, legislation, attitudes and practices. More generally, the research is based on findings that are limited by a particular sample size and composition. This is a limitation that is endemic to all research. However, it is important to acknowledge, particularly because it sets the foundations for future studies with different participants and holds the potential for exciting comparative research.

This report must be contextualised within the broader research objectives of the Violence and Transition Project. The findings must be read alongside those from the other project areas, including vigilantism, ex-combatants, state security forces, taxi violence and hostels. As a symptom of violence during South Africa's period of transition, xenophobia exhibits both continuities and changes in violence over this period. While new in form and target, remnants of the racist old order reflect in the racism of xenophobic violence. The complexities of the 'foreign experience' of violence in South Africa are important to recognise and address, particularly as the 'new nation' embarks on an African Renaissance. To avoid both neo-colonialism in the region and exporting a culture of violence to the continent, it is crucial to understand and change the links between nationalism and violence that have emerged over the last decade. While looking beyond South Africa's borders, it is also important to address xenophobia and conflict within the country. As one respondent comments,

We can contribute generously if there is an atmosphere of peace prevailing in the country but when the little that you have on the street pavements is looted, then what can one contribute? (Somali woman, M1)

### **Notes**

<sup>1</sup> This is not to say that the socio-political climate of a country does not contribute to the prejudice and discrimination that an individual faces. Rather, the point is that individuals may face persecution under a stable political system or regime.

<sup>2</sup> Although the Department of Home Affairs has hired additional lawyers to grapple with this backlog, the processing delay remains lengthy and problematic. Generally, the legislation is problematic because it rests on a 'guilty until proven innocent' type logic which disadvantages bona fide asylum seekers because they are unable to work or study. In the absence of any state or UNHCR support during the application process, this legislation may also force genuine refugees into working - illegally - to support themselves, resulting

in their criminalisation.

<sup>3</sup> The White paper cites the refused entry into the country of 'preachers of a certain religion practiced by its citizens' as an example in which constitutional rights of citizens are hindered (p.13). This is interesting in relation to a recent media report (Sunday Times, 23.1.2000) which comments that Home Affairs has denied permits to various religious leaders.

<sup>4</sup> Although these push factors are important, economic migration must not be solely reduced to them. A study by Peberdy & Crush (1998a) contests common stereotypes that all foreign street traders 'are poverty-stricken and desperate people engaged in a struggle to 'survive" (p.1) and that 'foreign migrants are flooding to South Africa to flee a desperate situation at home' (p.2). They show that these stereotypes are myths and that cross-border migrants come to the country for a range of reasons, including entrepreneurial opportunities and an attractive South African market.

<sup>5</sup> The term 'alien' is problematised and explored for its dehumanising qualities in the historical section (Immigration policy before 1990).

<sup>6</sup> Extensive work conducted by the Southern African Migration Project (SAMP) reveals that most foreigners from surrounding states come to South Africa temporarily, as migrants, and not permanently, as immigrants. Consequently, the perception that illegal aliens come from surrounding states is, in this review, connected to such 'aliens' being migrants rather than immigrants. However, this must not dilute another popular and, according to SAMP studies mythical, perception that foreigners from surrounding states want to settle permanently in South Africa.

<sup>7</sup> Just because the legislation allows for legal status in these industries, it does not mean that many employers abide by the law. Rather, illegal migrants are often preferred because they can be used to undercut South African labour. They are also often threatened with repatriation, as a way to ensure a 'docile, compliant workforce'. For example, this threat often occurs on the day before pay-day at the farms.

<sup>8</sup> The period 1990-1994 (from the time FW de Klerk announced political change to the first democratic elections) is widely recognised as 'the transition' in South Africa. However, commentators have more recently interpreted the 1994 elections as the 'start of transition'. Similarly, the period 1994-1999 has been read as 'transitional' with mechanisms such as 'the government of national unity' mediating between one dispensation and another.

<sup>9</sup> An article in The Sunday Times (18.7.1999, p.5) reports that a cross border slave-trader was caught after he 'tried to sell a 15-year-old boy to his own father for R500'.

<sup>10</sup> One of the founding members was Lindiwe Sisulu, who was until recently, the deputy minister of Home Affairs. She resigned from Dyambu upon her appointment as deputy minister (HRW, 1998). While Dyambu is thus privately owned and independent from DHA, close ties exist between the two institutions.



<sup>11</sup> This is not to imply that women always have much of a choice in the matter. A future study on sexual abuse and coercion throughout the apprehension-detention process is recommended.

<sup>12</sup> Ironically, the leader of the IFP is also the Minister of Home Affairs, Dr Buthelezi.

<sup>13</sup> The organisation of space in terms of language and ethnicity is not new to the South African mines, nor is violence in relation to ethnicity, that is, between 'Xhosa' and 'Sotho'-speakers, for example. Moodie (1983) comments on 'serious Sotho/Xhosa riots' during the early 1980s, as well as the general division between Shangaans (from Mozambique) and other workers (p.185).

<sup>14</sup> As the literature indicates, the police and DHA are often involved in perpetrating crime and violence against foreigners. Similarly, undocumented migrants run the risk of repatriation if they report crime, a factor that actively discourages reporting crime to the police.

<sup>15</sup> The subjects in question were 149 detainees at Lindela.

<sup>16</sup> Please note that the Zimbabwean focus groups were conducted prior to the increased political tensions, land occupations and conflict within Zimbabwe and that these factors may well feature with prominence in focus groups run more recently.

<sup>17</sup> Within the sample group of this research, the earliest date of arrival was 1962. However, cross-border labour movements have been ongoing for decades, even centuries, and the weight of this history should not be ignored.

<sup>18</sup> The financial, economic continuity that spans regional borders will become apparent as the analysis develops.

<sup>19</sup> In keeping with the literature, it is possible that non-financial resources, such as sexuality, may also be used to purchase movement to South Africa. This did not come up in any of the interviews but it is a strong possibility and demands further investigation.

<sup>20</sup> However, agents also face a number of risks and competition, and these might be reflected in the costs of movement too.

<sup>21</sup> The country's peripheral land and sea borders reflect a literal example of this, while the airports represent the first geographical 'touchdown' for foreigners.

<sup>22</sup> The symbolic level interacts in a circular manner with the physical level, to inform the practices of movement, which influence the representations of foreigners here.

<sup>23</sup> In an ironic twist, the underlying implication of this statement is to 'blame' the border for illegal entry - for without the borders, how would they get in?

<sup>24</sup> It is interesting to note that this UMSA spokesperson is also a member of the Democratic Party which is the official opposition to the government.

<sup>25</sup> In contrast to the UMSA spokesperson's comment about the SAPS and SANDF (see above), the DHA representative suggests that the DHA is also responsible for patrolling the borders.

<sup>26</sup> This is not to suggest that the DHA does not consider illegal entry to be a crime.

<sup>27</sup> An UMSA spokesperson explains that 'we investigated the matter and we found that there was no UMSA involvement in the deaths of those people ... . We believe that there are certain elements that are hyping up this issue, trying to place South Africans in a negative light for whatever nefarious purposes that they might have by saying and implying that UMSA is against foreigners. We are not against foreigners. But we are certainly against illegal immigrants'

<sup>28</sup> It is also possible to enter the country legally on a specific permit, and then to become illegal once in South Africa, when the permit expires, for example.

<sup>29</sup> This point was stressed by a DHA representative at a SAMP media release in November 1999.

<sup>30</sup> The economy of movement spans the legal-illegal divide; at a legal level, the border authorities owe their salaries and positions to this economy, at an illegal level, money generated through corruption is similarly part of the economy.

<sup>31</sup> or to merely purchase entry papers.

<sup>32</sup> Gratitude must be expressed to Andrew Rens of the Wits Law Clinic who explains that this detention was problematic for the following legal reasons: 'Section 55 of the Aliens Control Act prescribes that a section 7 examination must take place within 48 hours of the person's arrest and detention. A section 7 examination is to determine whether someone is in the country unlawfully. Only an immigration officer can order the continuing detention of someone at a section 7 enquiry. Some view the section 7 enquiry as a sufficient safeguard, others not. The matter is dealt with on page xxxvi of the Human Rights Commission Report, 'Illegal?'. If someone is held longer than 48 hours without being brought before a court or an immigration officer then it is possible to bring the common law 'actio ad exhibendo de homine' i.e. an application that the person be brought to court and their detention be justified. It is well documented in the HRC Report that this is an ongoing problem.' (in personal communication, 2000).

<sup>33</sup> Identification of such a trend is in accord with SAMP findings that cross-border migration is not random, uncontrolled chaos, but entails far more structure and procedure than many South Africans believe.

<sup>34</sup> During recent 'crime operation' activities conducted by the SAPS and SANDF, various respondents reported that genuine refugee and asylum seeker permits were destroyed.

<sup>35</sup> There is a gendered component to this - with more female respondents reporting involvement in hawking than their male counterparts. For females, another equivalent may be sex-work. While no respondents in this study spoke about sex-work related dangers, *The Saturday Star* (22.5.1999), for example, reports that international 'people smuggling' and prostitution slavery are on the increase in South Africa, where Asian women are forced to work off the 'price tags' that they have been sold for.

<sup>36</sup> According to Nigerian respondents, this is a popular activity in Hillbrow. For a fee, operators arrange international telecommunications for the (largely foreign) public.

<sup>37</sup> It is interesting to note that most undocumented respondents deliberately avoid working in public, open areas, due to their undocumented status in South Africa. For example, a Zimbabwean comments 'because I am running from the police outside, that is why I want a job where I can be inside' (Z2). This suggests that the violent 'removals' of foreign hawkers by their South African counterparts during the late 1990s (see literature review), a process often disguised by 'illegal immigrant' rhetoric, was more about xenophobia and competition for resources than any systematic evidence of lack of documentation.

<sup>38</sup> This requires more exploration and clarification from South African banks as it is unclear whether this is an official banking policy or if it is a result of informal discrimination. Also, it is important to establish which foreigners are able to make use of banking facilities.

<sup>39</sup> This does not preclude the possibility that service providers are also exposed to aggression and violence from criminal and self-serving members of their constituency, regardless of resource availability.

<sup>40</sup> While this particular respondent predicts the potential for violence in the Ethiopian community, other Ethiopians have already been victims of transposed home nation conflict. For example, a media article reports the following incident: 'An Ethiopian journalist, Samson Sahele, living in South Africa as a refugee, was kidnapped by 'fake cops' and received death threats regarding his involvement in reporting human rights abuses in Ethiopia. He was told that 'We will hit you. We will arrest you even here in South Africa. We know when you arrived ... . Do you want a knife to cut you? We have information that some South Africans have been paid as much as R2000 to co-operate with members of [Ethiopian] intelligence to help silence and terrorise those who stand up against human rights abuses in Ethiopia.' (Jobson, of HRISA, quoted in *Saturday Independent*, 7.7.1999, p. 2.).

<sup>41</sup> This is not to imply that foreigners target tourists and short-term visitors but rather to link crime - at the hands of mostly South Africans - to the newness of arrivals.

<sup>42</sup> There is, however, a sampling bias in this research, which comprises more black foreigners than white - further study on if and how white foreigners feel foreign/experience xenophobia is recommended.

<sup>43</sup> Refer to the 'pull factors' for further clarity on expectations about South Africa.

<sup>44</sup> Notice the way in which this respondent generates a stereotype about South Africans as 'very lazy'.

<sup>45</sup> Southern African Migration Project Policy Conference on International Migration and Regional Cooperation in Southern Africa (2-4 July 2000). The same official is similarly quoted in the literature review by Kollapen (in Eveleth, 1999b) as trying 'to justify the term 'a makwerekwere'. And he tried to suggest that we are all equally vulnerable to crime and to play down the fact that there have been incidents of xenophobic violence' - see literature review.

<sup>46</sup> Although, as Abrahams (in personal communication) notes, UNHCR in South Africa has a peculiar mandate that dates back to the initial Memorandum of Understanding signed with South Africa in 1993, under the de Klerk regime. This Memorandum restricts, in many ways, the UNHCR's functions within the country. Unlike the UNHCR's practices in most other countries, in South Africa, the organisation is largely confined to protection issues and finding durable solutions; Abrahams (in personal communication) explains that the UNHCR is largely tied to playing a supportive role to the government, rather than any separate, proactive function. Hence part of what the respondents are reflecting in this research report, is exactly the restrictions that the Memorandum imposes and the constraints that the UNHCR, faces at a legal level.

<sup>47</sup> This is a broad generalisation and it must be tempered with further investigation into relations of domesticity between foreigners living in South Africa. Sexual and domestic violence need to be explored in this sphere, particularly because certain respondents indicate that family violence is a feature of life in South Africa. It is also important to recognise that some foreigners may 'respect' women (or men) in order to get legal status in South Africa.

<sup>48</sup> It is interesting to note the central role of alcohol to both of these incidents.

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## Appendix A

### List of Interviews and Focus Groups conducted (chronological order)

Date	Place	Nation/Organisation	Gender
13.5.1999	Johannesburg	Black Sash (notes)	Woman
17.5.1999	Pretoria	Jesuit Refugee Service (notes)	Man/Woman
06.7.1999	Braamfontein	Wits Law Clinic (notes)	Man
30.7.1999	Braamfontein	Doctoral student (notes)	Woman
03.8.1999	Houghton	Roll Back Xenophobia Campaign	Woman
04.8.1999	Braamfontein	Academic (notes)	Woman

13.10.1999	Braamfontein	Mozambique	Man
19.10.1999	Braamfontein	Ford Foundation (notes)	Man
25.10.1999	Braamfontein (Focus Group)	Range, including DRC, Congo-Brazzaville, Angola, Turkey, Brazil, Angola, Somalia	Men & Women
07.11.1999	Parow (CT)	Angola	Man
16.11.1999	Yeoville	Pakistan	Man
25.11.1999	Braamfontein	Senior Researcher (notes)	Woman
26.11.1999	Braamfontein	Germany Norway	Woman Woman
28.11.1999	Bellville (CT)	Angola	Man
29.11.1999	Johannesburg	Unemployed Masses of South Africa	Man
30.11.1999	Braamfontein	Burundi	Man
11.1999	Cape Town	DRC	Woman
11.1999	Cape Town	Burundi	Man
11.1999	Cape Town	Angola	Man
01.12.1999	Athlone (CT)	Rwanda	Man
02.12.1999	Pretoria	Admissions and Aliens Control, DHA	Man
02.12.1999	Pretoria	Sri-Lankan Embassy (notes)	Man
03.12.1999	Braamfontein	Burundi	Man
06.12.1999	Pretoria	Japanese Embassy (notes)	Man
06.12.1999	Pretoria	Sri-Lankan Embassy (notes)	Man
12.12.1999	Johannesburg	Burundi Rwanda	Woman Woman (plus daughter and son)
12.12.1999	Sandton	Republic of China (notes)	Man
14.12.1999	Lindela	Facilitator for Human Rights	Man
14.12.1999	Lindela (Focus Groups x 2)	Range, including Kenya, Tanzania, Spain, Indonesia, Nigeria,	Men

		Ghana, Mozambique, DRC, Zimbabwe, Sierra Leone, Angola, Great Lakes	
22.01.2000	Braamfontein	Ethiopia	Man
17.02.2000	Mayfair (Focus Group)	Somalia	Women
28.02.2000	Pretoria	Provincial Police Psychological Services	Man Woman
28.02.2000	Mayfair (Focus Group)	Somalia	Women
29.02.2000	Hillbrow	Internal Tracing Unit, Hillbrow Police Station	Man Man
07.03.2000	Braamfontein	Ethiopia	Man
11.03.2000	Randburg (Focus Groups x 2)	Zimbabwe	Men
08.04.2000	Berea	Nigeria (notes)	Man
15.04.2000	Hillbrow (Focus Group)	Nigeria	Men