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# Taking Action on Threats of Xenophobic Violence: Recommendations for the Inter-Ministerial Committee

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11<sup>th</sup> June 2010

Widespread mass xenophobic violence in the aftermath of the FIFA World Cup appears a credible threat at present. Xenophobic violence has continued since May 2008 on a smaller scale in a number of locations around the country. This document sets out recommendations for the Inter-Ministerial Committee (IMC) on measures necessary to address xenophobic violence in South Africa on an ongoing basis. These recommendations include both short term and long term measures and most of these recommendations are supported by the South African Human Rights Commission's *Report on the SAHRC Investigation into Issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence against Non-Nationals*<sup>1</sup>. The Consortium for Refugees and Migrants in South Africa (CoRMSA) is available to assist the IMC in the development of such programmes.

## RECOMMENDATIONS:

### 1. Strengthen the ability to detect and respond to threats or outbreaks of xenophobic violence

There is a need to strengthen the detection of threats of xenophobic violence at community level by gathering intelligence from all available sources. This includes a centralised national contact number where people can report threats or outbreaks of xenophobic violence, as the general 10111 number has proved insufficient for this.

The South African Police Force's Visible Policing Unit at national level is establishing an Early Warning System with members of civil society and the United Nations to increase effective and timely responses. This needs to be supported and strengthened across the country with clear written directives through the chain of command within police services on the necessity to co-operate. There is also a need to review the lessons learned from the experience of the large scale violence of 2008 with a view to strengthening the response capacity and speed of response in the event of actual or threatened violence on a similar scale.

**Suggested lead actors:** South African Police Force, State Security.

### 2. Publicly condemn all threats or outbreaks of xenophobic violence

All threats and outbreaks of xenophobic violence need to be acknowledged and condemned by government leaders at the appropriate levels. The Bill of Rights provides for the right to equal protection of the law and the right to be free from all forms of violence from either public or private sources, regardless of a person's nationality or legal status in the country. Threats and outbreaks of violence need to be condemned by

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<sup>1</sup> The report was released in March 2010 and is available at <http://www.cormsa.org.za/wp-content/uploads/2009/05/hrc-report.pdf>

Mayors, Premiers and even the Presidency in the more extreme cases. This is essential as some perpetrators of xenophobic violence appear to believe they have the tacit support of political actors.

**Suggested lead actors:** Local mayors, Premiers and the Presidency.

### **3. Strengthen conflict resolution and prevention mechanisms at community level**

There are insufficient mechanisms within many communities to address the causes of tensions and conflicts when they arise. As a result, tensions that could have been managed result in xenophobic or other forms of violence. Evidence from the May 2008 xenophobic violence indicated that local leaders orchestrated violence in many of the affected areas. The ability to detect threats of violence combined with the ability to intervene to resolve conflicts where they emerge would help to avoid violence. In order to manage conflict, municipalities also need to have the ability to investigate the source of conflict in cases where corruption is alleged in the allocation of housing or other services. The ability of municipalities to prevent and manage social conflict should constitute one of the grounds upon which local government's performance is measured.

The Office of the Premier in the Western Cape has developed local conflict resolution capacity which has already played an important role in responding to xenophobic violence for a number of years. This type of capacity needs to be strengthened and developed within municipalities and provinces around the country.

**Suggested lead actors:** Department of Cooperative Governance and Traditional Affairs, Premiers.

### **4. Strengthen access to justice for victims of xenophobic violence**

In many cases, victims of xenophobic violence are unable to access justice. Perpetrators are often not held accountable which results in a perception of impunity for crimes against foreign nationals. In a number of cases, victims of xenophobic violence are intimidated into dropping charges in return for reintegration or are too afraid to press charges against perpetrators. There is a need to improve the accountability of perpetrators of xenophobic violence by fast tracking such cases through the courts. This reduces the opportunity for other community members to lobby for charges to be dropped and enables plans for reintegration or other solutions to proceed.

In addition, many victims of xenophobic violence lose all property and means to support themselves during the process of displacement. The Victim Empowerment Programme's policy guidelines identify victims of 'hate victimisation' as a priority group and provide for compensation and restitution, yet these provisions are rarely applied to victims of xenophobic violence.

**Suggested lead actors:** Department of Justice and Constitutional Development, Department of Social Development.

### **5. Strengthen disaster management systems and assistance to displaced persons**

There is a need to strengthen disaster management systems across the country in order to be better prepared to respond to social conflict such as xenophobic violence. At present, there is an inconsistent response in the different provinces to displacement due to xenophobic violence. Local or district disaster management officials are not always able to ensure access to food, shelter and other humanitarian resources once people are displaced. There is also a need to ensure access to documentation for those

whose documentation was lost or destroyed during the displacement. There is a need to ensure that divisions of responsibility between departments and tiers of government are clear and that processes to follow in order to access further resources are understood.

There is also a need to develop a consistent framework on how to find durable solutions for people displaced by xenophobic violence. This means developing a consistent framework for reintegration or resettlement elsewhere in the country for people displaced by xenophobic violence.

**Suggested lead actors:** National Disaster Management Centre, Department of Cooperative Governance and Traditional Affairs, Department of Social Development, Department of Home Affairs.

**6. Ensure an ongoing coordinated forum at a senior level for action on preventing social conflict and strengthening social cohesion**

Since the outbreak of xenophobic violence of May 2008, there have been a number of welcome developments within different government departments to counter social conflict and improve social cohesion. These have included the work on a National Action Plan against Racism, Racial Discrimination, Xenophobia and Related Intolerance by the Department of Justice and Constitutional Development; the development of a plan on Social Cohesion by the Department of Social Development; the work carried out by the Department of Home Affairs and its Counter-Xenophobia Unit; and the Early Warning Systems being developed by Visible Policing and the National Disaster Management Centre. There is a need to ensure these valuable developments are coordinated at a national level on an ongoing basis as a means of ensuring continuity and that these developments are prioritised.

**Suggested lead actor:** the Presidency.

**7. Improve accountability of government employees who make threats or deny access to services based on xenophobia**

Civil society organisations and members of the public have reported that government employees are among the people threatening violence against foreign nationals. Government employees are also known to refuse assistance to foreign nationals in some instances, in contravention of the law. This has been the case for health care workers, police officials and many others. This contributes to a public perception that foreign nationals are not protected by the state and can be attacked with impunity. There is a need to improve the accountability of these state employees by strengthening the mechanisms by which those affected (including foreign nationals) can report such abuses or contraventions of the law. This may take the form of a centralised hotline or including the reporting of such concerns via existing mechanisms such as the Presidential hotline on service delivery or to the Public Service Commission.

**Suggested lead actor:** Department of Public Service and Administration.

**8. Conduct a public information campaign tackling myths and misperceptions about foreign nationals**

There is a need for a government-run information campaign that addresses concerns around foreign nationals. This campaign needs to include information on the types of documentation that are issued to foreign nationals, as well as address the various myths and stereotypes that members of the public hold. This campaign also needs to ensure that all government departments are familiar with the various forms of legal documentation that foreign nationals hold.

**Suggested lead actors:** Government Communication Information System, Department of Home Affairs.

**9. Include education on diversity within the school curriculum**

There is a need to strengthen education on tolerance and diversity with a specific focus on xenophobia within schools as a means of addressing prejudice at an early age. In many cases, children are involved in xenophobic violence and intervening within schools to address xenophobia is one further way of combating xenophobic violence.

**Suggested lead actor:** Department of Basic Education.

**10. Develop laws to protect against crimes motivated by prejudice**

There is a need to develop law and policy to address crimes motivated by prejudice. Such crime is known internationally as 'hate crime' and remains a challenge in South Africa given the ongoing xenophobic violence, attacks on gay and lesbian people, as well as racist attacks. The introduction of such laws internationally has improved the reporting of hate crime and the police response to hate crimes, and has allowed victims of hate crime to receive better support and access to justice. These measures have also strengthened social cohesion by demonstrating that crimes against minority groups will be effectively dealt with. Mechanisms to address hate crimes in other countries include fast-tracking criminal cases through the justice system where prejudice is suspected to be a motivating factor, mandatory enhanced sentencing of hate crimes offenders as well as special mechanisms to report and investigate suspected hate crimes. The United Nations Committee on the Elimination of Racial Discrimination, the South African Human Rights Commission, and a variety of civil society groups have called on South Africa to introduce specific law and policy on hate crimes.

**Suggested lead actor:** Department of Justice and Constitutional Development.