

**Refugee Review Tribunal  
AUSTRALIA**

**RRT RESEARCH RESPONSE**

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**Questions**

- 1. Please provide information on an individual's right to enter and reside in South Africa as a permanent resident pursuant to s26B of the Immigration Act of South Africa. Are there any limitations on this right of residence?**
- 2. Is there any information suggesting that persons of Bangladeshi background (or South Asian) are targeted by individuals in the South African community? If so please advise on the effectiveness of police protection.**
- 3. Is there a branch of the Awami League in South Africa. If so is there any information on office holders?**

**RESPONSE**

- 1. Please provide information on an individual's right to enter and reside in South Africa as a permanent resident pursuant to s26B of the Immigration Act of South Africa. Are there any limitations on this right of residence?**

Section 26 of the South African Immigration Act of 2002 indicates that an individual would be granted a "permanent residence permit" if they were the "the *spouse* of a *citizen* or *resident*". The Act also states that the permit will lapse if at any time this "*spousal relationship* no longer subsists" within a three year period from its "*application*". Section 26 of the Immigration Act is as follows:

26. Subject to section 25, the *Department* shall issue a permanent residence permit to a *foreigner* who

(a) has been the holder of a *work* permit, including one issued under a corporate permit, in terms of *this Act* for five years and has received an offer for permanent employment, provided that

(i) such *foreigner* submitted a certification from his or her prospective permanent *employer's chartered* accountant of the job description and that the position exists and is intended to be filled by such *foreigner*; and

(ii) the *Department of Labour* certifies that the terms and conditions of such offer, including salary and benefits, are not inferior to those prevailing in the relevant market segment for *citizens* and *residents*, taking into account applicable collective bargaining agreements and other standards;

(b) is the spouse of a *citizen* or *resident*, provided that-

(i) the *Department* is satisfied that a good faith spousal relationship exists; and

**(ii) such permit is issued on condition that it shall lapse if at any time within three years from its application the good faith spousal relationship no longer subsists, save for the case of death;**

(c) is a child of a *citizen* or *resident* under the age of 21, provided that such permit shall lapse if such foreigner does not submit an application for its confirmation within two years of his or her having turned 21 years of age; or

(d) is a child of a *citizen*.

(Republic of South Africa 2002, *Immigration Act*, Republic of South Africa Government Gazette, 30 May, Section 26B <http://www.info.gov.za/view/ReportFileAction?id=68047> – Accessed 22 May 2008 – Attachment 1).

The Act defines certain terms as follows:

“application” means a request in the prescribed form which complies with the requirements and provides the information and documentation which may be prescribed;

...”citizen” has the meaning assigned thereto in the South African Citizenship Act, 1995 and “citizenship” has a corresponding meaning;

...”spouse” means a person who is party to a marriage, or a customary union, or to a permanent homosexual or heterosexual relationship which calls for cohabitation and mutual financial and emotional support, and is proven by a prescribed affidavit substantiated by a notarial contract and “spousal relationship” has a corresponding meaning;

(Republic of South Africa 2002, *Immigration Act*, Republic of South Africa Government Gazette, 30 May, Section 1 <http://www.info.gov.za/view/ReportFileAction?id=68047> – Accessed 22 May 2008 – Attachment 1).

Section 25 of the Immigration Act indicates that permanent residence permits provide holders with “all the rights, privileges, duties and obligations of a citizen, save for those rights, privileges, duties and obligations which a law or the Constitution explicitly ascribes to citizenship”. The Act also outlines permanent residence as follows:

Permanent residence

25. (1) The holder of a permanent residence permit has all the rights, privileges, duties and obligations of a citizen, save for those rights, privileges, duties and obligations which a law or the Constitution explicitly ascribes to citizenship.
- (2) Subject to this Act, upon application, one of the permanent residence permits set out in sections 26 and 27 may be issued to a foreigner.
- (3) A permanent residence permit is to be issued on condition that the holder is not a prohibited person, and subject to section 28 of this Act.
- (4) For good cause, as prescribed, the Department may attach reasonable individual terms and conditions to a permanent residence permit.
- (Republic of South Africa 2002, *Immigration Act*, Republic of South Africa Government Gazette, 30 May, Section 25 <http://www.info.gov.za/view/ReportFileAction?id=68047> – Accessed 22 May 2008 – Attachment 1).

For further information on citizenship see the South African Citizenship Act, 1995 (Republic of South Africa 1995, *Citizenship Act*, 6 October <http://www.info.gov.za/acts/1995/a88-95.pdf> – Accessed 22 May 2008 – Attachment 2).

**2. Is there any information suggesting that persons of Bangladeshi background (or South Asian) are targeted by individuals in the South African community? If so please advise on the effectiveness of police protection.**

Sources indicate that “foreigners” and “immigrants”, including some people of Bangladeshi and South Asian background, have been targeted, and have had their businesses targeted, for attacks in recent years. An August 2005 report by *BBC Monitoring Africa* commented specifically on the Bangladeshi community in South Africa:

They have carved out a niche, opening general dealerships, grocery shops or selling cheap textiles. They have married local women. Many have embraced the communities in which they live, picking up Sotho in a “matter of months”.

...Moulana Iqbal Adam – the spiritual head of a mosque in Bloemfontein’s CBD – goes some way to explaining it. “Bangladesh is a terribly poor country. When they come here and live in a garage, it is like living in a palace. For them it is immaterial where they stay as long as they make ends meet.”

The Muslim community in the Free State is expanding rapidly, Adam said. At present, there are nine mosques and madrassas (religious schools) scattered across the province. It is a dramatic shift for a province that gained notoriety for statutes prohibiting “an Arab, a Chinaman, a Coolie or any other Asiatic or coloured person from carrying on business or farming”.

For the Bangladeshi nationals, township life can be an uneasy existence. They stand out as something “other”. Their businesses are easy targets for criminals.

Earlier this year, during riots over service delivery in Phomolong in Ventersburg, protesters looted Bangladeshi shops and hounded their owners out of town. But, for the most part, the Bangladeshis agree that they have been warmly received (‘Bangladeshi Muslim community “expanding rapidly” in South African state’ 2005, *BBC Monitoring Africa*, source: Sunday Times website, 7 August – Attachment 3).

Reports also indicate that xenophobia has been increasing in South Africa as some South Africans have blamed Zimbabwean immigrants and other “foreigners” for job scarcity and a high crime rate. A January 2007 report by *iAfrica.com* noted:

Xenophobia is on the rise in South Africa where foreigners are increasingly being blamed for spiralling crime and growing unemployment, thereby damaging the country’s credentials overseas.

...Of late, hate attacks have tended to target Zimbabweans and Somalis.

...South Africa’s alarming crime rate – one of the world’s highest – is blamed by many on foreigners.

Ivory Coast national Etienne Gaba is enraged at being the butt of threats, intimidation and insults.

“South Africans forget that it is their population of foreign descent which catapulted this country to being the continent’s superpower.”

“Foreigners bring in money and create businesses and jobs. What do we get in return? Being called amakwerekwere,” a pejorative word for foreigner, he said.

**Muneer, a Bangladeshi restaurateur in Johannesburg suburb, echoes him.**

**“I saw a business opportunity where no South African saw one. I set up this place and I employ 34 people, including some locals. And yet they accuse me of kicking them in the stomach,” he said** (Chanda, A. K. 2007, ‘Xenophobia on the rise in SA’, *iAfrica.com* website, 29 January <http://iafrica.com/news/features/601796.htm> – Accessed 21 May 2008 – Attachment 4).

Also, in 2007 *Post* reported that a Bangladeshi couple had been “brutally murdered at their Lenasia home” in the Gauteng province of South Africa, however it was unclear if the murders were racially motivated (Nair, Y. 2007, ‘Crippled children left orphaned’, *Post*, 28 March – Attachment 5).

Sources also indicate that there has recently been a “wave of xenophobic” and anti-immigrant violence in South Africa. In May 2008, a number of people were killed in a string of anti-foreigner violence and riots that “also affected businesses owned by immigrants from Asian countries”, as *News.com.au* reported:

Violent attacks against immigrants in South Africa have killed 13 people with rioters claiming foreigners are responsible for rising crime levels and low employment opportunities.

...Hundreds of foreigners have taken refuge in police stations and churches as the violence against them spread further across poor townships.

Some South Africans, especially those living in poor areas of high unemployment, accuse Zimbabweans and other newcomers of fuelling the high crime rate and taking scarce jobs.

The attacks have renewed the authorities’ fears that xenophobia is on the rise in a country which was once known as one of the most welcoming to immigrants and asylum seekers, especially from Africa.

**The violence has also affected businesses owned by immigrants from Asian countries like Pakistan** ('Man set on fire in anti-foreigner riots' 2008, News.com.au website, 19 May <http://www.news.com.au/story/0,23599,23720961-2,00.html?CMP=KNC-google> – Accessed 21 May 2008 – Attachment 6).

Similarly, *ZimOnline* reported on the wave of violence in May 2008:

A wave of xenophobic attacks has spread across mostly poor suburbs of South Africa's commercial capital but police said on Monday the violence had also affected parts of Johannesburg's busy central business district, where gangs of local men armed with guns, machetes and home-made weapons looted several shops owned by foreigners.

...Some South African newspapers reported on Monday that as many as 20 people may have been murdered in the violence that began last week in Alexandra, a township of the poor in the north of Johannesburg (Mombe, J. 2008, '13 foreigners killed in Johannesburg', *ZimOnline*, 19 May <http://www.zimonline.co.za/Article.aspx?ArticleId=3184> – Accessed 21 May 2008 – Attachment 7).

Sources also indicate that the May 2008 violence was not the first time immigrants have been targeted in South Africa. Reports from the past few years indicate a number of attacks against immigrants in South Africa which have been particularly targeted against African immigrants from Zimbabwe and Somalia. *BBC Monitoring Africa* reported in February 2007:

Violence against African immigrants is not new to South Africa, but Somalis say they have become soft targets for aggressors.

In the last two years incidents have occurred in George and Plettenberg Bay, along the Garden Route, in Johannesburg and in the Free State.

Last year Cape Town was the scene of bitter tension with dozens of Somalis reportedly killed in a spate of attacks.

Then last Monday violence exploded in Port Elizabeth's Motherwell township where locals went on the rampage, looting and burning Somali-owned stores.

The unrest erupted when three armed robbers stormed a spaza shop, demanding money from its Somali owners. Discrepancies exist about what happened next but shots were fired (police say by the Somalis, who have denied the charge) and a bullet ricocheted into a leg of a local teenager ('Article Views Violence, Xenophobia Against Immigrant Somalis in South Africa' 2007, *BBC Monitoring Africa*, source: Sunday Times, 25 February – Attachment 10).

*Reuters News* reported in September 2006:

The latest attacks have been directed at township "spaza" shops -- small stores selling soft drinks and snacks or clothes -- in which Somali businesspeople have flourished.

Local residents blame them for loss of trade, and dwindling profits, provoking mob violence and gangster-type hits.

More than a decade after the end of apartheid, the vast majority of South Africa's black population remains desperately poor, accounting for the bulk of the country's almost 30 percent official unemployment.

“Desperate people do desperate things,” said Frans Cronje, analyst at the South African Institute for Race Relations. “We have seen this happen elsewhere. Foreign black Africans are targeted mainly when they are living in black communities.”

Cronje said the issues are usually the same: “That they are stealing jobs from South Africans, they are stealing services from South Africans and that they are stealing South African women.” (Bell, G. 2006, ‘Somalis face anti-immigrant attacks in S.Africa’, *Reuters News*, 1 September – Attachment 11).

A dated *BBC News* report from October 2001 also commented on an earlier outbreak of violence:

Hundreds of Zimbabweans are seeking refuge at a police station in Johannesburg after South Africans burnt and looted their shacks in a settlement near the city.

... Eyewitnesses said six people were injured and more than 100 shacks destroyed during the clashes.

Trouble had been brewing since the murders last month of two South Africans, both blamed on Zimbabweans.

A South African television journalist, Mark Kluzner, witnessed the rioting.

“What we saw were shacks that had been set alight, places had been completely trashed and looted,” he told the BBC’s Focus on Africa programme.

“There were mobs of youths running around the township trying to find Zimbabweans who they claim are criminals in the community,” he added.

Mr Kluzner also said the mob targeted Zimbabweans who were married to South Africans and had lived in the country for years (‘Immigrants seek SA police protection’ 2001, *BBC News*, 23 October <http://news.bbc.co.uk/2/hi/africa/1613992.stm> – Accessed 21 May 2008 – Attachment 12).

Little information could be found in the searches conducted on the effectiveness of police protection for Bangladeshi or South Asian immigrants in South Africa. In response to the May 2008 anti-immigration riots, reports indicated that police were using their stations as shelters for immigrants. *CBC News* noted in a report from 20 May 2008:

Police and the governing African National Congress party in South Africa stepped up efforts Tuesday to quell a wave of violent attacks against foreigners that have left 24 people dead in recent days

... Armed police are deployed in the affected areas, and migrants are being offered shelter and protection in police stations (‘South Africa reels under anti-foreigner violence’ 2008, *CBC News*, 20 May <http://www.cbc.ca/world/story/2008/05/20/africa-violence.html> – Accessed 21 May 2008 – Attachment 8).

A *CNN* report from 21 May also noted:

South African police have arrested more than 200 people in connection with the violence for offenses including rape, murder, robbery and theft.

Police director Govindsamy Mariemuthoo said that at least one foreigner was burned alive over the weekend, while others saw their houses torched, their shops looted and their possessions stolen.

Tuesday there was a large police presence in the neighborhoods where the violence had occurred, according to a CNN producer on the scene.

Despite the police presence, sporadic looting still took place in several townships east of Johannesburg ('Police patrol South Africa riot zone' 2008, *CNN*, 21 May <http://edition.cnn.com/2008/WORLD/africa/05/20/southafrica.violence/index.html> – Accessed 22 May 2008 – Attachment 9).

### **3. Is there a branch of the Awami League in South Africa. If so is there any information on office holders?**

Sources indicate that there is a South African branch of the Awami League, however, minimal information could be found on the branch in the searches conducted. A July 2007 report by *Pretoria News* commented on demonstrations in Pretoria against the trial in Bangladesh of former Prime Minister Sheikh Haseena on corruption charges. This report noted that Mazbaul Chowdhery was the Awami League's South African branch president:

Hundreds of demonstrators gathered outside an embassy in Pretoria demanding the release of a political prisoner. Protesters waving banners and chanting slogans outside the Bangladeshi High Commission yesterday demanded the freeing of former Bangladeshi Prime Minister Sheikh Haseena.

Haseena, who was arrested as part of the Bangladeshi government's crackdown on corruption earlier this month, is the president of the Awami League.

She was arrested after allegedly extorting bribes from business people.

**...Mazbaul Chowdhery, Awami League's South African branch president, said they were demanding the release of Haseena**

"She is not corrupt and it is wrong for our government to be doing this," said Chowdhery.

A Bangladeshi official said Haseena's arrest was part of the current caretaker government's crackdown on corruption (Hosken, G. 2007, 'Free former prime minister – protesters', *Pretoria News*, 31 July – Attachment 13).

No other reports could be found in the searches conducted on the Awami League in South Africa, nor on Mazbaul Chowdhery.

### **List of Sources Consulted**

#### Internet Sources:

Google <http://www.google.com.au/>

All the web <http://www.alltheweb.com/>

Altavista <http://www.altavista.com/>  
Ask <http://www.ask.com/?ax=5>  
Exalead <http://www.exalead.com/search>  
Yahoo! <http://search.yahoo.com/>

### **Government Information & Reports**

Immigration & Refugee Board of Canada <http://www.irb.gc.ca/>  
UK Home Office <http://www.homeoffice.gov.uk>  
US Department of State <http://www.state.gov/>  
South African Independent Electoral Commission  
[http://www.elections.org.za/Registered\\_Parties/Selection\\_Party.asp](http://www.elections.org.za/Registered_Parties/Selection_Party.asp)

### **Non-Government Organisations**

Amnesty International website <http://www.amnesty.org/>  
Human Rights Watch <http://www.hrw.org/>

### **International News & Politics**

BBC News <http://www.bbc.co.uk/worldservice/index.shtml>

### Databases:

BACIS (DIMA Country Information database)  
REFINFO (IRBDC (Canada) Country Information database)  
ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)  
RRT Library Catalogue

### **List of Attachments**

1. Republic of South Africa 2002, *Immigration Act*, Republic of South Africa Government Gazette, 30 May  
<http://www.info.gov.za/view/ReportFileAction?id=68047> – Accessed 22 May 2008.
2. Republic of South Africa 1995, *Citizenship Act*, 6 October  
<http://www.info.gov.za/acts/1995/a88-95.pdf> – Accessed 22 May 2008.
3. ‘Bangladeshi Muslim community “expanding rapidly” in South African state’ 2005, *BBC Monitoring Africa*, source: Sunday Times website, 7 August. (FACTIVA)
4. Chanda, A. K. 2007, ‘Xenophobia on the rise in SA’, iAfrica.com website, 29 January  
<http://iafrica.com/news/features/601796.htm> – Accessed 21 May 2008.
5. Nair, Y. 2007, ‘Crippled children left orphaned’, *Post*, 28 March. (FACTIVA)
6. ‘Man set on fire in anti-foreigner riots’ 2008, News.com.au website, 19 May  
<http://www.news.com.au/story/0,23599,23720961-2,00.html?CMP=KNC-google> – Accessed 21 May 2008.
7. Mombe, J. 2008, ‘13 foreigners killed in Johannesburg’, *ZimOnline*, 19 May  
<http://www.zimonline.co.za/Article.aspx?ArticleId=3184> – Accessed 21 May 2008.

8. 'South Africa reels under anti-foreigner violence' 2008, *CBC News*, 20 May  
<http://www.cbc.ca/world/story/2008/05/20/africa-violence.html> – Accessed 21 May 2008.
9. 'Police patrol South Africa riot zone' 2008, *CNN*, 21 May  
<http://edition.cnn.com/2008/WORLD/africa/05/20/southafrica.violence/index.html> – Accessed 22 May 2008.
10. 'Article Views Violence, Xenophobia Against Immigrant Somalis in South Africa' 2007, *BBC Monitoring Africa*, source: Sunday Times, 25 February. (FACTIVA)
11. Bell, G. 2006, 'Somalis face anti-immigrant attacks in S.Africa', *Reuters News*, 1 September. (FACTIVA)
12. 'Immigrants seek SA police protection' 2001, *BBC News*, 23 October  
<http://news.bbc.co.uk/2/hi/africa/1613992.stm> – Accessed 21 May 2008.
13. Hosken, G. 2007, 'Free former prime minister – protesters', *Pretoria News*, 31 July. (FACTIVA)