



South Africa - Researched and compiled by the Refugee Documentation Centre of Ireland on 14 October 2009

Information on access to police protection for victims of xenophobia in South Africa.

An *Immigration and Refugee Board of Canada* response to a request for information on the treatment of foreigners in South Africa states:

“In November 2004, the SAHRC and the Parliamentary Portfolio Committee on Foreign Affairs held open hearings on xenophobia and rights abuses experienced by foreigners in South Africa (AI 2005). The report issued by the SAHRC and the Parliamentary Portfolio Committee on Foreign Affairs following the open hearings notes that non-governmental organizations had taken the lead in campaigning against xenophobia (SAHRC 3 Nov. 2004, 47). The report noted that the government made numerous commitments to uphold the rights of refugees and migrants, including ratifying international laws that protect their rights, enacting national legislation, and participating in conferences on migrant rights (SAHRC 3 Nov. 2004, 43, 50). Participants in the SAHRC's open hearings, however, expressed that the governments' implementation of these commitments was ‘sporadic and inconsistent’ (SAHRC 3 Nov. 2004, 43). UNHCR's written submission to the open hearings notes that although South Africa's president has openly condemned xenophobia, only a small number of parliamentarians and cabinet ministers have publicly agreed with the president.” (Immigration and Refugee Board of Canada (29 March 2007) *ZAF102483.E – South Africa: Societal treatment of foreigners from other African countries, in particular from the Democratic Republic of Congo (DRC); access to equality courts; availability of state protection (2004 - 2007)*)

An article on xenophobia among the South African Police Service (SAPS) published by *SA Crime Quarterly* states:

“Xenophobia in the police has become especially relevant considering the enormous influx of immigrants into Johannesburg in the last ten years, many of them undocumented. The large numbers of immigrants makes their treatment by state officials an important issue, particularly since the key operational strategy of the South African Police Service (SAPS) in the past five years has resulted in the frequent targeting of illegal immigrants for arrest. The SAPS is certainly aware of the problem, and xenophobia has been placed firmly on the transformation agenda. Yet research suggests that after more than a decade, there ‘has been a lack of change in the values and attitudes of a significant proportion of police members’. Although no statistics are available to quantify the problem, studies suggest that xenophobia takes different forms and that the problem in the SAPS is not limited merely to attitudes, but often involves violence, abuse, and ill-treatment of foreigners.” (Masuku, Themba (Centre for the Study of Violence and Reconciliation)

(March 2006) *Targeting Foreigners: Xenophobia among Johannesburg's police* SA Crime Quarterly No 15, p.19)

In a section titled "Primary Findings and Conclusions" a report published by the *International Organization for Migration* states:

"In responding to the threats and outbreaks of violence, the study finds that local leaders and police were typically reluctant to intervene on behalf of victims. In some cases, this was because they supported the community's hostile attitudes towards foreign nationals. In others, they feared losing legitimacy and political positions if they were seen as defending unpopular groups. In almost all instances, local leaders and police spoke of their incapacity to counter violence and violent tendencies within their communities." (International Organization for Migration (February 2009) *Towards Tolerance, Law, and Dignity: Addressing Violence against Foreign Nationals in South Africa* Misago, Jean Pierre, with Landau, Loren B and Monson, Tamlyn, p.3)

In a section titled "Social and Institutional Xenophobia" this report continues:

"A 2006 police diversity survey found 'pervasive xenophobic attitudes among police officers': 87% of police believed most undocumented migrants in Johannesburg are involved in crime, and over 78% believed that foreigners caused a lot of crime regardless of immigration status (Newham, Masuku & Dlamini 2006). According to Palmay (2002), the attitudes of police officials may fuel existing levels of xenophobia among South African communities, because senior police officials can be important opinion-makers, as can any public service official who uses a public platform to espouse unfounded anti-foreigner sentiments. Xenophobia in the public service also limits the likelihood that non-national victims will report crimes because they are often victimised or treated with indifference by the same authorities." (ibid, p.17)

An assessment of the South African Police Service published by the *Centre for the Study of Violence and Reconciliation*, in a section titled "Measure 25: Are responsive to vulnerable groups" (section 5.7), states:

"Another issue that has been little explored in South Africa is the category of hate crimes motivated by prejudice. Individuals from groups that are consistently exposed to prejudicial treatment may also generally be reluctant to approach the police for assistance, as they may anticipate discriminatory treatment. Immigrants constitute one group that may be regarded as vulnerable to such crimes, partly because they may be subject to racist and/or xenophobic victimisation. In relation to Measure 25, the question is whether the SAPS recognises the vulnerability of immigrants, and responds accordingly in relation to the provision of services (the abuse of foreigners is discussed further in Measure 28). Because some may be in the country illegally, or fear victimisation, they may be reluctant to approach the police for assistance. As a result they may be victimised with impunity, be this 'ordinary' criminal victimisation or for xenophobic reasons." (Bruce, D, Newham, G and Masuku, T (May 2007) *In Service of the People's Democracy – An assessment of the South African Police Service* Centre for the Study of

An article published by *Business Day* states:

“While recent reports highlight foreigners' experiences of individual incidents of violent xenophobia, these incidents also take place within a context of more general violence experienced by this group of people. In a country where high levels of violent crime affect all, African foreigners are often worst affected as they occupy spaces where levels of violence are at their highest. This is compounded by the fact that they are not afforded the same protection by the state, either because of their status or because of similarly xenophobic attitudes among officials. Previous research conducted by the Centre for the Study of Violence and Reconciliation and other organisations documents the complicity of some officials in corruption, intimidation and abuse of foreigners. Foreigners state that they are reluctant to report violent crimes because police neglect to follow up cases, commonly interrogate and victimise the complainant, and, most importantly, because they risk being detained themselves, regardless of the validity of their documentation.” (Business Day (22 May 2008) *South Africa: Scarcity Sets Fire to Country's Xenophobic Tinderbox* Fuller, Romi and Valji, Nahla)

An *IRIN News* report quotes a victim of xenophobic violence on the alleged lack of protection from the police as follows:

“Omari, a Tutsi who fled ethnic violence in the eastern Democratic Republic of Congo, said she decided to return to her community in July, after a month in the camp, so that her five children could go back to school. The first night back the shots were fired, and she and her husband filed a police report the next day. ‘I told my husband, ‘Let's go the police station, because this bullet is proof, and maybe they'll come to make an investigation’.’ They reported the incident. Omari, who speaks Xhosa, one of South Africa's main languages, said the officer called a colleague on the police radio, but she heard him decline to investigate the case. “The police asked which kind of people it was for, and said, ‘Oh, it's makwerikweri [derogatory term for a foreigner], I don't want to come. They want to prove why they don't want to go back to community. If I make an investigation for them, maybe that paper [document opening a case] will be that proof [evidence of the incident]’,” Omari alleged.” (IRIN News (21 November 2009) *South Africa: Foreigners (still) beware*)

References:

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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