

Mandates of the Special Rapporteur on the human rights of migrants; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Working Group of experts on people of African descent

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Chair-Rapporteur of the Working Group of experts on people of African descent pursuant to Human Rights Council resolutions 26/19, 25/32, 26/12 and 27/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **a series of xenophobic and racist attacks perpetrated against migrants, refugees and asylum-seekers**, in different locations and provinces, especially in the provinces of KwaZulu-Natal and Gauteng.

In 2008, a series of xenophobic attacks had resulted in the death of sixty-two persons following violent riots in Johannesburg townships against migrants and asylum-seekers. In this regard, the Special Rapporteur on the human rights of migrants addressed an allegation letter to South Africa on 30 May 2008 (Reference: AL G/SO 214 (106-7)). As well, the Special Rapporteur on the human rights of migrants and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance addressed joint allegation letters on the issue of xenophobic violence in South Africa on 29 October 2008 (Reference: AL G/SO 214 (106-7) G/SO 214 (78-12)) as well as on 7 December 2009 (Reference: AL G/SO 214 (78-15)).

According to information received:

Between May and June 2014, hundreds of migrants, asylum-seekers and refugees were displaced in the Orange Farm and Diepsloot areas of Gauteng province following xenophobic attacks on their businesses and homes and more than sixty foreign-owned shops were forced to close.

Between June and September 2014, Somali nationals were victims of similar attacks in KwaZakhele and New Brighton areas of Port Elizabeth, Eastern Cape Province, and several of their shops were looted and burnt.

On 21 March 2015, Zulu King Goodwill Zwelithini reportedly said in remarks to the media that foreigners should “pack their bags and leave the country.” Since then, the Royal House denied that the king made such comments, and claimed that he was mistranslated and quoted out of context.

On 30 March 2015, about 120 foreign nationals from Congo, Burundi, Rwanda, Ethiopia and Malawi were pelted with stones in Isipingo and Durban, KwaZulu-Natal Province, and accused of destroying local businesses, which forced them to spend the night at the local police station. A house owned by a South African and rented by a group of foreigners was stoned. Several foreign nationals were arrested for carrying bush knives and a group of policemen reportedly beat them at the police station.

Between 6 April and 29 April 2015, at least four foreigners and three South African nationals died, including a 14-year-old boy, were killed in attacks in Durban, properties were looted and over 1,000 people, including refugees and asylum-seekers, were displaced. The attacks targeted African immigrants, including those from Zimbabwe, Ethiopia and Somalia, and included violence against journalists covering these incidents and police. Foreign nationals were reportedly called “kwerekwere” (a derogatory word for a foreigner) by locals.

The unrest started in Isipingo and Chatsworth, where several grocery shops owned by foreign nationals were vandalized, and spread to KwaMakhutha and Umlazi. More than 200 foreign nationals who fled their homes and businesses in the wake of the attacks were accommodated at Isipingo Beach camp.

The Provincial police spokesperson confirms that Chatsworth residents attacked foreign nationals staying in an informal settlement on 7 April 2015. Foreign nationals in Sydenham are also attacked.

On 8 April 2015, a group of foreign nationals protested against the violence during a march that was dispersed by police with tear gas and water cannons reportedly to guarantee the safety of protestors.

On 10 April 2015, Zulu King Goodwill Zwelithini said in a statement that the attacks were “taking the continent backwards”. The same day, an Ethiopian-owned shop in Umlazi was petrol bombed, which made two Ethiopian nationals suffer serious burns, of which one later died. Reports indicate that the police was unable to prevent the violence and looting of foreign-owned shops. Suspects linked to incidents around Umlazi Cluster and Chatsworth are arrested

On 12 April 2015, President Jacob Zuma condemned the violence and sent a high-level delegation to work with the KwaZulu-Natal provincial government to address the situation. The members of the delegation included the ministers of Home Affairs, State Security and the Police. Members of the South African Defence Force are deployed to various ports of entry in the country to prevent illegal migration.

On 13 April 2015, the Premier of KwaZulu-Natal province, Senzo Mchunu, established a task team of experts, under the leadership of the former United Nations High Commissioner for Human Rights, Judge Navi Pillay, to investigate the causes of the violence in the province and advise the Government on the integration of foreigners into the local communities on a long term basis.

Shelters in Durban initially housing 1,500 people are provided. About 420 Malawians are reportedly living in shelters in Durban. About 8,500 people were reportedly hiding in refugee centers or police stations. The same day, ANC Secretary General Gwede Mantashe allegedly called for the establishment of refugee camps stating that the incidents undermine South Africa's integration model for refugee protection and may inadvertently encourage further attacks.

Between 14 and 15 April, xenophobic attacks spread to Verulam and Pietermaritzburg, where foreign-owned shops were looted. A 58-year-old foreign national was attacked by a mob at his home in Verulam, fled and died of his injuries. A Malawian national was burnt alive in Durban. The Provincial police spokesperson reportedly indicated that about 300 local people were looting foreign owned shops. Arrests in the KwaZulu-Natal province occur. UNHCR indicates the receipt of reports from refugees around the country that they are afraid to go about their daily lives for fear of being attacked.

On 16 April 2015, President Zuma addressed Parliament regarding the xenophobic attacks and appealed for calm and tolerance across the country. Opposition parties also gave supportive statements to Parliament on the issue.

On the evening of 16 April 2015, locals attacked foreign owned shops around the central business district of Johannesburg. Police intervened quickly and managed to contain the violence and additional arrests occur. The peace march organised in Durban on 16 April was peaceful, although some violence reportedly occurred near the end of the march but it was quickly contained by police.

On 17 and 18 April, groups of locals continued to loot stores in Johannesburg. Police arrested about 30 people following the attacks. The same day, the Provincial Disaster Management in Gauteng Province met with all municipalities. Other municipal disaster management centres are monitoring reports from communities to ensure that such incidents are prevented from re-occurring.

The Minister of Foreign Affairs met with members of African diplomatic

missions on 17 April 2015 to reaffirm the Government's position regarding its response to the situation.

On 20 April King Zwelithini held an *imbizo* with Government and religious leaders to call for peace but indicates that he does not take responsibility for the recent xenophobic attacks. Xenophobic violence erupts in Isipingo and reports indicate attacks against persons seeking to return to their homes and businesses.

On the same day, the President calls for the establishment of an interministerial task team to address the attacks on foreign nationals and look at the issue of migration.

The Minister of Defense announces the deployment of the army on 21 April, to assist in preventing xenophobic attacks in townships in Johannesburg and Durban following the murder of a Mozambican national. The Minister also announced that both South African and foreign nationals found in possession of illegal weapons would face the full might of the law. Arrests occur during an army raid in Jeppestown.

On 23 April, President Jacob Zuma convened a meeting of organizations representing foreign nationals to discuss immigration policy and how various sectors can work with Government to promote orderly migration and good relations with citizens and other national. They unanimously condemn and reject the attacks perpetrated against foreign nationals.

On 27 April, during his Freedom Day Celebrations speech, the President states that Government will work with communities to ensure that support is provided to refugees and asylum seekers in the country. Undocumented foreigners are arrested following stop-and-search operations in Johannesburg

No new deaths following racist violent incidents have been reported. Some foreigners return to the communities whilst others decide to return or are repatriated to their home countries since

In total, it is alleged that more than 300 suspects have been arrested and that these attacks have left some 5,300 foreigners homeless in Durban, these persons being assisted in four sites through municipal and provincial disaster management responses. Approximately, 1,800 people are estimated displaced in Ekurhuleni Municipality in Gauteng. Many refugees all around the country are claiming that they are afraid to go back home for fear of being attacked and are concerned by the slow reintegration process into former or new communities. The South African Government is working closely with the United Nations High Commissioner for Refugees (UNHCR), United Nations Children's Fund (UNICEF), International Organisation for Migration (IOM), as well as non-governmental organisations to provide food, psycho-social and other support and

amenities to the people affected. A 24-hour call centre has been established in case further similar attacks would occur in the future.

Serious concerns are expressed about the failure of the authorities to prevent and address repeated incidents of racism and xenophobia and the ability of the Government to hold perpetrators to account. Concerns are also expressed as these incidents seem to illustrate a worrying pattern of racism, racial discrimination and xenophobia against foreign nationals and migrants.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Have complaints been lodged by victims of violence or by their relatives? If so please provide the details, and where available the results, of any investigation, judicial or other inquiries which may have been carried out in relation to these incidents. If no inquiries have taken place, or if they have been inconclusive, please explain why. If prosecutions have been undertaken, please provide the sanctions imposed on the alleged perpetrators.
3. Please indicate whether compensation has been provided to the victims or the family of the victims.
4. Please provide information about measures taken to provide humanitarian assistance to displaced populations and prevent the reoccurrence of xenophobic acts against migrants, to guarantee their rights and freedoms without discrimination, and to foster tolerance, mutual understanding and social harmony between citizens and non-citizens, and promote respect for cultural diversity.
5. Please provide information on the measures taken to prevent the propagation of racist and xenophobic statements, including against migrants by public officials and to hold persons responsible for such acts accountable.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the human rights of migrants

Mutuma Ruteere
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia
and related intolerance

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Mireille Fanon Mendes-France
Chair-Rapporteur of the Working Group of experts on people of African descent

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to remind to your Excellency's Government of its obligations under the International *Convention on the Elimination of All Forms of Racial Discrimination* (CERD), which it ratified on 10 December 1998, in particular articles 2, 4, 5(b), 6 and 7.

We would also like to draw the attention of your Excellency's Government to Human Rights Council Resolution 18/21 and General Assembly Resolution 68/179, which call upon States "to respect the human rights and the inherent dignity of migrants" as well as "strongly condemns the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them".

Furthermore we would like to draw the attention of your Excellency's Government to *General Recommendation No. 30 on Discrimination Against Non-Citizens* of the Committee on the Elimination of Racial Discrimination which contains a number of recommendations including to take steps to address xenophobic attitudes and behavior towards non-citizens, ensure that legislative guarantees against racial discrimination apply to non-citizens regardless of their immigration status and that non-citizens enjoy equal protection of the law, as well as the security of non-citizens.

We would also like to refer to article 3 of the Universal Declaration of Human Rights and article 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), acceded to by South Africa on 10 December 1998, which provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life.

The Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, (resolution 1989/65 Economic and Social Council) recall States' duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions and the obligation to bring to justice all persons identified by the investigation as having participated in those executions. They also provide for the effective protection through judicial or other means of individuals and groups who are in danger of extra-legal, arbitrary or summary executions. The families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time.