

Report of the Special Reference Group on Migration and Community Integration in KwaZulu-Natal

Commissioned by the Provincial
Government of KwaZulu-Natal



Special Reference Group on

**MiGRATiON
& COMMUNiTY
iNTEGRATiON**

i n K w a Z u l u - N a t a l

**REPORT OF THE
SPECIAL REFERENCE GROUP
ON MIGRATION AND
COMMUNITY INTEGRATION IN
KWAZULU-NATAL**

31 OCTOBER 2015

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LIST OF ACRONYMS AND ABBREVIATIONS

ACCORD	African Centre for the Constructive Resolution of Disputes
ACMS	African Centre for Migration and Society at the University of Witwatersrand
ASEAN	Association of Southeast Asian Nations
AU	African Union
BBM	Blackberry Messenger
CBD	Central Business District
CCE	Community Capacity Enhancement Model
CCMA	Commission for Conciliation, Mediation and Arbitration
COGTA	Department of Cooperative Governance and Traditional Affairs
CPF	Community Policing Forum
CSO	Civil society organisation
DAC	Department of Arts and Culture
DHA	Department of Home Affairs
DIRCO	Department of International Relations and Cooperation
DOJ	Department of Justice
DOJ&CD	Department of Justice and Constitutional Development
DRC	Democratic Republic of the Congo
DSD	Department of Social Development
DUT	Durban University of Technology
DZP	Dispensation of Zimbabweans Project
EAC	East African Community
ECOWAS	Economic Community of West African States
EU	European Union
GCIS	Government Communications and Information System
GCRO	Gauteng City Region Observatory
GDP	Gross domestic product
HIV/AIDS	Human Immunodeficiency Disease / Acquired Immunodeficiency Syndrome
HOD	Head of Department
HSRC	Human Sciences Research Council
ID	Identification Document
IMC	Inter-Ministerial Committee on Migration
INK	Inanda-Ntuzuma-KwaMashu
IOM	International Organisation for Migration
KZN	KZN
KZNSCC	KZN Somali Community Council
LHR	Lawyers for Human Rights
LRC	Legal Resources Centre
MEC	Member of the Executive Council, Provincial Government
MiWORC	Migration for Work Research Consortium

REPORT OF THE SPECIAL REFERENCE GROUP ON MIGRATION AND COMMUNITY INTEGRATION IN KWAZULU-NATAL
LIST OF ACRONYMS AND ABBREVIATIONS

MSF	Médecins Sans Frontières / Doctors Without Borders
NA	National Assembly
NAFCOC	National African Chamber on Commerce and Industry
NATJOINTS	National Joint Operational and Intelligence Structure
NCOP	National Council of Provinces
NDPP	National Director of Public Prosecutions
NGO	Non-government organisation
NIBUS	National Informal Business Upliftment Strategy
NPA	National Prosecuting Authority
OAU	Organisation of African Unity
PMG	Parliamentary Monitoring Group
OSS	Operation Sukuma Sakhe
PROVJOINTS	Provincial Joint Operational and Intelligence Structure, KZN
RAB	Refugee Appeals Board
RDP	Reconstruction and Development Programme
REC	Regional Economic Community
RRO	Refugee Reception Office
RSC	Refugee Standing Committee
RSDO	Refugee Status Determination Officer
RSS	Refugee Social Services
SABC	South African Broadcasting Corporation
SADC	Southern African Development Community
SAHRC	South African Human Rights Commission
SAMA	South African Medical Association
SANDF	South African National Defence Force
SAPS	South African Police Services
SARS	South African Revenue Services
SCRA	Standing Committee for Refugee Affairs
SME	Small and Medium Enterprises
SPP	Senior Public Prosecutor
SRG	Special Reference Group on Migration and Community Integration in KZN
SSA	State Security Agency
StatsSA	Statistics South Africa
TRC	Truth and Reconciliation Commission
UKZN	University of KZN
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNHCR	United Nations High Commission for Refugees
VAT	Value-Added Tax
VSCPP	Volunteer Social Crime Prevention Project

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FOREWORD

This report is the outcome of an inquiry, undertaken by the Special Reference Group on Migration and Community Integration in KZN (hereafter referred to as the SRG), into the causes and consequences of the March-May 2015 violent attacks in KwaZulu-Natal (KZN) against foreign nationals. The SRG is an independent group, appointed by Premier Senzo Mchunu and the Executive Council of the KZN Provincial Government in April 2015. The SRG was mandated to assess the reported causes and socio-economic impacts of the attacks, to consider the successes and shortcomings of past and on-going initiatives for reducing tensions between communities, and to outline immediate and long-term solutions in response to the violence.

The SRG is comprised of seven members: Judge Navi Pillay (Chairperson), Mr Comfort Ngidi (Deputy Chairperson), Mr Vasu Gounden, Ms Stephanie Miller, Mr Paddy Kearney, Ms Karen Lotter and Mr Muzi Ntombela. The SRG appointed the African Centre for the Constructive Resolution of Disputes (ACCORD) as its official Secretariat in order to support the Group's operational work. The SRG appointed Ms Phumzile Langa as its Spokesperson.

Over the past seven months the SRG has heard from a large cross section of KZN's communities, including from members of the general public, community associations, non-government and humanitarian organisations, religious leaders, political parties, government departments and business chambers, amongst others. In order to identify the causes and consequences of the violent attacks, the SRG undertook site visits to affected and relevant areas, convened consultations, focus groups and interviews, issued a public call for written submissions (in both English and isiZulu) and engaged in an extensive literature and media-based survey to contextualise our inquiry. Our full methodology can be found in Chapter 3 of this report.

The violent attacks occurred within a challenging context in KZN in particular, and in South Africa more broadly. In spite of government efforts, many local South African communities throughout the province continue to confront high levels of poverty and growing inequalities, the ongoing destructive legacy of apartheid. South Africa has since 1994 become a preferred destination for migrants from across the African continent as the result of a confluence of pull and push factors. Some foreign nationals travel across our borders in search of better economic livelihoods and stability, whilst others seek to escape the persecution and political conflicts rampant in their countries. South African legislation has created a welcoming environment for foreign nationals, especially through the progressive Refugees Act (1998), which is in line with South Africa's commitments to relevant

continental and global protocols and an expression of its historical relationship with the rest of Africa. These issues are examined in Chapter 4.

One of the central objectives of this inquiry was to assess the various causes of the violence that took place between March and May of this year. The causes we have identified, and which are examined thoroughly in Chapter 6 of our report, include a multitude of structural, institutional, and societal issues that contributed to both the underlying tensions and the immediate outbreak. The underlying socio-economic challenges laid the foundation for increased competition for employment, basic social services and business opportunities within and between various communities. These tensions were amplified greatly in the informal trading sector, where the successes of traders who are foreign nationals are perceived to have come at the direct expense of their local counterparts. Local communities feel threatened by overwhelming competition, and foreign nationals feel that they have yet to achieve meaningful acceptance within communities where many of them have lived for years. These underlying challenges are amplified by tangible gaps in the implementation of a number of government policies, which led to anxieties amongst locals and left foreign nationals increasingly vulnerable within their communities. These challenges, among others, have created negative misperceptions and stereotypes that remain prevalent between local and foreign nationals and exacerbate the situation during conflict

In Chapter 7, our report elaborates the various structural, institutional and societal consequences of the violence: seven deaths, the injury of many more, the destruction of property and the displacement of thousands in various parts of the province. Economic losses were incurred by various communities, local and multinational businesses, and all three levels of the South African government. The traumatic experiences exacerbated fear and mistrust between many communities. The eThekweni Municipality responded to the violence by establishing Temporary Shelters, which at their peak provided safe haven to over 5,000 people. A majority of the undocumented foreign nationals who sought refuge at the shelters were repatriated to their countries of origin, with some indicating that they would return to South Africa in the near future. A wide range of municipal, provincial and national government bodies responded to restore stability to the affected areas and to begin the long-term process of addressing the underlying grievances that led to the violence, and the trauma caused by the violence.

Based on the evidence, the SRG lists a number of distinct findings, which can be read in full in Chapter 8. Some of the findings are summarised below.

- The SRG found that the immediate cause of the violent attacks was the result of deliberate efforts to drive away competition by foreign national-owned businesses, and the trigger of the outbreak was perceptions of what occurred at KwaJeeena's Supermarket, Isipingo, at the end of March 2015 which were later found by a government investigation to be without substance.
- These incidents together created a highly combustible environment within the context of prevalent poverty, a difficult international economic climate, increasing socio-economic inequality and high levels of unemployment.
- The tensions were most evident in the informal trading sector, where many of the perceptions of foreign national traders, although largely unfounded, contributed to heightened tensions.
- Although the violence only impacted directly on a few areas in the province, the vast majority of people who fled their homes did so out of fear: this highlighted the pervasive trauma and mistrust in various communities.
- The atmosphere of fear was amplified by the spread of unfounded rumours, misinformation, fake videos and images that exaggerated the violent outbreaks, and inflammatory public statements by individuals in leadership positions.
- The SRG also found that challenges in the implementation of immigration-related policies, as well as shortcomings in the policing, justice and intelligence agencies contributed to long term vulnerabilities and tensions between locals and foreign nationals.
- The violence against foreign nationals also invigorated a number of KZN local communities to respond positively and support the displaced and affected.

The report offers a number of recommendations to address the immediate and long-term challenges, and they are elaborated in Chapter 9. Some of our recommendations include the following:

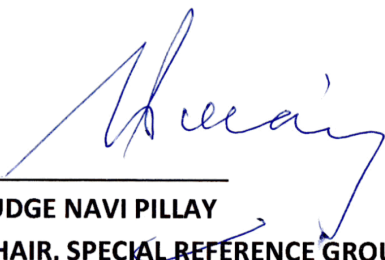
- Proposals to address gaps in the implementation of immigration-based policies, to strengthen the on-going re-integration processes, to promote more collaborative and cooperative trading practices in the informal sector, and to create local forums to promote cohesion and dialogue within communities.
- Proposals for the relevant authorities to sensitise all stakeholders in KZN, including government officials, on the histories, cultures, and rights of foreign nationals living in the province, as well as education campaigns to promote respect for diversity and tolerance amongst the younger population.

- Calls for pro-active information sharing on foreign nationals currently residing in the province and for the Provincial Government to document all the relevant responses and lessons learned from this challenging period.

The underlying tensions between local communities and foreign nationals, which can be traced back to the period before and during the similar violent attacks against foreign nationals that occurred in 2008, have not been resolved. This crucially suggests that there is a strong possibility for recurrence. Projections of demographic and migration trends in Southern African countries, as well as ongoing conflicts in Africa, point to situations where there may well be marked increases of migration into South Africa in the near future and over the long term.

It is important for all South Africans to take responsibility for the development and growth of their country, and to be prepared to engage and cooperate with all persons regardless of their origins and background. Foreign nationals inside the country must continue their efforts to integrate, respect and appreciate the cultures and customs of the communities in which they settle. It is also important for the South African government to ensure that all of its policies and civil servants respect the rights and dignity of all human beings.

The South African Constitution protects the rights and dignity of all persons who reside or are present in the country. In order to realise these commitments, we must all come together and work towards greater cohesion and collaboration, bearing in mind that its own triple threats of poverty, unemployment and inequality cannot be resolved in the short term. Nearly fifteen years ago, the eyes of the world were focused on KZN as Durban hosted the United Nations World Conference on human rights, tolerance and inclusion. In the future, it is hoped that KZN can become a model of integration and cohesion.



JUDGE NAVI PILLAY

**CHAIR, SPECIAL REFERENCE GROUP ON MIGRATION AND COMMUNITY INTEGRATION
IN KWAZULU-NATAL**

1. EXECUTIVE SUMMARY

1. This report is the result of a seven-month inquiry into the causes and consequences of the violent attacks in KwaZulu-Natal (KZN) against foreign nationals¹ by the Special Reference Group on Migration and Community Integration in KZN (hereafter referred to as the SRG), an independent committee appointed by the Executive Council of the KZN Provincial Government in April 2015.
2. The SRG was established by Premier SE Mchunu and the KZN Provincial Government as a direct response to the observed heightening of tensions and violent attacks between local and foreign national communities in parts of the province. The SRG comprised seven members: Judge Navi Pillay (Chairperson), Mr Comfort Ngidi (Deputy Chairperson), Mr Vasu Gounden, Ms Stephanie Miller, Mr Paddy Kearney, Ms Karen Lotter and Mr Muzi Ntombela. The SRG appointed the African Centre for the Constructive Resolution of Disputes (ACCORD) as its official Secretariat in order to support the Group's operational work. The SRG appointed Ms Phumzile Langa as its Spokesperson.
3. The mandate of the SRG was to assess the reported causes and socio-economic impacts of the March-May 2015 attacks against foreign nationals through consultations and the collation of submissions and recommendations. The SRG was also asked to consider the successes and shortcomings of past-and on-going initiatives for reducing tensions between communities, and outline immediate and long-term solutions in response to the violent attacks.
4. The SRG adopted a multi-pronged methodology to conduct its inquiry. This comprised site visits to affected and relevant areas, the convening of consultations, focus groups and interviews, a public call for submissions (in both English and isiZulu)² to identify the causes and consequences of the violent attacks in KZN against foreign nationals, and an extensive literature and media-based survey to contextualise the inquiry.
5. Over the course of April-October 2015, the SRG's inquiry into the causes and consequences of the violent attacks has sought perspectives from a wide-range of communities and

¹ In terms of South Africa's constitutional values, all persons within the country are called 'persons.' The SRG is conscious of the inherent issues with terminology to describe foreign nationals, which was only settled as a descriptive term following a debate amongst SRG members. The SRG uses this term with reservation. Please see Section 3.2 of this report for more detail.

² See Section 10.3 of this report to see the adverts used in the public call as well as the mediums used for publishing this call for submissions.

stakeholders throughout the province. The SRG presents the following report in order to highlight the key issues emerging from this challenging period and offer recommendations to prevent a recurrence.

6. The violent attacks that took place in KZN between March - May 2015 left seven dead, many injured, and thousands displaced over a period of weeks. The violence, in the context of the documented history of tensions against foreign nationals in the country since 1994 underline the seriousness of the problems currently confronting the country.
7. The SRG has identified the following multi-dimensional and complex causes of the violent attacks on foreign nationals in KZN:
8. **Causes with structural dimensions³:** The legacy of apartheid has left South Africa with deep structural disparities, including high levels of unemployment, poverty, and increasing inequality. These difficult socio-economic conditions, prevalent in KZN, are not in and of themselves causes of violence, but they create tensions that may lead to violence:
 - 8.1. Despite the province's economic growth in recent years and interventions targeting socio-economic challenges, most people struggle to meet their daily needs. Increased economic deprivation can lead individuals to target those facing similar circumstances whom they perceive to be unfairly or disproportionately benefitting.
 - 8.2. Limited employment opportunities fuel resentment between locals and foreign nationals, especially within an environment of heightened economic competition. Combined with widespread perceptions that foreign nationals accept lower wages and work longer hours, and that South Africans are lazy and unmotivated workers by comparison with foreign nationals, these employment issues contribute to harmful divisions. Misperceptions of the March 2015 labour dispute at KwaJeeza's Supermarket in Isipingo, Durban, have been identified as the trigger for this outbreak of violence.
 - 8.3. Competition between local and foreign national communities in the small enterprise and informal business sector is amongst the most divisive and immediate causes of the violent attacks. The rapidly changing environment of the informal 'spaza and tuck shop' sector, characterised by the entrance of large retail chains into the townships,

³ See Section 6.2 of this report for a full examination of the identified causes with structural dimensions.

has resulted in the displacement of many traders. Foreign national traders appear to find ways of surviving in this competitive environment.

- 8.4. It is alleged that businesses owned by foreign nationals thrive due to unfair advantages – for example, that they enjoy preferential prices from selected suppliers and that they do not register their businesses - which are perceived to directly undermine the viability of locally-owned businesses.
- 8.5. Intermittent service delivery, especially in township and peri-urban areas, heightens tension within communities. Given increasing urbanisation and the rapid growth of townships and informal settlements throughout the province, there is increasing pressure on local and provincial authorities to meet the urgent demands to provide basic services for all. Some South Africans view foreign nationals as unfair beneficiaries of these social services.
- 8.6. South Africa, relative to the rest of the Southern African region, features a number of structural pull factors that entice foreign nationals to migrate in search of better opportunities. Relative economic prosperity and stability, combined with a progressive policy for asylum seekers and refugees, rank high amongst these pull factors.

9. **Causes with institutional dimensions**⁴: The SRG believes that deficiencies in policy implementation contributed to the dynamics underpinning the violent attacks:

- 9.1. South Africa's Immigration and Refugees Acts, although comprehensive on paper, have not been implemented fully. The Immigration Act does not account for the unique circumstances of many undocumented foreign nationals already in the province. The Refugees Act, which is amongst the most progressive of its kind throughout the world, is not supported by the necessary administrative capacity to regulate, monitor and protect all who seek refuge.
- 9.2. The dearth of infrastructure along much of South Africa's border areas inhibits the capacity of authorities to effectively monitor these areas while negatively impacting the dignity and rights of those people seeking to enter the country legally. This contributes to a widespread but unfounded perception that KZN's borders are completely unregulated.

⁴ See Section 6.3 of this report for a full examination of the identified causes with institutional dimensions.

- 9.3. A lack of accurate data on the number of foreign nationals living in the province contributes to the negative and common belief that foreign nationals are flooding the country. This is exacerbated by a lack of regular communication of available information, including on the different types of migrant permits.
 - 9.4. Shortcomings in the criminal justice and administrative system negatively impact South Africans and foreign nationals alike. High levels of crime, coupled with challenges faced by police in responding to and investigating crimes, fuel perceptions that law enforcement cannot protect those most in need. Specific allegations that foreign nationals are disproportionately victimised by police through apathy, intimidation and bribery also contribute to these prevailing sentiments. The lack of successfully finalised cases compared to the high number of reported incidents, including those involving foreign nationals, strengthens negative perceptions that those who commit crimes are not likely to be held accountable for their actions.
 - 9.5. There was insufficient intelligence information prior to the incidents, and those Alerts that were communicated to leaders did not receive the attention they deserved.
 - 9.6. Inflammatory public statements by individuals in leadership positions, along with the widespread dissemination of misleading and inaccurate rumours on social media, heightened anxieties and tensions throughout the province. The challenging rhetoric and lack of proactive communications contributed to tensions simmering amongst local communities.
10. **Causes with societal dimensions**⁵: Many institutional and structural causes of the violence against foreign nationals are amplified and underpinned by socially-rooted issues, *inter-alia* stereotypes, misperceptions and a lack of dialogue and understanding amongst various communities.
- 10.1. Locals in KZN are unaware of the histories, cultures and personal experiences of foreign nationals currently residing in the province. This is compounded by many locals being unaware that South Africa's Bill of Rights protects all persons in the country, and that there are distinctions between the different categories of migrant permits. Locals felt that many foreign nationals are not part of community-based activities, where their participation could improve relations.

⁵ See Section 6.4 of this report for a full examination of the identified causes with societal dimensions.

- 10.2. Misperceptions and stereotypes characterise relations between locals and foreign nationals. Many locals South Africans stereotype foreigners as criminals, undocumented and irregular. Foreign nationals often stereotype South Africans as unintelligent, lazy and violent.
 - 10.3. There is an absence of meaningful integration and cohesion within many of KZN's diverse communities. This lack of integration applies to foreign nationals as well as South Africans born outside of the province. Individuals shared that they still felt like outsiders in communities where they had lived for many years.
 - 10.4. Issues of unresolved trauma and a lack of societal healing affect many of KZN's diverse communities.
11. The SRG has also identified the following consequences of the violent attacks against foreign nationals. Consequences are identified to include both impacts and responses.
12. **Structural Consequences of the Violence Against Foreign Nationals⁶**: The fact that violent outbreaks contributed to seven deaths, many more injuries, and thousands of displaced persons throughout the province underscores the seriousness of this episode.
- 12.1. The death of seven persons during this outbreak of violence in KZN is significant and troubling. A larger number of individuals were injured during this period, and over 5,000 foreign nationals fled their homes in fear of violence. This highlights a significant challenge for the province over the short and long term.
 - 12.2. The violent episodes contributed to significant economic losses for the province and the country more broadly. Some formal and informal businesses throughout eThekweni Municipality were forced to close their doors on a number of instances during April 2015, leading to major revenue losses. For example, KZN's Ethiopian community reported over R5 million in losses following extensive damages to their spaza shops.⁷ eThekweni Municipality and the KZN Provincial Government had to channel over R30 million to manage the crisis and ensure necessary support for disaster management. International economic losses were incurred by South African corporations, for example SASOL, operating in countries such as Mozambique.

⁶ See Section 7.2 of this report for a full examination of the identified structural consequences.

⁷ See Annexure 10.9 of this report for more information.

13. Institutional Consequences of the Violence Against Foreign Nationals⁸: As a consequence of the violence, all levels of the South African Government, ranging from Municipal authorities to the National Executive, were involved in the implementation of responses to the outbreak of violence:

- 13.1. eThekweni Municipality established a number of Temporary Shelters throughout the region to provide safe haven for the displaced persons. These shelters were supported by a wide cross-section of KZN's communities. A majority of the undocumented foreign nationals who sought refuge in the shelters were repatriated by the authorities to their countries of origin, a number of whom indicated that they were likely to return to South Africa. When the Isipingo and Chatsworth shelters were closed there were many people who could neither be repatriated nor returned to the areas from which they had been displaced.
- 13.2. Various bodies and entities, ranging from the Inter-Ministerial Committee (IMC), various government departments, the Parliamentary ad-Hoc Joint Committee Probing Violence against Foreign Nationals, the South African Human Rights Commission (SAHRC), the Royal Zulu Household, and the National Joint Operational and Intelligence Structure (NATJOINTS) have all undertaken specific responses in light of the outbreak of violence. An important response to note is the public Imbizo held by King Goodwill Zwelithini, at which he publicly denounced the violence against foreign nationals and called on all South Africans to treat foreign nationals with respect.
- 13.3. Security and justice-based responses were enhanced to immediately stem the outbreak of violence and to address some of the long-term and underlying challenges. Operation Fiela-Reclaim, initially deployed to maintain law and order in KZN, Gauteng and elsewhere in the context of the violence against foreign nationals, has sought to address many of the broader challenges of crime facing South Africa's communities. The South African National Defence Force (SANDF)'s deployment in support of Operation Fiela-Reclaim, follows the recommendation from the SAHRC's investigation into the 2008 violence that the army be deployed with the police to mitigate the violence and quickly restore law and order. The National Prosecuting Authority (NPA) announced that they would prioritise cases involving violent acts against foreign nationals.

⁸ See Section 7.3 of this report for a full examination of the identified institutional consequences.

13.4. The government-led re-integration dialogues are important for promoting greater cohesion and mutual understanding between different communities. This process, led jointly by the Department of Social Development (National) and the KZN Department for Community Safety and Liaison, is on-going.

14. **Societal consequences of the Violence Against Foreign Nationals⁹**: There were a number of societal consequences as a result of the violence:

14.1. There was a breakdown in trust and cooperation between South Africans and foreign nationals. For example, the Peace March organised by foreign nationals for 8 April was summarily cancelled by law enforcement officials due to safety concerns. Another example concerns the disputes over the movement of foreign nationals from the Isipingo Shelter to the Chatsworth Shelter in May 2015, and once again following the closure of the Chatsworth Shelter in July 2015. The consequences are that foreign nationals perceived the decisions of the authorities to be in bad faith.

14.2. A positive consequence of the violence is that it galvanised many of KZN's communities, including humanitarian organisations, civil society organisations, religious associations and community-based organisations, to support the affected communities. Some positive examples include the 16 April Peace March held in Durban, as well as the many individuals, communities and organisations that donated their time and resources to support the affected communities residing in the Temporary Shelters.

14.3. A lasting consequence of the violence is that many people, including local communities, are affected greatly by the resultant trauma and fear of recurrence. Past experiences and the potential of future attacks exacerbated their trauma.

15. It is clear that many of the underlying tensions between local communities and foreign nationals, tracing back to even before the 2008 violent attacks, have yet to be resolved. The majority of foreign nationals live within local communities, yet the absence of meaningful dialogue, prevalent stereotypes and misperceptions continue to characterise these dynamics and relationships. Many foreign nationals emphasise that they face constant discrimination and prejudice in their daily lives, and local communities complain about a lack of engagement and dialogue with foreign nationals. The underlying tensions have not been resolved and there is a strong possibility of a recurrence.

⁹ See Section 7.4 of this report for a full examination of the identified societal consequences.

16. The country has a progressive policy towards asylum seekers and refugees, and this is an indication of the country's commitment to the human rights of all people. South Africa's recently revised Immigration Act is also designed to welcome those immigrants with scarce skills while excluding those at the lower end of the skills spectrum. However, there is no overarching, integrated policy for migration yet, and the current policies do not account for the status and protection of undocumented foreign nationals already in the country. Being undocumented is not criminal offence and some undocumented persons do contribute to South Africa's economy and society. Those responsible for implementing the policies at South Africa's borders, at the Department of Home Affairs (DHA), and within criminal justice institutions, have resource and capacity related challenges, which leaves foreign nationals vulnerable and fuels fear and mistrust amongst many South Africans.
17. The violent attacks started in and around KZN's township communities, and the attacks disproportionately targeted African foreign nationals. A number of African foreign nationals have integrated into township communities, and a subset of them have found success in the informal sector. Their economic success has fuelled competition between themselves and many local South Africans, who continue to struggle for their day-to-day survival. A number of South Africans perceive African foreign nationals as direct competitors for limited social resources and economic opportunities. Many foreign nationals are still not accepted within KZN's communities.
18. Both the underlying and proximate causes of the March-May 2015 violence are complex and multi-faceted. The underlying issues, including high levels of poverty and unemployment, intermittent service delivery, and inequitable access to basic resources, are to some extent the unresolved challenges of the social engineering that defined apartheid in South Africa. Relative socio-economic deprivation, heightened competition for employment and social services, widespread perceptions of impunity for criminals and a systemic lack of dialogue have further impeded cohesive and constructive relationships. South Africans continue to struggle with unemployment and poverty, and are challenged by the influx of foreign nationals into their communities, which South Africans perceive to be at their expense. The dominant myths, stereotypes, and negative perceptions held by both local and foreign national communities about one another are damaging to the promotion of greater social cohesion. The limited integration evident today, where people have reached a state of co-existence but not acceptance, affects all people who reside in province, a problem experienced not only by foreign nationals but also by people born outside of KZN.

19. South Africa's leadership has also faced much criticism as a result of this outbreak of violence. Beyond widespread international condemnation as the result of the attacks, many foreign nationals throughout the province seemingly harbour even greater distrust of those in authority. It is noted that the government's response to the crisis was more rapid, organised, and comprehensive than in 2008. However, the government has yet to finalise and implement its *National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance*. While some of the underlying dynamics that contributed to this crisis cannot be resolved overnight, there are a number of coherent and coordinated interventions that must be put in place to actively address these challenges in the immediate and long-term.

20. Projections of demographic and migration trends in Southern Africa point to situations where there will be marked increases of migration into South Africa in the near future and the long term. Although South Africa is currently experiencing an economic down-turn, the country is projected to remain relatively prosperous and stable for the near future, and therefore a preferred destination for many persons in search of safety, stability and opportunity. Restrictive migration policies will not deter the movement of persons across South Africa's borders. South Africa cannot comprehensively address the issues of migration and development in isolation from its neighbours, members of the Southern African region, and the African continent in its entirety.

21. The South African Constitution protects the rights and dignity of all persons who reside in the country. In order to realise these commitments, the country must come together and work towards greater cohesion and collaboration. It is important for all South Africans to take responsibility for the development and growth of their country, and to be prepared to engage and cooperate with all persons regardless of their origins and background. It is important for foreign nationals inside the country to continue their efforts to integrate, respect and appreciate the cultures and customs of the communities in which they settle. It is also important for the South African government to ensure that all of its policies and civil servants respect the rights and dignity of all human beings. Nearly fifteen years ago, the eyes of the world were focused on KZN as Durban convened a momentous conference on human rights, tolerance and inclusion. In the future, it is hoped that KZN can become a model for integration and cohesion.

22. The SRG presents the following findings:

22.1. It is the conclusion of the SRG that the immediate cause of the 2015 outbreak of violence against foreign nationals in KZN was the result of deliberate efforts of select

individuals, some of whom had interests in the informal trading sector, to drive away competition by foreign national-owned businesses.¹⁰ Although limited in scope, these deliberate efforts sparked the outbreak of widespread incidents of criminality, violence and looting of properties owned by foreign nationals.

- 22.2. Perceptions of what occurred at KwaJeena's Supermarket in Isipingo at the end of March 2015 served as the trigger for the violent attacks, looting and widespread criminality in specific affected areas of the province.¹¹ Stakeholders across a wide range of sectors of society overwhelmingly identified this labour dispute as the catalyst for the violence. Government institutions responsible for investigating the reported dispute highlighted that, contrary to the common belief, KwaJeena neither hired foreign nationals nor employed them as temporary labour during the dispute. Perceptions that KwaJeena's Supermarket hired foreign national labour nonetheless dominated public consciousness and sparked criminality in Isipingo on 29 March.
- 22.3. The longer-term causes underpinning the outbreak of violence are multi-faceted and complex. The triple challenges of poverty, socio-economic inequality, and unemployment contributed to an environment of heightened tensions within and between many communities.¹² In KZN communities, prejudice is more common than acts of violence against foreign nationals.¹³ The resulting tensions can and have been exploited by individuals or groups with narrow self-interests, and this contributed to violence.
- 22.4. Many communities throughout the province were unaffected by the outbreak of violence. Some actively relied on comprehensive, long-standing and collaborative arrangements to rapidly share information, dispel unfounded rumours, and prevent violence. The arrangements developed in the community of KwaDukuza are noteworthy examples that can support long-term dialogue and cohesion.¹⁴ The KwaDukuza model is especially valuable as it involves locals and foreign nationals equally, and promotes on-going dialogue, information sharing and documentation, regulatory oversight, and cooperative management in the informal business sector. The KwaDukuza model also brings together representatives from the community as well as government, non-government, private sector and community based stakeholders.

¹⁰ See Sections 6.2.2, 6.2.3, 6.3.5, 6.3.8 and 6.4.2 of this report for more information.

¹¹ See Section 6.2.2 of this report for more information.

¹² See Section 6.2.1 and 6.2.2 of this report for more information.

¹³ See Section 6.4.2 of this report for more information.

¹⁴ See Section 6.2.3 of this report for more information.

- 22.5. The vast majority of the displaced foreign nationals fled their homes out of fear of being attacked as opposed to experiencing actual or impending attacks.¹⁵ The violence and criminality that defined these attacks were concentrated in relatively few areas throughout eThekweni Municipality and the province, while the individuals who sought refuge travelled from as far away as Estcourt and Eshowe.¹⁶ The reality that such pervasive fears could compel so many individuals to flee for safety points to a situation where foreign nationals did not feel safe in their homes or communities.
- 22.6. The majority of allegations against foreign national traders, in respect of business practices, have been found to be perceptions not based on facts.¹⁷ For example, far from receiving preferential treatment on religious grounds, the SRG found that a number of foreign national traders participate in a cooperative pricing scheme open to everyone. Another example is the allegation that foreign nationals do not register their businesses, whereas consultations with the relevant government institution highlighted that foreign national businesses are more likely to be compliant.¹⁸
- 22.7. Unfounded rumours, misinformation, fake videos and images, and exaggerated headlines spread through social media and some traditional media heightened anxieties throughout the province.¹⁹ Inflammatory public statements by individuals in leadership positions served as contributing factors to the prevailing atmosphere of fear throughout communities in the province.²⁰ It is also important to acknowledge that the media played an important positive role in facilitating communication and information sharing amongst different communities, providing public support for the people displaced in the shelters and ultimately reducing the tensions.
- 22.8. Foreign nationals are vulnerable members of KZN society, irrespective of their immigration status. These vulnerabilities manifest through structural, institutional, and societal dimensions, and include but are not limited to:
- Prejudices and negative stereotypes that result in discrimination and open hostility;²¹

¹⁵ See Section 7.4.3 of this report for more information.

¹⁶ See Annexure 10.5 of this report for more information on the identified hotspots and the list of affected communities, as compiled by relevant government departments.

¹⁷ See Section 6.2.3 of this report for more information.

¹⁸ See Section 6.3.5 of this report for more information.

¹⁹ See Section 6.3.9 of this report for more information.

²⁰ See Section 6.3.7 of this report for more information.

²¹ See Section 6.4.2 of this report for more information.

- Lack of protection from security and law enforcement agencies, and exploitation of foreign nationals' vulnerability by some members of law enforcement bodies;²²
- Discernable differences within South African communities because of the different appearances, cultures and languages of foreign nationals;
- Lack of bankability and intermittent access to government services;
- Lack of knowledge and awareness by locals of foreign nationals' histories, experiences, and cultures, and vice versa;
- A widespread perception exists that most African foreign nationals in KZN are undocumented and irregular, despite the reality that some individuals are in possession of valid immigration documents and have lived in South Africa for many years. This perception is compounded by another that there are far larger numbers of undocumented foreign nationals in the province than available data would indicate.²³

22.9. Since 1994, South Africa has instituted a progressive open-door policy of allowing foreign nationals into the country, especially asylum seekers and refugees.²⁴ A number of foreign nationals have peacefully settled and integrated into various communities throughout the country, including into township communities. The recent developments, as well as widely documented hostility towards foreign nationals throughout the country, highlight the fact that there are still significant underlying tensions between communities of foreign nationals and local communities. While South Africa may not be unique in this regard, there is nonetheless a widespread feeling amongst foreign nationals that they have never been accepted fully within South African communities.²⁵

22.10. Issues surrounding the management of KZN's borders, and perceptions that such borders are porous and unmanageable, remain amongst the most prominent concerns for many South Africans. The SRG's site visit to the border area between South Africa and Swaziland highlighted a number of important issues.²⁶ While there are a few formal border crossings along the country's borders with Lesotho, Swaziland, and Mozambique respectively, the borders have a mixture of formal and informal crossing points. To a certain extent, some of these informal crossings are necessary: the lack of formal crossings within close proximity to these border

²² See Section 6.3.6 of this report for more information.

²³ See Section 6.3.4 of this report for more information.

²⁴ See Section 4.2.1 of this report for more information.

²⁵ See Section 6.4.3 of this report for more information.

²⁶ See Section 6.3.1 of this report for more information.

communities causes individuals with legal South African documents to cross the borders daily in order to access schools, hospitals, markets, and social services. Although these daily movements are supervised and sanctioned by SANDF, many of these individuals who cross the border at informal crossings cannot do so in a dignified manner. The more urgent challenge faced by border patrol officials is that much of the border area is difficult to traverse, and therefore difficult to regulate. In many places the border between South Africa and its neighbouring countries is constituted only by a cattle fence that traverses the natural environment. While SANDF officials have established regular and semi-permanent outposts to monitor the border, they struggle to respond rapidly if they observe or are alerted to illegal crossings in spaces between their outposts.

22.11. At the time of this report, the government-led re-integration process remains a work in progress.²⁷ Led by the Department of Social Development (DSD)'s National Office, and the KZN Department of Community Safety and Liaison, the re-integration dialogues are the start of a necessarily thorough and ambitious approach to reintegration. The dialogues have sought to identify the underlying grievances and challenges facing local communities within each of eThekweni Municipality's wards. There is a concern that very few, if any, of the dialogues have included foreign nationals up to this point. The process appears to have been driven largely by government without the meaningful participation of a wide range of community-based associations and organisations (save for the United Nations High Commission for Refugees (UNHCR)), that could make the process more effective and help it reach more areas. Further, a number of submissions highlight the inhibiting role of individuals who are more preoccupied with their campaigns for the 2016 local government elections than the sustainable re-integration of foreign nationals into their communities.²⁸

22.12. Very little intelligence information appeared to be available before the outbreak of violence against foreign nationals and even those alerts which were communicated to leaders did not receive the attention they deserved.²⁹ Structures responsible for intelligence and information gathering did not provide important signals that could have led to the prevention of violence and the ensuing panic.

²⁷ See Section 7.3.5 of this report for more information.

²⁸ See Section 7.3.5 of this report for more information.

²⁹ See Section 6.3.8 and Annexure 10.7 of this report for more information.

22.13. There is a lack of effective and impartial policing throughout the province, which disproportionately impacts foreign nationals.³⁰ Many foreign nationals alleged that they have been discriminated against by law enforcement officials and have been solicited and induced to pay bribes. Numerous law enforcement officials do not have the necessary knowledge about the rights of foreign nationals and their immigration documents. Systemic challenges leave many gaps in law enforcement's capacities to prevent, respond to, and investigate crimes adequately. This leaves foreign nationals with the impression that they are not protected by police. Nonetheless, it is important to recognise the positive and constructive role that police officials undertook during the crisis, including their efforts to provide safe havens for displaced foreign nationals on police station premises prior to the establishment of the temporary shelters, and their later efforts to safeguard the shelters.³¹

22.14. There is a widespread perception that the justice system is slow and impeded by significant delays. The challenge of a slow moving justice system has had an impact on foreign nationals as they feel increasingly vulnerable to criminal acts.³² The 2007 Department of Justice and Constitutional Development (DOJ&CD)'s study highlighted many deficiencies in the criminal justice system: our inquiry has revealed that many of the challenges in this study have not been addressed sufficiently.

22.15. The South African Constitution clearly protects the rights and dignity of all people in the country, South Africans and foreign nationals alike. The 1998 Refugees Act is a progressive law intended to integrate asylum seekers and refugees into South African society.³³ The recently-revised 2014 Immigration Policy is informed by South Africa's prevailing socio-economic conditions and the consequent need to ensure sustainable economic development and employment.³⁴ South Africa's approach to migration and community integration is in line with the commitments set forth in various continental and global conventions, charters, treaties and common positions to which South Africa is signatory.³⁵ However, there are still structural and institutional gaps that inhibit the full implementation of these commitments and policies:

- Migration patterns on the continent point to a situation where it will not be possible for the country, now or in the foreseeable future, to insulate itself from migration;

³⁰ See Section 6.3.6 of this report for more information.

³¹ See Section 7.3.3 of this report for more information

³² See Section 6.3.6 of this report for more information.

³³ See Section 4.2.1 of this report for more information.

³⁴ See Section 4.2.1 of this report for more information.

³⁵ See Sections 4.2.3 and 4.2.4 of this report for more information.

- Challenges managing South Africa's border areas and the processes for documenting, regulating, and supporting foreign nationals inside the country contribute to South Africans perceiving the presence of all foreign nationals as unlawful;³⁶
- There are gaps in policy with respect to the status and rights of economic migrants (especially low-skilled) within the country. There is also a lack of an explicit policy for integration within the Refugees Act.

22.16. There were some instances where government incorporated lessons learned from the 2008 violent attacks, and others where progress has been insufficient.³⁷

- The immediate responses from provincial and municipal disaster management structures were greatly improved compared with those from 2008, especially in terms of the speed in which the authorities established the temporary shelters;³⁸
- One difficulty experienced in 2008 that persists in 2015 is that local leaders continue to impede reintegration processes for immediate political and economic gains;³⁹
- An unheeded recommendation from 2008 is that national government has not finalised and implemented the National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance, conceptualised following the 2001 Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Despite recommendations following 2008 to urgently finalise and implement this programme, the NAP remains in draft form and will only undergo a public consultation process in 2015-2016;
- The closure of the Refugee Reception Offices (RROs), as part of the government's campaign to root out corruption, has produced unintended difficulties for refugees and asylum seekers to comply with the laws, who now have to travel long distances.⁴⁰ It is problematic that these individuals can only access their case files at a specific RRO and not at their nearest facility. There are now additional resource burdens on the remaining under capacitated RROs.

23. The SRG presents the following recommendations:

³⁶ See Sections 6.3.1, 6.3.2, and 6.4.1 of this report for more information.

³⁷ See Section 4.4.2 of this report for more information.

³⁸ See Section 7.3.1 of this report for more information.

³⁹ See Section 7.3.5 of this report for more information.

⁴⁰ See Section 6.3.3 of this report for more information.

23.1. Innovative solutions to reduce tensions in the small and informal trading sectors:

The Provincial Government, through the Department of Economic Development, Tourism and Environmental Affairs, should support and encourage the creation of a number of cooperative and mutually beneficial platforms that can reduce tensions between local and foreign national communities operating in the small and informal trading sectors. There is recognition that business competition in a macro-environment of slow economic growth and increasingly scarce socio-economic resources, contribute to heightened tensions. All solutions must consider medium- and long term demographic and economic trends, should be inclusive, cooperative and participatory, and should encourage beneficiaries to take responsibility for the growth of their businesses and communities. Some potential solutions, which can be developed jointly and cooperatively with the support of various private sector entities and civil society organisations (CSO)s, include:

- Moderate government support to open up opportunities for all individuals in the informal business sector;
- Integrated long-term planning and development initiatives within communities to ensure that all stakeholders can benefit from new developments, as in the eThekweni Integrated Transport System model;
- The creation of cooperative and economic hubs or market places where local and foreign national traders can jointly trade and cooperate (e.g. the informal market along the South African – Mozambican border at Gate 6);
- The development of appropriate business skills training programmes, undertaken by both government departments and private sector entities (business chambers, retailers and wholesalers) that focus on long-term business development, mentorship and apprenticeship programmes, essential financial and accounting skills. These programmes should be accompanied by rigorous and frequent evaluation, oversight, and monitoring mechanisms;
- Formalised cooperative traders’ forums, as exemplified by the arrangements developed in the community of KwaDukuza.

23.2. Developing and Enhancing National Policies on Migration: All persons inside the country must be respected as human beings and treated with the rights afforded to them by the Constitution. Existing policies on migration do not speak sufficiently to the realities and current projections of migration trends in the region, in three distinct ways: there is still no national migration policy; the Immigration Act, which intends to prevent individuals from entering South Africa as undocumented individuals, does little to protect the many foreign nationals already in the country without the necessary documents; and the Refugees Act does not explicitly detail South Africa’s

approach to integration for asylum seekers and refugees. Given that it is unlikely that South Africa can completely stop the flow of people into the country, it is important that future policy promotes greater regularised and documented movement of all persons. This approach would protect the interests of South African citizens and support undocumented persons who have already integrated successfully into South Africa. The SRG recommends that the KZN Provincial Government advocates for the following national policy considerations:

- A nation-wide campaign to incentivise all undocumented foreign nationals already in the country to register and receive appropriate documentation, without criminalising their current presence in the country or mandating their repatriation. An example of this is the framework used in the Zimbabwe Special Dispensation Programme;
- The consideration of a long-term pathway for undocumented migrants who have spent extended and uninterrupted time in South Africa to receive rights of residency. This pathway would ideally be comprised of checks and balances, such as the length of a person's stay, whether the affected person has family in the country, etc. to ensure that these individuals can be protected and not criminalised under the law, while contributing to the development and growth of the province and of South Africa;
- A nation-wide consultative process, chaired under the IMC, that engages South African communities on current migration policy and its weaknesses, projections of current and future migration trends in Southern Africa; and processes that will promote greater documentation and regularisation of those undocumented foreign nationals already in the country;
- An explicit provision within the amended Refugees Act that details South Africa's progressive approach to integrating asylum seekers and refugees into the country.

23.3. **Strengthening Re-Integration through a more collaborative approach:** The DSD: National and KZN Department of Community Safety and Liaison should explore and solicit support from stakeholders to strengthen the re-integration dialogues. A number of religious groups and civil society organisations have expressed willingness to support these dialogues and have undertaken their own processes to bring together communities of locals and foreign nationals. The relevant government departments should explore options for including additional partners in these dialogues and the KZN Provincial Government should appeal to the National Government for additional financial resources to strengthen these processes. The relevant government departments should also consider expanding the

methodologies used for the re-integration dialogues to include diverse tools such as story-telling, narrative dialogues, performance and art based activities and trauma healing exercises. These activities have been advocated by many different stakeholders and would aim to heal deep wounds and traumatic experiences and promote greater trust within and between different communities.

- 23.4. **Sensitising and Educating Civil Servants on the Rights and Documentation of Foreign Nationals:** The Provincial Government should develop and implement a mandatory province-wide education and sensitisation campaign for all civil servants on the categories of foreign nationals and their rights. This programme should prioritise all law enforcement agencies, as well as social security, and public health officials. The intention is to explain South Africa's legal commitments to all persons as well as the different classifications of foreign nationals' documentation. Visual material detailing different categories of documentation for foreign nationals and ways of distinguishing between valid and counterfeit documents (e.g. the posters developed for the new currency notes) should be developed and displayed prominently at all police stations, public hospitals, clinics, municipal and government departments in KZN.
- 23.5. **Documenting Lessons Learned from the Government Responses and Disaster Management Processes:** eThekweni Municipality and the KZN Provincial Government should ensure that all government responses to the March-May 2015 outbreak of violence are well documented, analysed, and incorporated as appropriate into future policy. This is in light of the SRG's assessment that there is a possibility for recurrence. We recommend that the authorities, in coordination with various stakeholders, develop and populate a publicly accessible database of all the responses undertaken with respect to this outbreak of violence. Local government officials should also undertake constructive dialogues and debriefing sessions with representatives of affected communities and established non-government organisations (NGOs) in contributing to disaster related responses. There is also a need for Disaster Management officials throughout government structures to receive comprehensive training in logistical management as well as conflict resolution practices, as offered by UNHCR. Disaster Management officials should develop a pool of community-based volunteers for deployment during periods of heightened tensions. These volunteers would be ideal for promoting greater coordination, developing and practicing disaster management scenarios, and exploring planning alternatives and best approaches to disaster response.

23.6. **Strengthening the capacities of and resources for institutions managing migrants, refugees and asylum seekers:** Government entities responsible for oversight of issues related to migration, including those stationed at South Africa's borders, DHA inspectorate officials and RROs, should be strengthened. The SRG recommends that the relevant Provincial Departments advocate for increased human and financial resources to strengthen their capacities to implement government policy. With respect to a number of specific issues, the SRG recommends the following:

- Increase the number of DHA Inspectorate Officials permanently stationed in KZN in order to better investigate and regulate compliance with government policy;
- Enable refugees and asylum seekers to access their case files at any RRO throughout the country;
- Increase investment in human capacity in order for DHA RROs to fast track and conclude all outstanding applications for refugee status that have been unadjudicated for over six months. The multi-year backlog on appeals must be addressed similarly;
- That all DHA branches throughout the province have a dedicated point person/resource desk for all refugee and asylum seeker issues: this dedicated point person/resource desk would be able to inform refugees and asylum seekers of the regulations, processes, documentation, and resources necessary for them to ensure compliance with the law.

23.7. **Upgrading the physical infrastructure of KZN's border areas:** It is important that the KZN Provincial Government advocates for the speedy adoption of the Border Management Agency Bill in order to strengthen the country's capacity to monitor its borders. The SRG also recommends that the relevant departments and agencies consider the creation of additional formal border crossings adjacent to cross-border communities. These formal border crossings would constitute important steps to ensure the dignified and regular movement of persons while promoting greater capacity for the relevant authorities to accurately document and record this movement. Another important recommendation is for the relevant authorities to consider strengthening the existing single cattle fence (which constitutes much of the border) with two fences and a road running in-between. This is intended to help border officials reach all areas of the border in order to prevent irregular entry into the country.

23.8. **Provincial Audit on Intelligence Structures and Early Alert Systems:** The KZN Provincial Joint Operations Intelligence Structures (PROVJOINTS) should conduct an inter-departmental audit of all existing intelligence structures and early alert systems

in order to promote greater collaboration and information sharing while reducing unnecessary duplication and the inefficient use of limited financial and human resources.

23.9. Pro-active information sharing on foreign nationals in the province and in South

Africa: There is a clear need for both the Provincial and National Governments to clarify and counteract inaccurate information and dangerous speculation about the number of foreign nationals in KZN and in South Africa. Much of the data that is available is spread across a number of different stakeholders and government departments. Through the IMC and under the DHA, government structures should create a free standing and easily accessible web platform that provides accurate information on the legislation governing migration into the country, clear guidelines on the rights of all persons in the country, regular and undocumented; the responsibilities that foreign nationals assume upon entering South Africa; clear charts highlighting the processes for individuals to ensure compliance with the law; as well as accurate data on the number of foreign nationals in the country. This information should be monitored and updated quarterly. This website should be readily available in a number of South African languages as well as French, Portuguese, Shona, Somali, Amharic, and Swahili amongst others.

23.10. Ensuring Leaders Make Responsible Public Statements: The SRG recommends that leaders exercise greater care with their public remarks. Leaders must consider the potential ramifications, both intended and unintended, of statements that are provocative, stereotypical and may be perceived as harmful by any group of persons or individuals. Responsible leaders can play positive and proactive roles in preventing and mitigating tensions within their communities.

23.11. Education based campaigns to promote more cohesive and sustainable community relations:

- **Education campaigns in schools on diversity and cohesion:** There is a need for educational campaigns that promote respect for diversity and tolerance, which target learners from very young ages. These programmes and campaigns should focus on the premise that cohesion, unity and common identities can be forged and celebrated through recognising and understanding differences in nationalities, religions, ethnicities, and languages.
- **Long-term strengthening of education programmes and skills development:** It is imperative that the Provincial Government strengthens its long-term investment in the province's education programmes for primary, secondary and tertiary

learners. The province should also consider expanding its support for FETs, and developing courses that focus on basic financial literacy and business skills. Education must continue to receive great emphasis in order to ensure that South Africans are capacitated to meet the demands of the country's evolving economy and to promote higher levels of sustainable and long-term employment, which has been identified as one of the underlying cause of tensions between different communities.

- **Discouraging hate speech, derogatory and discriminatory language:** As part of the Provincial Government's information campaigns, there is a need to speak out against hate-speech, derogatory and discriminatory language, in line with the Constitution.

23.12. Pro-active foreign policy to address migration-related issues: The Provincial Government should work with the national government for the full implementation of Member States' commitments to the United Nations (UN), African Union (AU) and Southern African Development Community (SADC) frameworks on migration, refugees and asylum seekers. South Africa should also seek greater implementation of regional and continental agreements on economic development and trade, in addressing push factors that contribute to migration into South Africa. Provincial and local government officials, in their international and domestic engagements, should promote deepened understanding between citizens of South Africa and those of other African countries.

23.13. Creating and strengthening local forums to promote cohesion within communities: Provincial and local authorities should consider supporting the creation of local committees working on peace, throughout KZN, as dialogue forums and dispute resolution mechanisms. These committees, which would convene local and foreign national representatives in the same forum, would ideally engage with community-based disputes and respond to emerging conflicts. These structures would positively contribute to mutual understanding and greater trust between different communities and would mitigate potential outbreaks of violence.

23.14. The SRG recommends that this entire report be made public and that its records be stored in either the national archives or an institution with similar competencies. The supporting documentation and data should be stored where it can be accessed publicly while respecting the confidentiality of the written submissions

2. INTRODUCTION

This report is the result of a seven-month inquiry into the causes and consequences of the violent attacks against KZN's foreign national communities. The investigation was undertaken by the Special Reference Group on Migration and Community Integration in KZN (hereafter referred to as the SRG), an independent committee appointed by the Executive Council of the KZN Provincial Government, led by the Honourable Premier SE Mchunu, in April 2015. The SRG was established as an urgent intervention by the Provincial Government, involving respected and experienced members of the KZN community, in direct response to the observed heightening of tensions and violent attacks between local and foreign national communities in parts of the province.

The mandate and terms of reference of the SRG, as detailed by the Office the Premier, include the following:

Strategic Objective of the SRG:

- “...conduct representative consultations, collate submissions and recommendations on recent attacks and to advise the Premier on the potential for joint implementation of programmatic responses to the prevailing situation.”

Functions of the SRG:

- “Undertake a comprehensive assessment of the reported causes and socio-economic impacts associated with the attacks;
- Undertake an assessment and consideration of the successes and shortcomings of past and on-going initiatives and recommendations if any;
- Facilitate inter- and extra-governmental consultations by soliciting proposals and submissions from affected and interested parties and communities, and outline immediate and long-term solutions in response to the violent incidents.”

The SRG comprises seven members: Judge Navi Pillay (Chairperson), Mr Comfort Ngidi (Deputy Chairperson), Mr Vasu Gounden, Ms Stephanie Miller, Mr Paddy Kearney, Ms Karen Lotter and Mr Muzi Ntombela. The SRG appointed the African Centre for the Constructive Resolution of Disputes (ACCORD) as its official Secretariat in order to support the Group's operational work. The SRG also appointed Ms Phumzile Langa as its Spokesperson.

The outcomes of the SRG's investigation are detailed in the following chapters.

3. METHODOLOGY OF THE INQUIRY

3.1. Methodology

In order to fulfil its mandate, the SRG utilised a multi-pronged methodology to conduct its inquiry. Following its inception meeting with the Premier of KZN on 16 April 2015, the SRG convened its first full meeting on 17 April 2015 and commenced its investigation immediately thereafter. Its activities, which are listed comprehensively in the Annexures (Section 10 of this report), included:

Site Visits: Members of the SRG, in both their official and personal capacities, conducted site visits to a number of locations in order to obtain direct observations of relevant issues and dynamics. These included visits to the Temporary Shelters for displaced persons established in Chatsworth, Isipingo and Phoenix (between 09 April and 01 July), a warehouse safeguarding goods belonging to Somali and Ethiopian shop-owners, the private farm near Cato Ridge where displaced persons were being sheltered from 06 July 2015 onward, as well as to the South Africa-Swaziland border area.

Consultations: Following the completion of internally conducted environmental scans, the SRG identified a number of individuals, communities, organisations and institutions with whom to engage directly. In the course of its investigation, the SRG conducted a number of consultations and interviews with a broad cross-section of the KZN community. These consultations were held in a variety of formats, including: interviews with key individuals; focus groups with representatives of different organisations; direct consultations with communities, organisations, institutions and government departments; and, community dialogues with members of the general public. In addition, members of the SRG and its Secretariat observed a number of meetings pertaining to issues of migration and community integration that were hosted by government departments and civil society organisations.

Call for Written Submissions: In order to facilitate as representative and inclusive a process as possible, the SRG issued a public call for submissions on issues of migration and community integration in KZN (Section 10.3). The call for submissions was developed in both English and isiZulu and placed across a number of mediums, including: pamphlets, radio, newspapers, tabloid papers, social media, and a stand-alone website for the SRG. The SRG noted in its call for submissions that all individuals who provided submissions would remain anonymous. The referencing system used

for the written submissions will be explained later in this chapter, while a full list of the mediums used to disseminate the call for written submissions is featured as an Annexure. To date, the SRG has received 88 written submissions from members of the general public, civil society forums and organisations, academics and community activists, government departments, political parties and international organisations.⁴¹

Literature Review and Media Survey: The SRG has undertaken an extensive literature review and media survey in order to contextualise and enhance its understanding of the developments that unfolded in KZN. The literature review strove to uncover a number of issues, including: the legal frameworks underpinning South Africa's commitments to foreign national and refugee communities living in the country; challenges of and best practices for migration and community integration emerging from Southern Africa, the African continent, and globally; analyses and recommendations stemming from the 2008 incidents of violence against foreign nationals in South Africa; and theoretical and academic articles that identify causes, consequences, and trends in issues of migration and development. The media survey sought to deepen understanding of how issues of migration and community integration, as well as the violence against foreign nationals that emerged in March-May 2015, were covered by local, national and international press. It further sought to capture insightful analysis and opinion-influencing pieces disseminated by the media on the issues.

3.2. A Brief Note on Definitions and Terminology:

This Report examines the causes and consequences of the attacks against foreign nationals in terms of three main dimensions, namely: structural, institutional and societal. Structural causes and consequences relate to the organisation of society. Institutional causes and consequences arise from the way institutions and other agents of socialisation operate.

⁴¹ Some prominent examples of those who submitted written submissions include: **organisations** including the United Nations High Commission for Refugees (UNHCR), Lawyers for Human Rights, Amnesty International, the Democracy and Development Programme (DDP), the Independent Project Trust and the Global Shapers Programme; **community associations** including the African Solidarity Network (ASONET) and the Durban Dialogue project; **prominent individuals** including: Ms Mary de Haas, Mr Crispin Hempson, Dr Lauren Landau, and Dr Hoosen Vawda; **religious associations** such as Members of KZN's Methodist Community and the KZN Christian Council; **government institutions** such as the Department of Home Affairs, the Department of Social Development and the South African Police Services; **business associations** such as the Durban and South Coast Chambers of Commerce, the Chinese Chamber of Commerce of Newcastle and the Edumbe Business Forum; and **political parties** including the National Freedom Party and the Minority Front.

Societal causes and consequences, meanwhile, emanate from relations between different actors in society.

In terms of South Africa's constitutional values, all people within the country are called 'persons.' The SRG was conscious of the inherent issues with using the term 'foreign nationals' to describe persons residing in South Africa who were not born in the country. This was only settled upon as a descriptive term following extensive debate amongst SRG members. The SRG uses this term with reservation. On the one hand, the term 'foreign national' is widely used within the South African lexicon. On the other hand, the term has philosophical and descriptive shortcomings. To describe any individual in a society as foreign automatically suggests that they do not belong or are relegated to the status of permanent outsider, regardless of the extent to which they may be socially integrated. Further, the manner in which the term is used to describe all individuals of different origins is problematic: the SRG has heard of instances where persons born outside of the country - but who are now citizens of South Africa - continue to be described as a foreigner in their own homes. The SRG also considered using the term 'non-national', in line with the approach taken by the SAHRC in its 2009 investigation. Members of the SRG had reservations however about describing any individual using the prefix 'non'.

The SRG also recognises that this issue of terminology is a heavily contested terrain, with many countries across the world subscribing to different terminology. This report has made every effort to be specific in differentiating between migrants, refugees and asylum seekers wherever possible. The SRG has refrained from the use of 'migrants' or 'immigrants' as generic descriptors, as well as the term 'illegal' to describe those individuals who have entered into a country irregularly or without the relevant immigration documents.

3.3. Referencing System for Written Submissions:

During its public call for written submissions, the SRG indicated that all submissions received would be kept anonymous. The SRG respects the confidentiality of the submissions received and sequenced them chronologically in this report. As such, "Written Submission 1" constitutes the first submission received, "Written Submission 2" constitutes the second submission received, and so on. The list of the submissions received, as well as the dates on which they were submitted, is provided in Annexure 10.4. The annex also distinguishes between a written submission from an individual versus a written submission from an institution or organisation.

4. CONTEXT OF MIGRATION AND COMMUNITY INTEGRATION IN KZN

4.1. Statistical Profile of Demographics and Migration

4.1.1. Profile of KZN

KZN is the province with the second-largest population in South Africa, numbering some 10,69 million people, or 19.8% of South Africa’s population. According to the DHA, the latest census of 2011 indicated the following number of persons not born in the Republic of South Africa to be residing in KZN:

KZN	SADC	Rest of Africa	UK and Europe	Asia	North America	Latin America and Caribbean	Oceania	Unspecified	TOTAL
	74,787	12,432	6,120	7,821	237	378	465	392,286	494,526

According to these statistics, nearly half a million people, or 4,6% of the province’s population were not born in South Africa. Between 2001-2006, KZN was estimated to have received an inflow of 33,671 foreign migrants, 15.5% of all inwards migration into the province.⁴³ From 2006-2011, the province was estimated to receive an inflow of 44 691 foreign migrants, 20.8% of all inwards migration into the province.⁴⁴ From 2011-2016, KZN is estimated to receive 54,471 foreign migrants, representing 23.2% of all inwards migration into the province.⁴⁵

⁴² DHA: KZN Submission to SRG – June 2015.

⁴³ The absolute number ranks KZN as 5th of South Africa’s 9 provinces, and the percentage of foreign migrants’ as a total of inwards migration ranks 4th of the 9 provinces. Source: StatsSA (2015) *Mid-Year Population Estimates*. Statistical Release P0302. 23 July, Accessed online at: <<http://www.statssa.gov.za/publications/P0302/P03022015.pdf>> in September 2015.

⁴⁴ The absolute number ranks KZN as 6th of South Africa’s 9 provinces, and the percentage of foreign migrants as a total of inwards migration ranks 4th of the 9 provinces. StatsSA (2015) *Mid-Year Population Estimates*. Statistical Release P0302. 23 July, Accessed online at: <<http://www.statssa.gov.za/publications/P0302/P03022015.pdf>> in September 2015.

⁴⁵ The absolute number ranks KZN as 5th of South Africa’s 9 provinces, and the percentage of foreign migrants as a total of inwards migration ranks 4th of the 9 provinces. StatsSA (2015) *Mid-Year Population Estimates*. Statistical Release P0302. 23 July, Accessed online at: <<http://www.statssa.gov.za/publications/P0302/P03022015.pdf>> in September 2015.

Period of Time	2001-2006	2006-2011	2011-2016
Number of Foreign Migrants migrating to KZN	33,671	44,691	54,471
Percentage of all Inwards Migration into KZN	15.5%	20.8%	23.2%

DHA statistics show that in 2011, 7,737 foreign migrants received either temporary or permanent residence status after submitting applications in KZN during the same year:

Durban	5,058
Ladysmith	128
Newcastle	655
Pietermaritzburg	973
Port Shepstone	358
Richards Bay	242
Vryheid	193
Zululand	130
TOTAL	7,737

Clearly, there is a large discrepancy between the number of foreign nationals who are recorded as having received the legal right to remain in the country in KZN (7,737 persons in 2011), whether permanent or temporary, and those of foreign birth estimated to be resident within the province (494,526).

4.1.2. Profile of South Africa

South Africa's current population is estimated at approximately 54,957,000.⁴⁸ During the last national census of 2011, Statistics South Africa (StatsSA) estimated that approximately 2,200,000, or 4.2% of the country's population at that time, comprised individuals not born

⁴⁶ StatsSA (2015) *Mid-Year Population Estimates*. Statistical Release P0302. 23 July, Accessed online at: <<http://www.statssa.gov.za/publications/P0302/P03022015.pdf>> in September 2015.

⁴⁷ DHA: KZN Submission to SRG – June 2015.

⁴⁸ StatsSA (2015) *Mid-Year Population Estimates*. Statistical Release P0302. 23 July, Accessed online at: <<http://www.statssa.gov.za/publications/P0302/P03022015.pdf>> in September 2015.

in South Africa;⁴⁹ 71% of these immigrants were born in other African countries.⁵⁰ Further estimates suggest that of those 2.2 million individuals not born in South Africa currently residing in the country, 1,692,000 were not citizens. Experts suggest that although these numbers may have grown marginally between 2011-2015, the 2011 estimates are not likely to have changed significantly over the course of these four years.⁵¹ Between 2010-2015, DHA calculated that there are approximately 890,000 persons of foreign birth working legally in South Africa and an estimated 334,000 persons who have unlawfully overstayed the duration of their permits.⁵² Between April – June 2015, 10,242 undocumented and irregular foreign nationals were deported to their countries of origin.⁵³ According to the Minister of Home Affairs, these are the most reliable statistics available to the government with respect to the number of undocumented and irregular foreign nationals in South Africa.⁵⁴

YEAR	Work Permits	Refugees	Asylum Seekers	PR Holders	TOTAL
2010-2015	434,650	104,332	273,563	77,398	889,943
Over-stayers⁵⁶					
2010-2015	333,874				

⁴⁹ StatsSA (2012) *Census 2011*. Statistical Release P0301.4 30 October, Accessed online at: <<http://www.statssa.gov.za/publications/P03014/P030142011.pdf>> in September 2015.

⁵⁰ StatsSA (2012) *Census 2011*. Statistical Release P0301.4 30 October, Accessed online at: <<http://www.statssa.gov.za/publications/P03014/P030142011.pdf>> in September 2015.

⁵¹ Wilkinson, K. (2015) 'Do five million immigrants live in South Africa?' *Mail and Guardian*. 06 May, Accessed online at <<http://mg.co.za/article/2015-05-06-do-5-million-immigrants-live-in-sa>> on September 2015.

⁵² NATJOINTS (2015) *Presentation To The Portfolio Committee On Home Affairs: Violence Against Foreign Nationals And Related Small Business Parliament*. National Joints Operational and Intelligence Structures. Parliamentary Monitoring Group, 28 April, Accessed online at: <<http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150428natjoins.pdf>> on September 2015.

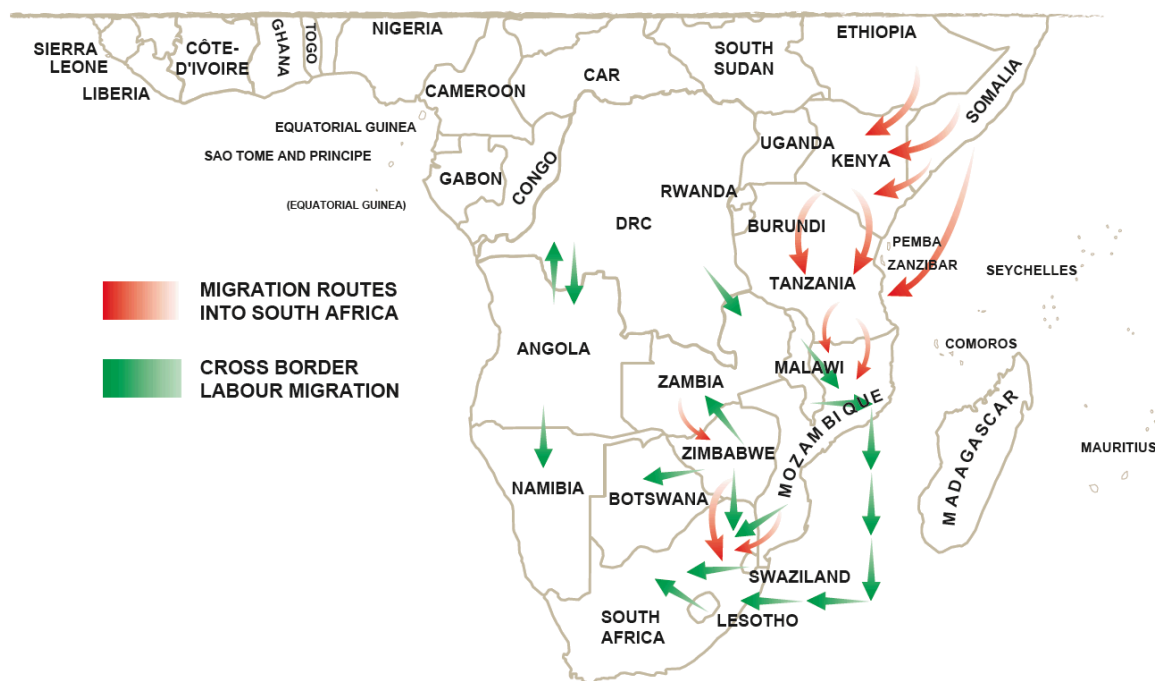
⁵³ Of those deported: 3,691 were from Mozambique; 3,051 were from Zimbabwe; 2,218 from Lesotho, 716 from Malawi, 225 from Swaziland, 185 from Tanzania. This population constitutes 98% of all persons deported. Source: NATJOINTS (2015) *Multi-Disciplinary Integrated National Action Plan to Reassert the Authority of the State: Operation Fiela-Reclaim*. Presentation to the Parliamentary Portfolio Committee on Police. Parliamentary Monitoring Group, 19 August, Accessed online at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150819Presentation_Operation_Fiela_19_Aug_2015.pdf> on September 2015.

⁵⁴ PMG (2015) *Reply by the Minister of Home Affairs to Parliamentary Question*. Parliamentary Sub-Committee on Home Affairs, Question NW2721. 18 August, Accessed online at: <<https://pmg.org.za/committee-question/502/>> on September 2015.

⁵⁵ Countries with largest percentages of nationals in Lindela: Zimbabwe (2,165), Mozambique (1,867), Malawi (1,569). These 5601 persons constitute 82.6% of the Lindela population. Source: NATJOINTS (2015) *Presentation To The Portfolio Committee On Home Affairs: Violence Against Foreign Nationals And Related Small Business Parliament*. National Joints Operational and Intelligence Structures. Parliamentary Monitoring Group, 28 April, Accessed online at: <<http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150428natjoins.pdf>> on September 2015.

⁵⁶ The term 'Overstayers' is used to signify those individuals persons who entered the country legally but had not left the country through a legal port-of-entry by the date of expiration on their permit.

Figure 1: Migration Routes in Southern Africa⁵⁷



In 2014, there were 24.9 million documented arrivals and departures into and out of South Africa, with 90% of these constituting the movement of nationals from countries in the Southern African Development Community (SADC) region.⁵⁸ According to recent estimates, there are approximately 265,000 forcibly displaced persons residing in South Africa, broken down into an estimated 65,880 recognised refugees and approximately 200,000 asylum seekers awaiting final determination of their applications for refugee status.⁵⁹

Table 5: Movement of top 10 nationalities in 2014: Arrivals and Departures ⁶⁰	
Nationality	Total
Zimbabwe	6,612,361
Lesotho	5,946,659
Mozambique	4,050,679

⁵⁷ Map drawn by the African Centre for the Constructive Resolution of Disputes (ACCORD). Map adapted from: IOM (2014) *Migration Initiatives 2015 – Regional Strategies: Migrants and Cities*. 24 November, P43, Accessed online at: <http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=34&products_id=1426>

⁵⁸ DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

⁵⁹ UNHCR (2014) *UNHCR in South Africa – Presentation to the Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group, 11 November, Accessed online at: <<http://pmg.org.za/files/141111stateless.ppt>> on September 2015.

⁶⁰ DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

Swaziland	3,102,978
Botswana	1,944,262
United Kingdom	1,025,571
United States of America	736,577
Germany	617,888
Namibia	538,018
Zambia	388,529
Total	24,963,522
Total Movement (of ALL countries)	27,513,331
% Top 10 out of Total movement	90.73%
% of SADC Countries Movement in Top 10	90.47%

Although South Africa has received a large number of asylum-seeker applications in recent years, it is not the largest recipient of new applications globally: in 2014, the Russian Federation (274,700 applications) and the United States (121,200 applications) received more applications than South Africa, while the influx of asylum seekers into European countries has contributed to significant increases in the number of first-time asylum applications received by Germany (259,255 applications), Hungary (101,795 applications), Sweden (71,740 applications) and Italy (69,320).⁶¹ In 2014, DHA received 71,914 applications from new asylum seekers, approximately 1,900 more applications than in 2013. Of the new arrivals registered as asylum seekers during 2014, 68% (48,987) were male applicants whilst 32% (22,927) were female applicants.⁶² Forty-eight per cent of these applications for asylum came from Southern African countries (with the majority from Zimbabwe), 18% from West African countries, 17% from East African countries, 12% from South-Central Asian countries, and 3% from Central African countries.⁶³ During 2014, DHA adjudicated and finalised 75,733 applications for asylum, with 88% of applicants being rejected and 12% (9,230) being granted refugee status.⁶⁴

⁶¹ UNHCR (2015) *Facts and Figures about Refugees*. United Nations High Commission for Refugees. Accessed online at: <<http://www.unhcr.org.uk/about-us/key-facts-and-figures.html>> on October 2015; Eurostat (2015) *Population - Asylum Quarterly Report*. Online Data Code: migr_asyappctzm. 16 September, Accessed online at: <http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report#Increase_in_asylum_applicants> on October 2015.

⁶² DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

⁶³ DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

⁶⁴ Those individuals whose applications for refugee status were approved originated from Ethiopia (33%), Somalia (31%), DR Congo (25%), Republic of Congo (6%), Eritrea (2%), Rwanda (<1%), Uganda (<1%) and Burundi (<1%). Source: DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

Year	Applications Received	Top 5 countries
2006	7,589	Zimbabwe DRC Ethiopia Burundi Pakistan
2007	5,854	
2008	15,662	
2009	21,480	
2010	18,268	
2011	6,820	
2012	6,297	
2013	5,467	
2014	4,819	
Total (2006-2014)	92,256	
<p>According to Home Affairs: <i>“The majority of these individuals entered RSA illegally. Most claim to have entered through Beit Bridge point of entry. Solid proof of identity is not produced. The majority are young males aged between 20-40 years.”</i>⁶⁶</p>		

This brief profile has shown that while statistics can only tell a part of the story, South Africa is an emerging country of inward migration. KZN’s share of these movements has reached a quarter of all national movements in the last five years, with fewer than 2% of stays in the province being regularised according to the most recent available statistics from 2011. Nationally, only 12% of asylum applications resulted in success; admission rates for asylum applicants in select European countries in 2014 include Germany (42%), Sweden (77%), Italy (58%), France (22%), and the United Kingdom (39%).⁶⁷ Regarding the movement and population of economic migrants in both KZN and South Africa, the most reliable statistics available are limited: while immigration data obtained by DHA and StatsSA captures those persons entering the country with valid residence and work permits, there remain a population of undocumented economic migrants whose size cannot be determined except by the numbers of individuals deported, as these individuals do not possess valid immigration documents, and they are therefore not sufficiently captured in the system. This constitutes one important gap in the availability of data collected and analysed by government departments.

⁶⁵ SRG Consultation with Department of Home Affairs - Durban Refugee Reception Office – 26 May 2015.

⁶⁶ SRG Consultation with Department of Home Affairs - Durban Refugee Reception Office – 26 May 2015.

⁶⁷ Bitoulas, A. (2015) *Asylum applicants and first instance decisions on asylum applications: 2014*. Eurostat – Data in Focus - Population and Social Conditions. March, Accessed online at: <<http://ec.europa.eu/eurostat/documents/4168041/6742650/KS-QA-15-003-EN-N.pdf/b7786ec9-1ad6-4720-8a1d-430fcfc55018>> on October 2015.

4.2. Relevant Legal Frameworks and Policy Commitments

The following sub-section examines the legal frameworks that govern South Africa's management of migration across its borders.

4.2.1. Domestic Legal Instruments

The Constitution of the Republic of South Africa (1996):

The Bill of Rights (Chapter 2) “enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom”. In terms of the Bill of Rights, all people in South Africa have rights to life (Section 11), dignity, equality before the law and administrative justice, as well as basic healthcare (Section 27), education (Section 29) and labour rights (Sections 13 and 23). Foreign nationals enjoy all rights detailed in Chapter 2 of the Constitution except the right to vote.

The Refugees Act (1998):

The objective of this Act is “to give effect within the Republic of South Africa to the relevant international legal instruments, principles and standards relating to refugees; to provide for the reception into South Africa of asylum seekers; to regulate applications for and recognition of refugee status; to provide for the rights and obligations flowing from such status; and to provide for matters connected therewith”. The Act defines ‘asylum’ as refugee status recognised in terms of the Act; while an ‘asylum seeker’ refers to a person who is seeking recognition as a refugee in South Africa. In terms of this Act, no person may be refused entry into the Republic if such an act would compel the person to return to a dangerous situation in which they would be subjected to persecution or physical danger (non-refoulement). Dependants of such persons also qualify for refugee status in terms of the same conditions. The Act further outlines the circumstances of exclusion from, and cessation of refugee status (Sections 4 and 5). The Refugees Act of 1998 outlines the mandates and functions of the RROs, Standing Committee for Refugee Affairs (SCRA) and the Refugee Appeal Board (RAB). In law, SCRA plays an oversight role, reviewing the decisions of the Refugee Status Determination Officers housed in the Refugee Reception Offices (in respect of manifestly unfounded applications⁶⁸), and also monitoring their more routine decisions.

An asylum seeker permit is issued to persons who have made applications for asylum, pending the outcome of their applications. The period of validity of such a permit can be

⁶⁸ ‘A Manifestly Unfounded’ application is one “made on grounds other than those on which such an application may be made under this Act” (Refugees Act 1998, Chapter 1, xii).

extended from time to time. If an asylum seeker's permit is withdrawn in terms of Section 22(6) of the Act, the asylum seeker may be arrested and detained pending the finalisation of the application for asylum. The Act also defines the rights and obligations of refugees. Refugees enjoy full legal protection, which includes the rights in the Bill of Rights of the Constitution of South Africa (Section 2). Refugees are also entitled to an identification document and a South African travel document. Refugees may, furthermore, seek employment (Section 27f) and are entitled to the same basic health services and basic primary education that South Africans may receive from time to time (Section 27g).

When an asylum seeker arrives in the country, he or she is required to lodge an application, in person, at a designated Refugee Reception Centre. While the determination of the claims of a person seeking refugee status are subject to investigation, the Refugee Reception Office is required to provide the asylum seeker with an Asylum Seeker's Temporary Permit (also known as Section 22 Permit)⁶⁹ pending the finalization of the refugee determination process.⁷⁰ Before the Asylum Seeker's Temporary Permit expires, the asylum seeker is expected to report to the Refugee Reception Office for a Refugee Status Determination Hearing, which is conducted by a Refugee Status Determination Officer (RSDO). The RSDO then makes an adjudication of the application and provides reasons for the decision. At the end of the status determination hearing, the RSDO grants asylum or rejects the application as unfounded⁷¹, manifestly unfounded⁷², abusive⁷³ or fraudulent⁷⁴; or refers the claim to the SCRA for further investigation and determination. If granted asylum, a refugee is issued with a Refugee Permit, also known as Section 24 Permit.

Refugees may be removed from South Africa on grounds of national security or public order, but any order for removal must afford the refugee reasonable time to obtain

⁶⁹ The Asylum Seeker's Temporary Permit which is provided under Section 22 of the Refugees Act of 1998 is a three to six months status that is granted to persons who fled his/her country of origin and is seeking a refugee status in South Africa, and whose application for a refugee status is still under consideration.

⁷⁰ Note that with ample evidence and justification, an Asylum seeker could receive decision on their Refugee application the same day.

⁷¹ Unfounded refers to groundless or baseless applications.

⁷² 'A Manifestly Unfounded' application is one "made on grounds other than those on which such an application may be made under this Act" (Refugees Act 1998, Chapter 1, 1[xii]).

⁷³ An Abusive application means 'an application for asylum made, (a) with the purpose of defeating or evading criminal or civil proceedings or the consequences thereof; or (b) after the refusal of one or more prior applications without any substantial change having occurred in the applicant's personal circumstances or in the situation in his or her country of origin (Refugees Act 1998, Chapter 1, 1[i]).

⁷⁴ A fraudulent application 'means an application for asylum based without reasonable cause on facts, information, documents or representations which the applicant knows to be false and which facts, information, documents or representations are intended to materially affect the outcome of the application' (Refugees Act 1998, Chapter 1, 1[xi]).

approval from a country of his or her choice for his or her removal to that country (Section 28). Refugees may only be detained for a maximum of 30 days before review by a High Court is required. The detention of children may, according to the Act, be used as a measure of last resort and for the shortest period of time. The sole obligation listed for refugees is that they must abide by the laws of the Republic. The law only provides for the large-scale accommodation of asylum seekers or refugees in a crisis and in the event of mass influx. In these cases, the Minister may designate areas, centres or places for the temporary reception and accommodation of asylum seekers or refugees. The law extends to the provision of a clause regarding the training of all staff who are appointed in terms of the Act.

The Draft Refugees Amendment Bill, 2015, provides further clarification and substantiation on a number of issues. Section 4, on the terms of Exclusion of persons from refugee status, notes that all persons who enter South Africa through a manner not designated as a port of entry, must present compelling reasons to a Refugee Status Determination Officer for such entry and apply for asylum within five days of entry in order to qualify for refugee status. The Amendment Bill also establishes that all asylum seekers who cannot sustain themselves for a period of at least four months may be entitled to seek work or education, but must do so within six months of receiving their asylum seekers' visa (Section 22).

[The Immigration Act \(2002\) and Amendment \(2014\)](#)

This Act replaces the Aliens Control Act, 1991 (Act No. 96 of 1991). It provides for “the regulation of *admission* of persons to, their residence in, and their *departure* from the Republic; and for matters connected therewith”. It is a far-reaching act of legislation that seeks to define the contours of the South African state’s management of the entry, residence and departure of persons in the Republic. It affects the legal, security, economic and enforcement aspects of migration and seeks to regulate each of these. The law provides for the establishment of an Immigration Advisory Board to give counsel to the Minister regarding the contents of the Act’s regulations, their implementation and reviews of Departmental decisions, among other duties (Section 5). In terms of the Act, a foreigner (defined as “an individual who is neither a citizen nor a resident, but is not an illegal foreigner”) may only enter the country by producing his or her valid passport and a valid temporary residence permit. In terms of the Act, DHA is responsible for controlling the entry and exit of people through the borders of South Africa. Regarding enforcement and monitoring, the Act also makes provision for an Inspectorate to be established, along with Immigration Courts. Duties and obligations of South Africans and foreign nationals

with regard to employment, learning institutions, and accommodation amongst others, are also listed.

Other laws with relevance to the March-May 2015 violence:

[Disaster Management Act \(2002\)](#)

The Disaster Management Act (2002) defines a disaster as any “progressive or sudden, widespread or localised, natural or human-caused occurrence that may cause or threatens to cause... deaths, injury, disease, damage to property or infrastructure, or a disruption of life of a community, and is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources.”⁷⁵ The Act establishes a National Centre for Disaster Management, provides the legislative frameworks for establishing national, provincial, and municipal disaster management policy frameworks and institutional response, mandates the development and regular review of disaster management plans at the various tiers of governance. The legislation also stipulates the procedures for declaring and responding to disastrous events, for ensuring systematic collaboration between all spheres of government as well as between government and non-state actors. Finally, the Act notes that any state of disaster (at the national, provincial, or municipal level) automatically lapses three months after it has been declared unless its extension is gazetted one month prior to the date of expiration.

[Labour Relations Act \(1995\) and related amendments](#)

The Labour Relations Act elaborates upon the legal foundations provided by Section 27 of the Constitution, in order to govern labour relations in South Africa. The legislation and its subsequent amendments detail employees’ rights in the workplace environment, provide mechanisms for procedures of collective-bargaining, labour strikes, workplace forums, trade unions and employers’ organisations, and dispute resolution mechanisms between employers and employees. Importantly, definitions of an ‘employee’, as contained within Sections 213 or 78 of the Labour Relations Act, do not make distinctions between South African citizens and foreign nationals.

[Draft Border Management Agency Bill \(2015\)](#)

The draft bill aims to establish an overarching Border Management Agency whose responsibilities are to develop a singular overarching agency responsible for ports of entry and South Africa’s borders. The proposed functions of the Agency include the management of legitimate movement of persons and goods into and out of South Africa;

⁷⁵ Disaster Management Act 57, 2002.

the performance of law enforcement functions at the border and at ports of entry, and the coordination of the implementation of such functions with all organs of state. Headed by a Commissioner appointed by the President of the Republic of South Africa, the Agency would be responsible for ensuring compliance and enforcement functions at borders and ports of entry with respect to specific functions set out in various legislation spanning issues involving immigration and migration, customs controls, imports and exports of goods, and environmental conservation, amongst others (as set out in Schedule 1 of the draft bill). The draft bill also establishes an Inter-Ministerial Consultative Committee to consult on management and oversight of the Agency and related legislation, comprising Ministers from nine different departments.

4.2.2. Bi-Lateral Agreements between South Africa and other countries

Below is a list of bilateral agreements or special dispensations in place for nationals of specific countries in South Africa:

Zimbabwean Special Dispensation (2014):

This system, introduced by the Minister of Home Affairs on 12 August 2014, renders holders eligible to remain in South Africa until the end of 2017. The objective of this regime, and its predecessor, the Dispensation of Zimbabweans Project (DZP) was two-fold: first, to create a record of all Zimbabweans living in South Africa, especially those who had fled to the country in the wake of decade-long violence in Zimbabwe. The second objective was to provide an amnesty to those Zimbabweans who were living in South Africa illegally, or who had obtained documents fraudulently.⁷⁶

Lesotho Special Dispensation (2015):

On 22 September 2015, the Minister of Home Affairs announced a new Special Dispensation for the movement of persons between South Africa and Lesotho. This dispensation aims to regularise the status of undocumented persons of Basotho origin in South Africa, implement a cross-border movement control system based on the scanning of passports, establish a special study visa arrangement, and explore the feasibility of a trusted traveller system between the two countries.⁷⁷

⁷⁶ Chiumia, S. and van Wyk, A. no date. "Fact Sheet: The new special dispensation permit and what it means for Zimbabweans in SA", Africa Check website. Accessed online at: < <https://africacheck.org/factsheets/what-does-the-new-special-dispensation-permit-mean-for-zimbabweans-in-sa/> > on 6 August, 2015.

⁷⁷ DHA (2015) 'Minister Gigaba announces the new Lesotho Special Dispensation.' *Department of Home Affairs*. 23 September, Accessed online at: < <http://www.dha.gov.za/index.php/statements-speeches/676-minister-gigaba-announces-the-new-lesotho-special-dispensation> > on September 2015.

Nationals of the following African countries do not require visas for stays of 90 days or less, or when in transit:

- Botswana;
- Namibia (90 days per year);
- Tanzania (90 days per year);
- Zambia (90 days per year);
- Zimbabwe.

Nationals of the following African countries do not require visas for stays of 30 days or less, or when in transit:

- Benin; Cape Verde; Gabon; Lesotho; Malawi; Mauritius; Mozambique; Seychelles; Swaziland

4.2.3. [Continental Legal Instruments](#)

Given that the vast majority of migrants to South Africa originate from elsewhere on the African continent, it is important to recognise how regional and continental legal frameworks interact with domestic frameworks. It is in this light that the following continental and international conventions are detailed below – South Africa is a signatory to the following agreements:

[Organisation of African Unity \(OAU\) Convention Governing the Specific Aspects of Refugee Problems in Africa \(1969\):](#)

The 1969 OAU Convention defines the terms on which an individual on the African continent may be considered a refugee and the conditions under which a Member State should grant asylum to a refugee. The Convention mandates that Member States apply the Convention without discrimination, and also that refugees adhere to the laws and regulations of the State in which they seek asylum. The Convention affirms that all acts of repatriation of refugees to their countries of origin must be voluntary by nature, and that refugees lawfully permitted within a Member State must be issued travel documents for purposes of travel outside that territory.

[African Charter on Human and Peoples Rights \(1981\)](#)

The African Charter on Human and Peoples rights is a continental human rights instrument intended to promote and protect the basic freedoms of those persons on the African continent. The Charter sets out that all individuals are equal before the law and entitled to equal protection by the law, and that all individuals are entitled to certain rights and freedoms without distinction of any kind (including race, ethnic group, colour,

sex, language, religion, national and social origin, or any status). The charter also explicitly prohibits “the mass expulsion of foreign nationals (that which is aimed at national, racial, ethnic, or religious groups).”⁷⁸

[SADC Protocol on the Facilitation of Movement and Persons \(2005\)](#)

At the regional level, South Africa is a signatory to the 2005 SADC Protocol on the Facilitation of Movement of Persons. This instrument seeks to “develop policies aimed at the progressive elimination of obstacles to the movement of persons of the Region generally into and within the territories of State Parties.”⁷⁹ Specifically, one of its objectives is to facilitate entry, residence and establishment (working) in the territory of States Parties by nationals of States Parties (Article 3). The Protocol requires signature and ratification by at least two-thirds of SADC Member States in order to enter into force, which has not currently been achieved.⁸⁰ Some obstacles to the ratification of the Treaty by the requisite number of states include:

- Lack of funds to implement new changes to immigration policy required at the national level by the Protocol (for example population registers);
- Preoccupation with more pressing national crises, such as conflict and instability in the Democratic Republic of the Congo (DRC); and
- Pre-existing bilateral agreements between some Member states which obviate the need for a new regional agreement.⁸¹

[African Common Position on Migration and Development \(2006\) and Migration Policy Framework for Africa \(2006\)](#)

In 2006, the Executive Council of the AU released its Migration Policy Framework for Africa. This step was initiated by a decision taken in 2001 by the OAU Council of Ministers to formulate a Strategic Framework for a Policy on Migration for Africa, for consideration by African Heads of State. The Framework provides comprehensive policy guidelines on a number of issues and themes, including:

⁷⁸ OAU (1981) *African Charter on Human and Peoples Rights*. Organisation of African Unity. June, Accessed online at: <<http://www.achpr.org/instruments/achpr/>> on September 2015.

⁷⁹ SADC (2005) “Protocol on the Facilitation of Movement of Persons”, Gabarone. Accessed online at: <http://www.sadc.int/files/9513/5292/8363/Protocol_on_Facilitation_of_Movement_of_Persons2005.pdf> in August 2015.

⁸⁰ Kitimbo, A. (2014). “Is it time for open borders in Southern Africa? The Case for Free Labour Movement in SADC”, The Brenthurst Foundation, Discussion Paper 4/2014. Accessed online at: <http://www.thebrenthurstfoundation.org/Files/Brenthurst_Commissioned_Reports/Brenthurst-paper-201404-free-labour-movement-in-SADC.pdf> on August 2015.

⁸¹ Kitimbo, A. (2014). “Is it time for open borders in Southern Africa? The Case for Free Labour Movement in SADC”, The Brenthurst Foundation, Discussion Paper 4/2014. Accessed online at: <http://www.thebrenthurstfoundation.org/Files/Brenthurst_Commissioned_Reports/Brenthurst-paper-201404-free-labour-movement-in-SADC.pdf> on August 2015.

- Labour migration
- Border management
- Irregular migration
- Forced displacement
- Human rights of migrants
- Internal migration
- Migration data
- Migration development and
- Inter-state cooperation and partnerships

The AU also agreed a Common Position on Migration and Development in 2006. The Common Position calls for “comprehensive, integrated, concerted and balanced” solutions to Africa’s migration challenges, eschewing security measures as the primary means of dealing with the issues. In this light, the Common Position calls upon African states to commit to far-reaching governance, socio-economic and development changes in order to meet the migration challenge in Africa. The Common Position also calls for improved data gathering on migrants, and more efficient financial transfer instruments for emigrants to send funds home.

The Common Position also encourages the conclusion of cooperation agreements by African States to manage migration bilaterally and regionally; and information sharing between, for example, security agencies, national migration focal points, and academics and researchers. Internationally, the AU Common Position calls for the implementation of commitments made by bodies such as the European Union to support intra-African freedom of movement, the integration of migrants, and the need to fight racism and xenophobia. More broadly, there is a call for support in strengthening the AU’s peacekeeping machinery, as well as in implementation of its development plans.

4.2.4. International Legal Instruments

[United Nations Charter \(1945\) and Universal Declaration of Human Rights \(1948\)](#)

These charters constitute the foundations of international human rights law and relations between countries, and also encourage respect for “human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion...”⁸²

The Universal Declaration of Human Rights asserts that all human beings are entitled to all of the rights and freedoms contained in the Declaration, “without distinction of any

⁸² UN (1945) *Charter of the United Nations*. United Nations, Accessed online at: < <http://www.un.org/en/charter-united-nations/index.html>>, on August 2015.

kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”⁸³ The Declaration further notes that every member of society has the right to equal protection under the law and to social security, and the right to a standard of living adequate for their health and well-being. Finally, the Declaration notes that all persons have the right to seek and enjoy asylum from persecution in other countries.

[UN Convention Relating to the Status of Refugees \(1951\) and the Protocol Related to the Convention \(1967\):](#)

This document is a key piece of international legislation that defines who is a refugee, their rights and the legal obligations of states in which persons seek asylum and refuge. The Convention enshrines the rights of all refugees to gainful employment, public education, public relief and assistance, freedom of movement, and the right to be issued identity and travel documents, amongst other rights and freedoms. The Convention also states that the Contracting States shall not penalise refugees that enter the country illegally, “so long as they present themselves without delay to the authorities and show good cause for their illegal entry or presence.”⁸⁴ The Convention also outlines the restrictions of ‘refoulement’ of refugees to a territory where a person’s life would be threatened. All Contract States are required to apply the provisions of this convention without discrimination based on race, religion or country of origin. The 1967 Protocol “removes the geographical and time limits that were part of the 1951 convention” which limited the definition of a refugee as a person impacted by events occurring in Europe before 01 January 1951.⁸⁵

[UN Convention on the Elimination of All Forms of Racial Discrimination \(1965\)](#)

The 1965 Convention defines the term *racial discrimination* as any distinction, restriction or preference that is intended to detract from any individual’s human and fundamental freedoms; the term covers race, colour, descent, or national or ethnic origin. Contracting States agree to take all appropriate measures to eliminate discrimination on such bases,

⁸³ UN (1948) *The Universal Declaration of Human Rights*. United Nations, Accessed online at: <<http://www.un.org/en/documents/udhr/>> on August 2015.

⁸⁴ UNHCR (1951) *Convention Relating to the Status of Refugees*. United Nations High Commission for Refugees, Accessed online at: <<http://www.unhcr.org/3b66c2aa10.html>>, on August 2015.

⁸⁵ UNHCR (2011) *Frequently Asked Questions about the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol*. United Nations High Commission for Refugees, P.4, Accessed online at: <<http://www.unhcr.org/4ec262df9.html>> on September 2015.

and the Convention also specifically mandates its parties to “declare an offense punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin...”⁸⁶

[UN International Convention on Civic and Political Rights \(1966\) and International Convention on Economic Social and Cultural Rights \(1966\)](#)

The Convention on Civic and Political Rights mandates signatories to ensure all individuals within its territory are treated equally under the law without distinction based on race, colour, sex, language, religion, political or other opinion, national or social origin, or any other status. The Convention also mandates that each State Party ensure that if any person experiences violation of these rights, they may have effective recourse through relevant judicial, administrative or legislative authorities.⁸⁷ The Convention on Economic Social and Cultural Rights further commits signatories to guarantee that all economic, social and cultural rights are realised without discrimination of any kind, including national or social origin.

[Durban Declaration and Joint Programme of Action, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance \(2001\)](#)

Signatories to the 2001 Durban Declaration “underscore the need to design, promote and implement at the national, regional and international levels” policies and legislation to improve the quality of life for all persons without discrimination, including for those victims of racism, racial discrimination, xenophobia and related intolerance.⁸⁸ Two specific sections of the related *Programme of Action* specifically advocate for efforts to support migrants and refugees, respectively through the undertaking of concrete measures, through policies, action plans and preventative measures to foster greater cohesion between and equal treatment of these individuals and host societies.

South Africa is not party to either the International Convention of Migration on Employment (1949) or the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (1990).

⁸⁶ UN Office of the High Commissioner for Human Rights (1965) *International Convention on the Elimination of All Forms of Racial Discrimination*. United Nations Human Rights, 21 December, Accessed online at: <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>> on September 2015.

⁸⁷ UN (1966) *International Covenant on Civil and Political Rights*. United Nations General Assembly, 19 December. Accessed online at: <<https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>> on September 2015.

⁸⁸ 2001. *Durban Declaration and Joint Programme of Action - World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance*. World Conference. Accessed online at: < <http://www.un.org/WCAR/durban.pdf>> on August 2015.

4.3. Context and dynamics of migration, asylum and refugee dynamics worldwide

4.3.1. Global trends on migration and displaced persons

In 2013, there were approximately 232 million international migrants worldwide, 50 million of them determined to be irregular migrants; the 232 million migrants were estimated to represent 3.2% of the world's population.⁸⁹ The developed world hosted the majority of these migrants (59%), while the remaining 41% were hosted in the developing world. The number of international migrants has risen drastically, by 50% since 1990, with much of this growth occurring in the last decade, between 2000 and 2010. Further, "while the North gained the largest absolute number of migrants between 1990 and 2013, since 2000 the average annual growth rate in international migrant stock in the South outpaced the growth rate in the North: 2.3 per cent per annum versus 2.1 per cent per annum, respectively."⁹⁰ In the developing countries, the growth in the migrant population resulted mainly in an increase in migrants from the global South. This said, overall, international migrants accounted for a relatively small share of the total population (3.2 per cent of world population in 2013, compared to 2.9 per cent in 1990. The UN further noted that in 2013, Europe and Asia combined hosted nearly two-thirds of all international migrants worldwide (72 million and 71 million respectively), while North America hosting the third largest number (53 million) and Africa the fourth largest (19 million). Another trend noted in 2013 was the prevalence of intra-continental migration: some 82 per cent of international migrants residing in Africa, for example, were born in a different African country.

In its 2014 Global Trends report, UNHCR determined that there are 59.5 million forcibly displaced persons worldwide: 19.5 million are refugees, 38.2 million are internally displaced, and 1.8 million are asylum seekers.⁹¹ 53% of all refugees originate from Syria (3.88 million), Afghanistan (2.59 million) and Somalia (1.11 million). In 2014, 51% of all refugees were under the age of 18. Developing countries host 86% of the 12.4 million refugees officially

⁸⁹ UN DESA (2013) *International Migration Report*. United Nations Department of Economic and Social Affairs – Population Division. December, Accessed online at: http://www.un.org/en/development/desa/population/publications/pdf/migration/migrationreport2013/Full_Document_final.pdf, on September 2015. P1.

⁹⁰ UN DESA (2013) *International Migration Report*. United Nations Department of Economic and Social Affairs – Population Division. December, Accessed online at: http://www.un.org/en/development/desa/population/publications/pdf/migration/migrationreport2013/Full_Document_final.pdf, on September 2015. P1.

⁹¹ UNHCR (2015) *UNHCR Global Trends Report – Forced Displacement in 2014*. United Nations High Commission for Refugees. 18 June, Accessed online at: <http://unhcr.org/556725e69.html> on September 2015.

recognised by UNHCR.⁹² Increased inflows of refugees and international migrants have also become prominent issues in many regions throughout the world. In one example, between January-August 2015, more than 300,000 refugees and migrants crossed the Mediterranean Sea in order to enter Europe, compared to 219,000 persons during the same time period one year prior.⁹³ In 2014, the South-East Asian region was home to more than over 500,000 refugees, largely dominated by members of the broader Rohingya communities.⁹⁴

4.3.2. Regional responses to evolving trends of migration

Africa: The African continent's collective approach to migration-related dynamics is informed by the African Common Position and the Migration Policy Framework (2006). Many of the continent's RECs have begun developing intra-regional policy frameworks to facilitate the movement of persons between states. The Protocol on Free Movement of Persons of the Economic Community of West African States (ECOWAS) has successfully implemented two of its three phases: Phase One, governing the right of entry and abolition of visas for citizens of Member States was ratified in 1980, while Phase Two, which gives citizens the right to reside and take up employment in another ECOWAS state, commenced in 1986. Phase Three, covering the right of establishment, is still in the process of being ratified. ECOWAS member states have adopted a common passport and national identity cards.⁹⁵ The East African Community (EAC) Common Market Protocol, meanwhile, has given life to similar freedoms in East Africa: EAC citizens can freely visit Member States as long as they possess valid travel documents. A common East Africa passport is currently in use by Uganda, Kenya and Tanzania. Rwanda and Kenya have eliminated requirements for work permits for Member States of the EAC. In Southern Africa, meanwhile, among other initiatives mentioned previously, the Refugees Steering Committee (RSC) within SADC,

⁹² UNHCR (2015) *UNHCR Global Trends Report – Forced Displacement in 2014*. United Nations High Commission for Refugees. 18 June, Accessed online at: <<http://unhcr.org/556725e69.html>> on September 2015.

⁹³ UNHCR (2015) "Crossings of Mediterranean Sea exceed 300,000, including 200,000 to Greece." UNHCR News Story. 28 August, Accessed online at: <<http://www.unhcr.org/55e06a5b6.html>> on September 2015.

⁹⁴ The Rohingya people are members of a broad south-east Asian ethnic community who mostly share a common identity, language (Rohingya) and religion (Islam). Many members of the Rohingya ethnic community live in Myanmar, with other communities spread throughout various countries in south-east Asia. Rohingya communities, who are not citizens in Myanmar, have increased their irregular migration from Myanmar and Bangladesh to other countries in the region over the past year. Source: UNHCR (2014) "Regional Office for South-East Asia: Factsheet" UN High Commission for Refugees, September, Accessed online at: <<http://www.unhcr.org/519f67fc9.html>> on September 2015.

⁹⁵ Kitimbo, A. (2014). "Is it time for open borders in Southern Africa? The Case for Free Labour Movement in SADC", The Brenthurst Foundation, Discussion Paper 4/2014. Accessed online at: <http://www.thebrenthurstfoundation.org/Files/Brenthurst_Commissioned_Reports/Brenthurst-paper-201404-free-labour-movement-in-SADC.pdf> on August 2015.

including through the contributions of South Africa, have begun developing a 'Regional Framework on the Management of Asylum Seekers and Refugees.'⁹⁶

European Union: In response to the recent "massive migratory flows" into European countries, on 14 September 2015 the Council of the European Union agreed in principle to distribute 120,000 persons in need of protection into EU Member States.⁹⁷ This decision builds upon the regional structure's interventions already in operation, including through Frontex Joint Operations⁹⁸, TRITON 2015,⁹⁹ and the relocation of up to 40,000 affected persons from Italy and Greece as an immediate intervention.¹⁰⁰ The EU's broader approach to persons in need of international protection remains informed by the *European Agenda on Migration* and the Dublin III policies.¹⁰¹ These inflows have affected European States differently partly because each state has accepted to provide refuge to a different number of asylum seekers (and the numbers have differed markedly between each country), and contributed to these states producing different policies at national level, including a mix of

⁹⁶ DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

⁹⁷ EU (2015) "Council of the European Union - Conclusions of Meeting held on 14 September" Note 12002/1/15 REV 1. Accessed online at: <http://www.consilium.europa.eu/en/meetings/jha/2015/09/st12002_en15_pdf/> on September 2015.

⁹⁸ Frontex, otherwise known as the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU, is an agency that helps coordinate and streamline the efforts of EU Member States' border agencies. Frontex facilitates the coordination and implementation of joint operations, training programmes, risk analysis papers and research, information systems and collaborative information sharing, and developing rapid response capacities. Source: Frontex (2015) *About Frontex- Missions and Tasks*. European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU. Accessed online at: <http://frontex.europa.eu/about-frontex/mission-and-tasks/> on October 2015.

⁹⁹ Joint Operation Triton is a Frontex-coordinated intervention, under the control of the Italian government with the support of EU Member States, in order to monitor and regulate the borders along European waters. Source AEDH (2015) "The new European operation Frontex Plus/Triton: an operation with differing objectives and more limited means than the Mare Nostrum operation." *Association Européenne pour la défense des Droits de l'Homme*. Accessed online at: <<http://www.aedh.eu/The-new-European-operation-Frontex.html>> on October 2015.

¹⁰⁰ EU (2015) "Council of the European Union - Conclusions of Meeting held on 14 September" Note 12002/1/15 REV 1. Accessed online at: <http://www.consilium.europa.eu/en/meetings/jha/2015/09/st12002_en15_pdf/> on September 2015.

¹⁰¹ The European Agenda on Migration, adopted on 13 May 2015, identifies short, medium, and long-term priorities for managing migration into the EU. These include: reducing incentives for irregular migration, saving lives, securing borders, strengthening the common asylum policy, and developing a new migration policy. The Dublin III policy "establish[es] the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person." Sources: EU (2013) "Regulation No 604/2013 of the European Parliament and Council" *Official Journal of the European Union L180/31*, 29 June, Accessed online at: <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF>> on September 2015; EU (2015) "Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions – A European Agenda on Migration." *European Commission*, COM(2015) 240 Final. 13 May, Accessed online at: <http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf> on October 2015.

enhancing reception and verification mechanisms, strengthening integration-based policies for those affected persons admitted into EU countries, and temporary border controls to manage inflows. The 25 October 2015 EU *Leaders' Statement to Address Flows on the Western Balkans Route* highlighted a number of operational commitments made by EU Member States.¹⁰²

South-East Asia and ASEAN: Nations in the Association of South East Asian Nations (ASEAN) region and in South-East Asia have yet to finalise a regional strategy to engage or manage inflows of irregular migration. Current efforts, however, are building upon the Regional Cooperation Framework established through *The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime*, which started in 2002.¹⁰³ Recent interventions in 2015 contributed to further progress in developing such frameworks. On 20 May 2015, the Ministers of Foreign Affairs for Indonesia, Malaysia and Thailand reached a joint agreement, in terms of which the countries committed to addressing the root causes of the influx of migrants and affected persons, conducting search and rescue missions for and providing humanitarian assistance to 7,000 persons “still at sea”, as well as facilitating processes of temporary shelter, resettlement and repatriation where appropriate.¹⁰⁴ These issues were addressed further at the 29 May *Special Meeting on Irregular Migration in the Indian Ocean*, attended by 17 countries in the region as well as a number of international organisations: at this meeting, the participating countries committed to intensifying search and rescue missions, enhancing legal and safe channels for migration, and to addressing the root causes of irregular migration in the countries of origin, amongst other commitments.¹⁰⁵

Middle East and Central Asia: Many countries in the Middle East and Central Asia are amongst the most heavily impacted by recent increases in irregular migration. The three countries with the largest number of refugee populations are Turkey (1.59 million), Pakistan (1.51 million) and Lebanon (1.11 million) (30% of all refugees globally) while over 6.47 million

¹⁰² EU (2015) “Leaders’ Meeting on refugee flows along the Western Balkans Route.” *European Union*, 25 October, Accessed online at: <http://ec.europa.eu/news/2015/docs/leader_statement_final.pdf> on October 2015.

¹⁰³ The Bali Process (2014) “Regional Cooperation Framework,” *The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime*. Accessed online at : <<http://www.baliprocess.net/regional-cooperation-framework>> on September 2015; Davies, S (2015) “Time to Protect Southeast Asia’s Refugees.” *The Diplomat*. 12 September, Accessed online at: <<http://thediplomat.com/2015/09/time-to-protect-southeast-asias-refugees/>> on September 2015.

¹⁰⁴ (2015). *Joint Statement of the Ministerial Meeting on Irregular Movement of People in South-East Asia*. Governments of Malaysia, Indonesia and Thailand. 20 May 2015, Accessed online at: <<http://www.nytimes.com/interactive/2015/05/20/world/asia/document-malaysia-indonesia-thailand-statement-on-asia-migrants-crisis.html>> on September 2015.

¹⁰⁵ Government of Thailand (2015) “Summary: Special Meeting on Irregular Migration in the Indian Ocean.” 29 May, Accessed online at: <<http://reliefweb.int/sites/reliefweb.int/files/resources/media-center-20150529-175942-231858.pdf>> on September 2015.

refugees originate from Syria and Afghanistan alone.¹⁰⁶ In 2014, the Russian Federation received over 274,000 new individual asylum claims, the most worldwide.¹⁰⁷ The League of Arab States has implemented a number of internal mechanisms to strengthen its own and Member States' responses to growing issues concerning migration and development. Such initiatives include the establishment of an Arab Regional Working Group on International Migration (with the support of the United Nations Economic and Social Commission for Western Asia and the International Organisation for Migration (IOM)) as well as the Africa-Arab Technical and Coordination Committee on Migration.¹⁰⁸ There are no formal instruments governing migration-related issues amongst Members of the League of Arab States or amongst the Arab, Middle Eastern and Central Asian countries more broadly.

North America: North American countries, including the United States and Canada, have begun to increase their commitments supporting irregular migrants, including refugees and asylum seekers. The United States annually allocates permits for approximately 70,000 refugees, distributed by region throughout the world.¹⁰⁹ Further, the United States has responded to the current developments by increasing the number of permits allocated to refugees from Syria from approximately 1,500 in 2014-2015 to over 10,000 in 2015-2016.¹¹⁰ Canada's immigration policy facilitates the resettlement of approximately 10,000 refugees annually, while in 2014 the government received over 13,500 applications for asylum.¹¹¹ The country has committed to resettle an additional 10,000 Syrian refugees between now and the end of 2017.¹¹²

This section has revealed the scope of the impact and responses to the recent migration challenges throughout the world. Statistics reflect that international migration is now a fact

¹⁰⁶ UNHCR (2015) *UNHCR Global Trends Report – Forced Displacement in 2014*. United Nations High Commission for Refugees. 18 June, Accessed online at: <<http://unhcr.org/556725e69.html>> on September 2015.

¹⁰⁷ UNHCR (2015) *UNHCR Global Trends Report – Forced Displacement in 2014*. United Nations High Commission for Refugees. 18 June, Accessed online at: <<http://unhcr.org/556725e69.html>> on September 2015.

¹⁰⁸ League of Arab States (2015) *Contribution to the Thirteenth Coordination Meeting on International Migration*. UN Department of Economic and Social Affairs – Population Division, UN/POP/MIG-13CM/2015/5. 05 February, Accessed online at: <http://www.un.org/en/development/desa/population/migration/events/coordination/13/documents/papers/5_LAS_Contribution.pdf> on September 2015.

¹⁰⁹ AIC (2014) "How the United States Immigration System Works: A Fact Sheet." *American Immigration Council*. 01 March, Accessed online at: <<http://www.immigrationpolicy.org/just-facts/how-united-states-immigration-system-works-fact-sheet>> on October 2015.

¹¹⁰ Harris, G. et al. (2015) "Obama increases number of Syrian refugees for U.S. resettlement to 10,000." *New York Times*. 10 September, Accessed online at: <<http://www.nytimes.com/2015/09/11/world/middleeast/obama-directs-administration-to-accept-10000-syrian-refugees.html>> on October 2015.

¹¹¹ Government of Canada (2015) "The refugee system in Canada." *Government of Canada*. 21 September, Accessed online at: <<http://www.cic.gc.ca/english/refugees/canada.asp>> on October 2015.

¹¹² Government of Canada (2015) "The refugee system in Canada." *Government of Canada*. 21 September, Accessed online at: <<http://www.cic.gc.ca/english/refugees/canada.asp>> on October 2015.

of contemporary international life and how irregular migration will continue to accelerate in the upcoming years. Countries on the African continent have developed some of the most progressive regional responses to international migration on paper, with some initiatives having been successfully launched and in their initial stages, as seen in West and East Africa.

4.4 Literature Review: Assessed causes of and responses to the 2008 violent attacks against foreign nationals in South Africa

The magnitude of the March-May 2015 violent attacks in KZN should be contextualised within the broader history of relations between South Africans and foreign nationals throughout the country. While some research has identified incidents of anti-foreigner mobilisation and violent attacks against foreign nationals to as early as 1994,¹¹³ the scope and magnitude of the March-May 2015 developments are similar to the challenges faced in 2008. In this light, and in line with the mandate given to the SRG by the Premier of KZN, this section will briefly assess the identified causes of and responses to the 2008 violent attacks.

4.4.1 Literature on causes of 2008 violent attacks

The body of academic work covering immigrants in South Africa is large. Literature on the causes of the 2008 attacks and on local attitudes towards migrants make up only a small portion of the issues under discussion, as the full gamut of life in South Africa for migrants is analysed. This literature can be divided into the following broad categories (a selection of sources is provided in footnotes by way of illustration):

- Studies of the causes and consequences of the 2008 violence against migrants¹¹⁴

¹¹³ The Southern African Migration Project (2008) *The Perfect Storm: The Realities of Xenophobia in Contemporary South Africa*. Migration Policy Series No.50. 03 June, Accessed online at: <<http://www.queensu.ca/samp/sampresources/samppublications/policyseries/Acrobat50.pdf>> on August 2015; Misago, JP et al. (2010) *May 2008 Violence Against Foreign Nationals in South Africa: Understanding Causes and Evaluating Responses*. Consortium for Refugees and Migrants in Southern Africa (CoRMSA) and Forced Migrations Studies Programme. April, Accessed online at: <<http://www.cormsa.org.za/wp-content/uploads/2009/05/may-2008-violence-against-foreign-nationals-in-south-africa.pdf>>; IOM (2011) *Towards Tolerance, Law, and Dignity: Addressing Violence against Foreign Nationals in South Africa*. International Organisation for Migration (IOM). 07 February, Accessed online at: <<http://southafrica.iom.int/publication/towards-tolerance-law-and-dignity-addressing-violence-against-foreign-nationals-in-south-africa/>> on September 2015; Tevera, D. (2013) "African Migrants, Xenophobia and Urban Violence in Post-apartheid South Africa." *Alternation*, Special Edition, 7 (1). P9-26. Accessed online at: <http://repository.uwc.ac.za/xmlui/handle/10566/1632>.

¹¹⁴ See Hayem, J. (2013). "From May 2008 to 2011: Xenophobic Violence and National Subjectivity in South Africa." *Journal of Southern African Studies*, 39 (1),PP:77-97; Kirshner, J. (2014) "'We are Gauteng People': Challenging the Politics of Xenophobia in Khutsong, South Africa", in *Antipode*, 44 (4), PP: 1307-1328.

- Analyses of the economic impact of migration both on South Africa as the host society and for migrants in South Africa¹¹⁵
- Examinations of the push factors motivating immigrants to come to South Africa, as well as the regional politics of migration¹¹⁶
- The literature analysing migrant experiences and local attitudes to migrants in South Africa¹¹⁷
- The literature examining the history of migration to South Africa: this literature includes studies from academics, NGOs and international financial institutions, such as the World Bank, about historical patterns of migration and their resonance in contemporary life. This includes the migration of Chinese, migrants from Madeira, Portugal and those from other African states.¹¹⁸

A number of think tanks and research institutes also published reports on the 2008 violence, including the Forced Migration Studies Programme (now the African Centre for Migration and Society) (ACMS) at the University of the Witwatersrand, and the IOM. The Human Sciences Research Council (HSRC) conducted a rapid response study after the 2008 violence, finding that five themes were critical to the emergence of tensions between locals and foreign nationals:

- The role of government – ineffective communication and engagement with local citizens about the violence and its causes; slow pace of service delivery; perceived corruption and impropriety in dealings with foreign nationals.
- The scale of the influx of ‘migrants’ – the distinction between ‘legal’ and ‘illegal’ migrants was drawn frequently, with regard to crime, access to services and the illegal operation of businesses.

¹¹⁵ See as a sample, Moyo, I. (2014) “A Case Study of Black African Immigrant Entrepreneurship in Inner City Johannesburg Using the Mixed Embeddedness Approach.” *Journal of Immigrant and Refugee Studies*, 12 (3), PP: 250-273.

¹¹⁶ Nshimbi, C. and Fioramonti, L. (2014) “The Will to Integrate: South Africa’s Responses to Regional Migration from the SADC Region.” *African Development Review*, 26 (2), PP: 52-63.

¹¹⁷ See Gordon, S.L. and Maharaj, B. (2015) “Neighbourhood-level social capital and anti-immigrant prejudice in an African context: an individual-level analysis of attitudes towards immigrants in South Africa.” *Commonwealth and Comparative Studies*, 53 (2), PP: 197-219.

¹¹⁸ HRW (2008) “Neighbours in Need: Zimbabweans Seeking Refuge in South Africa.” Human Rights Watch. Accessed online at: < <https://www.hrw.org/reports/2008/southafrica0608/southafrica0608web.pdf>>; HRW (2008) “Unprotected Migrants: Zimbabweans in South Africa’s Limpopo Province.” Human Rights Watch, 18 (6); August, Accessed online at: < <https://www.hrw.org/reports/2006/southafrica0806/>>; Landau, L. and Segatti, A. (2011) *Contemporary migration to South Africa: a regional development issue*. The World Bank – Publication for the African Development Forum. Washington DC, 23 August. Accessed online at: < http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/09/09/090224b0828b1246/1_0/Rendered/PDF/Contemporary0m0al0development0issue.pdf>.

- The impact of gender dynamics on migrants – the study found that attitudes towards migrants varied with age and gender, with young men being far more likely to hold antagonistic attitudes than young women.
- The pace of the housing policy and the administration of housing – the report found that housing was reported in the media to be a key source of tensions. Housing was found to matter as many poor communities are still waiting for housing. It was found that foreign nationals acquired coveted Reconstruction and Development Programme (RDP) housing largely through financial arrangements with South Africans who would rent or sell the houses to them, countering the common perception that the government has given these houses to foreign nationals directly.
- The politics of economic livelihoods and competition for resources¹¹⁹ - the perception that foreign nationals were ‘taking jobs’ from locals and that foreign nationals were more resourceful, and thus more successful, than locals.

The SAHRC’s investigation into the May 2008 attacks made wide-ranging findings covering a number of stakeholders and responses.¹²⁰ Some of the key findings included observations about the challenging state of governance in informal settlements as one precursor to the tensions; that prior awareness raising and anti-xenophobia campaigns did not prevent hatred and resentment of foreigners reaching high levels in 2008; and that there were weaknesses throughout intergovernmental coordination efforts. The findings also addressed the observation that re-integration processes did not occur in a consistent or sustainable way, and were not being monitored by the time the report was finalised.

The 2009 IOM report, developed with research conducted by Wits University, outlined the following as contributing factors to the violence against foreign nationals in 2008:¹²¹

- High unemployment rates;
- Poor service delivery;
- Impunity, with respect to public violence broadly and violence directed at foreign nationals specifically;
- Limited knowledge of the country’s immigration laws and policies; and,

¹¹⁹ HSRC (2008) “Citizenship, Violence and Xenophobia in South Africa: Perceptions from South African Communities”, Human Sciences Research Council Report – Democracy and Governance Programme. June, Accessed online at: <<http://www.hsrc.ac.za/en/research-data/mtree-doc/6450>>.

¹²⁰ SA Human Rights Commission (2010) *Report on the SAHRC Investigation into Issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence against Non-Nationals*. South African Human Rights Commission. Accessed online at: <<http://www.sahrc.org.za/home/index.php?ipkContentID=15>>

¹²¹ IOM (2011) *Towards Tolerance, Law, and Dignity: Addressing Violence against Foreign Nationals in South Africa*. International Organisation for Migration (IOM). 07 February, Accessed online at: <<http://southafrica.iom.int/publication/towards-tolerance-law-and-dignity-addressing-violence-against-foreign-nationals-in-south-africa/>> on September 2015.

- Local authorities' support and enforcement of illegal practices, such as the conclusion under duress of agreements that infringe upon business rights, which are then enforced by police and local authorities.

The following were furthermore identified as triggers:

- Elevated crime levels (real or perceived);
- Ethnic divides and tensions – where a dominant ethnic group asserts itself over an area and treats other South Africans as second-rate citizens;
- History of organised violence – including taxi, gang and political violence;
- Absence of institutionalised leadership, resulting in the emergence of informal leadership groups; forced removals as a tool for consolidating power and the motivation for instigators of attacks; and, the lack of adequate conflict resolution mechanisms; and,
- The inability of local government to exercise authority in multi-party constituencies.

Looking historically at migration in KZN, while there are not many studies on the province of KZN specifically, there are a few that deal specifically with the experiences of migrants in Durban.¹²² The study by Maharaj and Rajkumar in 1997 saw the challenges with xenophobia in Durban originating in the late 1980s. Some detailed work has been conducted on specific areas within eThekweni, such as the Bottlebrush community next to Chatsworth.¹²³ This study found that challenges with regard to access to land and housing led to the frustration of locals and the exploitation of migrants. This report identified that there was a need “to counter the tendency of local elites to use xenophobic arguments for pecuniary gain”, as the report had identified instances where local land owners had used ‘xenophobic arguments’ to extract higher rents from tenants.¹²⁴ It also noted ongoing verbal harassment of foreign nationals; a political vacuum in the area; and, the marginalisation of Bottlebrush from the social, political and economic life of Chatsworth.

The literature is vast and the foregoing discussion is merely indicative. The current study is thus not conducted in a vacuum, but in the context of ongoing debates about the violent attacks against foreign nationals in the country – debates conducted locally, nationally, regionally and even globally.

¹²² See Maharaj, B. and Rajkumar, R (1997). “The ‘alien invasion’ in South Africa: Illegal immigrants in Durban.” *Development Southern Africa*, 14 (2), PP: 255-273.

¹²³ Ngwane, T. (2009) “Xenophobia in Bottlebrush: An investigation into the reasons behind the attacks on African immigrants in an informal settlement in Durban.” *Xenophobia and Civil Society*. The Atlantic Philanthropies.

¹²⁴ Ngwane, T. (2009) “Xenophobia in Bottlebrush: An investigation into the reasons behind the attacks on African immigrants in an informal settlement in Durban.” *Xenophobia and Civil Society*. The Atlantic Philanthropies, P2.

4.4.2 Literature on responses to 2008 violent attacks

A number of institutions, including the South African Parliament, the SAHRC, and the HSRC produced a number of key findings and recommendations that they identified from the 2008 incidents that should be considered in order to prevent the recurrence of future situations. These findings and recommendations are discussed in brief below.

In the aftermath of the violent attacks in 2008, one of the findings of the SAHRC was that the KZN Provincial Government did not declare a provincial disaster, in spite of the fact that displacement had already occurred in at least five municipalities apart from eThekweni. According to its 2010 Report, “eThekweni reported a lack of authority, resources and capacity to assist displaced persons – a fact that would support, and should accelerate, the declaration of a provincial disaster.”¹²⁵

Another significant finding was that local government also played a role in hindering risk management and response. A problematic local councillor in Cato Manor was found in 2008 to have disabled the community policing forum (CPF) (by both ignoring the issues raised by community members and by formally attempting to dissolve the structure itself), a fact confirmed by staff of the Member of the Executive Council (MEC) for Community Safety and Liaison. These underlying conditions, where participative mechanisms are compromised limits the capacity for effective response to crises, such as the violent attacks of March-May 2015.

A number of recommendations were made to specific National Parliamentary committees by a parliamentary task team established in the aftermath of the 2008 violence. They include:

- A recommendation that the Portfolio Committee on Home Affairs ensure that DHA prioritise issuing foreign nationals with the correct documentation, maintain adequate records and root out corruption. The conclusion of the processing of the Refugees Amendment Bill was also recommended. (This Bill was finally unanimously adopted by Parliament in August 2015. It amends the Refugees Act of 1998, “so as to confer a discretion upon the Refugee Appeals Authority to allow the public and media access to its proceedings in appropriate cases...”).¹²⁶

¹²⁵ SA Human Rights Commission (2010) *Report on the SAHRC Investigation into Issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence against Non-Nationals*. South African Human Rights Commission. Accessed online at: <<http://www.sahrc.org.za/home/index.php?ipkContentID=15>> PP: 35-6.

¹²⁶ Republic of South Africa (2015) “Draft Refugees Amendment Bill, 2015 (Act No. 130 Of 1998).” *South African Government*. Government Gazette No.39067, 06 August, Accessed online at: <<http://www.dha.gov.za/images/PDFs/Draft%20Refugees%20Amendment%20Bill%202015%20for%20comments.pdf>> on October 2015.

- A recommendation that the Portfolio Committee on Safety and Security and Joint Standing Committee on Intelligence engage with the report of the Inter-ministerial task team investigating the root cause of violent attacks against foreign nationals.
- The Portfolio Committee on Justice and Constitutional Development was tasked with monitoring Special Courts' progress in processing cases of violence against foreign nationals. It was recommended that the security cluster committees review policies and practices regarding border security and ports of entry.
- The Portfolio Committee on Housing (now Human Settlements) was tasked with monitoring Department of Housing initiatives to disseminate information to communities about the national housing code and housing allocation criteria.
- Various committees of both the National Assembly and the National Council of provinces, including their respective Labour, Provincial and Local Government, and Finance Cluster Committees were mandated to examine allegations that foreign nationals and undocumented migrants trade without relevant permits, in contravention of provincial and local bylaws.

The SAHRC also made a number of key recommendations, which were examined during the 12 June 2015 session by the Ad-Hoc Joint Committee, including:

- That the army be deployed in conjunction with police in order to deal with violence and quickly restore law and order in urgent cases.
- That to improve coordination of responses to crises, national disaster managements be elevated to the Presidency. Better cohesion and integration was needed, it was found, between departments at local, provincial and national government.
- That the South African Police Services (SAPS) develop early warning systems.
- That the national Action Plan against Racism be finalised and implemented, and that the DOJ&CD fast track hate crime legislation.

The HSRC also recommended an audit for RDP houses and the development of a policy on their occupation, sale and rental to ensure that only South Africans occupy this type of housing. The Council recommended the strengthening of border control and for the state "to grant amnesty to illegal immigrants to apply for formal residence permits without threat of deportation."¹²⁷

¹²⁷ Whittle, P. (2015) *Suggested follow-up areas flowing from the 2008 Report of the Task Team of Members of Parliament Probing Violence and Attacks against Foreign Nationals*. Ad-Hoc Joint Committee on Probing Violence Against Foreign Nationals, Parliamentary Monitoring Group. Accessed online at: < <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150612suggested.pdf> > on September 2015.

5. TIMELINE OF EVENTS RELATED TO MARCH-MAY 2015 VIOLENCE

Date	Incident(s)	Location(s)	Source(s)
Wednesday 10 December 2014	KZNSCC sends letter to KZN Premier, copied to Mayor, Public Protector and other officials to alert them of the tensions between the local community and the Somali community, and the vandalism and looting of Somali shops.	Durban, KZN	Presentation from the KZN Somali Community Council to SRG, 30 April 2015
Monday 15 December 2014	Jeena's Supermarket employees go on strike for higher wages and bonuses. Allegations that scab labour are foreigners. Owner Goolam Khan hires security company after strikers allegedly begin vandalising property and intimidating customers. Striking employees say their strike had nothing to do with the attacks. Jeena's Supermarket closes its doors for two days. Protesters start attacking foreign-owned shops in wider Isipingo.	Isipingo, KZN	http://www.news24.com/Archives/City-Press/Xenophobic-violence-Where-did-it-all-begin-20150429
January 2015	Somali shop owner shoots and kills a 14-year-old boy, Siphwe Mahori, during an alleged robbery. Another victim, Lebogang Ncamla, 23, shot three times in arm. Incident triggers attacks and looting of estimated 120 foreign owned shops.	Soweto, Gauteng	http://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa-timeline http://www.globalpost.com/dispatch/news/regions/africa/south-africa/150130/xenophobic-attacks-soweto-apartheid
Thursday 5 March 2015	Foreigners leave their shops after protesting villagers threaten to burn them alive. Shops looted. Violence erupts in Ga-Sekgopo area after a foreign shop owner found in possession of a mobile phone belonging to a local man who was killed.	Polokwane, Limpopo	http://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa-timeline
Friday 13 March 2015	A Congolese national, Noel Beya Dinshistia is doused in a flammable substance before being set alight while working at a local night club.	Durban, KZN	http://www.iol.co.za/news/politics/king-s-anti-foreigner-speech-causes-alarm-1.1835602#.VUd6XfDzKpQ http://africanagenda.net/killed-for-being-congolese/ http://www.iol.co.za/news/crime-courts/zulu-king-is-asking-for-a-war-1.1836839#.VhsBw43otLN
20 March 2015	At an event hosted by the Ministry of Police, Zulu King Goodwill Zwelithini allegedly remarks that foreigners should go back to their home countries.	Pongola, KZN	http://www.timeslive.co.za/local/2015/04/16/listen-to-exactly-what-king-goodwill-zwelithini-said-about-foreigners http://www.policesecretariat.gov.za/newsroom/events/event_20-04-2015.php http://www.iol.co.za/news/politics/king-s-anti-foreigner-speech-causes-alarm-1.1835602%23.VUd6XfDzKpQ
Wednesday 25 March 2015	Reported cases of attacks against foreigners. About 400 persons displaced.	Isipingo, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430 Daily News, 02 and 07 April 2015
Wednesday 1 April 2015	President Zuma's son, Edward Zuma makes public comments on issues regarding foreigners.		http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430
Thursday 2 April 2015	Executive Council of the Provincial Government establishes Temporary Shelters to respond to the violence. Temporary Shelter opens in Isipingo.	Isipingo, KZN	eThekweni Municipality Report to the ad-Hoc Parliamentary Joint Committee
Sunday 5 April 2015	Rumours and threatening messages to circulate on social media especially WhatsApp.	Durban, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430

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	Two Mozambicans found dead in the Lusaka informal settlement.	Lusaka Informal Settlement, Chatsworth, KZN	SRG Consultation with eThekweni Disaster Management Team (10 September 2015) A. Salmon, Presentation by Ad-Hoc Joint Committee on Probing Violence Against Foreign Nationals – 2015 Summary on Recent Developments – 12 June 2015 http://www.iol.co.za/news/crime-courts/foreigners-threatened-via-whatsapp-1.1841552#.ViT6_l3otLM
	Attacks on foreigners spread to Sydenham and Malukazi. Additional attacks in occur Chatsworth.	Chatsworth, Sydenham, and Malukazi, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430 SRG Consultation with eThekweni Disaster Management Team (10 September 2015) A. Salmon, Presentation by Ad-Hoc Joint Committee on Probing Violence Against Foreign Nationals – 2015 Summary on Recent Developments – 12 June 2015
Tuesday 7 April 2015	Demonstrators take part in an anti-xenophobia march outside the City Hall of Durban Hundreds of people march to protest against anti-immigrant violence.	Durban, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430
Wednesday 8 April 2015	Riot police use water cannons, tear gas and rubber bullets to disperse a crowd of foreigners marching to Durban's City Hall after their permission to march is revoked minutes before the march is due to begin out of fears of further violence. Many foreign owned shops closed by owners.	Durban, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430
	Temporary Shelter opened in Chatsworth.	Chatsworth, KZN	http://ewn.co.za/2015/04/15/Arrests-in-KZN-xenophobic-violence
Thursday 9 April 2015	A supermarket belonging to a foreign national at J Section, Umlazi is robbed. During the robbery, a shot is fired and a woman who was in the vicinity is injured and taken to hospital where she later died. A foreigner is immediately arrested for the shooting. Additional shops looted in Umlazi and the police intervene to prevent the looting.	Umlazi, KZN	eThekweni Municipality Report to the ad-Hoc Parliamentary Joint Committee
	Police criticised for conduct by Lawyers for Human Rights (LHR), who claim foreigners are not being given a platform to voice their concerns. KZN Premier Senzo Mchunu states that those who target foreigners should not call themselves South African.		
Friday 10 April 2015	Two Ethiopian brothers are critically injured when their shop in a shipping container is set on fire. One (Marcus Natas) later dies in hospital.	Umlazi, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430
	Police arrest 17 people, linked to different cases of public violence, murder, business robbery and business burglaries. Members of the community assist the police in arresting suspects who broke into a furniture shop at Isipingo. Rumours and threatening messages to foreigners go round on social media, especially WhatsApp. Violent incidents in Umlazi. Foreign-owned shops looted and petrol bombed. More police are deployed to the Durban area.	Umlazi, KZN	http://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430 http://www.saps.gov.za/newsroom/msspeechdetailm.php?nid=4457

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	King Goodwill Zwelithini blames the media for "choosing to deliberately distort what was an innocent outcry against crime and destruction of property". The King says the media misquoted him and his message was lost in translation.		http://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa-timeline http://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa-timeline
	KZN Premier Senzo Mchunu, State Security Minister David Mahlobo, Police Minister Nathi Nhleko and National Police Commissioner Riah Phiyega visit Isipingo Beach, where foreigners are being housed in tents.	Isipingo, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430
Saturday 11 April 2015	Temporary Shelter opened in Phoenix	Phoenix, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430
	Violence spreads to KwaMashu. Residents of KwaMashu burn tyres, block roads and throw stones at police and foreigners. Police arrest 28 people.	KwaMashu, KZN	eThekweni Municipality Report to the ad-Hoc Parliamentary Joint Committee
Sunday 12 April 2015	Attacks on foreign national owned shops continue in Umlazi and KwaMashu. Shops are set alight. A total of five people estimated to have been killed to date. Almost 2,000 foreign nationals from Malawi, Zimbabwe, Mozambique and Burundi estimated to have been displaced as a result of the violence to date. King Goodwill Zwelithini calls on his subjects to stop the attacks on foreign nationals.	Umlazi and KwaMashu, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430
	President Zuma assigns State Security Minister David Mahlobo, Police Minister Nathi Nhleko and Home Affairs Minister Malusi Gigaba to deal with spreading xenophobic attacks as more police are deployed to the region.		http://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa-timeline http://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa http://www.sabc.co.za/news/a/bc32188047fd65dfb4bcf74405f77b26/Zulu-King-calls-for-peace-amid-xenophobic-attacks-20151204 http://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa
	Police and journalists come under fire in the Mzansi area of Ntuzuma.	Ntuzuma, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430
	Looting of foreign shops spread to Verulam, north of Durban following a day of clashes between locals, foreigners, and police in the city centre. About 300 local people loot foreign-owned shops. Two people arrested. A 14-year-old boy becomes the latest fatality, shot dead during looting in KwaNdlanzi, allegedly by two security guards. A car is set alight in the Durban CBD and police fire rubber bullets, stun grenades and teargas canisters in clashes between looters and foreigners.	Verulam, KwaNdlanzi, and Durban, KZN	http://www.news24.com/Archives/City-Press/Timeline-The-kings-speech-violent-attacks-and-displacement-20150430
Tuesday 14 April 2015	Foreign shop owners flee as youths torch their shops.	KwaMashu and Durban, KZN	http://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa-timeline
	KZN Premier Senzo Mchunu holds urgent briefing to discuss the spate of xenophobic violence in the province.	KwaMashu and Durban, KZN	http://ewn.co.za/2015/04/14/Chaotic-scenes-as-shops-looted-in-KZN-xenophobic-attacks

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	The body of a 58-year-old foreign national found. The man was apparently attacked by a mob whilst at his home.	Verulam, KZN	http://ewn.co.za/2015/04/14/Chaotic-scenes-as-shops-looted-in-KZN-xenophobic-attacks http://www.enca.com/south-africa/sixth-person-killed-kzn-xenophobic-violence;
Wednesday, April 15 2015	KZN police to date reported to have arrested up to 112 people across the province for a range of offences Up to 800 police are deployed in Durban. There are reported incidents of looting of foreign owned shops in Pietermaritzburg.	Verulam and PMB, KZN	http://www.news24.com/SouthAfrica/News/Sixth-person-killed-in-KZN-xenophobic-violence-20150417
	SA Embassy in Lagos given ultimatum by political party to stop the violence or face action against SA businesses in Nigeria.	Lagos, Nigeria	http://www.enca.com/south-africa/sixth-person-killed-kzn-xenophobic-violence http://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa-timeline http://www.news24.com/SouthAfrica/News/Pietermaritzburg-CBD-at-a-standstill-as-looting-spreads-20150415 http://www.news24.com/SouthAfrica/News/Phiyega-800-cops-deployed-in-Durban-CBD-20150415
Thursday 16 April 2015	International Relations Minister Maite Nkoana-Mashabane meets ambassadors and diplomats from other African countries to discuss the latest wave of attacks in SA.	Pretoria, Gauteng	http://www.enca.com/africa/business/nigerians-want-shut-down-sa-businesses
Friday 17 April 2015	Mozambique citizens stone SA trucks close to border, forcing trucks to turn back. Border gates temporarily closed.	Mozambique	http://www.northwestfm.co.za/news/1059-african-diplomats-to-meet-nkoana-mashabane-over-xenophobia.html
	South African singer Kelly Khumalo was forced to postpone performances in London allegedly because of criticism over the attacks. Big Nuz music group cancels a concert in Zimbabwe. The Economic Community of West African States (ECOWAS) condemns the attacks and calls on the South African government to act quickly to end the violence. In Zimbabwean capital Harare, demonstrators march to the South African embassy to condemn the attacks.	London, UK Harare, Zimbabwe, Abuja, Nigeria	http://www.ofm.co.za/article/National/163715/South-Africans-chased-out-of-Mozambique http://www.news24.com/SouthAfrica/News/South-Africans-chased-out-of-Mozambique-20150417
Tuesday 20 April 2015	King Goodwill Zwelithini holds Imbizo to discuss the attacks. The event jointly planned by the Cooperative Governance and Traditional Affairs Department and the King.	Durban, KZN	http://www.iol.co.za/news/crime-courts/xenophobia-sa-sends-in-troops-1.1848492
Wednesday 21 April 2015	Operation Fiela launched, using SANDF troops to support SA police and restore stability in KZN and Gauteng.	Gauteng and KZN	http://www.unhcr.org/cgi-bin/texis/vtx/refdaily?pass=52fc6fbd5&id=55349cac5
Wednesday 28 April 2015	Official statement made by Inter-Ministerial Committee on Migration (Ministers of Home Affairs, Small Business Development, Police and Minister in the Presidency Jeff Radebe). The following seven people officially reported to have died in relation to the xenophobic violence, comprising four foreign nationals and three South Africans: <ul style="list-style-type: none"> • An Ethiopian - Marcus Natas, killed as a result of a petrol bombing attack in Umlazi; • A Zimbabwean - known only as Muvo, attacked by mobs in Chatsworth; 		http://www.sabc.co.za/news/a/12d7c50048143c6fb8e3f878423ca9af/King-Zwelithinis-imbizo-to-address-xenophobic-attacks-20152004

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	<ul style="list-style-type: none"> • A Mozambican - Dava Sebaastio, was attacked by mobs in Verulam; • A Bangladeshi - Shaofic Shaof UI Alam, was shot and killed in Pietermaritzburg; • Three South Africans - Thabo Mzobe shot in Ntuzuma, Ayanda Dlamini shot in Umlazi and Petros Dlamini killed in Chatsworth. <p>Committee notes a total of 165 undocumented people were arrested and 265 people arrested for public violence across the country to date.</p>		
Wednesday 29 April 2015	Phoenix Temporary Shelter is closed.	Phoenix, KZN	http://www.sabc.co.za/news/a/ef1e7780482e02849f30ff4d1170398b/Namesundefinedofundefinedxenophobiainundefinedvictimsundefinedreleased-20152804 http://www.sowetanlive.co.za/news/2015/04/29/victims-of-xenophobic-violence-named
Thursday 30 April	King Goodwill Zwelithini issues a set of instructions to traditional leaders at the Opening of the Traditional House of Leaders, in order to suggest processes to follow when foreigners want to settle in their areas.	Ulundi, KZN	eThekweni Municipality Daily Status Report on Shelters
Tuesday 05 May 2015	An Ethiopian national sustains serious injuries at his brother's tuck shop at Kennedy Road in Sydenham, after the shop is set alight. The owner, Ephrem Tesfaye, who is also the leader of Ethiopians living in KZN, says all stock and equipment destroyed in the fire.	Sydenham	http://sabc.co.za/news/a/621554004862847189c9cfae111a6174/Ethiopian-man-injured-in-Durban-xenophobic-attack-20150515
Wednesday 06 May	Isipingo Shelter closed	Isipingo	eThekweni Municipality Daily Status Report on Shelters
Tuesday 19 May 2015	A Nigerian pastor and spaza shop owner Kehinde Fabamifobbe, killed in his home in eSikhaleni. He had lived in eSikhaleni since 2004. The incident allegedly related to a Facebook letter by the deceased, concerning the xenophobic attacks.	eSikhaleni	http://citizen.co.za/390672/nigerian-pastor-killed-during-loadshedding/ http://zululandobserver.co.za/69102/community-shocked-over-pastors-murder/
Wednesday 27 May 2015	A South African male allegedly caught stealing at a Somalian shop stabbed to death. Two suspects arrested by Durban Central Police for murder. The incident led to looting and damage to shops in the vicinity of Pine, Albert & Grey Streets.	Durban (CBD)	http://www.iol.co.za/news/crime-courts/alleged-thief-knifed-to-death-1.1864206#.VWgUdUb3jTE
Thursday 11 June 2015	A meeting held between the Home Affairs, UNHRC, Municipal Officials, DSD, PDMC and Deputy City Manager along with other departments to consider the decision of closing the Chatsworth shelter as approved by cabinet.		<i>Information obtained from daily update from eThekweni Municipality 14-15 June 2015</i>
Friday 12 June 2015	At a side event during the AU summit in Pretoria and Johannesburg, about 31 civil society organisations (CSOs) from across the continent signed an open letter enjoining the AU to call on the South African authorities to provide a long-term security guarantee for refugees, migrants and asylum seekers living in the country.		http://www.aids.org.za/open-letter-to-the-au-on-the-resurgence-of-xenophobic-violence-in-south-africa-presented-on-the-occasion-of-the-au-summit-in-johannesburg-june-2015/
Monday 15 June 2015	SANDF, SAPS & Security Management demolish prohibited informal structures in the Chatsworth Shelter.		<i>Information obtained from daily update from eThekweni Municipality 19 June 2015</i>
Tuesday 16 June 2015	The Nigerian Union in South Africa report xenophobic attacks against Nigerians and other foreigners in Namakwa Municipality, Northern Cape province. Two	Northern Cape	http://www.saharaweeklyng.com/foreigners-are-still-being-attacked-in-south-africa-by-citizens/

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	cars belonging to Nigerians reportedly burnt and houses of Nigerians allegedly looted.		http://tribuneonline.com/content/south-african-police-pledge-protect-nigerians-attacks; http://www.ngrguardiannews.com/2015/06/xenophobia-south-african-police-pledge-protection/
Tuesday 30 June 2015	Chatsworth Shelter Closed.	Chatsworth	http://www.iol.co.za/news/south-africa/KZN/fear-as-refugee-camp-faces-closure-1.1874124
Wednesday 1 July 2015	Chatsworth Shelter officially closed but some displaced persons still on site.	Chatsworth	http://www.thedailyvox.co.za/chatsworth-camp-officially-closed-but-more-than-100-refugees-stay-put/ http://citizen.co.za/415107/cnmove/
Friday 03 July 2015	Approximately 146 foreign nationals arrested for refusing to leave field grounds previously constituted as the Chatsworth Shelter.	Chatsworth	
Monday 6 July 2015	Group of 146 foreign nationals who were arrested for refusing to leave the site of the closed Chatsworth Shelter given accommodation on a farm in KZN.	Cate Ridge	http://www.iol.co.za/news/south-africa/KZN/146-foreigners-move-to-cato-ridge-1.1883742#.VhsHe43otLM
Friday 24 July 2015	A foreign shop owner arrested for the murder of a 17-year-old. The youth was allegedly shot dead when a group of learners allegedly tried to break into the foreign national's shop.	Thokoza, Johannesburg	http://www.news24.com/SouthAfrica/News/Foreign-national-shoots-teen-dead-for-breaking-into-his-shop-20150724
3 August 2015	uMkhambathini Municipality threatens to take legal action against owners of Hope Farm for breaching municipal by-laws, with reference to the temporary accommodation granted by the farm owners to 146 foreign nationals previously staying at the Chatsworth Shelter.	Cato Ridge	http://www.sabc.co.za/news/a/1187020049581679a3f5a79cf7ad2d11/KZN-xenophobic-attack-victims-face-eviction-20150308

6. ASSESSMENT OF THE CAUSES OF VIOLENCE AGAINST FOREIGN NATIONALS

6.1. Introduction

The March-May 2015 violent attacks and the displacement of foreign nationals in KZN emerged from the confluence of a number of complex and interrelated causes across institutional, structural, and societal dimensions of life in the province. The SRG's investigation has uncovered that no single trend, phenomenon, or incident could be the only cause of the violence: the various challenges and grievances that have been identified as potential causes manifest in many areas across KZN. However, the attacks and displacement only took place in a select number of areas. The causes presented below are based on the SRG's analysis of the various issues identified by stakeholders and submissions during the course of the SRG's inquiry. Wherever possible, the SRG distinguishes between what individuals perceive (and allege) and what can be proven as factual. Further, the SRG also attempts to contextualize as many of the perceptions and allegations as possible by establishing a factual base of related issues that have been researched and uncovered previously. It should also be noted that the factors identified below are not necessarily equal in weight as causes, and some have had a more direct effect than others. In the absence of further research, it was not possible for this report to rank or weight the causes.

6.2. Causes of Violence with a Structural Dimension

By structural causes of the violence, the report refers to underlying socio-economic issues in South African communities that cause grievances among South Africans and heighten the possibility of violence. These include concerns relating to poverty, inequality, competition for scarce resources and unemployment.

6.2.1. Poverty and Competition for Limited Resources in South Africa

The triple challenges of poverty, unemployment and socio-economic inequality were identified as amongst the most salient and prevalent underlying conditions that contribute to heightened tensions between various communities, including between South Africans and foreign nationals. These triple challenges produce economic-oriented pressures and frustration amongst many different communities, and thereby heighten competition for scarce resources and opportunities.¹²⁸ This competition, while also taking place amongst

¹²⁸ Written Submission 40 – Received 15 July 2015; Written Submission 65 – Received 31 July 2015.

South African communities, has been highlighted as a cause of tensions between South Africans and foreign nationals because of perceptions that any economic successes attained by foreign nationals detract from those potential successes of South African citizens. It is also important to disclaim that while these dynamics provide the context for violence, such conditions do not determine when and where violence against certain communities might occur.

South Africa has generally been considered one of the most socio-economically polarised countries in the world. National and Provincial-wide increases in socio-economic inequality have been argued to undermine the potential for stability and inhibit necessary inclusive economic growth to uplift individuals from poverty.¹²⁹ While KZN has seen significant economic growth in recent years and has already achieved progress in reducing the burden of poverty for much of its population, a number of statistics detailed below highlight the challenges faced by many of its inhabitants.

Recent estimates highlight that approximately one million persons in the province live in absolute poverty, affecting about 23% of the province's households but the percentage of those citizens barely above the absolute poverty threshold rises to include just approximately 45% of the entire province.¹³⁰ The highest poverty concentration in KZN is among the traditional dwellers (46%), followed by urban informal (35%) and rural (29%).¹³¹ The official unemployment rate for the province stands at 20.8%¹³² but estimates from StatsSA indicate the rate could be as high as 24.1%.¹³³ Over the period 2008–2014, the share of the working-age population that is discouraged has risen by 6.3% in KZN, and the

¹²⁹ Netshitenzhe, J. (2013): *Why Inequality Matters: South African Trends and Interventions*. Mapungubwe Institute for Strategic Reflection (MISTRA), Conference Paper. November, Accessed online at: <<http://www.mistra.org.za/Library/ConferencePaper/Documents/Why%20Inequality%20Matters-South%20African%20Trends%20and%20Interventions.pdf>> on September 2015.

¹³⁰ KZN Provincial Treasury (2014) *2014/5 Guide to the KZN Provincial Budget*. KZN Provincial Treasury. March, Accessed online at: <<http://www.treasury.gov.za/documents/provincial%20budget/2014/5.%20Guide%20to%20the%20Budget/KZN/KZN%20-%20Budget%20at%20a%20glance.pdf>> on August 2015.

¹³¹ NDA. (2014) *State of Poverty and its Manifestations in the Nine Provinces of South Africa*. National Development Agency and the Human Sciences Research Council (HSRC). March, Accessed online at: <<http://www.nda.org.za/docs/Research%20Report%20-%20State%20of%20poverty%20in%209%20provinces%20of%20SA.PDF>> on September 2015.

¹³² Mchunu, SE. (2015) "KZN State of the Province Address." South African Government. 27 February, Accessed online at: <http://www.gov.za/speeches/premier-es-mchunu-KZN-state-province-address-27-feb-2015-0000> on September 2015.

¹³³ StatsSA (2015) *South African Labour Market; Long-term unemployment 2008-2014*. Statistical Release P0211.4.4, 03 February, Accessed online at: <<http://beta2.statssa.gov.za/publications/P02114.4/P02114.42014.pdf>> on August 2015.

province's labour absorption rate has declined by 5% since 2008.¹³⁴ Over 93% of the province's total unemployed population is Black African, and 75% the total unemployed population is aged between 15-35.¹³⁵ Approximately 64% of the currently unemployed have been without a job for over six months, an increase of over 13% amongst the unemployed from 2008.

Individuals and organisations in a number of the SRG's consultations and submissions pointed to socio-economic challenges as the underlying core of increased tensions between communities. These challenges were identified as affecting communities in a number of ways. One argument advanced following the 2008 wave of violence against foreign nationals was that long-term socio-economic disparities contributed to high levels of relative economic deprivation between individuals and therefore increased sentiments of resentment.¹³⁶ In 2010, Former UNHCR Deputy Regional Representative in Southern Africa, Sergio Calle Noren, was quoted as assessing that "no society is xenophobic by nature, these attacks were caused by lack of development."¹³⁷ Other submissions have identified that violence against those individuals perceived to be 'outsiders' most commonly occurs in communities characterised by high levels of poverty, unemployment, informal settlements and intermittent access to basic social services.¹³⁸ One written submission argued that widespread unemployment (especially amongst the youth in township communities) created conditions ripe for violence.¹³⁹ While the main causes and sources of economic inequality may lie elsewhere in society, foreigners are likely to be targeted because of perceptions that they exploit economic resources that are thought by locals to belong exclusively to South Africans: a poor person in an informal settlement is more likely to vent anger and frustration on a neighbouring "foreigner" who is relatively successful compared to other inaccessible targets that may be more responsible for contributing to challenging economic conditions.¹⁴⁰

¹³⁴ StatsSA (2015) *South African Labour Market; Long-term unemployment 2008-2014*. Statistical Release P0211.4.4, 03 February, Accessed online at: <<http://beta2.statssa.gov.za/publications/P02114.4/P02114.42014.pdf>> on August 2015.

¹³⁵ StatsSA (2015) *South African Labour Market; Long-term unemployment 2008-2014*. Statistical Release P0211.4.4, 03 February, Accessed online at: <<http://beta2.statssa.gov.za/publications/P02114.4/P02114.42014.pdf>> on August 2015.

¹³⁶ Written Submission 19 – Received 30 June 2015; HSRC (2008) *Violence and Xenophobia in South Africa: Developing Consensus, Moving to Action*. Human Sciences Research Council (HSRC) and the High Commission of the United Kingdom in South Africa. Accessed online at: <<http://www.hsrc.ac.za/en/research-data/view/4048>> on September 2015.

¹³⁷ Khamango, T. (2010) "UN: Socio-economic problems behind xenophobia." *Mail & Guardian*. 29 September, Accessed online at: <<http://mg.co.za/article/2010-09-29-un-socioeconomic-problems-behind-xenophobia>> on September 2015.

¹³⁸ Written Submission 28 – Received 08 July 2015; Written Submission 70 – Received 31 July 2015; Written Submission 75 – Received 01 August 2015.

¹³⁹ Written Submission 64 – Received 30 July 2015.

¹⁴⁰ SRG Consultation with Tradeport – 21 September 2015.

It is important to caution that the outbreak of violence cannot exclusively be determined according to prevalent socio-economic challenges: one written submission cautioned that poor economic conditions are necessary, but not sufficient conditions for violence.¹⁴¹ This sentiment was similarly echoed in conclusions reached by the IOM in its 2009 report, where it described unemployment and poor service delivery as “contributing but insufficient conditions” contributing to violence against foreign nationals.¹⁴² During the SRG’s consultation with Church and Clergy leaders, many acknowledged the devastating impact of poverty and unemployment on many communities, but also questioned that such socio-economic challenges could be the sole contributors to violent outbreaks.¹⁴³

6.2.2. Labour Issues: Competition for Employment

One of the more prominent structural issues uncovered during this investigation involves heightened levels of competition for scarce employment opportunities between South Africans and foreign nationals. This heightened competition is amplified and exacerbated by perceptions and allegations that foreign nationals, both as employers and employees, utilise illegal or unfair labour practices to the detriment of local businesses and employees. The role of various labour issues as one of the contributing forces to the outbreak of violence cannot be understated, as the March 2015 labour strike at KwaJeena’s Supermarket (and the resulting allegations thereafter) have been identified by various stakeholders during the SRG’s consultations as one of the central triggers of the violence that broke out during March-May.

Throughout the SRG’s investigation, many people shared various perceptions and allegations about the unfair ways in which foreign nationals disrupt and undermine the South African labour market. Perhaps the most prominent allegation uncovered is that foreign national workers are prepared to work for lower wages than South African citizens, thereby undercutting South Africans’ earning potentials and employment opportunities.¹⁴⁴

¹⁴¹ Written Submission 19 – Received 30 June 2015.

¹⁴² IOM (2011) *Towards Tolerance, Law, and Dignity: Addressing Violence against Foreign Nationals in South Africa*. International Organisation for Migration (IOM). 07 February, Accessed online at: <<http://southafrica.iom.int/publication/towards-tolerance-law-and-dignity-addressing-violence-against-foreign-nationals-in-south-africa/>> on September 2015.

¹⁴³ SRG Consultation with Church and Clergy Leaders – 23 June 2015.

¹⁴⁴ SRG Interviews in Chatsworth Shelter – 30 April 2015; SRG Attendance at DAC Community Dialogue in Dundee – 28 May 2015; SRG Consultation with Abahlali basem’Jondolo – 13 June 2015; SRG Consultation with Community of KwaDukuza – 17 June 2015; SRG Attendance at Anti-Xenophobia Forum – 29 June 2015; SRG Consultation with Minara Chamber of Commerce – 30 July 2015; SRG Consultation with KZN PROVJOINTS – 11 August 2015; DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG 07 September 2015; Written Submission 14 – Received 23 June 2015; Written Submission 30 – Received 10 July 2015; Written Submission 53 – Received 24 July 2015; Written Submission 54 –

These allegations largely revolve around the hiring of foreign national workers in positions that are considered to be ‘unskilled’ and therefore, it is believed or alleged, should be prioritised for local workers. The identified forces underpinning these perceptions included perceptions that foreign nationals were more prepared to take any available job regardless of the working wage, and perceptions that they have more valuable skills than their South African counterparts and are more desirable to employers. One written submission described the phenomena they observed:

“It seems like jobs are scarce and times are getting increasingly tougher...foreigners are prepared to work for very low wages, and do so industriously, eking out a living where it seems impossible to many locals... this stirs up jealousy among local people and adds further fuel to the fire of their frustrations about their own lack of progress and prospect thereof.”¹⁴⁵

Widespread and incorrect perceptions assert that South Africans are lazy and not prepared to work as hard as foreign nationals – these contribute to even greater divisions between various communities. Allegations surrounding labour-related competition between locals and foreign nationals also highlight perceptions that foreign national employers disproportionately hire foreign national workers compared with South African citizens, and that foreign national workers have ‘crossed picket lines’ while local South Africans are undertaking labour strikes, thereby undermining local labour.¹⁴⁶ The SRG has not been in a position to investigate these allegations.

Available research on labour-related issues between South African citizens and foreign nationals paints a more nuanced situation than those characterised by the existing perceptions. A 2006 national survey on the attitudes of South African citizens towards foreign nationals, released two years later, revealed that 85% of respondents had no personal experience of losing a job to a foreign national, nor could 2/3 of those surveyed definitely indicate that they knew an individual who had personally lost such an opportunity to a foreign national.¹⁴⁷ The 2015 Q2 Labour Force survey highlights that the province

Received 26 July 2015; Written Submission 55 – Received 26 July 2015; Written Submission 61 – Received 29 July 2015; Written Submission 76 – Received 01 August 2015.

¹⁴⁵ Written Submission 65 – Received 30 July 2015.

¹⁴⁶ SRG Consultation with INK Business Association – 23 April 2015; SRG Consultation with Chinese and Taiwanese Communities of Newcastle – 28 May 2015; Consultation with Minara Chamber of Commerce – 30 July 2015; SRG Consultation with KZN PROVJOINTS – 11 August 2015; DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG 07 September 2015; Written Submission 21 – Received 01 July 2015.

¹⁴⁷ The Southern African Migration Project (2008) *The Perfect Storm: The Realities of Xenophobia in Contemporary South Africa*. Migration Policy Series No.50. 03 June, Accessed online at: <<http://www.queensu.ca/samp/sampresources/samppublications/policyseries/Acrobat50.pdf>> on August 2015

currently possesses a labour force of approximately 4 million persons, that 19% of the 2,556,000 persons currently considered employed in the province work in the informal sector, and that the province-wide expanded unemployment rate hovers around 36.3%.¹⁴⁸ The 2014 Migration for Work Research Consortium (MiWORC) analysis of migration and employment in South Africa highlighted some important conclusions: based on 2012 labour force data, approximately 90% of KZN's working-age population reported to have been born in the province (compared with up to 60% for Gauteng), while only 1% of KZN's working age population reported to have been born outside of South Africa (compared to a national rate of 4%, with the highest provincial rates occurring in Mpumalanga and Limpopo).¹⁴⁹

The ensuing econometrics-based analysis of the 2012 labour force data also revealed some important findings about the state of foreign nationals in South Africa's labour market, including that the employment rate for international migrants is higher than that for domestic migrants, and that both domestic and international migrants are similarly affected by underemployment (considered as reduced number of working hours).¹⁵⁰ The report concluded:

*"... an international migrant (IM) with the same age, gender, and level of education, belonging to the same population group and residing in the same place as a South African national, has a higher probability of being employed than the latter. It is especially the case for African / Black IM, the largest group among IM. IMs also have a higher probability of being employed in informal and precarious activities than the two other categories; this result only holds for African/Black IM."*¹⁵¹

The available information highlights a number of important issues. Perhaps the most central is that all persons, including documented foreign nationals such as refugees and asylum

¹⁴⁸ Definition employed is the 'expanded definition of unemployment' which includes those individuals who have stopped searching for employment opportunities. Source: StatsSA (2015) *Quarterly Labour Force Survey – Q2: 2015*. Statistical Release P0211. 29 July, Accessed online at:

<<http://www.statssa.gov.za/publications/P0211/P02112ndQuarter2015.pdf>> on September 2015.

¹⁴⁹ Budlenger, D. (2014) *Migration and employment in South Africa: Statistical analysis of the migration module in the Quarterly Labour Force Survey, 3rd quarter 2012*. Migration for Work Research Consortium Report N.5. African Centre for Migration & Society, University of the Witwatersrand. Accessed online at: <<http://www.miworc.org.za/docs/MiWORC-Report-5.pdf>> on September 2015.

¹⁵⁰ Fauvelle-Aymar, C. (2014) *Migration and employment in South Africa: An econometric analysis of domestic and international migrants (QLFS (Q3) 2012)*. Migration for Work Research Consortium Report N.6. African Centre for Migration & Society, University of the Witwatersrand. Accessed online at: <<http://www.miworc.org.za/docs/MiWORC-Report-6.pdf>> on September 2015.

¹⁵¹ Fauvelle-Aymar, C. (2014) *Migration and employment in South Africa: An econometric analysis of domestic and international migrants (QLFS (Q3) 2012)*. Migration for Work Research Consortium Report N.6. African Centre for Migration & Society, University of the Witwatersrand. Accessed online at: <<http://www.miworc.org.za/docs/MiWORC-Report-6.pdf>> on September 2015.

seekers, are afforded the legal right to seek fair employment under the provisions of the Constitution and the Labour Relations Act. Another issue is that although perceptions of foreign nationals dominating the KZN labour force may not be accurate, the finding from MiWORC that international migrants have a higher probability of being employed than domestic migrants may have contributed to this perception. A third issue uncovered through the SRG's Consultation with the Department of Labour is that foreign nationals not in possession of a South African ID book cannot be registered on the Public Employment Services Database. All foreign nationals that work in the formal sector are eligible to receive benefits from the Unemployment Insurance Act and Compensation for Occupational Injuries and Diseases Act (COIDA), although they must follow a separate system to log such claims compared with local South Africans.¹⁵²

It is important for the SRG to speak to the claims and allegations surrounding the incidents at KwaJeena's Supermarket in Isipingo on 29-30 March 2015, which were identified throughout the consultations as the immediate trigger of the violence against foreign nationals. Many stakeholders and written submissions noted widespread allegations that KwaJeena's Supermarket hired foreign nationals as temporary labour during a labour dispute with permanent South African employees that began in December 2014.¹⁵³ The Disaster Management Cluster in eThekweni Municipality reported that following allegations of foreign nationals being employed during this period, on 29 March a number of individuals instigated violence in the Isipingo community that quickly affected all foreign-owned shops in the area.¹⁵⁴ However, none of the respondents who highlighted this incident could substantiate the claim that KwaJeena hired foreign nationals at the expense of local South African workers, with only the Department of Community Safety and Liaison noting that its officials interviewed workers at KwaJeena who made this assertion.¹⁵⁵ Furthermore, both the Department of Labour and SAPS officials conducted investigations into the incidents at

¹⁵² Email from the Provincial Chief Inspector, Department Labour (KZN Office) - Written email to the SRG – 24 July 2015.

¹⁵³ SRG Consultation with Médecins Sans Frontières – 30 April 2015; SRG Consultation with Church and Clergy Leaders – 23 June 2015; SRG Consultation with the NDPP: KZN – 06 July 2015; SRG Consultation with EFF: KZN - 23 July 2015; SRG KZN Briefing Session to the ad-Hoc Joint Committee Probing Violence against Foreign Nationals – 07 July 2015; SRG Consultation with Department of Community Safety and Liaison – 24 July 2015; SRG Consultation with KZN PROVJOINTS – 11 September 2015; Written Submission 40 – Received 15 July 2015; DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG 07 September 2015; NATJOINTS (2015) *Presentation to the Parliamentary Portfolio Committee on Home Affairs: Violence Against Foreign Nationals and Related Small Businesses*. Parliamentary Portfolio Committee on Home Affairs, Parliamentary Monitoring Group. 28 April, Accessed online at: < <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150428natjoins.pdf>> on September 2015; eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015.

¹⁵⁴ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

¹⁵⁵ SRG Consultation with the Department of Community Safety and Liaison – 24 July 2015.

KwaJeena and could not substantiate any of the allegations.¹⁵⁶ The Department of Labour confirmed:

“Labour Inspectors from the Department of Labour investigated the complaint by visiting the employer’s premises situated at 9 Sabjee Road, Isipingo on the 5th May 2015. The employer denied that there were any foreign employees employed in his business; the employment records that were inspected also did not show any engagement of the foreign employees. Certain employees were interviewed by the inspectors and they also denied that there were any foreign employees. The shop stewards were also interviewed and they also denied that any foreign employees were employed. The employer indicated that since the employees were on a strike as from December 2014 due to a labour dispute which was being handled by the Commission for Conciliation Mediation and Arbitration (CCMA), he had to employ replacement (scab) labour to enable the business to continue with its operations. Such casual employees are South African locals mainly from uMlazi. He confirmed that other officials from the Office of the President; the SAPS; etc. have visited the premises to verify the rumour about his business and no one has established anything substantiating the rumours.”¹⁵⁷

Media reports surrounding the initial developments at KwaJeena’s Supermarket alleged that the tensions emanated from an unrelated service delivery protest nearby, and that perhaps one of the security companies hired by KwaJeena’s employed foreign nationals, thereby contributing to the dominant perceptions surrounding this episode.¹⁵⁸ It is important to note that the SRG did not receive any direct information or documentation, about this service delivery protest on 29-30 March or allegations involving such a security company.

6.2.3. Competition within the Small Enterprise and Informal Business Sector
Increasingly tense competition between local South Africans and foreign nationals in the small enterprise and informal business sectors has been commonly identified as one of the

¹⁵⁶ SRG Consultation with Department of Labour – 24 July 2015; SRG Consultation with KZN PROVJOINTS – 11 August 2015.

¹⁵⁷ Email from the Provincial Chief Inspector, Department Labour (KZN Office) - Written email to the SRG – 24 July 2015.

¹⁵⁸ (2015) “Xenophobic Violence: Where did it all begin?” *CityPress*. 19 April, Accessed online at: <<http://www.news24.com/Archives/City-Press/Xenophobic-violence-Where-did-it-all-begin-20150429>> on August 2015; Masuku, S. (2015) “Wage protest at Isipingo warehouse may have sparked xenophobic attacks.” *The Citizen*, republished on South African Labour News. 24 April, Accessed online at: <<http://www.salabournews.co.za/index.php/component/content/article/70-labour-news/24450-wage-protest-at-isipingo-warehouse-may-have-sparked-xenophobic-attacks.html>> on September 2015.

most prominent causes of tensions between various communities in KZN. Largely occurring within the spheres of 'spaza shops and tuck shops' in the township and informal settlements, the tensions between South African citizens and foreign nationals have grown stronger in recent years within the context of the greater prominence and successes of those shops owned by foreign nationals. This specific issue becomes highly relevant upon consideration that many of the violent incidents that took place between March-May 2015 occurred within KZN's townships and informal settlements, and that these outbreaks disproportionately impacted the performance of informal business owners, as well as directly threatening the livelihoods of those individuals who operated them.

Previous research into violence against foreign nationals in South Africa has identified competition as one of the contributing factors, while scholarly examinations of foreign nationals in South Africa's informal sectors have largely sought to identify why foreign national-owned businesses succeed, and whether there are any positive implications of their success for South Africans more broadly. The SRG will also discuss a positive instance during which any potential incidents were prevented precisely because of collaboration between locals and foreign national business persons in the informal sectors.

Many South Africans operating in the tuck shop and spaza sector made allegations that businesses owned by foreign nationals thrive due to unfair advantages, and that these improprieties directly undermine the viability of locally-owned businesses. The various allegations heard throughout the SRG's investigation against businesses owned by foreign nationals include the following:¹⁵⁹

1. Such businesses are not registered and do not pay taxes;
2. Foreign nationals sell products at prices below those that local business owners conclude are feasible and are therefore receiving illegal support;
3. Foreign nationals receive unfair privileges from wholesale companies due to shared religious beliefs;
4. Foreign nationals intentionally open spaza shops within close proximity to locally-owned businesses, thereby capturing some of the locals' markets;
5. Foreign-owned businesses sell fake goods or non-South African products;
6. Foreign businesses owners operate their shops for nearly 24 hours every day and even have workers sleeping there.

¹⁵⁹ SRG Consultation with INK Business Association – 29 April 2015; SRG Consultation with NAFCO – 04 August 2015; Written Submission 14 – Received 23 June 2015; Written Submission 30 – Received 10 July 2015; Written Submission 53 – Received 24 July 2015; Written Submission 61 – Received 29 July 2015; Written Submission 72 – Received 31 July 2015; Written Submission 76 – Received 01 August 2015.

Through consultations with various foreign national-owned groupings and one of the prominent wholesalers operating within KZN, the SRG has directly engaged on a number of these issues.

The shifting composition of the township market serves as one important underlying dynamic that has contributed to increased competition and tensions. For many years, local businesses dominated the spaza and tuck shop environment in township communities. However, the rapid and widespread entry of national supermarkets and shopping complexes into township communities has contributed to the declining number of informal businesses in the immediate vicinities of these supermarkets.¹⁶⁰ As large supermarkets are able to provide consumers with a large diversity of products at cheaper prices, many of the practices previously employed by local business owners became less effective. Inputs from discussions and consultations highlighted that many local business owners who wished to exit the market then either abandoned their shops altogether or rented them to foreign nationals (and earned higher incomes than they did while operating the shops).

In terms of foreign nationals offering cheaper prices compared with local business owners selling the same goods, the foreign national communities reflected upon their bulk-buying practices, which enabled them to receive discount prices on purchasing products. Foreign national business owners and large wholesale companies identified that foreign nationals are more likely to sell their goods at lower profit margins compared with local business owners: this practice was said to enable foreign national businesses to sell their goods at lower prices and move larger quantities on a more consistent basis, and thereby compete in an established market with lower price points.¹⁶¹

Discussions with one of the prominent wholesale companies further elaborated how it operates a collective pricing structure, open to all informal traders (locals and foreign nationals alike): participation in this collective price scheme enables those individual shop owners to receive reduced prices for certain goods. Managers of the wholesaler interviewed further noted that, until recently, locally owned informal businesses comprised the majority of those participating in its scheme – however, the number of locally-owned informal businesses in that region had declined in recent years due to intense competition from increasingly prominent national supermarkets.¹⁶² The wholesaler argued that foreign-

¹⁶⁰ Competition Commission (2015) "Grocery Retail Sector Market Inquiry – Terms of Reference: June 2015." *South African Government, Department of Trade and Industry*. June, Accessed online at: < <http://www.compcom.co.za/wp-content/uploads/2015/06/Grocery-Retail-Sector-Market-Inquiry-ToR.pdf>> on October 2015.

¹⁶¹ SRG Site Visit to warehouse sheltering products of displaced foreign national business owners – 23 April 2015; SRG Consultation with Tradeport – 21 September 2015.

¹⁶² SRG Consultation with Tradeport – 21 September 2015.

owned informal businesses, many of whom are renting their shops from locals, have since changed their business strategies to thrive in an increasingly competitive environment.¹⁶³

Perceptions that foreign nationals who own businesses do not contribute to taxes is one of the business-related issues highlighted most prominently by local South Africans. These allegations are compounded by perceptions that the South African government provided enabling conditions for foreign nationals to cheat the system as foreigners are allowed to sell goods locally that are bought under the pretext that they will be exported. Members of foreign national communities acknowledged that not all of their businesses were properly registered, but said that they were prepared to take the proper steps necessary to ensure their compliance, a sentiment echoed by one of eThekweni Municipality's officials.¹⁶⁴ These individuals noted further that they paid taxes at the point of sale on all of the products purchased from wholesalers in order to counter the perception that they do not pay tax. Shops with a turnover lower than R600,000 per year are not required to be VAT-registered.

With respect to the claim that foreign nationals receive unfair benefits due to shared religious beliefs with the owners of wholesalers, members of the Somali community noted that this allegation could not be true as they remarked that they participated in the collective pricing structures with members of KZN's Ethiopian communities, who are overwhelmingly Christian but nonetheless equal participants.¹⁶⁵ Further, the Somali community indicated that it has extended a number of invitations to local business owners to encourage them to participate in the price scheme; the wholesaler interviewed similarly affirmed that all business owners in South Africa's informal sector were welcome to participate in their collective price scheme.¹⁶⁶

Another specific contention related to accusations that the foreign national communities had received beneficial treatment during the height of the crisis, as one wholesaler had collected the goods from the foreign nationals' shops and sheltered them at one of its unused warehouses. While many local communities viewed this as discriminatory treatment, the wholesaler indicated that it had and would offer the same services to any of its customers in need, specifically referencing how it had done the same for many South African businesses owners during the 1985 State of Emergency. The SRG observed during

¹⁶³ The wholesaler identified that foreign national businesses were more likely to take reduced profit margins in order to sell higher quantities and become preferential shops in their communities. SRG Consultation with Tradeport – 21 September 2015.

¹⁶⁴ SRG Site Visit to warehouse sheltering products of displaced foreign national business owners – 23 April 2015; SRG Consultation with eThekweni Disaster Management – 10 September 2015.

¹⁶⁵ SRG Consultation with Somali and Ethiopian Communities – 30 April 2015.

¹⁶⁶ SRG Consultation with Tradeport – 21 September 2015.

its site visit to this specific warehouse in April 2015 that the products sheltered for safe-keeping were South African-made. The SRG could not independently refute or verify the allegations that foreign shop owners stock fake or non-South African goods.¹⁶⁷

KZN's informal business sector has a number of nuanced social dynamics that complicate clear-cut perceptions about the sector. On the one hand, many local customers indicated their preference to patronise shops owned by foreign nationals because they sell their products at cheaper rates and opened their shops for longer periods of time each day. On the other hand, local South Africans who are seen to support foreign national businesses have also found themselves victim to violent threats and attacks. As part of its submission, the KZNSCC submitted a pamphlet that had come into its possession that demanded all South African landlords expel foreign national business owners from their properties (See Annexure 9.8). Allegedly distributed within one of the communities in eThekweni Municipality on 28 April 2015, this pamphlet read *"You are fool, you are now bringing this shangaans, you must know that you can die at any time, we are sick and tired of your games, and we won't continue to tolerate your games"* (translated).¹⁶⁸ This example highlighted that it was not only foreign nationals who suffered during the crisis, but also that many local South Africans suffered, especially those who were seen to be supporting foreign national businesses.

For local business owners, the government has not provided enough support in order for them to access the skills and assistance available to foreign nationals.¹⁶⁹ Local business people maintain that *"each year our government allocates budget for small businesses to grow but the government departments do not use that budget accordingly, they provide their relatives or use it for something else."*¹⁷⁰ Some locals hold that the government is only responsive when it comes to violent situations that reflect negatively upon it.¹⁷¹ It is argued that the government's time and resources are spent on damage control rather than serving people.¹⁷² This tends to legitimize the impression that the government reacts only when violent means are adopted by its citizens.

Three other important considerations follow the above information: first, a number of foreign national and immigrant communities have thrived historically in business

¹⁶⁷ SRG Site Visit to warehouse sheltering products of displaced foreign national business owners – 23 April 2015.

¹⁶⁸ The consequences of this remark will be further engaged with in a subsequent section. SRG Consultation with Somali and Ethiopian Communities – 30 April 2015.

¹⁶⁹ Written Submission 36 – Received 03 June 2015.

¹⁷⁰ Written Submission 90 – Received 04 August 2014.

¹⁷¹ SRG Consultation with NAFCOC – 04 August 2015.

¹⁷² Written Submission 82 – Received 04 August 2015.

environments in the countries from which they originate and possess significant experience of operating business in informal environments, that along with large social networks and strong community ties, contributes to their relative successes in these markets. Second, the SRG has observed that there remains an overwhelming need for more equitable, consistent and stringent regulation of the spaza industry to eliminate the perceptions that various informal businesses receive unfair and disproportionate advantages. Third, efforts to promote business skills development initiatives amongst locally-owned businesses should be strengthened through further efforts to implement the National Department of Small Business Development's National Informal Business Upliftment Strategy (NIBUS) and the KZN Department for Economic Development's programmes to support informal businesses.

Many of the local informal traders indicated their willingness to live among foreign nationals, but either did not want businesses operated by foreign nationals to return to their areas or they emphasised the urgency of establishing clear regulations and measures to ensure that locals are prioritised in the informal economic sector.¹⁷³ The Somali and Ethiopian communities suggested that they thought that the violence had been committed by a select number of criminals linked to local business interests.¹⁷⁴ For a respondent at the consultation with the INK Business Association, *"it has never before happened that people from other countries take over a whole sector of another country; but in South Africa it is a reality."*¹⁷⁵

The issues of foreign nationals and South Africa's informal sectors have been studied extensively in recent years, mainly focusing on a broad overview of the national informal sector as well as case studies in Gauteng and the Western Cape. The 2015 Q2 Labour Force survey estimated that KZN's informal sector consists of approximately 485,000 persons. Upon characterising South Africa's informal sector, MiWORC observes:

"South Africa has a relatively small informal sector compared to other sub-Saharan African countries; yet [international migrants] are overrepresented in this sector. The percentage of IM working in the informal sector is almost twice as high as that of [non-migrants], while there is no difference between [non-migrants] and [domestic migrants]. There are several possible explanations for this. One is that the informal sector has the lowest entry cost into the labour market. Another is that IM overwhelmingly come from African countries with large informal sectors. They may

¹⁷³ SRG Consultation with INK Business Association – 28 April 2015.

¹⁷⁴ SRG Consultation with Somali and Ethiopian Communities – 30 April 2015.

¹⁷⁵ SRG Consultation with INK Business Association – 28 April 2015.

*therefore be importing types of activities which are prevalent in their countries of origin.*¹⁷⁶

A 2011 research study on small and medium enterprises (SMEs) in South Africa concluded that these industries contribute up to 35% into national gross domestic product (GDP), but also that the failure rate for SMEs ranges between 70% to 80%.¹⁷⁷ Recent statistics indicate shops noted that there are approximately 750,000 spaza shops and street vendors nationwide which generate up to R31.8 billion annually.¹⁷⁸ A number of studies have identified competition at the informal sector between locals and foreign nationals as one of the contributing factors to deteriorating relations between these communities.¹⁷⁹ Further, the rapid entry of foreign nationals into the informal sector has been monitored recently by the South African Parliament.¹⁸⁰

Upon researching the difference between Somali and South African informal businesses in Delft Township in the Western cape, the Sustainable Livelihood Foundation observed that the Somali entrepreneurial business model is primarily based on a price competition model

¹⁷⁶ Fauvelle-Aymar, C. (2014) *Migration and employment in South Africa: An econometric analysis of domestic and international migrants (QLFS (Q3) 2012)*. Migration for Work Research Consortium Report N.6. African Centre for Migration & Society, University of the Witwatersrand. Accessed online at: <<http://www.miworc.org.za/docs/MiWORC-Report-6.pdf>> on September 2015.

¹⁷⁷ Adeniran, T.V. and Johnston, K.A. (2011) "Investigating the dynamic capabilities and competitive advantage of South African SMEs." *African Journal of Business Management*, 6(11). 21 March, PP:4088-4099. Accessed online at: <https://www.academia.edu/4983218/Investigating_the_dynamic_capabilities_and_competitive_advantage_of_South_African_SMEs> on September 2015.

¹⁷⁸ Heistein, P. (2015) "Informal sector key to creating jobs." *Independent Online*. 13 August, Accessed online at: <<http://beta.iol.co.za/business/opinion/columnists/informal-sector-key-to-creating-jobs-1899024>> on September 2015.

¹⁷⁹ HSRC (2008) *Violence and Xenophobia in South Africa: Developing Consensus, Moving to Action*. Human Sciences Research Council (HSRC) and the High Commission of the United Kingdom in South Africa. Accessed online at: <<http://www.hsrc.ac.za/en/research-data/view/4048>> on September 2015;

Amisi, B. et al. (2011) "Xenophobia and civil society: Durban's structured social divisions." *Politikon*, 38(1). PP59-83. 15 March, Accessed online at: <

<http://ccs.ukzn.ac.za/files/Amisi%20Bond%20Cele%20Ngwane%20Politikon%20April%202011.pdf>> ;

Tevera, D. (2013) "African Migrants, Xenophobia and Urban Violence in Post-apartheid South Africa." *Alternation*, Special Edition, 7 (1). P9-26. Accessed online at: <<http://repository.uwc.ac.za/xmlui/handle/10566/1632>> on September 2015;

Grant, R. (2013) "Gendered Spaces of Informal Entrepreneurship in Soweto, South Africa." *Urban Geography*, 34:1. PP:86-108. Accessed online at: <<http://dx.doi.org/10.1080/02723638.2013.778640>> on September 2015.

¹⁸⁰ PMG (2014) "Committee Meeting for the Minister for Small Business Development on plans and programmes of Department." *Parliamentary Portfolio Committee on Small Business*, Parliamentary Monitoring Group. 02 July, Available online from: <<https://pmg.org.za/committee-meeting/17218/>> on September 2015;

PMG (2014) "The Budgetary Review and Recommendations Report of the Parliamentary Portfolio Committee on Small Business Development." *Parliamentary Portfolio Committee on Small Business Development*, Parliamentary Monitoring Group. 29 October, Accessed online at: <<https://pmg.org.za/taled-committee-report/2153/>> on September 2015;

PMG (2015) "Parliamentary Extended Public Committee : Debate on Budget Vote No 28 - Economic Development." *National Assembly*, Parliamentary Monitoring Group. 22 July, Accessed online at: <<https://pmg.org.za/hansard/18593/>> on September 2015.

rooted in collective procurement strategies, large distribution networks and deep social networks, whereas South African spaza shops were characterised as survivalist micro-enterprises.¹⁸¹ A 2014 study by the Gauteng City Region Observatory (GCRO), through its analysis of Gauteng's informal sector, noted that only 2 out of 10 of persons of informal businesses were born outside of South Africa, with its author concluding, "...[foreign nationals] contribute to South Africa and South Africans by providing jobs, paying rent, paying VAT and providing affordable and convenient goods."¹⁸² A 2012 comparative analysis of local and immigrant entrepreneurship in the Gauteng informal sector determined that the motivation to start a business was not determined by an owner's nationality, nor was a firm's expected business performance statistically correlated with its owner's nationality.¹⁸³ A follow-up study in the Delft community supports claims that attacks on foreign nationals in South Africa are predominantly instigated by competition for business opportunities, but also considers that it may be rather contentious to equate violence against Somali shopkeepers as xenophobic attacks given that the violence could be considered as criminal activities and economic competition in the form of 'violent entrepreneurship'.¹⁸⁴

This information provides a number of important considerations. The first is that there is a great need for structured and facilitated dialogue amongst these communities. The second is that there is both a desire and willingness for skills and business-practice sharing amongst the communities, although this willingness is indicated more prominently by foreign national business owners than by local business owners. The third is that allegations of overwhelming dominance of foreign nationals in this sector may be unfounded, but nonetheless the foreign national communities are overrepresented in this sector relative to their overall numbers within the KZN population, and are thriving relative to their South African counterparts.

¹⁸¹ Liedman, R. et al. (2013) "Why are foreign spaza shops more successful? The rapidly changing spaza sector in South Africa." *Econ3x3*. November, Accessed online at: [http://www.econ3x3.org/sites/default/files/articles/Liedeman 2013 Spaza shops FINAL_0.pdf](http://www.econ3x3.org/sites/default/files/articles/Liedeman%202013%20Spaza%20shops%20FINAL_0.pdf) on September 2015.

¹⁸² Peberdy, S. (2015) "GCRO Data Brief N6: Informal Sector Enterprise and Employment in Gauteng." *Gauteng City Region Observatory*. January, Accessed online at: < http://www.gcro.ac.za/media/reports/gcro_data_brief_informal_sector_enterprise_and_employment.pdf > on September 2015;

Wilkinson, K. (2015) "Analysis; Are foreigners stealing jobs in South Africa?" *Africa Check*. 08 February, Accessed online at: < <https://africacheck.org/2015/02/08/analysis-are-foreigners-stealing-jobs-in-south-africa-2/> > on September 2015.

¹⁸³ Radipere, N.S. (2012) "An Analysis Of Local And Immigrant Entrepreneurship In The South African Small Enterprise Sector (Gauteng Province)." *University of South Africa, Paper Submitted for Doctorate of Commerce in Business Management*. November, Accessed online at: < http://uir.unisa.ac.za/bitstream/handle/10500/9848/thesis_radipere_ns.pdf?sequence=1 > on September 2015.

¹⁸⁴ Charman, A. and Piper, L. (2012) "Xenophobia, Criminality and Violent Entrepreneurship: Violence against Somali Shopkeepers in Delft South, Cape Town, South Africa." *South African Review of Sociology* 43(3), PP:81–105. Accessed online at: < <http://repository.uwc.ac.za/xmlui/bitstream/handle/10566/554/CharmanSomaliShopkeepers2012.pdf?sequence=3> > on September 2015.

Finally, there is an identified need for additional support of the informal sector by the eThekweni Municipality, as well as more rigorous data collection about the current state of the informal business sector in order to develop more responsive policies and frameworks.

One positive example of institutionalised collaboration between local and foreign-national informal business owners, which specifically worked to prevent violence in the community, was highlighted in KwaDukuza. During the SRG's consultation with the community of KwaDukuza, the SRG learned that the community has proactively developed its own tuck shop forum, comprised of both local and foreign national tuck shop owners. The forum, which serves as both a regulatory body (including to determine where individuals can open a shop through a feasibility investigation) and an information sharing forum, also includes a database of all informal shops in the area (each equipped with its own identification number), and procedures to support all informal businesses to meet registration and tax compliances.¹⁸⁵ It was claimed that the forum created a nurturing environment for all of the various communities to come to know one another, discuss issues and promote mutual understanding. The SRG has identified this structure as innovative and recommends that it be considered a potential model to be replicated elsewhere throughout the province.

6.2.4. Pull Factors of South Africa's economy and stability

Another structural factor identified as a potential cause of the challenges concerns South Africa's relative stability and economic prosperity in juxtaposition to both southern Africa and the African continent as a whole. This issue was often raised as an explanation as to why foreign nationals, especially economic migrants, refugees and asylum seekers, choose to seek opportunities and livelihoods in South as opposed to other countries in the southern Africa region or elsewhere. Upon describing these 'pull factors' many intimated that South Africa's relative economic health and prosperity, as well as its peaceful and stable environment, are the most important of these factors.¹⁸⁶ One written submission summarised the situation in this way:

*"South Africa's new found freedom [in 1994] may have made her appear to the rest of the continent as a land of milk and honey. South Africa's economy appeared (and appears) to be booming...The portrayal of South Africa as a land of seemingly endless riches may be reason fellow African[s] stream into the country at the current [rate] (sic)."*¹⁸⁷

¹⁸⁵ SRG Consultation with Communities of KwaDukuza – 17 June 2015.

¹⁸⁶ Written Submission 64 – Received 30 July 2015.

¹⁸⁷ Written Submission 20 – Received 30 June 2015.

There are also two other prominent pull factors, identified through the SRG's investigation, that likely inform the high rates of migration into the country: The South African Constitution and South Africa's pro-integration policy with respect to refugees and asylum seekers. First, the protections afforded by South Africa's Constitution to all individuals (including foreign nationals) should not be understated as a contributing factor to increased migration into the country. The Bill of Rights (Chapter 2 of the Constitution) grants equal rights and protections to all individuals who are in the country (save for the right to vote, which is reserved exclusively for South African citizens). This progressive Bill of Rights is the cornerstone of South Africa's democratic society and positions the country as a beacon throughout the world.

Second, South Africa's approach to refugees and asylum seekers is to promote their integration into South African communities. Unlike legislation in many countries, South Africa's 1998 Refugees Act does not contain provisions that facilitate the establishment of camps, self-settlements or local settlements for refugees and asylum seekers, and by extension encourages their integration; one of the criteria for eligibility in South Africa's resettlement programme is that individuals have failed to integrate locally.¹⁸⁸ This progressive policy, which enshrines refugees and asylum seekers' dignity and rights, is likely to further incentivise many such individuals to seek refuge in South Africa as opposed to countries.

A number of insights highlight the dynamics underpinning South Africa's pull factors, but also reveal important considerations that South Africa's own prosperity and development are inextricably linked with those of the region and the continent. ACMS describes migration as empowerment, noting that its purpose is to "improv[e] individual, household and collective status, as well as social, economic and physical security."¹⁸⁹ IOM noted that of the approximately 4 million regular migrants in the southern African region, approximately 2.4 million are residing in South Africa (of whom 1.4 million are Zimbabwean) while the DRC hosts the second highest number of migrants at 447,000.¹⁹⁰ It further noted that regional

¹⁸⁸ Khan, F. (2007) "Local Integration: Lessons Learnt and the Way Forward" *Paper drafted for discussion on Local Integration: The Preferred durable solution*. 26 September, Geneva. University of Cape Town Refugee Rights Project. Accessed online at: <http://www.refugeerights.uct.ac.za/downloads/refugeerights.uct.ac.za/local_intergration_sa_context.doc> on September 2015.

¹⁸⁹ Palmary, I. (2015) "Migration, Mobility & Social Integration: Southern African Trends and their Implications." African Centre for Migration & Society, *Presentation to the Parliamentary Portfolio Committee on Home Affairs*. 05 May, Accessed online at: <<http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150505migration.pdf>> on August 2015.

¹⁹⁰ IOM (2014) *Migration Initiatives 2015 – Regional Strategies: Migrants and Cities*. 24 November, P43, Accessed online at: <http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=34&products_id=1426>

migration dynamics, especially towards South Africa, are fuelled by work opportunities in the mining, manufacturing and agricultural sectors, especially in South Africa and Botswana.¹⁹¹

But while dominant narratives almost exclusively focus on the ways in which other African nationals benefit directly and indirectly from South Africa, it is also important to highlight how South Africa benefits from the African continent more broadly. In 2014, South Africa achieved a trade surplus of R11.5 billion with the African continent, but maintained trade deficits with Asia, the Americas, Europe and Oceania.¹⁹² In January-February 2015 alone, South Africa exported twice as much to the African continent as it imported from the remaining 52 states (R43 billion to R11 billion): while South Africa's exports include machinery, iron and steel products, vehicles, chemicals and foodstuffs, 70% of South Africa's imports from Africa are mineral products.¹⁹³ In 2013, African investments in South Africa accounted for only 3.4% of total investment into the country (R148 billion), while South Africa's investment onto the continent accounted for 7.2% of South Africa's investment abroad.¹⁹⁴ Within SADC, South Africa accounts for 41% of all SADC trade and 63% of combined GDP of SADC countries.¹⁹⁵ Many of South Africa's largest businesses, including SABMiller, MTN, Sasol, and Standard Bank host operations across many African countries: Naspers, MTN, SAB Miller and Standard Bank each host operations in more than 15 different African countries.¹⁹⁶ South Africa is also dependent upon reserves of water, hydro-electrical energy, and natural gas from other African countries.

¹⁹¹ IOM (2014) *Migration Initiatives 2015 – Regional Strategies: Migrants and Cities*. 24 November, P43, Accessed online at: <http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=34&products_id=1426>

¹⁹² SARS (2015) "Trade Statistics: Exploring South Africa's Merchandise Trade Statistics." South African Revenue Services. Accessed online at: <<http://www.sars.gov.za/ClientSegments/Customs-Excise/Trade-Statistics/Pages/default.aspx>> on September 2015.

¹⁹³ SARS (2015) "Trade Statistics: Exploring South Africa's Merchandise Trade Statistics." South African Revenue Services. Accessed online at: <<http://www.sars.gov.za/ClientSegments/Customs-Excise/Trade-Statistics/Pages/default.aspx>> on September 2015.

¹⁹⁴ South African Reserve Bank (2015) *Quarterly Bulletin on International Economic Relations*. March, Accessed online at: <<https://www.resbank.co.za/Lists/News%20and%20Publications/Attachments/6649/08Statistical%20tables%20%E2%80%93%20International%20Economic%20Relations.pdf>> on September 2015.

¹⁹⁵ AEO (2014) *African Economic Outlook 2014: Global Value Chains and Africa's Industrialisation*. African Development Bank, UN Economic Commission for Africa. Accessed online at: <http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/E-Book_African_Economic_Outlook_2014.pdf> on September 2015.

¹⁹⁶ Louw, R. (2015) *South African Companies doing Business in Africa*. Accessed online at: <<http://public.tableau.com/profile/rudi#!/vizhome/SAbusinessinAfrica/Dashboard1>> on September 2015.

6.2.5. Spatial Geography and Service Delivery Challenges

A number of respondents highlighted that increasing issues around the spatial composition of KZN, as well as service delivery-related challenges, are contributors to increased tensions between local communities and foreign nationals. These issues were raised within the context of increasing urbanisation and the rapid growth of township communities, informal settlements and peri-urban areas, as well as on-going deficiencies in the provision of basic social services to all individuals.

These developments occur within a specific historical context. Under apartheid, many areas were deliberately under-resourced and local economies were prevented from realising their full potentials. The result is that many township economies are still dominated by informal actors, are more fragile, and accompanied by under-developed infrastructure that still require significant investment on top of what has already been committed. Such challenges, together with the growth of foreign national communities within these areas, have contributed to increasing competition within and between these communities: although this challenge affects all individuals, foreign nationals are targeted due to their status as 'outsiders' within their respective communities.¹⁹⁷ The poor performance of local government service delivery, especially with respect to the provision of basic housing, remains amongst the most urgent concerns for local South Africans.¹⁹⁸ Improvements in service delivery were further emphasised by local communities, who during re-integration oriented consultations with DSD: National, emphasised the need to have pressing service delivery issues resolved as part of the process of re-integrating foreign nationals back into these respective communities.¹⁹⁹

KZN comprises approximately 94,361 km², constituting approximately 7.7% of the country's land cover. According to the 2011 census, 38% of households throughout the province reside in the eThekweni Municipality, which currently houses approximately 1/3 of all persons residing in the province. Only 74.8% of KZN inhabitants live in formal housing, which constitutes the second lowest percentage of the nine provinces (national average is 79.4%); 8.1% of inhabitants live in informal households, with 17% living in traditional households.²⁰⁰ StatsSA notes that 61 percent of persons in the province live in traditional settings.²⁰¹ The 2011 Census estimates that approximately 295,000 households live in an informal

¹⁹⁷ SRG Consultation with Foreign Nationals' Representatives – 14 May 2015; Written Submission 14 – Received 23 June 2015; Written Submission 20 – Received 30 June 2015; Written Submission 65 - Received 30 July 2015; Written Submission 75 – Received 01 August 2015; Written Submission 77 – Received 01 August 2015.

¹⁹⁸ Written Submission 40 – Received 15 July 2015; Written Submission 59 – Received 28 July 2015.

¹⁹⁹ SRG Consultation with DSD: National – 13 July 2015.

²⁰⁰ StatsSA (2015) *General Household Survey 2014*. Statistical Release P0318. 27 May, Accessed online at: <<http://www.statssa.gov.za/publications/P0318/P03182014.pdf>> on September 2015.

²⁰¹ Payet, C. (2015) "Invest in youth or we have no future – UN." *Sunday Tribune*. 12 July.

settlement and 2014 estimates point to this figure rising above 305,000 households, and recent data from 2014 indicates that 10% of the KZN population live in informal dwellings.²⁰² The KZN Department of Human Settlements estimates that it has a housing backlog of approximately 408,000 households in eThekweni municipality in 2014.²⁰³ Estimates indicate that close to 40% (some 2,800,000 hectares) of the province's total land cover is under control of the Ingonyama Trust.²⁰⁴ In terms of water services: in 2013, 39% of KZN inhabitants received basic water services from their Municipalities; the province had 15 municipalities with the capacity to provide water services. In 2014, the SAHRC reported that up to 14% of KZN inhabitants do not have access to clean water.²⁰⁵ In terms of sanitation services: in 2013, 21% of KZN inhabitants received basic sanitation services from their municipalities; the province has 15 municipalities that provide sewage and sanitation services (14 were responsible to do so). In 2013, the province collectively identified 770,915 indigent households, and 48% of these households received sewage and sanitation support from their municipalities.²⁰⁶ In 2014, 45.5% of households in the province reported access to flush toilets and public sewage (compared with a national average of 59.6%); 43% of households relied on pit latrine systems compared to 30% nationally.²⁰⁷

However, although it is acknowledged there are many challenges emanating from rapid urbanisation and intermittent service delivery, and there are inferential connections between these challenges and the tensions between local and foreign national communities, these issues alone do not explain why some communities resorted to violence while others in largely similar conditions did not.²⁰⁸

²⁰² Dhlomo, S.M. (2015) *KZN Health Strategic Plan 2015-2019*. KZN Department of Health. 03 March, Accessed online at: <<http://www.kznhealth.gov.za/Strategic-Plan-2015-2019.pdf>> on August 2015; Payet, C. (2015) "Invest in youth or we have no future – UN." *Sunday Tribune*. 12 July.

²⁰³ Pillay, R.R. (2014) "Breaking New Ground: Cornubia Integrated Human Settlement Development - KZN Department of Human Settlements" KZN Department of Human Settlements, Presentation developed for the National Human Settlements Indaba - October 2014. 17 October, Accessed online at: <<http://www.dhs.gov.za/sites/default/files/documents/KZN%2017-oct.pdf>> on October 2015.

²⁰⁴ KZN Planning Commission (2014) *KZN Provincial Growth and Development Plan 2011-2013; August 2014 Revision*. Provincial Planning Commission. August, Accessed online at: <<http://www.kznppc.gov.za/Portals/0/Documents/13-09-11%20PGDP%20Version%2029%203.pdf>> on September 2014.

²⁰⁵ SA Human Rights Commission (2014) *Report on the Right to Access Sufficient Water and Decent Sanitation in South Africa: 2014*. South African Human Rights Commission. Accessed online at: <<http://www.sahrc.org.za/home/21/files/FINAL%204th%20Proof%204%20March%20%20Water%20%20Sanitation%20low%20res%20%282%29.pdf>> on September 2015.

²⁰⁶ StatsSA (2014) *Non-financial census of municipalities for the year ended 30 June 2013*. Statistical Release P9115. 28 August, Accessed online at: <<http://www.statssa.gov.za/publications/P9115/P9115June2013.pdf>> on September 2015.

²⁰⁷ StatsSA (2015) *General Household Survey 2014*. Statistical Release P0318. 27 May, Accessed online at: <<http://www.statssa.gov.za/publications/P0318/P03182014.pdf>> on September 2015.

²⁰⁸ Tevera, D. (2013) "African Migrants, Xenophobia and Urban Violence in Post-apartheid South Africa." *Alternation*, Special Edition, 7 (1). P9-26. Accessed online at: <<http://repository.uwc.ac.za/xmlui/handle/10566/1632>> on September 2015.

6.3 Causes of Violence with an Institutional Dimension

At the institutional level, this report engages causes with institutional dimensions: the report engaged with government's policies and actions, perceptions of these policies and actions, and gaps in these policies and actions that may have contributed to the violent attacks.

6.3.1. Concerns regarding the management of South Africa's borders

Feedback from a number of consultations and written submissions highlight that many South Africans perceive the country's border to be porous. Many locals maintain that relevant government institutions, such as DHA and SANDF, are unable to effectively monitor the borders and therefore unable to control the movement of persons into the country.²⁰⁹

One submission observed:

*"the sentiment is that our borders are porous and the local people are not adequately protected by our borders and government offices. Most people will accept a foreign person who is fleeing from war. But the feeling on the ground is that foreigners are exploiting the loopholes in our governance and border-control in order to rob us of our natural resources and economic possibilities."*²¹⁰

Based on consultations with the KZN DHA Provincial Office and SANDF officials in KZN, it emerged that there are significant challenges with the control and regulation of South Africa's borders. South Africa's borders with Swaziland and Mozambique are prominent routes that many foreign nationals use to gain entry into South Africa.

From the SRG's visit to one of the informal border crossings along the South African and Swaziland border, it was observed that some individuals use some informal crossing points, e.g. underneath the border fences, to enter South Africa. This challenge occurs because there are not enough formal border crossings along these posts, and that the border fence runs through natural vegetation, thereby restricting border patrol's access to the areas in between informal border outposts regularly monitored by SANDF. Many of the individuals suspected of trafficking goods or persons simply cross the border post in between SANDF outposts.

²⁰⁹ Written Submission 36 – Received 03 June 2015; Written Submission 46 – Received 21 July 2015.

²¹⁰ Written Submission 46 – Received 21 July 2015.

The problem confronting border management officials is that the ‘the guy we catch today, we catch again tomorrow,’ as expressed by the words of a member of the SANDF. The wide area of attention as well as the rough terrain around the borders makes it hard for members of the SANDF to easily apprehend those who use some illegal border crossings. While efforts are underway to upgrade the border fences and create decent road networks for officials to easily patrol the borders, there remains a challenge in effectively restricting undocumented migrants from crossing the border lines, which the SANDF is unable to guard. The South African government is aware of the concerns regarding border management and promulgated a Draft Border Management Agency Bill (2015). The draft bill aims to establish a Border Management Agency that would coordinate the management of South Africa’s ports of entry and borders (See Section 4.2.1.).

Individuals who live in border communities (on both sides of the border), use both official and informal border crossing points on a regular basis to access services such as hospital and schools in South Africa.²¹¹ During the SRG’s site visit to an informal border crossing area, the SANDF revealed that some of the communities on opposite sides of the border share similar cultures and histories and are divided only by the border posts.²¹² In many instances, individuals with South African IDs (who reside on the Swazi and Mozambican sides of South Africa’s borders) use the informal crossings to access local markets and basic social services within the country (such as healthcare, education and social security) and then return to their homes outside of the country – these individuals are often located upwards of 20-30 kilometres from a formal border crossing, making it impractical for them to travel to the crossings multiple times a day. SANDF officials monitor these informal border crossings daily, and have developed a register of those who cross the border regularly and reserve the right to search any of the individuals crossing for possession of contraband goods.

6.3.2. Concerns regarding South Africa’s Immigration Policies

Perception of lax implementation and lack of clarity on policy

A significant number of consultations and submissions expressed that the country’s immigration policies are too loose and not clearly understood; these impressions have contributed to perceptions that there is an influx of illegal foreign nationals in the

²¹¹ SRG Consultation with Department of Home Affairs: KZN – 08 June 2015; SRG Community Dialogue with communities of uPhongolo Municipality – 06 August 2015.

²¹² SRG Consultation with SANDF – 26 August 2015.

country.²¹³ Some locals argue that it is not sufficient for the government to continuously justify its open immigration policies through the claim that other countries supported South Africa during the apartheid era, and that therefore South Africa should be welcoming to every foreign national.²¹⁴ According to some locals, the number of South Africans who were in other African countries at that time was also significantly smaller than the number of foreign nationals in South Africa at present, so that comparisons between the two situations are not necessarily equal. For them, South African freedom fighters who went to other countries were registered and restricted from integrating with the local communities in those countries. Some South Africans further indicate that the country does not have the capacity to accommodate the foreign nationals that flood into the country.

Locals also highlight that there is no proper recording and screening of all foreign nationals who come into the country to ensure that they have 'good intentions'.²¹⁵ For them, the lack of proper regulation and screening has led South Africa to welcome 'illegal' foreign nationals who are perceived to aggravate crime levels in the country.²¹⁶ A written submission clearly illustrates this concern by noting that the *"gates are open too wide for them. The influx of immigrants threatens citizens resulting in hostile attitudes towards foreigners."*²¹⁷ The ultimate challenge is that the poor implementation and enforcement of immigration-related policies, poor documentation of foreign nationals in the province, and a lack of knowledge and understanding about immigration policies contribute to divisions between local and foreign national communities. Another significant gap is that there are not adequate provisions and protections for undocumented foreign nationals within the current immigration policy.

In 2014, the government introduced a new Immigration Regulation of 2014 that took effect on 26 May 2014 in response to the concerns regarding the country's immigration policy. The Minister of Home Affairs, Mr Malusi Gigaba, has noted that new immigration regulation are developed to balance the need for better security in the country with the contributions made by migrants to the development of the country. In the accompanying media statement on the new immigration regulations on 28 May 2014, Minister Gigaba noted that new immigration policy was contextualised as follows:

²¹³ SRG Attendance at DAC Dialogue in Dundee – 28 May 2015; SRG Consultation with the Democratic Alliance: KZN – 26 June 2015; SRG Consultation with Project Empower – 02 July 2015; SRG Consultation with ANC: KZN – 07 August 2015; SRG Consultation with KZN PROVJOINTS – 11 August 2015; SRG Consultation with SANDF – 21 August 2015.

²¹⁴ SRG Consultation with INK Business Association – 28 April 2015; SRG Consultation with NAFCOG – 04 August 2015.

²¹⁵ Written Submission 36 – Received 03 June 2015; Written Submission 46 – Received 21 July 2015.

²¹⁶ Written Submission 26 – Received 07 July 2015.

²¹⁷ Written Submission 16 – Received 26 June 2015.

“we are considering a policy framework to deal with economic migrants because some of the challenges we deal with in South Africa in relation to migration have to do not just with the issue of employment but has to do with how we manage economic migrants. The South African economy- forget everything you’ve heard- is the biggest in Africa. It is the most vibrant and has been ranked the most competitive economy in the continent. Among those who come here are people without skills who are plain economic migrants. One of the biggest challenges we face as South Africa is that because economic migrants have no other avenue of entering South Africa, they come here from countries where there is no violence and say “I am an asylum seeker”. It is because we don’t have a policy framework to deal with economic migration. Our failure to manage economic migrants contributes towards xenophobia. It is a whole myriad of issues that we are dealing with in order to eventually say as a country that the threat and risk of xenophobia has been minimized.”²¹⁸

Concerns regarding reliability of statistical data and record keeping

The Submission by ACMS to the Parliamentary Portfolio Committee on DHA from 12-13 February 2013 estimated that foreign nationals constitute only 3.3% of the almost 50 million population of South Africa based on the 2011 census, a percentage ‘far lower than was popularly believed’.²¹⁹ From consultations with the KZN Office of DHA, officials suggest that the impression that there are many undocumented migrants in the country is often exaggerated.

However, it is worth observing from Table 4 (Section 4.1.2) that the category of foreign nationals in the province that is labelled “unspecified” has the largest number of foreign nationals. The ‘unspecified’ group is estimated at 392,286 out of the 494,526 number of foreign nationals. This is about two-third of the estimated number of foreign nationals in the province. From the statistics received from the DHA on the 2011 Census, there is no description of what is meant by “unspecified” and the criteria used to arrive at these numbers.²²⁰ This raises concerns about the reliability of the statistical data.

²¹⁸ DHA (2014) “Media Statement & Transcript by Minister Malusi Gigaba on new immigration regulations, Pretoria, 28 May 2014.” Department of Home Affairs, Media Statements, 29 May. Accessed online at: <<http://www.dha.gov.za/index.php/statements-speeches/465-minister-malusi-gigaba-s-address-on-new-immigration-regulations-pretoria-28-may-2014>> on September 2015.

²¹⁹ (2013) “Transcript of Panel Discussion on Migration Policy and Regional Integration of South Africa – Day 2.”: Parliamentary Portfolio Committee on Home Affairs. 13 February. Accessed online at: <<https://pmg.org.za/committee-meeting/15373/>> on September 2015.

²²⁰ The ‘unspecified’ group could refer to a group of persons – locals and/or foreign nationals – that refuse to give required details to Census officials.

DHA officials suggest that the impression of locals that there are many undocumented migrants in the country is often exaggerated.²²¹ For one of the respondents, foreigners stand-out in the communities where they reside due to physical, language, cultural and lifestyle differences. This creates the impression that there are many foreign nationals in the country. The discrepancies in the verbal account and statistical data provided by the DHA show that there is difficulty in establishing an accurate figure for foreign nationals in the province. DHA further indicated that the capacity constraints of the Department in keeping accurate records of foreign nationals in the province and in following up on issues relating to their documentation, especially as there are very few Inspectorate officials situated full time in KZN.²²² The challenges faced by DHA have further created platforms for different communities, individuals and groups to make unfounded conjectures about the number of foreign nationals in South Africa.

6.3.3. Concerns Relating to the Implementation of the South African Refugees Act

The SRG's consultation with the Durban RRO highlighted the challenges with the refugee management processes; these challenges have contributed indirectly to leaving foreign nationals and locals discontented. It was noted that capacity constraints have led to limitations in the timely finalisation of determination processes especially for refugees. This results in many foreign nationals with either asylum seeker or refugee permits having their documents expire or becoming entangled in a prolonged appeals process.²²³

As indicated by the Durban RRO, the slow processing of numerous refugee and appeals applications received by the RROs has led to a large backlog of applications. The process of refugee status determination normally begins with the provision of an unconditional 5-day pass (known as Asylum Transit Visa) to asylum seekers coming into South Africa in order for these individuals to access the RRO and apply for refugee status.

While this process is legislated to be a straightforward and timely process (within 6 months from beginning to end), this has not been the case for many asylum seekers and refugees in the country – many have been forced to wait years before receiving a decision on their application.²²⁴ This poses a challenge for many individuals, as they are only provided with

²²¹ SRG Consultation with DHA: KZN – 08 June 2015.

²²² SRG Consultation with DA: KZN – 26 June 2015; SRG Consultation with KZN Department of Community Safety and Liaison – 24 July 2015.

²²³ SRG Consultation with Foreign Nationals Representatives – 14 May 2015; SRG Consultation with Lawyers for Human Rights and Foreign Nationals Communities – 22 May 2015; SRG Consultation with DHA: Durban Refugee Reception Office – 26 May 2015; SRG Consultation with DHA: KZN – 08 June 2015.

²²⁴ SRG Consultation with Representatives of Somali and Ethiopian Communities – 30 April 2015; SRG Consultation with Lawyers for Human Rights and Foreign Nationals Communities – 22 May 2015.

temporary extensions of their asylum permits, usually between 2-6 months (solely determined according to the discretion of each individual RSDO), thereby necessitating that they regularly bear additional expenses to travel regularly to and from the RROs on a regular basis. Some asylum seekers have generally relied on renewing their Temporary Asylum Seeker Permits on countless occasions, thereby remaining in South Africa under the classification of 'asylum seeker' over much longer periods of time than intended by the spirit and letter of the law.²²⁵

Added to the challenges with the slow adjudication process, some RROs in the country have been closed in order to reduce corruption. The only functioning refugee centres are in Musina, Pretoria and Durban, while the offices in Cape Town and Port Elizabeth have been closed since 2010. These offices, according to DHA, were closed in an effort to root out corruption and also due to a lack of demand. Refugees in various South African communities are thus forced to spend a significant amount of time and money to travel to one of the three remaining RROs.²²⁶ This places enormous strain on these three offices and challenges the system's capacity to attend to refugee applications effectively.

The DHA notes that the approval rate for refugee applications is low, registering at approximately 12% in 2014: during this period, the South African Government approved 9,230 applications for refugee status out of a total of 75,733 applications adjudicated. The approvals were granted to nationals from the following countries:²²⁷

1. Ethiopia: 3,041 approved applications
2. Somalia: 2,903 approved applications
3. DRC: 2,321 approved applications
4. Republic of Congo: 599 approved applications
5. Eritrea: 167 approved applications
6. Uganda: 62 approved applications
7. Burundi: 41 approved applications

²²⁵ Those who grow weary of the process could opt to live rather as undocumented migrants. On a legal basis, the non-refoulement policy requires that the asylum seeker could not be easily deported to his or her countries of origin. The delay in the processing of their application, which is beyond their control, makes them not liable for the expiry of their permit or their supposed illegal status.

²²⁶ It is worth noting that the refugees can only follow up or renew their asylum seekers and refugee permits at the same Refugee Reception Office where they applied from the first time. Source: SRG Consultation with DHA: Durban Refugee Reception Office – 26 May 2015.

²²⁷ DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

8. Rwanda: 24 approved applications.²²⁸

Of the 66,503 applications for refugee status that were rejected, 29,536 (39%) were rejected as 'Unfounded', while 37,109 (49%) were rejected as 'Manifestly Unfounded'.

Asylum seekers whose applications are rejected as unfounded may appeal the RSDO's decision to the RAB within 30 calendar days after the decision has been communicated. Based on our consultation with the Durban RRO, it is mostly at this stage of appeal that many cases remain in backlog. The RAB should conduct an appeal hearing during which the appellant who is entitled to a fair hearing has the right to be heard and to present their case fully. But the RAB process has generally been slow and a number of litigation cases have been opened in this regard.²²⁹

New applications go through this process and create massive backlogs for the Asylum Seekers Management System. Between January and December 2014, the Asylum Seekers management registered a total of 71,914 new Asylum seekers: 34,477 (48%) of which were from nationals of Southern African countries (with the majority from Zimbabwe), 13,011 (18%) from West African countries, 12,126 (17%) from East African countries, 8,617 (12%) from South-Central Asian countries, and 1,957 (3%) from Central African countries.²³⁰ During 2014, DHA adjudicated and finalised 75,733 applications for asylum, with 88% of applicants being rejected and 12% (9,230) being granted refugee status.²³¹ DHA also noted that some of the 75,733 applications adjudicated during the year 2014 had been registered with the Department during 2013.²³²

²²⁸ DHA presentation indicates that 9,230 applications for asylum were approved. However the breakdown of application approvals by country only display the approved applications for 9,158 applications, thereby exposing a gap of 72 approved applications. Either there are an additional 72 applications approved by the Department that were not included on the breakdown provided to Parliament or that the 9,230 applications approved should instead be reflected as 9,158 applications.

Source: DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

²²⁹ SRG Consultation with Lawyers for Human Rights and Foreign Nationals Communities – 22 May 2015; SRG Consultation with DHA: Durban Refugee Reception Office – 26 May 2015.

²³⁰ DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

²³¹ DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

²³² DHA (2015) *Regional Migration Trends and Regional Integration - Department of Home Affairs Presentation to Parliamentary Portfolio Committee on Home Affairs*. Parliamentary Monitoring Group. 05 May, Accessed online at: <<http://pmg.org.za/files/150505dha.ppt>> on September 2015.

It remains a concern that most of these applications will face a slow process for adjudication. During consultations with representatives of foreign nationals, a view emerged that the government, through this cumbersome process, makes foreign nationals illegal after having come into the country legally.²³³ One individual recounted how he escaped Rwanda during the 1994 genocide, intending to move to Europe but then moved to South Africa, via Tanzania and other Southern African countries: For him, it took him 10 years before he eventually received a decision about his refugee status.²³⁴ A written submission observed:

“Foreigners applying for section 22 (asylum seekers’ permit) wait in some cases up to 7 or 8 years without permit approval until they are informed when they only realise that their application was not approved or simply rejected. Meanwhile these persons have already made South Africa their home but doesn’t have proper documentation to facilitate their stay as such they are stigmatised in the community because they cannot get a proper means of living.”²³⁵

Concerns regarding bribery and corruption in accessing documentation

Many locals and foreign nationals share the view that the documentation processes at Home Affairs and Border Control are flawed and challenged by corruption.²³⁶ These individuals allege that both locals and foreign nationals can use bribes as means of obtaining required immigration and identification documentation. These allegations of corruption further encourage the impression among locals that the documentation of foreign nationals is unlawfully obtained with the collusion of relevant government officials.

Some locals allege that foreign nationals fraudulently obtain Resident Permits and South African IDs with the complicity of DHA officials.²³⁷ Some asylum seekers have also reported that Refugee Status Determination Officers they have dealt with have solicited bribes from them to expedite the adjudication processes with positive outcomes.²³⁸ In July 2015, LHR and ACMS published a report titled “Queue Here for Corruption: Measuring Irregularities in South Africa’s Asylum System.” The report provides detailed

²³³ SRG Consultation with Representatives of Somali and Ethiopian Communities – 30 April 2015; SRG Consultation with Foreign Nationals Representatives – 14 May 2015.

²³⁴ SRG Focus Group at Durban University of Technology – 27 May 2015.

²³⁵ Written Submission 64 – Received 30 July 2015.

²³⁶ SRG Consultation with Project Empower – 02 July 2015; Written Submission 65 – Received 30 July 2015.

²³⁷ Written Submission 39 – Received 05 August 2015.

²³⁸ SRG Consultation with Foreign Nationals Representatives – 14 May 2015; SRG Consultation with Lawyers for Human Rights and Foreign Nationals Communities – 22 May 2015; SRG Consultation with DHA: Durban Refugee Reception Office – 26 May 2015; Written Submission 66 – Received 30 July 2015.

indications of corruption in the asylum system. The findings of the report highlight that the asylum system process:

“show(s) corruption at every stage of the asylum process..., beginning with entry into the country. Nor did corruption stop once individuals acquired refugee status. In short, corruption permeates every aspect of the asylum system and every category of actor in this system – security guards, interpreters, refugee reception officers, refugee status determination officers, police officers, and private brokers with links to DHA officials.”²³⁹

These allegations further encourage the impression, especially amongst local South Africans, that immigration documents held by foreign nationals are unlawfully obtained and therefore invalidate their rights to be in South Africa. The capacity challenges faced by the DHA to keep accurate records of migration into and out of the country further fuel these perceptions. The DHA has recently strengthened its Counter-Corruption Unit to prevent, detect and combat corruption in all its branches with the support of the SAPS Crime Intelligence, the Hawks and other relevant government bodies.²⁴⁰ The DHA has also launched special operations in some of its branches to attend to serious allegations of corruption. Notably, the DHA launched ‘Operation Bvisa Masina’ (a Venda expression meaning “throw out the rot”) in response to the increasing allegations of corruption at the Marabastad Refugee Reception Office. The Department’s proactive stance against corruption on these specific issues has resulted in the arrest of corrupt officials contributing to these challenges as well as the rest of other individuals who are not employed by the Department but nonetheless facilitate these corrupt activities.

6.3.4. Lack of information about foreign nationals in KZN

Many individuals in their engagement with the SRG highlighted a systematic lack of accurate information throughout the province about foreign nationals and their rights, including realistic estimates on the total number of foreign nationals present. This lack of realistic estimates fuels unhelpful perceptions. Many locals highlighted that they do not know why many foreign nationals have come to in South Africa’s cities, townships and informal

²³⁹ Amit, R (2015) *Queue Here for Corruption: Measuring Irregularities in South Africa’s Asylum System*. Report by Lawyers for Human Rights and the African Centre for Migration and Society at the University of the Witwatersrand. July, Accessed online at: <<http://www.lhr.org.za/publications/queue-here-corruption-measuring-irregularities-south-africa%E2%80%99s-asylum-system>> .P23. on September 2015.

²⁴⁰ GCIS (2015) “Home Affairs fighting to end corruption.” *South African Government News Agency*. 30 January, Accessed online at: <<http://www.sanews.gov.za/south-africa/home-affairs-fighting-end-corruption>> on October 2015.

settlements.²⁴¹ Foreign nationals, in turn, say that South Africans do not appreciate the harsh conditions that led them to leave their home countries and migrate to South Africa.

It appears that some locals are unable to distinguish between documented and undocumented foreign nationals. Others do not know if foreign nationals, including refugees and asylum seekers, are allowed to work or open businesses in South Africa.²⁴² This has led local business owners to demand the closure of foreign-owned shops without knowing that foreign nationals with valid documents are permitted to operate businesses in South Africa.

According to respondents, a number of government departments in the province display inadequate knowledge of the legal status and rights of foreign nationals. Asylum seekers and refugees bemoan the fact that relevant authorities question or fail to recognise their legal status in South Africa despite being in possession of valid documents. Given that the asylum seekers' permit is often in the form of an A4 size printed document that is renewable every 3 to 6 months, some authorities have tended to undermine the significance of the document. Asylum seekers have reported that their papers have been torn up by police officers and they have been arrested for not possessing a South African ID document. A written submission observed:

“Most police have been reported to be uninformed about this and being ignorant of this and display their frustration through shoddy treatment and often unlawful detentions and arrests of foreign nationals.”²⁴³

Some foreign nationals have also reported that some of South Africa's banks deny them the opportunities to open bank accounts and use their services.²⁴⁴ The absence of a bank account has left many asylum seekers and refugees vulnerable to attacks from criminals, as they must either carry large sums of cash on their person or store them in their shops or homes. An anecdote emerging from the consultations with the Somali and Ethiopian Communities:

“Because they know we keep our money with us, some people call us mobile ATMs while walking along the streets.”²⁴⁵

²⁴¹ SRG Consultation with INK Business Association – 23 April 2015.

²⁴² SRG Consultation with NAFCOG – 04 August 2015.

²⁴³ Written Submission 43 – Received 31 July 2015.

²⁴⁴ SRG Consultation with Representatives of Somali and Ethiopian Communities – 30 April 2015; SRG Consultation with Lawyers for Human Rights and Foreign Nationals Communities – 22 May 2015.

²⁴⁵ SRG Consultation with Somali and Ethiopian Communities – 30 April 2015.

Some foreign nationals have also indicated that they are often unfairly denied access to social services because some South Africans are either not aware of or unwilling to acknowledge the legal rights afforded to documented and law-abiding foreign nationals.²⁴⁶ During the SRG's consultation with the DSD: National, one official told the following anecdote :

*"One particular instance is that in Ward 38 (Lindelani), a foreign national indicated that his wife was in labour, and then called for emergency services to come and assist. They alleged that the first question that the EMS dispatcher asked was whether the patient was a foreign national - as a result the ambulance was not dispatched. Upon arriving at the local hospital, this same couple was again asked their country of origin before being asked whether they were documented ..."*²⁴⁷

Foreign nationals who have since attained permanent residency or South African citizenship have also reported unfair treatment by government offices. A business trader of Somali origin, who is now a permanent resident of the country, noted that during the attacks against foreign nationals in April 2015 he was asked to leave South Africa by those orchestrating the violence.²⁴⁸ During another consultation, one individual who is a naturalized South African citizen born in another African country, recounted some incidents where police officers had intimidated him for being a *"non-native ... they repeatedly told [me] to go back to [my] country."*²⁴⁹

The lack of knowledge amongst local citizens and institutions about foreign nationals' legal rights in the country points to issues of inadequate sensitisation. This lack of awareness has contributed to some locals developing suspicions and nurturing hostilities against foreign nationals.²⁵⁰ It must be acknowledged that the DHA has partnered with relevant institutions to provide awareness programmes to sensitize communities about the rights and responsibilities of foreign nationals in South Africa.

6.3.5. Government Regulation of Businesses, especially in the informal sector

One of the major issues raised by locals is that foreign nationals dominate the informal business sector because of government's poor regulation of informal businesses. Of particular concern for locals is that in many townships, informal settlements and some parts

²⁴⁶Written Submission 64 – Received 30 July; Written Submission 70 – Received 31 July 2015.

²⁴⁷ SRG Consultation with DSD: National – 13 July 2015.

²⁴⁸ SRG Consultation with Somali and Ethiopian Communities – 30 April 2015.

²⁴⁹ SRG Focus Group at Durban University of Technology – 27 May 2015.

²⁵⁰ Written Submission 65 – Received 30 July 2015.

of KZN cities, foreign nationals own thriving spaza and tuck shops that undermine the success of locals' shops.²⁵¹

Local business owners argue that the government has not been efficient at enforcing business regulations, thereby creating opportunities for foreign nationals to outplay local citizens who claim to follow due process in business.²⁵² The police claim that there have been difficulties in regulating the registration and operation of businesses at the local government level.²⁵³ Many individuals in the sector argue that local- and foreign- owned businesses alike are unregistered and unlicensed: discussions with officials from the eThekweni Municipality highlighted how the enforcement of business registration regulations is a challenge; of interest is their estimation that foreign national business owners are more likely to be compliant with regulations and more willing to register their shops than local business owners; PROVJOINTS assessed that the scale of enforcement necessary already exposes existing capacity shortages for government in attempting to monitor the registration and licensing of businesses.²⁵⁴ The government has also struggled to enforce rules regarding the allocation of business space. This has resulted in a somewhat unregulated informal sector, leaving local traders to make assumptions regarding perceived favouring of foreign nationals by both government and large businesses.²⁵⁵

For some locals, foreign nationals should not be allowed to be involved in the informal business sector. This is in defiance of informal trading by-laws such as Article 12(1c) of the eThekweni Municipality Informal Trading By-Law of 2014, which states that "a person may apply for an informal trading permit, to conduct informal trading on municipal property, if that person is a South African citizen or, failing which, has a valid work permit which includes, but is not limited to, a refugee permit."²⁵⁶ The law thus provides the opportunity for foreign nationals with valid documentation to operate informal businesses. NAFCOOC claims that foreign nationals do not compete with or present a challenge to the politicians who make

²⁵¹ SRG Consultation with INK Business Association – 23 April 2015; SRG Consultation with Somali and Ethiopian Communities – 30 April 2015; SRG Consultation with Foreign Nationals Representatives – 14 May 2015; SRG Consultation with NAFCOOC – 04 August 2015.

²⁵² Nonetheless, from consultations, there are signs that a significant number of local and foreign shop owners do not register their businesses with the government. Sources: SRG Consultation with INK Business Association – 23 April 2015; SRG Consultation with Somali and Ethiopian Communities – 30 April 2015; SRG Consultation with DSD: National – 13 July 2015; SRG Consultation with the Department of Community Safety and Liaison: KZN – 24 July 2015; Consultation with Minara Chamber of Commerce – 30 July 2015; SRG Consultation with NAFCOOC – 04 August 2015.

²⁵³ SRG Consultation with KZN PROVJOINTS – 11 August 2015

²⁵⁴ SRG Consultation with KZN PROVJOINTS – 11 August 2015; SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

²⁵⁵ SRG Consultation with KZN PROVJOINTS – 11 August 2015

²⁵⁶ eThekweni Municipality (2014) *Informal Trading By-Laws, 2014*. eThekweni Municipal Council. Accessed online at: <[http://www.durban.gov.za/Resource_Centre/Bylaws/Informal%20Trading%20By-Law%202014%20\(English\).pdf](http://www.durban.gov.za/Resource_Centre/Bylaws/Informal%20Trading%20By-Law%202014%20(English).pdf)> on September 2015. P16

the rules and regulations that enable foreign nationals to ply their trade easily in the country as they cannot run for political positions. The association expressed the view that:

“politicians are not challenged by the presence of foreign nationals because they do not compete for political posts with them. But for the economic sector, any foreigner could engage in trade and because politicians are not privy to the competition in the economic sector, they do not care. The business sector has now to face the challenge of competition.”²⁵⁷

For some local business owners, the failure of the government to regulate and restrict foreign nationals from owning businesses has created conditions for foreign nationals to engage in what they consider illegal business practices that consequently provide them with unfair advantages over local business people. One common perception concerning the business practices of foreign nationals is that they do not contribute to the tax base of the South African economy.²⁵⁸

Although it appears to be an unsubstantiated claim, local business owners also assert that the government has enabled conditions where foreign nationals can buy products at cheaper rates intended for export but are then sold domestically. A written submission argued:

“Our Government allows foreign nationals to buy goods claiming it for export thereby not paying VAT when the goods are being sold locally at an advantage of 14% less than local Traders who pay VAT. Government is harassing and arresting business people locals Hawkers, Taxi and Tavern owners and yet the foreigners are freely doing business.”²⁵⁹

For local business owners, these alleged bad business practices occur largely because the government has failed to regulate the business sector and restrict foreign nationals from business. For the INK business group, there should be clear regulations and measures to ensure that locals are prioritized in the informal economic sector. In Section 6.3.3 of this Report, the SRG discusses the issue of regulating trade in the informal sector in terms of structural competition between various stakeholders.

²⁵⁷ SRG Consultation with NAFCOG – 04 August 2015.

²⁵⁸ SRG Attendance at DAC Community Dialogue in Dundee – 28 May 2015; Written Submission 67 – Received 31 July 2015.

²⁵⁹ Written Submission 34 – Received 13 July 2015.

6.3.6. Challenges with the Criminal and Justice Institutions

Effective, responsive and impartial criminal and justice institutions are vital for any country to provide equal justice for all individuals and to reduce crime. From the consultations and submissions received, foreigners and local South Africans alike highlight challenges with the province's police and justice departments. The following sections consider these challenges:

High Levels of Crime and Shortcomings in Policing

Local citizens and foreign nationals alike share the impression that the police have not been effective in preventing or addressing issues stemming from crime in the province. These issues manifest in a number of ways, including allegations that the violent attacks against foreign nationals in 2015 were the result of widespread criminality, and that foreign nationals are negatively affected by police officials' biases and ineffectiveness.

A number of people told the SRG that the violent attacks against foreign nationals were the result of criminality and that they were perpetrated by criminals, both intentional and opportunistic. Many viewed the high levels of crime as both a pre-condition for the violent attacks as well as a primary factor in the events that occurred. A number of written submissions echoed the sentiment that high levels of crime in the affected areas served as preconditions for the violence, as well as that the attacks themselves were precipitated by criminal acts.²⁶⁰ This perspective was advanced by a number of government departments, who identified crime and criminality as amongst the root causes of the attacks – they further emphasised that the burning and looting of businesses owned or operated by foreign nationals was unacceptable in any context.²⁶¹ Criminality was also referred to in the context of opportunistic crimes, where it was alleged by the same government departments that many of the individuals who participated in the attacks and looting did so in an opportunistic manner, once the targeting of foreign nationals had commenced.

Submissions from two different foreign national communities also expressed that they perceived the recent violent attacks to be more the result of criminality than of hatred of foreign nationals, especially as they alleged that many of the violent acts were

²⁶⁰ Written Submission 28 – Received 08 July 2015; Written Submission 56 – Received 27 July 2015; Written Submission 76 – Received 01 August 2015.

²⁶¹ SRG Consultation with NDPP: KZN – 06 July 2015; SRG Consultation with Department of Community Safety and Liaison – 24 July 2015; SRG Consultation with KZN PROVJOINTS – 11 August 2015; NATJOINTS (2015) *Presentation to the Parliamentary Portfolio Committee on Home Affairs: Violence Against Foreign Nationals and Related Small Businesses*. Parliamentary Portfolio Committee on Home Affairs, Parliamentary Monitoring Group. 28 April, Accessed online at: < <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150428natjoins.pdf> > on September 2015; KZN Presentation on "Government Response for Displaced African Immigrants" – Received Electronically on 29 April 2015.

perpetrated not by entire communities but by individuals in direct business competition with foreign national communities.²⁶² What began as targeted attacks against foreign owned businesses was intensified by criminality. However, it can be noted that a number of South Africans hold the unsubstantiated view that the majority of foreign nationals in South Africa are criminals and that they are responsible disproportionately for crime within many South African communities.²⁶³

Foreign national communities have also alleged that many police are apathetic or even tolerant towards crimes committed against foreign nationals. At some of the SRG's consultations, foreign nationals shared stories about how they had been victimised by police officers: these allegations included incidents where police officers tore up foreign nationals' identification documents, provoked unwarranted confrontations and made illegal arrests, and solicited bribes from foreign nationals.²⁶⁴ Foreign nationals also shared incidents in which they had reported crimes to police stations, but officers refused to follow up or investigate their cases due to their nationalities.²⁶⁵ During the presentation by LHR, the Ethiopian community provided the death certificates for 17 Ethiopian foreign nationals from the eThekweni region, dated between July 2014 – April 2015, for people who had died as the result of what the community alleged was targeted violence due to their nationality. The delegates in attendance and the representative from LHR alleged that police officers had been unable to arrest the perpetrators.²⁶⁶ The SRG has not been in a position to confirm or refute these allegations.

Some foreign nationals bemoaned the fact that the police did not come quickly to their assistance when they were attacked during the March-May developments.²⁶⁷ During SRG's consultation with the KZN PROVJOINTS, the officials noted that they had also received similar allegations against some of their officers: SAPS conveyed allegations that

²⁶² SRG Consultation with Somali and Ethiopian Communities – 30 April 2015; SRG Consultation with Chinese and Taiwanese Communities of Newcastle – 28 May 2015.

²⁶³ SRG Consultation with Representatives of Foreign Nationals Associations – 14 May 2015; SRG Community Dialogue with communities of uPhongolo Municipality – 06 August 2015; DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG on 07 September 2015; Written Submission 29 – Received 09 July 2015; Written Submission 65 – Received 30 July 2015; Written Submission 72 – Received 31 July 2015.

²⁶⁴ SRG Consultation with Representatives of Foreign Nationals Associations – 14 May 2015; SRG Consultation with Lawyers for Human Rights and Foreign Nationals Communities – 22 May 2015; SRG Consultations with Church and Clergy Leaders – 23 June 2015; Written Submission 43 - Received 31 July 2015; Written Submission 65 – Received 30 July 2015; Written Submission 70 – Received 31 July 2015.

²⁶⁵ SRG Consultation with Lawyers for Human Rights and Foreign Nationals Communities – 22 May 2015.

²⁶⁶ SRG Consultation with Somali and Ethiopian Communities – 30 April 2015.

²⁶⁷ SRG Consultation with Somali and Ethiopian Communities – 30 April 2015; SRG Consultation with Representatives of Foreign Nationals Associations – 14 May 2015; SRG Consultation with Lawyers for Human Rights and Foreign Nationals Communities – 22 May 2015; SRG Consultations with Church and Clergy Leaders – 23 June 2015; Written Submission 75 – Received 01 August 2015.

officers active in uMlazi, KwaMashu, Ntuzuma and Inanda had publically voiced their disdain for foreign nationals and even participated in the looting of shops owned by foreign nationals.²⁶⁸ The result of these collective impressions is that foreign nationals from (mostly from Burundi and the DRC), fearing that they would not receive equal and effective protection by SAPS, ultimately refused reintegration back into their communities and instead chose to be repatriated to their countries of origin.²⁶⁹

The recently released 2014-2015 Crime Statistics from SAPS highlight the levels of crime in the province and in South Africa more broadly.²⁷⁰ From 2014-2015, the province recorded a 5.4% increase in murders (from 3616 to 3810), contributing 21% of the total number of murders in the country. The number of drug related crimes increased by 3.1% as the province dealt with over 1,400 new cases compared with 2013/2014, with a 2.4% increase at a national level. KZN also saw an 8.2% decrease in the number of total sexual offences, although this decrease is also related to 810 fewer cases reported than in the previous year. Overall, KZN reported a decrease in cases within 17 of the 27 crime categories listed by SAPS, where crucially there have been overall decreases in the number of contact crimes, contact-related crimes, property-related crimes and the total of other serious crimes.

Following a recent survey of persons currently detained at the Lindela Repatriation Facility, NATJOINTS reported that the facility is currently holding 6,781 undocumented and irregular foreign nationals from 32 different countries.²⁷¹ Upon screening 4,523 of the total population, NATJOINTS determined that 67% of these individuals were foreign nationals with no convictions, 15% were individuals awaiting trial with prior conviction, 9% were individuals awaiting trial with no prior convictions, 11% were individuals linked to new investigations, and 2% were wanted individuals.²⁷² This is important to highlight as it is not criminal for an individual to be undocumented— therefore many of the foreign nationals currently in Lindela have not been convicted of crimes, thereby providing some evidence to weaken the dominant narrative that foreign nationals are disproportionately criminal.

²⁶⁸ SRG Consultation with KZN PROVJOINTS – 11 August 2015.

²⁶⁹ Written Submission 70 – Received 31 July 2015.

²⁷⁰ The following statistics are all retrieved from the SAPS 2014/2015 Crime Statistics Report – 29 September 2015.

²⁷¹ NATJOINTS (2015) *Multi-Disciplinary Integrated National Action Plan to Reassert the Authority of the State: Operation Fiela-Reclaim*. Presentation to the Parliamentary Portfolio Committee on Police. Parliamentary Monitoring Group, 19 August, Accessed online at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150819Presentation_Operation_Fiela_19_Aug_2015.pdf> on September 2015.

²⁷² NATJOINTS (2015) *Multi-Disciplinary Integrated National Action Plan to Reassert the Authority of the State: Operation Fiela-Reclaim*. Presentation to the Parliamentary Portfolio Committee on Police. Parliamentary Monitoring Group, 19 August, Accessed online at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150819Presentation_Operation_Fiela_19_Aug_2015.pdf> on September 2015.

Previous research into violent acts committed against foreign nationals has identified the prominence of crime and perceptions of high levels of criminality as factors that escalated tensions.²⁷³ However, one study explicitly cautions against oversimplifying of such causes as only criminality (both intentional and opportunistic), and urges avoiding descriptions that appear to legitimise violence as enforcement of social order in South African townships.²⁷⁴ Further, there is a recognized need for South African officials to counter dominant stereotypes held by members of the public that characterize all foreign nationals as criminals and associate the presence of foreign nationals in local communities with direct cause of perceived increases in criminality. Although the SRG consulted with the KZN: PROVJOINTS, it has not succeeded in scheduling a meeting with the KZN Provincial Commissioner of SAPS despite written appeals to that office.

Delays within the Justice Department

Locals and foreign nationals alike have expressed frustration that KZN's criminal court systems have not delivered ample justice to the victims of crimes. Foreign national communities have perceived the judiciary as reluctant and even unwilling to follow up on cases relating to victimization against them.²⁷⁵ Many cases against alleged perpetrators of the 2008 violence were dropped, and others have yet to be finalized. An August 2015 reply by the Minister of Justice and Correctional Services to Parliamentary Question NW2829 revealed that 597 cases were brought to court. A breakdown of these cases is provided in Table 7, below:

²⁷³ Misago, JP et al. (2010) *May 2008 Violence Against Foreign Nationals in South Africa: Understanding Causes and Evaluating Responses*. Consortium for Refugees and Migrants in Southern Africa (CoRMSA) and Forced Migrations Studies Programme. April, Accessed online at: < <http://www.cormsa.org.za/wp-content/uploads/2009/05/may-2008-violence-against-foreign-nationals-in-south-africa.pdf>>;

IOM (2011) *Towards Tolerance, Law, and Dignity: Addressing Violence against Foreign Nationals in South Africa*. International Organisation for Migration (IOM). 07 February, Accessed online at: < <http://southafrica.iom.int/publication/towards-tolerance-law-and-dignity-addressing-violence-against-foreign-nationals-in-south-africa/>> on September 2015;

Tevera, D. (2013) "African Migrants, Xenophobia and Urban Violence in Post-apartheid South Africa." *Alternation*, Special Edition, 7 (1). P9-26. Accessed online at: <<http://repository.uwc.ac.za/xmlui/handle/10566/1632>> on September 2015.

²⁷⁴ Misago, JP et al. (2010) *May 2008 Violence Against Foreign Nationals in South Africa: Understanding Causes and Evaluating Responses*. Consortium for Refugees and Migrants in Southern Africa (CoRMSA) and Forced Migrations Studies Programme. April, Accessed online at: < <http://www.cormsa.org.za/wp-content/uploads/2009/05/may-2008-violence-against-foreign-nationals-in-south-africa.pdf>>;

²⁷⁵ Written Submission 70 – Received 31 July 2015.

Table 7: Cases brought to court as a result of 2008 incidents relating to foreign nationals ²⁷⁶	
Public Violence	112
Housebreaking	107
Attempted robbery/robbery	96
Murder / attempted murder	62
Theft	58
Malicious Damage to Property	36
Assault / Grievous Bodily Harm	31
Intimidation	22
Armed robbery	22
House robbery	11
Arson	9
Rape / Attempted rape	8
Business robbery	6
Other crimes	17
Total	597

The Minister of Justice and Correctional Services highlighted:

*“...an investigation at the end of October 2009 revealed that 218 of these cases were withdrawn (for various reasons, but in many instances because the witnesses became missing or left the country), **159 of these cases were finalised with a verdict (98 guilty, 61 not guilty) [emphasis added]**, 9 cases were still partly-heard, 75 cases were still to be tried and in 77 cases, further investigation was still being finalised, whilst 27 warrants of arrest were also issued. These matters were part of the normal court rolls at that stage and no further specific monitoring records were kept in relation to these matters.”²⁷⁷*

This indicates that only 26.6% of the 597 reported cases of attacks were finalized, a challenge that is not exclusively applicable to cases involving foreign nationals but is especially impactful. The poor finalization rate is thought to have encouraged impunity amongst individuals, as they perceive that they are in positions to commit crimes against

²⁷⁶ PMG (2015) *Written Reply by the Minister of Justice and Correctional Services to Parliamentary Question NW3302 E*. National Assembly Committee on Justice and Correctional Services, Parliamentary Monitoring Group. 24 August, NW 2829. Accessed online at: <<https://pmg.org.za/committee-question/593/>> on September 2015.

²⁷⁷ PMG (2015) *Written Reply by the Minister of Justice and Correctional Services to Parliamentary Question NW3302 E*. National Assembly Committee on Justice and Correctional Services, Parliamentary Monitoring Group. 24 August, NW 2829. Accessed online at: <<https://pmg.org.za/committee-question/593/>> on September 2015.

foreign nationals without punishment. In some cases, foreign nationals have noted that they have been forced to withdraw police investigations and criminal cases against South African attackers in order to avoid violent threats from individuals linked to the accused.²⁷⁸

A written submission shared a perspective that “*the judiciary seems to have failed justice because we are still to hear of successful prosecution and sentencing of perpetrators of xenophobic attacks in KZN*” referring to the cases in 2015.²⁷⁹ During the SRG’s consultation with the National Prosecuting Authority (NPA) in KZN, the Deputy Director in the province raised his concerns that the justice department was slow to prosecute and finalize cases. It was however noted that the slow pace of prosecution and finalization of the cases is not because the cases were related to foreign nationals, but because it is a national problem acknowledged by the Department of Justice (DOJ).²⁸⁰

The government undertook a comprehensive *Review of the South African Criminal Justice System* in 2007 to improve legitimacy and public confidence in the Criminal Justice System.²⁸¹ The Review observed that at the investigation stage, many cases are withdrawn or not investigated further due to resource and policy limitations that result in capacity constraints on investigators. At the court stage:

“...an unacceptable low number of reported crimes translates into cases actually reaching our courts and of those cases that are referred to court, a large number are removed from the court roll and only a small number of cases are placed before a judicial officer and finalised through the courts in any given year.”²⁸²

While the period since 2007 has witnessed a number of improvements in the KZN criminal justice system, both the tangible challenges confronting the system and the perceptions of an ineffective and unresponsive justice system continue to contribute to some individuals acting as if they are above the law.

²⁷⁸ Written Submission 75 – Received 01 August 2015.

²⁷⁹ Written Submission 43 – Received 31 July 2015.

²⁸⁰ SRG Consultation with NDPP: KZN – 06 July 2015.

²⁸¹ DOJ&CD (2008) “The Review of the South African Criminal Justice System - Presentation to the Portfolio Committees on Justice and Constitutional Development and Safety and Security.” Parliamentary Portfolio Committees on Justice and Constitutional Development and Safety and Security. 05 August, Accessed online from: <http://www.justice.gov.za/CJSreview/20080821_CJSRslideshow_4aug08_part1.pdf> on October 2015.

²⁸² DOJ&CD (2008) “The Review of the South African Criminal Justice System - Presentation to the Portfolio Committees on Justice and Constitutional Development and Safety and Security.” Parliamentary Portfolio Committees on Justice and Constitutional Development and Safety and Security. P12, 05 August, Accessed online at: <http://www.justice.gov.za/CJSreview/20080821_CJSRslideshow_4aug08_part1.pdf> on October 2015.

6.3.7. Statements by Leading Public Figures

From submissions and consultations, the SRG received reports of statements from leading public figures that could be considered as inflammatory. These were identified as contributing factors to increasing tensions between local communities and foreign nationals.

For example, the excerpt below claimed that derogatory remarks by leaders about conditions in other African countries belittle foreign nationals:

“[A] few of those who are in strategic position of authority have misled their followers through their utterances promoting hate against foreigners leading to xenophobic attacks. On one hand, some of these utterances are intense disparate fight for political power amongst the elites, while on the other they are business-motivated. All as it can be imagined lead to triumph over certain people on the political position; which populist speech on easy target communities has become a way forward. The violence perpetrators use hate speeches as a motto for attacking foreigners because they believe someone in the position of authority has given them moral and legitimate power to chase and attack foreigners (sic).”²⁸³

Many respondents were convinced that remarks delivered by King Goodwill Zwelithini to the community of Pongola and the surrounding areas on 20 March 2015 triggered and legitimised the violent attacks.²⁸⁴ The remarks were delivered at an event convened and addressed by the Minister of Police, Mr Nkosinathi Nhleko, that focused on issues of crime in the uPhongolo Municipality and broader region.²⁸⁵ The 20 March speech was delivered nine days before the first reported incidents of violent attacks. Many submissions from foreign nationals and civil society organisations maintain that the speech was reckless, especially in light of the King’s influence throughout the province as well as the extremely fragile situation at the time.²⁸⁶ However, based on the information received, the SRG could not verify a connection between the speech and subsequent acts of violence..

²⁸³ Written Submission 64 – Received 30 July 2015.

²⁸⁴ SRG Interviews in the Chatsworth Shelter – 30 April 2015; SRG Consultation with Foreign Nationals’ Representatives – 14 May 2015; SRG Consultation with Church and Clergy Leaders – 23 June 2015; SRG Consultation with KZN Inter-Religious Council – 30 September 2015; Written Submission 01 – Received 29 April 2015; Written Submission 40 – Received 15 July 2015; Written Submission 75 – Received 01 August 2015).

²⁸⁵ Civilian Secretariat for Police (2015) “The Minister of Police and King Goodwill Zwelithini addressed crime-related issues and violence in the KZN Province.” News Statement. Accessed online at: <http://www.policeseecretariat.gov.za/newsroom/crime_violence_KZN.php>.

²⁸⁶ SRG Consultation with Foreign National Representatives – 14 May 2015; Written Submission 20 – Received 30 June 2015; Written Submission 70 – Received 31 July 2015.

There have been a number of unofficial interpretations of the remarks that King Goodwill Zwelithini delivered during that event. *Independent Media* claimed, based on its translation of an unofficial recording of the King's remarks, which indicated that the King said "we ask foreign nationals to pack their belongings and go back to their own countries."²⁸⁷

The Citizen, which claimed to have a hard copy of the speech, reported that the King further remarked, "The fact that there were countries that played a role in the country's struggle for liberation should not be used as an excuse to create a situation where foreigners are allowed to inconvenience locals. I know you were in their countries during the struggle for liberation. But the fact of the matter is you did not set up businesses in their countries."²⁸⁸ The SRG was unable to verify the above as an accurate quote of what the King said on this occasion and did not receive a transcript of the meeting.

In a later statement reported by the South African Broadcasting Corporation (SABC), King Goodwill Zwelithini clarified:

*"I wish to state that I heard the media frenzy with regards to my comments about the migrants, and some media have gone as far as calling for my apology. But I won't apologise because all countries have their respective borders. For us, we have two neighbourhoods, Swaziland and Mozambique. My problem is that some of them are illegally entering the country, ending up stealing our cattle and vehicles."*²⁸⁹

King Goodwill Zwelithini convened a public Imbizo on 20 April 2015 in order to promote cohesive relations between foreign nationals and South Africans. The Imbizo and a SAHRC investigation into the King's remarks are discussed in greater detail in section 7.3.2 of this report.

The SRG made a number of approaches to King Goodwill Zwelithini and the Royal Household, through both written representation and telephonic requests, for the purpose of hearing the King's perspective on issues related to migration and the promotion of integration in KZN. The SRG has been unsuccessful in securing such a meeting.

²⁸⁷ Independent Online (2015) "King Goodwill Zwelithini says foreigners must go." Youtube Video published on 02 April, Accessed online at: <<https://www.youtube.com/watch?v=MWXHAFqb4pU&feature=youtu.be>> on October 2015.

²⁸⁸ Ndlou, C. (2015) "Foreigners must go home." *The Citizen*. 23 March, Accessed online at: <<http://citizen.co.za/349347/foreigners-must-go-home-king-zwelithini/>> on October 2015.

²⁸⁹ Nxele, N. (2015) "Zwelithini denies saying foreign nationals must go back." *South African Broadcasting Corporation*. 26 March, Accessed online at: <<http://www.sabc.co.za/news/a/4bd8478047c8d7deb701f776dc60a76b/Zwelithini-denies-saying-foreign-nationals-must-go-back>> on October 2015.

At the request of the Premier of KZN, the SRG undertook a community dialogue in Pongola (convened with the support of uPhongolo Local Municipality). All of those in attendance, including SAPS officials, local community members, foreign nationals, local government officials, and traditional leaders, said that there had been no significant tensions between local and foreign national communities in the area. They felt that the King's speech had been misinterpreted.

There are potential ramifications, both intended and unintended, of statements by leaders. Senior public figures, whether from government, civil society or business, can expect that their comments and remarks will carry greater weight, and their pronouncements will contribute to the overall public impression of migration and community integration. Responsible leaders can play positive and proactive roles in preventing and mitigating tensions within their communities.

6.3.8. Insufficient Responses to Early Alerts

A significant challenge is that there had been instances of inadequate responses to early alerts of heightened tensions between local communities and foreign nationals. One argument is that because of the government's response only in times of crisis, significant time and resources have to be spent unnecessarily on damage control rather than on constantly serving the people.²⁹⁰ For instance, after the violent attacks in March-May 2015, the government undertook a campaign for business skills development for local businesses. At the same time the KZN Department of Economic Development, Tourism and Environmental Affairs declared that it would commit approximately R324 million for small business development.²⁹¹

A number of individuals suggested that the violent attacks on 14 April around Pixley Ka Seme Street were highly organized and planned. In response to this issue, KZN PROVJOINTS officials indicated to the SRG that its structures had reviewed the relevant closed circuit television (CCTV) recordings during that period, and could not identify a systematic movement of individuals into the Durban CBD that would indicate a coordinated effort.

One significant early alert was a letter written by the KZN Somali Community Council (KZNSCC) in December 2014. The SRG received a copy of this letter which the Council had

²⁹⁰ Written Submission 82 – Received 04 August 2015.

²⁹¹ Hans, B. (2015) "KZN vows aid for locals amid xenophobic violence." *Independent Online*. 16 April, Accessed online at: <<http://www.iol.co.za/business/news/kzn-vows-aid-for-locals-amid-xenophobic-violence-1.1845871>> on September 2015.

sent to a number of senior government officials on 03 December 2014, requesting assistance to “curb xenophobic activity in the townships around Durban Municipality” (See Annexure 9.7).²⁹² In this letter, the KZN SCC alerted officials that they had received threatening pamphlets against Somali business owners. All parties acknowledged receipt of the letter, although the KZN SCC claimed that none of the parties concerned had addressed any of the issues. During the SRG’s consultations with the Provincial Department of Community Safety and the KZN PROVJOINTS structures, none of the representatives indicated any awareness of the letter.²⁹³ However, during the SRG’s consultation with the eThekweni Municipality Disaster Management Cluster, Dr Musa Gumede (Deputy City Manager, Head of Disaster Management Cluster) said that he had not only acknowledged the letter but he also indicated that the Mayor of eThekweni Municipality, Councillor James Nxumalo, had made a personal intervention by meeting with business owners in the KwaMashu region. Dr Gumede indicating that the business owners and the Municipality had developed collective responses and an action plan to respond to the issues was initiated.²⁹⁴ While Dr Gumede asserted that the action plans developed were responsible for easing tensions within the INK area and thus the reason why the violence did not start in the area, the underlying challenges were nonetheless growing stronger in other parts of the province.

Another aspect of insufficient early alert pertains to a community alert programme implemented by the KZN Department of Community Safety and Liaison. Developed in response to the outbreak of violence against foreign nationals in 2008, the Volunteer Social Crime Prevention Project (VSCPP) had been established within a number of wards in order to enable community members to play vital roles in identifying early threats and alerting relevant law enforcement agencies to respond. The goal of the VSCPP is to contribute to the “reduction in social crime, a corresponding reduction in the fear of crime and the ultimate promotion of KZN as a safe place for communities, tourists and businesses”.²⁹⁵ By 2008, the VSCPP already had 1,200 identified and trained volunteers. The volunteers are not among the members of SAPS, CPFs or Police reservists. Although the volunteers wear uniforms for easy identification, they are ordinary citizens with no powers of arrest or detention but they have a member of the police assigned to each team of volunteers to address security threats.

²⁹² The letter was sent to Premier SE Mchunu, eThekweni Mayor James Nxumalo, SAPS Provincial Commissioner Lieutenant General BM Ngobeni, Public Protector Provincial Representative Adv M Nkosi and SA SSA Regional Manager Ms P Bengu. See Annex 9.7.

²⁹³ SRG Consultation with Department of Community Safety and Liaison: KZN – 24 July 2015; SRG Consultation with KZN PROVJOINTS – 11 August 2015.

²⁹⁴ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

²⁹⁵ KZN Department of Community Safety and Liaison (2010) “Community Safety Spotlight 2010 and Beyond.” *KZN Department of Community Safety and Liaison – Communications Unit*. Accessed online at: <<http://www.kzncomsafety.gov.za/Portals/0/SAWUBONA%20INPUT.pdf>> on October 2015.

Publically available documentation does not indicate the total number of persons currently hired under the VSCPP programme, nor do they indicate the spread of such individuals across the province as the programme appears to be undergoing a decentralisation process towards the District Municipalities. The 2014-2015 Provincial Estimates of Provincial Revenue and Expenditure indicated that the programme hired and trained 241 new persons, and received a total allocation of R 2,58 million to cover the stipends available to VSCPP officers.²⁹⁶

During the SRG's consultation with the Department of Community Safety and Liaison, officials indicated that the volunteers, now paid a monthly stipend of R1,700 per month by the Department, had not identified the possibility of emerging tensions between locals and foreign nationals, despite being embedded within many of the affected communities.

6.3.9. Media Reporting on Violence

The media is a very useful platform for sharing and disseminating information, especially during times of crisis. During the attacks against foreign nationals, the media was used to raise awareness and create vigilance among affected communities, and also helped to update foreign nationals about hotspots and the events happening in different areas.²⁹⁷ However, its misuse inadvertently contributed to spreading exaggerated claims, unfounded fear and panic about the attacks against foreign nationals.²⁹⁸ Social media networks such as WhatsApp, Blackberry Messenger (BBM), Facebook, etc. were used to spread exaggerated rumours that suggested a widespread purge of foreign nationals from the communities in KZN. Some of the threats that circulated on social media were reported by Times Media:

"...a looming deadline for foreigners to leave townships, terror group Boko Haram threats of revenge violence against South Africans living in Nigeria and alerts for parents to pick up their children from schools. A message circulated on WhatsApp claims that foreigners have been given several dates between Friday and the end of the month to leave townships or they will come under attack. The rumour in Inanda is that foreigners have to leave by the end of Friday while a post on Facebook claims

²⁹⁶ KZN Provincial Treasury (2014) *Estimates of Provincial Revenue and Expenditure 2014/2015*. KZN Provincial Treasury. 11 March, Accessed online at: <
<http://www.treasury.gov.za/documents/provincial%20budget/2014/4.%20Estimates%20of%20Prov%20Rev%20and%20Exp/KZN/KZN%20-%20EPRE%20-%20Full%20Document.pdf> > on August 2015.

²⁹⁷ Written Submission 40 – Received 15 July 2015.

²⁹⁸ SRG Consultation with SANDF – 26 August 2015.

*that foreigners living in Clermont will know when to leave by the number of tyres set alight daily.*²⁹⁹

Some of the horrifying videos and pictures of violence were from unrelated events or from xenophobic attacks in another province, or from the 2008 violence.³⁰⁰ The consultation with the KZN PROVJOINTS revealed that the incitement and the spreading of misinformation on social media platforms contributed to widespread panic at the height of attacks in April 2015 in the eThekweni Metro. The failure of media houses to contextualize the violent occurrences, sent shock waves across the country and around the world. SAPS officials have identified some individuals who spread rumours through social media and have charged them with incitement. These individuals have however been acquitted by the courts based on technicalities.³⁰¹

A research report following the 2008 violence against foreign nationals highlighted that the media had indirectly contributed to encouraging negative perceptions about foreign nationals: it is argued that anti-foreigner sentiments are uncritically reproduced through some media platforms thereby creating an enabling environment for hostility towards foreign nationals.³⁰² Another challenge previously observed with respect to the media's coverage of the 2008 events is that they often highlighted images of violence and looting and supported these statements only through headlines without supporting these images with the necessary details and nuances.³⁰³ Some written submissions observed that news reports and soap operas on television have consistently portrayed foreign nationals as negative elements within society.³⁰⁴ Foreign nationals are often portrayed as the masterminds of crimes such as drug and human trafficking, smuggling, theft, kidnapping, and rapes, amongst other criminals. These frequently repeated portrayals fed the prevailing negative impression that foreign nationals are a negative influence in the country. Against the backdrop of such counterproductive portrayals, the 2008 HSRC Report urged that the 'media, through film, advertising and music; political parties, churches and schools should be encouraged to generate symbolic portrayals and images of Africans from outside

²⁹⁹ Nair, N. (2015) "Social media abuzz with false rumours over xenophobic attacks." *Times Live*. 16 April, Accessed online at: <<http://www.timeslive.co.za/local/2015/04/16/social-media-abuzz-with-false-rumours-over-xenophobic-attacks>> on September 2015.

³⁰⁰ SRG Consultation with KZN PROVJOINTS – 11 August 2015.

³⁰¹ SRG Consultation with KZN PROVJOINTS – 11 August 2015.

³⁰² Neocosmos, M. (2008). "The Politics of Fear and the Fear of Politics: Reflections on Xenophobic Violence in South Africa." *Journal of Asian and African Studies* 43, No.6, 586–594.

³⁰³ Smith, M.J. (2009) *Synthesis Report: The Media's Coverage of Xenophobia and the Xenophobic Violence Prior to and Including May 2008. Strategy & Tactics*. Accessed online at <http://www.atlanticphilanthropies.org/sites/all/modules/filemanager/files/7_Media_c.pdf> on 19 October 2015

³⁰⁴ Written Submission 65 – Received 30 July 2015.

South Africa, as ‘significant others’ rather than ‘dispensable others’, who can be killed and chased away’.

One important example highlighting the potentially negative consequences of un-contextualised media reporting was an article featured in the local Durban newspaper *The Post* on 15 April 2015. Headlined “Indians fear xeno attack”, this article caused significant and unnecessary anxiety amongst Durban’s Indian community.³⁰⁵ While the article provides different perspectives on the issue of the violence and interpretations of such incidents by members of Durban’s Indian communities, the headline and opening sentence (emphasising one individual’s personal opinion that Indian South Africans and Indian expats would become targets of the violence), contributed significantly to tensions and hostilities amongst various communities. One SRG Member participated in a gathering of prominent leaders of Durban’s Indian communities shortly after the publication of this article in order to defuse tensions. At this meeting, various individuals cited this article as one of the contributing forces that heightened fears.

6.4. Causes of Violence with a Societal Dimension

In this section, the report highlights some societally rooted issues that contributed to the overall outbreak of violence against foreign nationals.

6.4.1. Civic Awareness and Self Identification

A lack of civic education is one of the identified causes of the violence against foreign nationals – specifically, many South Africans remain unaware of the Constitutional protection and rights afforded to foreign nationals residing in the country (including undocumented foreign nationals). Civic education is defined as “*all the processes that affect people’s beliefs, commitments, capabilities, and actions as members or prospective members of communities.*”³⁰⁶ This implies that civic education can condition how individuals within a community see themselves as well as other members of their community. Many local communities did not express awareness of the rights afforded to foreign nationals by virtue of being inside the country. South Africa’s Constitution and Bill of Rights applies equally to all individuals inside the country, including foreigners’ rights to the basic social services provided by the South African government. Another issue pertaining to civic education is

³⁰⁵ Soobramoney, C. and Comduth, S. (2015) “Indians fear xeno attack.” *The Post*, 15 April, Accessed online at: <http://www.pressreader.com/south-africa/the-post7573/20150415/282273843891857/TextView> on October 2015.

³⁰⁶ Crittenden, J. and Levine, P. (2013) “Civic Education – Definition.” *Stanford Encyclopedia of Philosophy*. Stanford University. 30 May, Accessed online at: < <http://plato.stanford.edu/entries/civic-education/> > on October 2015.

that many South Africans are unaware of the circumstances and conditions that led many individuals to leave their homes and come to South Africa. During the SRG's consultation with representatives of foreign national communities, some individuals echoed the sentiments that South Africans, in general, have not been adequately informed about the histories and current dynamics of many African countries, as well as the mutual support and solidarity that has underpinned the relationship between African states.³⁰⁷ This sentiment was also emphasised during consultations with Church and Clergy leaders, SANDF and some government officials who insist that many South Africans, especially the youth, are not aware of the support provided by other African countries to South Africa during the apartheid era.³⁰⁸ For them, this has contributed to exclusion and poor acceptance of foreign nationals.

Another view emerging from many consultations is that South African government officials did not consult with and sensitise local communities about the principles of and commitments made within South Africa's migration policies. There was a sense that South Africa's communities should have been told that the country's progressive migration policies would result in an inflow of foreign nationals into the country, and that these individuals would be expected to seamlessly integrate into South African communities. Given the steady inflow of foreign nationals into KZN since 1994, many locals feel threatened by the 'unexplained' and sudden presence of foreign nationals into their communities.³⁰⁹

6.4.2. Negative Perceptions and Stereotypes

Based on consultations with local and foreign communities, the SRG observed that the violent attacks against foreign nationals were, in some measure, fuelled by dominant and negative perceptions that exist amongst locals and foreign nationals about one another. This dynamic does not apply to local South Africans exclusively as both locals and foreign nationals alike hold stereotypes, biases and prejudices against one another. The following highlight some of the most prevalent stereotypes and prejudices identified during the SRG's consultative process:

³⁰⁷ SRG Consultation with Foreign National Representatives – 14 May 2015; SRG Consultation with Project Empower – 02 July 2015.

³⁰⁸ SRG Consultation with Church Leaders and Clergy – 23 June 2015; SRG Consultation with KZN IRC – 30 Sept 2015; SRG Consultation with SANDF – 26 August 2015; SRG Consultation with Umgungundlovu District Municipality – 20 August 2015.

³⁰⁹ SRG Community Dialogue with communities of uPhongolo Municipality – 06 August 2015.

Perception that foreign nationals have different access to basic services

Locals perceive that foreign nationals receive undue privilege and preferential access to scarce resources and social services. To some extent, this bias is rooted in the challenges that some communities in KZN still receive intermittent access to water, housing, and social grants while foreign nationals residing inside the country are eligible to receive these services. This prejudice was exacerbated and intensified by the rapid establishment of the temporary shelters in April 2015. Some individuals within the Isipingo community protested the shelters, asserting that the government was giving special treatment to foreign nationals while members of the Isipingo community struggled to access the basic services provided for foreign nationals at the shelter, such as lights, water, sanitation, medical, and food,³¹⁰ which they claimed was proof that the government provides foreign nationals with grants and necessary documentation to live comfortably to the disadvantage of the local population.

A specific concern raised by many citizens is that they observe foreign nationals owning and residing in RDP houses that should be exclusively for South African citizens exclusively.³¹¹ They cite the long and frustrating process of acquiring a RDP house, and that many applications are either rejected without justification or remain on waiting lists for a number of years.³¹² Allegations that foreign nationals own RDP houses fuels perceptions that foreign nationals receive undue benefits from the government at the expense of locals. However, this perception does not take into account that locals may in fact be renting or selling houses to foreign nationals. The 2008 HSRC report into the violent attacks in May of that year also found that housing was a significant cause of tension between South Africans and foreign nationals. In this 2008 report, a respondent maintained:

“South Africans are the problem, they get houses and rent them out to foreigners. They even sell them to foreigners. So the crime is committed by South Africans. And the people who are in charge of distributing these houses are also guilty because they accept bribes from foreigners because foreigners have money. They always get houses first because they bribe the officials. This corruption is therefore instigated by South Africans.”³¹³

³¹⁰SRG Consultation with Médecins Sans Frontières – 30 April 2015; SRG Consultation with Project Empower – 02 July 2015.

³¹¹ SRG Consultation with DSD: National – 13 July 2015.

³¹² SRG Consultation with the Community of KwaDambuza – 12 June 2015; SRG Consultation with Project Empower – 02 July 2015.

³¹³ HSRC (2008) “Citizenship, Violence and Xenophobia in South Africa: Perceptions from South African Communities”, Human Sciences Research Council Report – Democracy and Governance Programme. P23, June, Accessed online at: <<http://www.hsrc.ac.za/en/research-data/mtree-doc/6450>>.

Some locals believe that foreign nationals receive subsidized and free health care services meant only for South Africans. Conversely, foreign nationals complain that they are often denied opportunities to basic services on the basis of their nationality despite having a Constitutional right to such services.³¹⁴

Perceptions that foreign nationals are disproportionately engaged in criminal activity

Another widespread perception is that foreign nationals are automatically assumed to be criminals – a stereotype is widely cited as a source of divisions between communities of locals and foreign nationals. Many South Africans assume a strong correlation between the presence of foreign nationals in their communities and increase in drug use, prostitution, trafficking and violent crimes.³¹⁵ The 2008 HSRC report argued that media and political officials have, on occasions, echoed unsupported statements that foreign nationals are disproportionately responsible for the large volume of crimes in the country.³¹⁶

One written submission expressed the following view:

“What is of crucial importance is that drug dealing in South Africa long predates the arrival of the Nigerians– it was linked to the police and the military during apartheid, and networks have never been dismantled. There is a massive amount of evidence about this (some of it in the Truth and Reconciliation Commission chemical warfare reports and evidence in hearings about it – which was initially embargoed and now, I am reliably informed have been sanitised) Drug dealing formed an integral component of the apartheid state’s organised crime activities (refer to the Kumleben Commission report about some of the others). So now we have a situation in which people of all races can be seen dealing in drugs on the Durban streets, and some of the black ones are Nigerians or other Africans. The question is, of course, why don’t the police act against them, whether they are Nigerians or South Africans. In other

³¹⁴ SRG Consultation with DSD: National – 13 July 2015.

³¹⁵ SRG interviews conducted at Chatsworth Shelter – 30 April 2015; SRG Attendance at DAC Dialogue in Dundee – 28 May 2015; SRG Consultation with the Community of KwaDambuza – 12 June 2015; SRG Consultation with Church and Clergy Leaders – 23 June 2015; SRG Consultation with Project Empower – 02 July 2015; SRG Consultation with DSD: National – 13 July 2015; SRG Consultation with KZN Department of Community Safety and Liaison – 24 July 2015; Written Submission 46 – Received 21 July 2015; Written Submission 66 – Received 30 July 2015; Written Submission 77 – Received 01 August 2015; Written Submission 81 - Received 04 August 2015.

³¹⁶ HSRC (2008) “Citizenship, Violence and Xenophobia in South Africa: Perceptions from South African Communities”, Human Sciences Research Council Report – Democracy and Governance Programme. P13, June, Accessed online at: <<http://www.hsrc.ac.za/en/research-data/mtree-doc/6450>>.

*words, people who blame foreigners should be placing the blame where it belongs, the SA criminal justice system which allows these activities... ”*³¹⁷

Some locals hold the impression that foreign nationals can easily get away with crimes because they are undocumented.³¹⁸ The impression of the influx of undocumented foreign nationals, who are perceived to be orchestrating criminal acts, raises concern for many locals and encouraged attacks against foreign nationals.³¹⁹ However, very few individuals who have asserted these claims provided sufficient evidence to indicate that foreign nationals are disproportionately responsible for crime compared with locals. This negative stereotype, which places the burden overwhelmingly and disproportionately on foreign nationals compared to a relative distribution between locals and foreign nationals alike, have not provided supported by sufficient evidence.

Perceptions that foreign nationals deny locals economic opportunities

One of the specific concerns of South Africans is that foreign nationals take jobs that should be reserved for locals, thereby placing additional burdens of unemployment on the South Africans. This issue, discussed in Section 6.2.2 of this report, is exacerbated by locals' perceptions that foreign nationals are more willing to accepting lower wages, thereby making them attractive employees. For example, when the factories that provided jobs to locals in Dundee closed many local South Africans resorted to menial jobs and hawking to make a living.³²⁰ Foreigners also came to the region and joined in the competition for menial jobs and informal trading. However, locals observed how foreign nationals who started with menial jobs and businesses often ended up owning shops because they were alleged to have received sponsorship from what were thought to be suspect sources. This raises concern for locals who feel disadvantaged and unable to compete with foreign nationals who receive preferential treatments. Nevertheless, the mere perception of economic harm on South Africans is among the major factor that precipitates anti-immigration sentiments among locals.³²¹

³¹⁷ Written Submission 81 – Received 04 August 2015.

³¹⁸ written submission 36 – Received 03 June 2015.

³¹⁹ HSRC (2008) “Citizenship, Violence and Xenophobia in South Africa: Perceptions from South African Communities”, Human Sciences Research Council Report – Democracy and Governance Programme. P22, June, Accessed online at: <<http://www.hsrc.ac.za/en/research-data/mtree-doc/6450>>.

³²⁰ SRG Attendance at DAC Dialogue in Dundee – 28 May 2015; SRG Consultation with Church and Clergy Leaders – 23 June 2015.

³²¹ Solomon, H. and Kosaka, H. (2014). “Xenophobia in South Africa: Reflections, Narratives and Recommendations”. *Southern African Peace and Security Studies*, 2(2). Accessed online at <<http://www.saccps.org/pdf/2-2/SAPSS%202%282%29%20Solomon%20&%20Kosaka.pdf>> on October 2015.

With respect to the informal business sector, South African business owners perceive that all foreign national businesses engage in illegal practices that give them an unfair advantage over local citizens (as discussed in Section 6.2.3 of this report). These allegations are strengthened by stereotypes that foreign nationals of the Muslim faith receive unfair benefits from Muslim South African business owners due to their shared religious and cultural heritage.³²² While the veracity of this claim is subject to significant contention, especially since many of the foreign national traders in question follow the Ethiopian Orthodox Church and not Islam, many locals hold this stereotype to be true. What the stereotype does point to, however, is that many foreign nationals in the informal business sector enter the markets with greater levels of capital and social networks compared to local traders. While these support structures are identified to be one of the comparative advantages that foreign nationals possess in the business sector, they nonetheless fuel stereotypes that foreign nationals engage in illicit business practices.

Perceptions that South Africans are lazy and ignorant

A number of foreign nationals have a negative view about South Africans. During consultations with representatives of foreign nationals associations, some respondents remarked that South Africans are lazy and ignorant compared to foreign nationals, who are seen as hard-working and educated.³²³ South African leaders have made statements around attitudes of entitlement, urging South Africans to take more responsibility for their own upliftment.³²⁴ Statements that perpetuate unfounded stereotypes are harmful and do not contribute to greater understanding and social cohesion.

6.4.3. Lack of Integration and Social Cohesion in Communities

A number of submissions and consultations lament the poor integration and social cohesion between South Africans and foreign nationals, as well as the poor cohesion amongst South Africans themselves. Consultations with two religious communities highlighted the view that discussions about 're-integration' for the displaced foreigners are superficial – the respondents asserted that there had not been any integration of foreign nationals into South African society in the first place.³²⁵ During another consultation, a respondent noted that

³²² SRG Consultation with INK Business Association – 28 April 2015; SRG Consultation with NAFCOG – 04 August 2015.

³²³ SRG Consultation with Foreign Nationals' Representatives – 14 May 2015.

³²⁴ Modjadji, N. (2015) "Zuma slams lazy South Africans." *The Citizen*. 25 March, Accessed online at: < <http://citizen.co.za/350441/zuma-slams-lazy-south-africans/>> on October 2015; Seale, L. (2015) "Stop Waiting for Handouts – Zuma." *Independent Online*. 25 March, Accessed online at: < <http://beta.iol.co.za/news/politics/stop-waiting-for-handouts---zuma-1836753>> on October 2015; Independent Online (2015) "King Goodwill Zwelithini says foreigners must go." Youtube Video published on 02 April, Accessed online at: <<https://www.youtube.com/watch?v=MWXHAFqb4pU&feature=youtu.be>> on October 2015.

³²⁵ SRG Consultation with Church Leaders and Clergy – 23 June 2015; SRG Consultation with KZN IRC – 30 Sept 2015.

there have been ‘few spaces for people to talk about issues freely, and people in communities always see themselves as “us” versus “them”’.³²⁶ A foreign national reflected, “every day, in every way, in clinics, hospitals, school, taxis, shops, wherever we go, we are reminded that we are not welcome here.”³²⁷

Locals also expressed concerns that integration and social cohesion are challenges not only between locals and foreign nationals, but also amongst South Africans themselves. A number of South Africans who were born outside of KZN disclosed how they face alienation and victimization in their day-to-day life because they are not Zulu. One personal anecdote highlights an individual who was born in the Eastern Cape who has moved five different times within South Africa: with their latest move to KZN, this individual felt unaccepted within her community for almost three years as the result of their different ethnicity.³²⁸ Some academics also noted how their students from the Northern Cape were afraid to travel to Durban during March-May 2015 least they might be victimised for not speaking isiZulu.³²⁹

One individual expressed their personal view that there is no social cohesion in South African communities, since many communities are still separated along the divisions manufactured during apartheid.³³⁰ Evidence of this absence of social cohesion is how many individuals continue to rely on derogatory terms to refer to South Africans and foreign nationals alike who do not share their ethnic and cultural background. In the immediate aftermath of the violence against foreign nationals, there were fears that other South African race groups could be targeted for attacks. Notably, concerns emerged among some Indian communities that they would be targeted for attacks (as discussed in Section 6.3.9 of this report).³³¹

³²⁶ SRG Focus Group at Durban University of Technology – 27 May 2015.

³²⁷ SRG Member’s attendance at workshop for locals and foreign nationals sponsored by Midlands Christian Council – 04 September 2015.

³²⁸ SRG Focus Group at Durban University of Technology – 27 May 2015.

³²⁹ SRG Focus Group at Durban University of Technology – 27 May 2015.

³³⁰ SRG Focus Group at Durban University of Technology – 27 May 2015.

³³¹ SRG Consultation with KZN IRC – 30 Sept 2015.

7. ASSESSMENT OF CONSEQUENCES OF VIOLENCE AGAINST FOREIGN NATIONALS

7.1. Introduction

This chapter provides a comprehensive assessment of the various consequences of the violent attacks on foreign nationals in KZN. We see consequences as referring not only to the impact of the violence on individuals, communities and institutions but to the responses undertaken by various provincial stakeholders as a result of the attacks. We assess the consequences in terms of their institutional, structural, and societal dimensions.

7.2. Structural Consequences of Violence

As previously indicated, structural dimensions refer to the issues that underpin the organisation of society, whether socio-economic or political. The most prominent structural consequences are the resulting loss of life and the economic losses resulting from the violent attacks.

7.2.1. Loss of Life

One of the most far-reaching consequences of the violence is the loss of life that resulted from the violence. According to the IMC, four foreign nationals and three South Africans lost their lives as a result of the violence. These were identified by the IMC on 28 April 2015:

- *“Marcus Natas from Ethiopia, killed in a petrol bombing attack in uMlazi;*
- *A Zimbabwean man known as Muvo killed by a mob in Chatsworth;*
- *Dava Sebaastio from Mozambique also attacked by a mob, in Verulam;*
- *Shaofic Shaof Ul Alam from Bangladesh killed in Plessislaer, Pietermaritzburg;*
- *South African Thabo Owen Mzobe killed in Ntuzuma;*
- *South African Ayanda Dlamini killed in Bhekithemba; and,*
- *South African Petros Dlamini killed in Chatsworth.”³³²*

However, while these deaths occurred at the height of the crisis, they should not be seen in isolation. Human rights lawyers and community groups asserted that the killing of members

³³² GCIS (2015) “Inter-Ministerial Committee on Migration media briefing statement.” *Department of Government Communications and Information Services*. 28 April, Accessed online at: <<http://www.gcis.gov.za/newsroom/media-releases/inter-ministerial-committee-migration-media-briefing-statement>> on August 2015.

of certain foreign national communities, such as Ethiopians, is widespread and ongoing. The Ethiopian community claimed that it has lost some 40 members to violent killings over the past year due to violence emerging from business tensions.³³³ The SRG has received select documentation to support this claim: the community members compiled a list of all the businesses owned by Ethiopian nationals that had been damaged, including the estimated costs of such damages, as well as the death certificates of 19 Ethiopian nationals who, between 2012-2015, died as a result of unnatural causes.³³⁴ However these death certificates did not provide definitive evidence that these deaths were definitively linked to business-linked violence.

7.2.2. Economic Losses

Domestic economic losses

The most profound structural consequence of the violent attacks was destruction of property and the loss of economic opportunity by locals and foreign nationals alike. At the height of the tensions in Durban, for example, a number of streets in the Central Business District were closed. KwaMashu, Isipingo, Chatsworth and Umlazi were also affected. On the day of the march organised by the Provincial Government, 16 April, many businesses along the march route also closed their doors.³³⁵

According to a verbal submission of the Ethiopian Community's Representative in Durban, some 600-700 tuck shops were targeted and burnt; 6 people were burnt inside their shops and a number of lives were lost. One of these was Tescma Marcus who died at Prince Mshiyeni Memorial Hospital in Umlazi on 10 April, as the result of being locked inside a container and set alight.³³⁶ In their submission to the SRG, the Ethiopian community also provided a list of 39 different spaza shops run by Ethiopian nationals that had been damaged during the outbreak of violence. Of the 39 damaged shops reported at the time, 30 incidents were supported by an official police case number: the total estimated losses self-reported by those 30 shops exceeded R5 million.³³⁷

³³³ SRG Consultation with Somali and Ethiopian Communities – 30 April 2015.

³³⁴ Submission by members of Ethiopian communities in KZN – Received 22 May 2015.

³³⁵ (2015) "Alleged xenophobic attacks intensify in Durban." *The Citizen*. 14 April, Accessed online at: <<http://citizen.co.za/362550/alleged-xenophobic-attacks-intensify-in-durban/>> on September 2015.

³³⁶ Mthethwa, B. (2015) "I was crying inside the container while I was burning: Xenophobia victim." *Times Live*. 12 April, Accessed online at: <<http://www.timeslive.co.za/local/2015/04/12/i-was-crying-inside-the-container-while-i-was-burning-xenophobia-victim>> on September 2015.

³³⁷ Submission received by Ethiopian Community – 22 May 2015.

Members of the Somali community also lamented their inability to trade as a consequence of fear at the height of the attacks. The contents of some 100 spaza shop owners were housed, along with the contents of their shops, at a warehouse in Phoenix Industrial Park, some 25km north-east of the CBD, causing the owners of the shops to lose a number of days' work and profit due to being unable to return to the communities in which they had operated. Likewise, local consumers in the townships also suffered losses due to the closure of the spaza shops run by foreign nationals. These shops had offered them credit, competitive prices, long operating hours, convenience and proximity to home, as well as a diversity of consumer products.³³⁸

During the 29 April 2015 presentation prepared by the National and KZN Provincial Government, officials indicated that the KZN Provincial Government had allocated R20 million for the collective responses to the challenges emanating from the attacks against foreign nationals; eThekweni Municipality had allocated R10 million, and the Umsunduzi Municipality had allocated R400,000.³³⁹

International economic losses

The impact on South Africa's economic fortunes abroad is difficult to gauge. According to Minister in the Presidency, Mr Jeff Radebe, "The impact of the attacks has far-reaching implications on our economic, social and relations with the continent and the world...South African companies who are running successful businesses on the continent who help to contribute to our revenue and sustain our economy may suffer the same fate."³⁴⁰

At least one recorded consequence was the temporary downing of tools at a SASOL natural gas processing facility in Inhambane, Mozambique. Mozambicans close to the project were reportedly concerned about the presence of South Africans on the project, leading SASOL to halt work due to fear of reciprocal attacks.³⁴¹ The company later confirmed that some 340 South Africans working on the project would be repatriated from Mozambique. There were also reports at the time that the Lebombo border post that separates South Africa and Mozambique was temporarily closed after South African trucks crossing the border were

³³⁸ SRG Consultation with Somali and Ethiopian Communities – 30 April 2015; SRG Consultation with DSD: National – 13 July 2015; SRG Consultation with Department of Community Safety and Liaison: KZN – 24 July 2015.

³³⁹ KZN Presentation on "Government Response for Displaced African Immigrants" – Received Electronically on 29 April 2015.

³⁴⁰ Sanchez, D. (2015) "What's the Economic Impact of South African Xenophobic Attacks?" *AFK Insider*. 17 April, Accessed online at: <http://afkinsider.com/94557/economic-impact-of-south-african-xenophobic-attacks/> on 5 September, 2015.

³⁴¹ Magubane, K. (2015) "Sasol suspends Mozambican project over xenophobia in SA." *Times Live*. 17 April, Accessed online at: <http://www.bdlive.co.za/national/2015/04/17/sasol-suspends-mozambican-project-over-xenophobia-in-sa> on September 2015.

attacked.³⁴² According to reports “a volatile crowd of about 200 Mozambicans...barricaded the N4 about four kilometres east of the Resano Garcia border post, where there is a truck stop.”³⁴³

South African music artists also faced losses as they cancelled performances in Zimbabwe and in London, both in response to threats of boycotts and in solidarity with victims of the attacks. South African musicians and artists also lost business in other African countries, as was recounted in Dambuza, Pietermaritzburg, where a local DJ lost foreign national clients and partners in KZN and in Swaziland due to what he described as fears of xenophobia.³⁴⁴

7.3. Institutional Consequences of Violence

This section will discuss a number of the institutional consequences and responses undertaken in light of the violent attacks against foreign nationals.

7.3.1. Municipal government responses to violence against foreign nationals

Opening of Shelters in eThekweni and provisions for displaced foreign nationals:

Following the beginning of attacks against foreign nationals residing in the Isipingo area on 29 March 2015, many people began to flee their homes and seek shelter at their local police stations: within 48 hours, over 200 persons sought shelter at the Isipingo Police Station.³⁴⁵ Over the next 24 hours acts of violence and intimidation were identified to have commenced in Isipingo and within a few days these had spread to a number of areas in the broader eThekweni region.³⁴⁶ A meeting on 30 March with both eThekweni Municipality and

³⁴² (2015) “Lebombo Border post closed, SA trucks attacked in Mozambique.” *Times Live*. 17 April, Accessed online at: <<http://www.timeslive.co.za/africa/2015/04/17/lebombo-border-post-closed-sa-trucks-attacked-in-mozambique>> on September 2015.

³⁴³ (2015) “Lebombo Border post closed, SA trucks attacked in Mozambique.” *Times Live*. 17 April, Accessed online at: <<http://www.timeslive.co.za/africa/2015/04/17/lebombo-border-post-closed-sa-trucks-attacked-in-mozambique>> on September 2015.

³⁴⁴ SRG Consultation with stakeholders in KwaDambuza – 12 June 2015.

³⁴⁵ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015; Dawood, Z. and Mlambo, S. (2015) “Shelter sought for Isipingo displaced.” *Daily News*. 02 April, Accessed online at: <<http://beta.iol.co.za/news/crime-courts/shelter-sought-for-isipingo-displaced-1840739>> on August 2015; Dawood, Z. and Mngoma, M. (2015) “Foreigners flee to Durban police stations.” *Daily News*. 07 April. Accessed online at: <<http://beta.iol.co.za/news/crime-courts/foreigners-flee-to-durban-police-stations-1841642>> on August 2015; Wicks, J. (2015) “Looting: Thousands mob KwaMashu police.” *News24*. 13 April, Accessed online at: <<http://www.news24.com/SouthAfrica/News/Looting-Thousands-mob-KwaMashu-police-20150413>> on August 2015.

³⁴⁶ The affected communities are listed in full in Annexure 9.5. Sources: eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015; KZN Presentation on “Government Response for Displaced African Immigrants” – Received Electronically on 29 April 2015.

Provincial Government officials decided on the need for a comprehensive and integrated response from various levels of government.³⁴⁷ Recognizing the strain placed on local police and the urgent need to provide emergency humanitarian support to the affected persons, the Executive Council of the Provincial Government established Temporary Shelters to respond to the violence on 1 April 2015. The Isipingo Shelter was opened on 2 April, the Chatsworth Shelter on 8 April, and the Phoenix Shelter on 11 April:³⁴⁸ the Phoenix shelter was established through the relocation of displaced persons from Greenwood Park (peak of estimated 593 persons) and Verulam (peak of estimated 1,800 persons).³⁴⁹

Although the police have established that there were a select number of violent incidents that directly contributed to the displacement of persons, it also appears that many of those who sought refuge at the shelters were not directly threatened with violence; many had heard rumours of potential and on-going attacks, fuelled by unconfirmed social media postings, photos, WhatsApp messages, phone calls and media reports.³⁵⁰ Some refugees were traumatised by the deeply disturbing memory of violent situations in their own home countries which had been the original reason for their fleeing to South Africa. This important disjuncture was highlighted in discussions with a number of the displaced persons at the Chatsworth Shelter. Upon asking what made one individual come to the Chatsworth shelter, they replied, *“Another friend said he heard people say they were going to the door; you must go to the police station because you cannot be defended at night. The police indicated that they would bring us to Chatsworth where there would be food and security.”*³⁵¹

Admission into the shelters was dependent on the following criteria:

“whether any persons have been forced or obliged to flee their homes or places of habitual residence in KZN; as a direct result of a situation of generalised violence against such person or group of persons; and who have not crossed an internationally recognised state border into KZN as a result of the generalised violence. Admission to

³⁴⁷ The meeting included the Mayor and Deputy Mayor of eThekweni Municipality, the MEC for Community Safety and Liaison, the MEC for Social Development; the MEC for Health and the Municipal Disaster Management Team. Source: SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015

³⁴⁸ eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015.

³⁴⁹ eThekweni Municipality Report on Reintegration of Displaced Persons – 05 May 2015; SRG site visit to Phoenix Shelter -23 April 2015.

³⁵⁰ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015; Salmon, A. (2015) “Summary on Recent Developments - Presentation by the Ad-Hoc Joint Committee on Probing Violence Against Foreign Nationals.” Ad-Hoc Joint Committee on Probing Violence Against Foreign Nationals, Parliamentary Monitoring Group. 12 June, Accessed online at: <<http://pmg.org.za/files/150612summary.ppt>> on August 2015; Written Submission 81 – Received 14 August 2015.

³⁵¹ SRG interviews conducted at Chatsworth Shelter – 30 April 2015.

*a shelter is on a voluntary basis and subject to acceptance of the application of the Rules for Shelters for Displaced Persons.*³⁵²

The SRG was told initially that all of the affected persons residing within the camps had to lodge a complaint at their local police stations before being referred to and admitted into one of the shelters.³⁵³ This stipulation was later confirmed by regulation 4.1 and 4.2 in the 06 May *Shelter Rules for Displaced Persons*, which stated, “4.1 - In the event that any person or group of persons feel forced or obliged to leave their homes or places of residence, they must immediately approach the nearest police station to lay a complaint and to obtain a reference number from the police station; and, 4.2 - The police station would then refer such person or persons to the relevant shelter if necessary.”³⁵⁴ This policy was implemented following a massive inflow of persons into the shelters and a recognition that many individuals had not been confronted with an immediate threat to their physical well being. eThekweni’s Disaster Management department indicated that the requirement to file a complaint at police stations was not official policy but had been encouraged following the initial days of the Temporary Shelters.

When affected foreign nationals were admitted into any of the shelters, DHA was responsible for registering each of the displaced persons in order to capture their personal and biometric details, as well as to verify their status as immigrants within the country. Those individuals who had valid documentation supporting their immigration status, but who had lost such documents or had these documents destroyed were provided with replacement documentation by DHA. Organisations such as Legal Resources Centre (LRC) , LHR, Amnesty International, Right 2 Know, the SAHRC and Legal Resource Centre also availed their support to those affected persons who lost their immigration documents.³⁵⁵ On 28 April 2015, a representative from DHA, during a NATJOINTS presentation to the Parliamentary Portfolio Committee on Home Affairs, indicated that by that point they had replaced a total of immigration documents for 285 refugees and asylum seekers residing in the Shelters.³⁵⁶ Although it has not been possible to confirm the total number of displaced persons with legal immigration documents who sought refuge at the Camps versus those who did not have legal documentation, this statistic aligns with a preliminary estimate

³⁵² KZN Rules for Displaced Persons - 06 May 2015.

³⁵³ SRG visit to the Phoenix Shelter – 23 April 2015.

³⁵⁴ KZN Rules for Displaced Persons - 06 May 2015.

³⁵⁵ Minutes from Meeting of Civil Society Coalition on Xenophobia – 05 May 2015.

³⁵⁶ NATJOINTS (2015) *Presentation to the Parliamentary Portfolio Committee on Home Affairs: Violence Against Foreign Nationals and Related Small Businesses*. Parliamentary Portfolio Committee on Home Affairs, Parliamentary Monitoring Group. 28 April, Accessed online at: < <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150428natjoins.pdf>> on September 2015.

provided by the Phoenix Shelter Manager that approximately 95% of the persons at the shelter were not in possession of valid immigration documents.³⁵⁷

The shelters were operated by the eThekweni Community and Emergency Services Cluster (chaired by the Deputy City Manager of eThekweni Municipality), which received guidance from the Provincial Inter-Ministerial Committee and its Technical Task Team.³⁵⁸ The combined government response, headed by Dr Musa Gumede and the Head of Department (HOD) of the Provincial Department of Cooperative Governance and Traditional Affairs (COGTA), divided their work into a number of main components:

- The **relief** of the developing humanitarian challenges through the provision of emergency shelter, food, and basic provisions;
- Efforts to **assist and calm** the situation in areas where persons were under threat
- Development of processes to **re-integrate** those individuals that had been displaced from their communities, and to rehabilitate those communities that had reacted with violence;
- Long-term processes to **sustain peace** in those affected areas.³⁵⁹

The Disaster Management cluster, which assumed the primary responsibility for the government’s disaster relief response, oversaw the organisation and management of the shelters. Shelter managers were appointed to oversee and coordinate the day-to-day operation of the shelters, with direct coordination from the head office in Durban. The following entities were active in the camps through the provision of emergency services and humanitarian support (this list is not exhaustive):

Table 8: Stakeholders and Institutions Active in Provision of Shelter Services³⁶⁰	
Municipal Competencies	Provincial and National Competencies
Communications Dept.	Department of Arts and Culture
Community Participation	Department of Community Safety and Liaison
Disaster Management	Department of Cooperative Governance and Traditional Affairs

³⁵⁷ SRG site visit to the Phoenix Shelter – 23 April 2015.

³⁵⁸ The Technical Task Team comprises: Department of Community Safety and Liaison (Lead Dept.), Department of Cooperative Governance and Traditional Affairs, eThekweni Municipality, Department of Health, National and Provincial Departments of Social Development, Department of Home Affairs, Department of Human Settlements, Department of Education, Department of Arts and Culture (eThekweni Municipality Report on Reintegration of Displaced Persons – 05 May 2015).

³⁵⁹ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

³⁶⁰ SRG site visit to the Phoenix Shelter -23 April 2015; eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015.

Environmental Health	Department of Education
International and Governance Relations	Department of Health
Mayor and Speaker's Offices	Department of Home Affairs
Metro Police	Department of Social Development
Safer Cities	South African Police Services
DSW	Department of Sports and Recreation
	South African Social Services Agency

In terms of the specific humanitarian services provided, government structures' efforts were strengthened by donations from private individuals, non-government and civil society organisations, religious communities, and international organisations, which includes but is not limited to:

Table 9: Humanitarian Services Provided to Shelters³⁶¹	
Government Services	Donations
Ablution Facilities	Baby food
Education	Blankets
Electricity	Clothes
Fencing	Cold Room
Health	Cooked meals
Psychosocial Support	Cutlery
Safety and Security	Groceries
Tents	Mattresses
Waste Removal	Medical Staff
Water	Medical supplies
	Nappies
	Personal hygiene packs
	Raw food supplies
	Sponges

³⁶¹ eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015; KZN Presentation on “Government Response for Displaced African Immigrants” – Received Electronically on 29 April 2015.

	Storage Containers
	Toiletries
	Vanity Packs
	Water Tanks

In terms of the specific humanitarian services provided, government structures' efforts were strengthened by donations from private individuals, non-government and civil society organizations, religious communities, and international organisations, including but not limited to:

Number of Persons in Respective Camps

Between 21-22 April, approximately 5,603 displaced persons were taking shelter in one of the three camps within eThekweni municipality, thereby constituting the unofficial peak of the number of affected persons residing in the shelters, according to data available to the SRG. The following tables and charts provide the eThekweni Municipality's reported estimates of the size and evolution of the camp's populations.³⁶²

Table 10: Progression of Isipingo Shelter Population (19 April – 06 May)							
Date	19 April	20 April	21 April	22 April	23 April	24 April	25 April
Isipingo Shelter Population	807	807	946	946	984	875	934
Date	26 April	27 April	28 April	29 April	30 April	01 May	02 May
Isipingo Shelter Population	934	907	393	430	288	288	288
Date	03 May	04 May	05 May	06 May			
Isipingo Shelter Population	200	245	150	Closed			

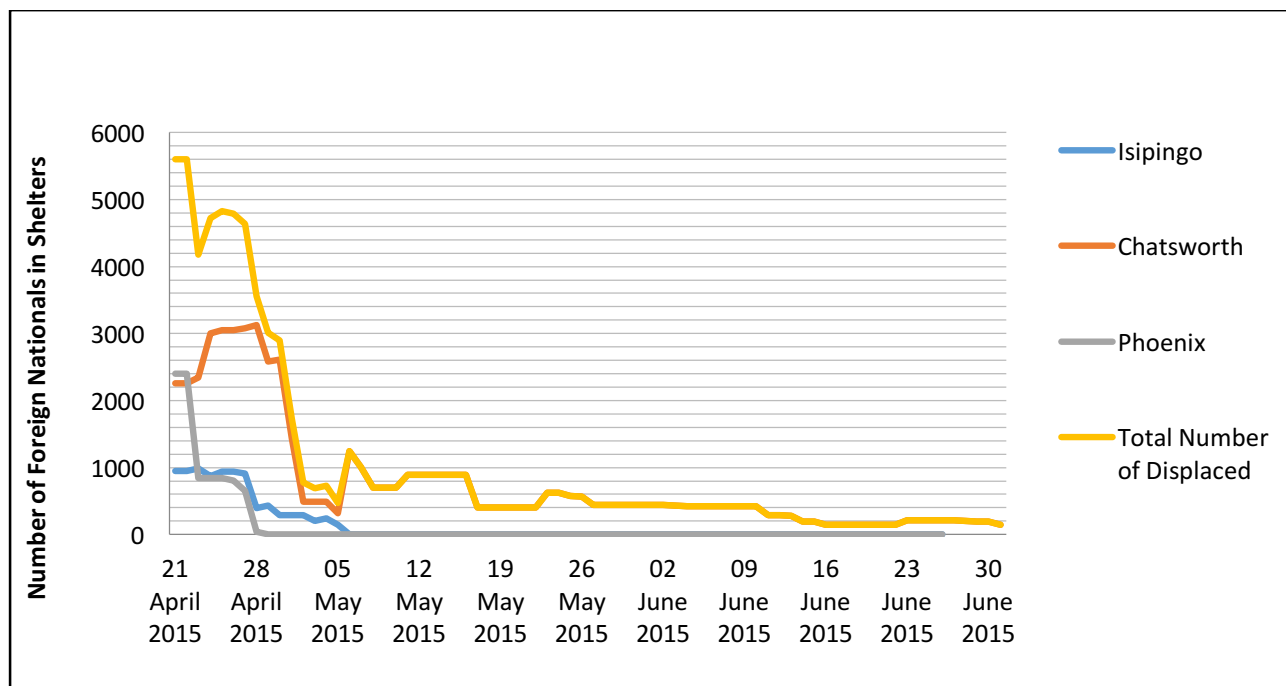
Table 11: Progression of Phoenix Shelter Population (19 April – 29 April)							
Date	19 April	20 April	21 April	22 April	23 April	24 April	25 April
Phoenix Shelter Population	2,400	3,000	2,399	2,399	847	840	840
Date	26 April	27 April	28 April	29 April			
Phoenix Shelter Population	808	650	40	Shelter Closed			

³⁶² Below data sourced from eThekweni Municipality Daily Status Report on Shelters (received from from 19 April to 30 June 2015).

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Table 12: Progression of Phoenix Shelter Population (19 April – 30 June)							
Date	19 April	20 April	21 April	22 April	23 April	24 April	25 April
Chatsworth Shelter Population	3,000	3,000	2,258	2,258	2,345	3,005	3,049
Date	26 April	27 April	28 April	29 April	30 April	01 May	02 May
Chatsworth Shelter Population	3,000	3,000	2,258	2,258	2,345	3,005	3,049
Date	03 May	04 May	05 May	06 May	07 May	08 May	09 May
Chatsworth Shelter Population	486	486	320	1,243	1,010	700	700
Date	10 May	11 May	12 May	13 May	14 May	15 May	16 May
Chatsworth Shelter Population	700	887	887	887	887	887	887
Date	17 May	18 May	19 May	20 May	21 May	22 May	23 May
Chatsworth Shelter Population	402	402	402	402	402	402	619
Date	24 May	25 May	26 May	27 May	28 May	29 May	30 May
Chatsworth Shelter Population	620	580	567	438	438	438	438
Date	31 May	01 June	02 June	03 June	04 June	05 June	06 June
Chatsworth Shelter Population	438	438	438	429	421	421	420
Date	07 June	08 June	09 June	10 June	11 June	12 June	13 June
Chatsworth Shelter Population	420	420	419	419	287	287	282
Date	14 June	15 June	16 June	17 June	18 June	19 June	20 June
Chatsworth Shelter Population	197	197	147	147	147	147	147
Date	21 June	22 June	23 June	24 June	25 June	26 June	27 June
Chatsworth Shelter Population	147	147	215	215	215	215	214
Date	28 June	29 June	30 June	01 July			
Chatsworth Shelter Population	204	191	Shelter Closed				

Figure 2: Charts of Displaced Persons in eThekweni Shelters (19 April - 30 June)³⁶³



It is also important to note that there are potential inconsistencies in the figures provided by the Municipality, especially considering that camp officials ensured that displaced persons had free movement into and out of the shelters.³⁶⁴ This policy, while necessary considering that the affected persons took shelter at the camps of their own volition, worked against accurate and daily monitoring of the shelters' populations. This challenge of accurate record keeping was exacerbated by some persons' unwillingness to have their data captured into government systems, as well as by those individuals who left the camps during the day to go to work or search for employment and return in the evenings. Fluctuations in the size of the camp populations were also observed during periods when Operation Fiela-Reclaim interventions took place in KZN and foreign nationals would take refuge in the shelters.³⁶⁵

During the peak period of the shelters, Municipal officials, in conjunction with officials from the DHA and UNHCR, captured the nationalities of those affected persons (Table 13 below).

³⁶³ Data sourced from eThekweni Municipality Daily Status Report on Shelters (received from from 19 April to 30 June 2015).

³⁶⁴ KZN Presentation on "Government Response for Displaced African Immigrants" – Received Electronically on 29 April 2015; NATJOINTS (2015) "Action Step 2: Humanitarian Services: Social Development, Reintegration and Health Services."- Presentation received electronically, 29 May 2015; KZN Rules for Displaced Persons' - 06 May 2015; 'KZN Rules for Shelters for Persons Displaced as a result of Generalized Violence' - 22 May 2015.

³⁶⁵ KZN Presentation on "Government Response for Displaced African Immigrants" – Received Electronically on 29 April 2015; NATJOINTS (2015) "Action Step 2: Humanitarian Services: Social Development, Reintegration and Health Services."- Presentation received electronically, 29 May 2015.

However, the statistics on the nationalities of those in the shelters were not updated as regularly for the duration of the existence of the shelters. Officials also estimated that the majority of the foreign nationals that entered the shelters did not have valid documentation to reside in South Africa legally.³⁶⁶

Voluntary repatriation of foreign nationals to their countries of origin

The voluntary repatriation of foreign nationals to their countries of origin was one of the responses facilitated by government structures in support of the affected persons. These processes were facilitated by the DHA in conjunction with the respective Embassies and Consulates of the affected persons. The governments of the affected persons were responsible for covering the costs of the transportation for all repatriation exercises. All of the affected persons who did not possess valid immigration permits were encouraged to make use of the voluntary repatriation exercises.³⁶⁷ Although the 06 May ‘Rules for Shelters for Displaced Persons’ does not make mention of issues concerning repatriation, the revised 22 May ‘Rules for Shelters for Displaced Persons’ states: “6.2 - In the event that there are persons who do not have legal documents to be in the country, they will be accepted into the shelter on condition that the repatriation/ deportation procedures shall be initiated as soon as possible.”³⁶⁸

Table 13: Nationalities of Displaced Persons in All Shelters (on 21 April 2015)³⁶⁹	
Nationality	Number in Shelters
Malawi	3399
Tanzania	24
Mozambique	1074
Burundi	44
DRC	35
Kenya	02
Zimbabwe	677
Ethiopia	24
Un-coded	324
Sum Total	5,603

³⁶⁶ KZN SRG Site Visit to Phoenix Camp – 23 April 2015; Consultation with Provincial Department of Home Affairs – 08 June 2015.

³⁶⁷ KZN Presentation on “Government Response for Displaced African Immigrants” – Received Electronically on 29 April 2015.

³⁶⁸ KZN Rules for Shelters for Persons Displaced as a result of Generalized Violence’ - 22 May 2015.

³⁶⁹ eThekweni Daily Municipal Shelter Report - 21 April 2015.

A total of 4,284 foreign nationals were voluntarily repatriated, including: 3,102 Malawians, 712 Zimbabweans, 453 Mozambicans, and 17 Tanzanians.³⁷⁰

Table 14: DHA Record of Voluntary Repatriation From Temporary Shelters³⁷¹

DATE REPATRIATED	COUNTRY OF ORIGIN	FROM WHICH SITE	NUMBER REPATRIATED	MODE OF TRANSPORT
16-Apr-15	Mozambique	Isipingo	17	Buses
16-Apr-15	Mozambique	Chatsworth	72	Buses
18-Apr-15	Malawi	Chatsworth	280	Buses
18-Apr-15	Malawi	Isipingo	136	Buses
19-Apr-15	Zimbabwe	Chatsworth	408	Buses
21-Apr-15	Malawi	Phoenix	304	Buses
21-Apr-15	Malawi	Pietermaritzburg	180	Buses
21-Apr-15	Mozambique	Phoenix	207	Buses
23-Apr-15	Mozambique	Phoenix	141	Buses
23-Apr-15	Mozambique	Chatsworth	16	Buses
23-Apr-15	Zimbabwe	Phoenix	285	Buses
23-Apr-15	Zimbabwe	Chatsworth	19	Buses
24-Apr-15	Tanzania	Isipingo	17	Buses To Ortia
29-Apr-15	Malawi	Phoenix	1,083	Buses
30-Apr-15	Malawi	Chatsworth	1,119	Buses
TOTAL NUMBER OF REPATRIATED FOREIGN NATIONALS: 4,284				

A number of perspectives have emerged with respect to the repatriation process. Some of the displaced foreign nationals perceived the repatriation exercise to be “a free trip home for a few weeks,” expressing that they intended returning to South Africa in the near future.³⁷² These views were informed by certain factors, including that many foreign nationals seeking refuge in the shelters had South African partners and children, and that their most lucrative employment opportunities were in South Africa.³⁷³ The SRG observed in its site visits to the shelters that many of the affected foreign nationals in the shelters were young men, aged 17-30, who were most likely residing in South Africa as undocumented economic migrants. In this regard, Municipal Officials speculated that while many of the women and children repatriated would most likely remain in their countries of origin, many of the young men would ultimately return to South Africa in search of employment.³⁷⁴ One

³⁷⁰ DHA: KZN Submission to SRG – June 2015.

³⁷¹ DHA: KZN Submission to SRG – June 2015.

³⁷² SRG site visit to Phoenix Shelter – 23 April 2015; SRG Consultation with Médecins Sans Frontières – 30 April 2015; SRG Consultation with KZN PROVJOINTS - 11 August 2015.

³⁷³ SRG Consultation with Médecins Sans Frontières – 30 April 2015.

³⁷⁴ SRG site visit to Phoenix Shelter – 23 April 2015.

written submission noted that the voluntary repatriation process would pose a threat to long-term community reintegration: images of these persons being transported back to their countries was argued by one written submission to have conveyed the message that *“it is acceptable to attack refugees and migrants because then the government will assist in making sure that they are assisted to leave.”*³⁷⁵

Another important consideration was the lack of repatriation opportunities for Congolese and Burundian nationals. Given the conflict situations in Burundi and the DRC around April-May 2015, and that many of the Congolese and Burundian foreign nationals entered South Africa as political asylum seekers, neither the South African government nor UNHCR could recommend their repatriation to their countries of origin. As a result, these foreign nationals did not have the option of voluntary repatriation and were therefore only presented with opportunities for reintegration into their local communities. This specific situation, explicitly raised with the SRG by Médecins Sans Frontières (MSF), would later contribute to the contested developments surrounding the closure of the Chatsworth Shelter on 01 July.

Challenges Emanating from the Management of the Shelters

Many different sectors identified challenges emanating from the way in which the shelters were managed and operated. Representatives of the respective foreign national communities registered concerns over what they perceived as a lack of “engagement and communication” between their communities and the officials in charge of the shelters and their communities.³⁷⁶

These concerns specifically resonated with respect to the intended closure of the Isipingo Shelter on 1 May and the subsequent transfer of its population to the Chatsworth Shelter. Government structures took the decision to close the Chatsworth Shelter on 1 May but the consultations that took place with affected communities in the shelters were not deemed to be sufficient by the affected persons and; in addition, most of the affected Congolese and Burundian foreign nationals were not prepared to reintegrate back into their communities and could not be repatriated to their countries of origin.³⁷⁷ According to the government, its motivation to close the Isipingo Shelter was informed by the reduction in Isipingo Shelter’s population size (estimated on 01 May to be approximately 280 persons) and that it would therefore be more effective for the government to consolidate its scarce resources into one

³⁷⁵ Written Submission 74 – Received 20 July 2015.

³⁷⁶ Minutes from the Civil Society Coalition on Xenophobia – 05 May 2015.

³⁷⁷ Minutes from the Civil Society Coalition on Xenophobia – 05 May 2015; SRG member Interview with Individual - 31 July 2015.

area (i.e. the Chatsworth Shelter) which would contribute to accelerating the reintegration process.³⁷⁸

The lack of consensus between the Shelter Officials and the affected communities contributed to a situation where impressions emerged amongst the affected populations that the government was 'lying' to them and not 'treating [them] as human beings.'³⁷⁹ It is important to note that the Disaster Management teams had been in coordination with organised structures of the displaced persons from within the shelters and engaged them on the various processes underway.³⁸⁰ The affected foreign nationals did not feel safe to return to their communities and feared that their transfer to the Chatsworth shelter would only be used to compel them to reintegrate.³⁸¹ On Friday 1 May, municipal officials began removing the Shelter's perimeter fencing and disconnected some of the ablution facilities, provoking skirmishes between affected persons and local police officials.³⁸² Another contributing factor involved the perspective that the displaced persons perceived the Chatsworth Shelter to be located further from their families, their places of employment and local clinics relative to the Isipingo Shelter. The government, meanwhile, viewed the security system at the Chatsworth site as more effective and that the movement of people into and out of the shelter could be better regulated there, which made the affected foreign nationals see that shelter as more 'prison like.'³⁸³

An exacerbating factor in this situation was the attempted arrest of Mr Daniel Dunia, a Congolese national who served as one of the Congolese communities' spokespersons. After Mr Dunia was alleged to have issued threatening gestures and words to the police, SAPS members instructed him to report to the Isipingo Police Station, fuelling perceptions that he was being placed under arrest in order to politically manipulate and disempower the communities in the Isipingo Shelter.³⁸⁴ However, Mr Dunia was brought straight to the

³⁷⁸ Hans, B. (2015) "Isipingo refugee camp to shut down." *Independent Online*. 06 May, Accessed online at: < <http://beta.iol.co.za/news/south-africa/KZN/isipingo-refugee-camp-to-shut-down-1854628>> on August 2015.

³⁷⁹ Minutes from the Civil Society Coalition on Xenophobia – 05 May 2015.

³⁸⁰ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

³⁸¹ Minutes from the Civil Society Coalition on Xenophobia – 05 May 2015; SRG member Interview with Individual, 31 July 2015.

³⁸² SABC (2015) "Foreign nationals, officials clash at KZN 'shelter'." *South African Broadcasting Corporation*. 02 May, Accessed online at: < <http://www.sabc.co.za/news/a/df314c004839d7519343ff4d1170398b/Foreign-nationals,-officials-clash-at-KZN-shelter-20150205>> on August 2015.

³⁸³ (2015) "Refugees refuse to leave Isipingo." *CityPress*. 03 May, Accessed online at: < <http://www.news24.com/SouthAfrica/News/Refugees-refuse-to-leave-Isipingo-20150502>> on August 2015; Hans, B. (2015) "Isipingo refugee camp to shut down." *Independent Online*. 06 May, Accessed online at: < <http://beta.iol.co.za/news/south-africa/KZN/isipingo-refugee-camp-to-shut-down-1854628>> on August 2015.

³⁸⁴ Minutes from the Civil Society Coalition on Xenophobia – 05 May 2015; SRG member Interview with Individual, 31 July 2015.

Magistrate's Court where the matter was postponed.³⁸⁵ The situation was only resolved on 5 May 2015 following over ten hours of extended negotiations between KZN MEC for Community Safety and Liaison, Dr Willies Mchunu (on behalf of the Provincial Government), and representatives of the affected communities. MEC Mchunu spent this extensive time listening to the grievances and challenges faced by such communities and facilitated a laudable agreement between all parties to transfer the remaining displaced persons from the Isipingo Shelter to the Chatsworth Shelter by 6 May 2015, 18h00.³⁸⁶

Logistical and Organisational Challenges for the Management of the Shelters

Other concerns expressed by the affected communities included allegations that officials in the shelter harassed and insulted various foreign nationals, for example, with one official alleged to have remarked that 'the government is wasting money on the refugees'.³⁸⁷ The impact of these allegations, whether or not they can be comprehensively verified, was that vulnerable foreign nationals suffered a further loss of their dignity as well as an even greater sense of their exclusion from South African society, especially by those who were mandated to assist those in need.

Another set of challenges involved issues surrounding the coordination of various non-state actors and their efforts to contribute towards relieving the humanitarian situation in the respective shelters. Following the outbreak of the violent incidents against foreign nationals, many local communities and organisations, especially in the areas surrounding Chatsworth and Isipingo, immediately and positively responded to the humanitarian situation through the donation of much-needed food and material goods. However, one specific complaint to emerge was that there were challenges in coordinating the various organisations involved, and that these breakdowns in communication led to unnecessary duplication of efforts and the waste of valuable resources. Officials from the Municipal Disaster Management team convened daily progress meetings involving all of the different government competencies working in the shelters, the humanitarian organisations contributing and the representatives of the various foreign national communities located within the shelters.

A number of criticisms were voiced with respect to the logistical management of the shelters, namely:

³⁸⁵ SRG Member interview with Individual - 31 July 2015.

³⁸⁶ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015; SRG Member with Individual – 31 July 2015; Settlement Agreement Between Government and Displaced Persons of Isipingo (05 May 2015).

³⁸⁷ SRG Consultation with Médecins Sans Frontières – 30 April 2015; Minutes from the Civil Society Coalition on Xenophobia – 05 May 2015.

Allegations of incoherent management

Many of the officials in charge of the shelters, during the early period of their establishment, struggled to manage and coordinate all the government responses aimed at resolving the humanitarian crisis.³⁸⁸ The lack of accurate and timely information distributed by the officials (such as the number of affected persons in need of assistance and the quantity of specific goods needed) as well as the poorly communicated division of labour between different humanitarian organisations informed these allegations.³⁸⁹ One impression was that government officials in charge had little hands-on experience prior to the outbreak of the situation, and therefore the shelters' management was at times 'chaotic' during the first days.³⁹⁰ One anecdote in the Chatsworth shelter involved the allocation of responsibilities for cooking specific meals, where although one organisation would be assigned the responsibility for preparing a specific meal at a specific time, there ended up being four different organisations who unnecessarily prepared food for this meal.³⁹¹

From another perspective, Disaster Management officials noted that there were not many challenges with respect to coordination amongst humanitarian organisations and the donor community, but noted that at times there were incidents of competition amongst those organisations to serve as the preferred supporter of the initiatives.³⁹² However, the Municipal Officials noted that their development of shelter-specific rosters for the division and assignment of different responsibilities to various NGOs proved to be a valuable tool in alleviating these specific concerns.³⁹³ Possible suggestions to improve these shortcomings included the need to agree on a clear liaison between the shelter management and the humanitarian organisations to avoid duplication of resources. There was also admiration and sympathy' for the same shelter management officials, noting that they were under huge pressure from various stakeholders and that "[these officials] were clearly willing to learn and gradually developed proper systems..."³⁹⁴

Provision and maintenance of security at the shelters

Despite the deployment of Metro Police and SAPS officials on a constant basis, as well as through the establishment of 24-hour closed-circuit television networks on the

³⁸⁸ Written Submission 40 – Received 15 July 2015.

³⁸⁹ SRG Consultation with Minara Chamber of Commerce – 30 July 2015.

³⁹⁰ SRG Member Interview with Individual - 31 July 2015.

³⁹¹ SRG Consultation with Minara Chamber of Commerce – 30 July 2015.

³⁹² SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

³⁹³ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

³⁹⁴ SRG Member Interview with Individual, 31 July 2015.

Shelter grounds, many of the displaced persons felt unsafe during the duration of their time on the grounds. A representative of one of the affected communities displaced in the Isipingo Shelter noted that the majority of the security presence at the shelters was concentrated at the entrance areas and that there was little security beyond the wire fence of the shelter's perimeters.³⁹⁵ On 6 May 2015, government structures published a document of 'Rules for Shelters for Displaced Person's, which was later modified and republished on 22 May 2015. Security challenges were exacerbated by the free movement of persons into and out of the shelter – although this was necessary given that entrance to the shelters were strictly on a voluntary basis, there were enhanced difficulties in maintaining security due to these movements. MEC Mchunu noted the phenomena where some of the displaced persons would enter the shelters to receive food but would later leave at night to return to their own communities.³⁹⁶ The NATJOINTS also observed that the number of foreign nationals in the Chatsworth shelter increased on days when Operation Fiela exercises were conducted in KZN.³⁹⁷ Some of the identified security challenges over the duration of the Chatsworth shelter's operation included the presence of firearms and alcohol within the Shelter premises, illegal structures and electrical connections, as well as incidents of theft and prohibited business activities, which were all outlined as impermissible in both the 06 May and 22 May Shelter Rules documents.³⁹⁸

Closure of Chatsworth Shelter, detention of foreign nationals, and subsequent re-location to other areas

The closure of the Chatsworth Shelter on 01 July was amongst the most contentious issues to emerge from this period. A KZN Provincial Government Cabinet Memo was submitted on 03 June to determine the closing date for the shelter.³⁹⁹ On 11 June, the government announced its intention to close the Chatsworth Shelter on 30 June.⁴⁰⁰ The vast majority of the approximately 280 persons still residing at the Shelter were either Burundian or Congolese refugees and asylum seekers.

³⁹⁵ Minutes from the Civil Society Coalition on Xenophobia – 05 May 2015.

³⁹⁶ Hans, B. (2015) "Isipingo refugee camp to shut down." *Independent Online*. 06 May, Accessed online at: <<http://beta.iol.co.za/news/south-africa/KZN/isipingo-refugee-camp-to-shut-down-1854628>> on August 2015.

³⁹⁷ KZN Presentation on "Government Response for Displaced African Immigrants" – Received Electronically on 29 April 2015; NATJOINTS (2015) "Action Step 2: Humanitarian Services: Social Development, Reintegration and Health Services."- Presentation received electronically, 29 May 2015.

³⁹⁸ SRG Consultation with DSD: National – 13 July 2015; Municipal Government 'Proposed Plan of Action for Chatsworth Shelter' – 19 May 2015; KZN Rules for Displaced Persons' - 06 May 2015; Municipal Government – 'KZN Rules for Shelters for Persons Displaced as a result of Generalized Violence' - 22 May 2015.

³⁹⁹ KZN Presentation on "Government Response for Displaced African Immigrants" – Received Electronically on 29 April 2015; NATJOINTS (2015) "Action Step 2: Humanitarian Services: Social Development, Reintegration and Health Services."- Presentation received electronically, 29 May 2015.

⁴⁰⁰ eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015.

At this point, it is pertinent to emphasise the unique circumstances with which these Burundian and Congolese refugees and asylum seekers residing in the Shelter were confronted: unlike many of the other displaced foreign nationals who had the opportunity to be repatriated, neither the South African government, IOM, nor UNHCR would repatriate these individuals given the current political situations in their respective countries of origin.⁴⁰¹ As many of these individuals had experienced significant trauma in their lives (including in their countries of origin as well as en route to South Africa and during the 2008 episodes of violence foreign nationals), many of the affected Congolese and Burundian nationals feared for their safety in their communities and felt that the reintegration packages being offered by UNCHR were perceived to not provide enough financial support for the displaced persons to meaningfully rebuild their lives.⁴⁰²

The Municipality was motivated to close the Shelter after its assessment of the affected the communities that the potential for violence had stabilised.⁴⁰³ As many of the other displaced persons had already returned to their communities, the officials assessed that all individuals would be in a position to re-integrate. As described by eThekweni Municipality Spokesperson Tozi Mthethwa:

“...after assessing the conditions and conducting extensive social community dialogues through the Provincial Department of Community Safety and Liaison, government is pleased that the situation has normalised. This therefore, means that the shelter should cease to operate. African immigrants at the shelter have been offered an option of being reintegrated into the communities they once lived in, while others have requested to be repatriated to their countries of origin.”⁴⁰⁴

Both the 6 May and 22 May Municipal Shelter Rules, which all persons residing in the shelter were required to acknowledge, confirmed that the government could remove any person or group of persons from the shelter if “5.1.3 – the government took a decision to close the shelter.”⁴⁰⁵ UNHCR Representative Acacio Julio further commented, “We understand that

⁴⁰¹ SRG Attendance at KZN Anti-Xenophobia Forum - 29 June 2015.

⁴⁰² SRG Attendance at KZN Anti-Xenophobia Forum - 29 June 2015; Payet, C. (2015) “Fear as refugee camp faces closure.” *Sunday Tribune*. 21 June, Accessed online at: <<http://beta.iol.co.za/news/south-africa/KZN/fear-as-refugee-camp-faces-closure-1874124>> on August 2015.

⁴⁰³ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

⁴⁰⁴ Mthethwa, T. (2015) “Chatsworth Interim Shelter Officially Closes.” *eThekweni Municipality News Flash*. 30 June, Accessed online at: <http://www.durban.gov.za/Resource_Centre/Press_Releases/Pages/Chatsworth-Interim-Shelter-Officially-Closes.aspx> on September 2015.

⁴⁰⁵ KZN Rules for Displaced Persons’ - 06 May 2015; Municipal Government – ‘KZN Rules for Shelters for Persons Displaced as a result of Generalized Violence’ - 22 May 2015.

*not everyone who chooses to leave Chatsworth will want to be integrated or settled, but people must choose where they want to go... The option given before was either reintegration or repatriation. This was a problem for some.*⁴⁰⁶

On 30 June, the Municipal Government officially closed the Chatsworth Shelter, removing and disconnecting most of its official services. At that time there were 191 people residing there: 101 adults and 90 children.⁴⁰⁷ Between 30 June and 01 July, the eThekweni Municipality provided 3 buses to transport the displaced persons to certain areas throughout the Municipality: 48 of the 191 persons (10 adults and 38 children) left the Chatsworth Shelter of their own accord and not via the provided transport.⁴⁰⁸ This group has since taken up refuge at Ngobola Farm in Mpophomeni (Howick), KZN.⁴⁰⁹ However, 143 persons (91 adults and 52 children) did not leave the shelter grounds, requesting that they instead be allowed to remain at the shelter and for the South African government and UNHCR to resettle them in another country (i.e. Canada or Switzerland), a demand that these communities had made consistently since early May.⁴¹⁰ Their decision to remain on the grounds left them vulnerable to arrest, as explicitly indicated by one SRG Member to the representatives of the affected communities in attendance at the 29 July meeting of the Anti-Xenophobia Forum.⁴¹¹

Following closure of the shelter at 00h00 on 1 July, representatives of these displaced persons were afforded the opportunity to make representation to Municipal officials as to why “they are still at the shelter as they were duly notified about the imminent closure.”⁴¹² These representations were then presented to political leadership of the City to make a final decision on the closure of the shelters, with Dr Gumede noting, *“The shelter officially closes today, so anyone who is here by midnight will need to give valid reasons as to why they haven’t left. We will then present those to the political leadership of the city for them to make*

⁴⁰⁶ Olifant, N. (2015) “Tents emptied of refugees.” *Times Live*. 01 July, Accessed online at:

<<http://www.timeslive.co.za/thetimes/2015/07/01/Tents-emptied-of-refugees>> on August 2015.

⁴⁰⁷ eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015.

⁴⁰⁸ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015; eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015.

⁴⁰⁹ Update on KZNCC Anti-Xenophobia Programme – 09 September 2015; Zondi, D. (2015) “Refugee camps, stark xenophobia memories.” *News24*. 10 September, Accessed online at: <<http://www.news24.com/SouthAfrica/Local/Echo/Refugee-camps-stark-xenophobia-memories-20150909>> on September 2015.

⁴¹⁰ SRG Member Interview with Individual - 31 July 2015; Ntuli, N. (2015) “Foreigners still in refugee camps.” *The Mercury*. 01 July, Accessed online at: <<http://beta.iol.co.za/news/south-africa/KZN/foreigners-still-in-refugee-camp-1878891>> on September 2015; (2015) “UN to look into South Africa refugee cases.” *eNCA*. 03 July, Accessed online at: <<http://www.enca.com/south-africa/un-look-south-african-refugee-cases>> on September 2015.

⁴¹¹ SRG Attendance at KZN Anti-Xenophobia Forum - 29 June 2015.

⁴¹² Mthethwa, T. (2015) “Chatsworth Interim Shelter Officially Closes.” *eThekweni Municipality News Flash*. 30 June, Accessed online at: <http://www.durban.gov.za/Resource_Centre/Press_Releases/Pages/Chatsworth-Interim-Shelter-Officially-Closes.aspx> on September 2015.

a decision.”⁴¹³ At 10h00 on 03 July, after two days during which the 143 persons remained on the Westcliffe camp grounds (site of the Chatsworth Shelter) without any shelter or provisions, members of the KZN PROVJOINTS conducted an operation to remove them from the site. The operation was conducted with support from SAPS, Durban Metropolitan Police, the Department of Social Development, the Municipality and other role players.⁴¹⁴ The 91 adults were charged with violating eThekweni Municipal By-Laws, specifically those involving trespassing on municipal property (Section 2 of the Camping Act, Act 57/2003); those displaced persons with children were charged for violating the Child Care Act.⁴¹⁵ While the 91 (70) adults were split up for processing between the Chatsworth, Belle and KwaNdengezi Police Stations, the 52 (68)⁴¹⁶ children were separated from their parents and taken to Aryan Benevolent Children’s Home in Chatsworth.⁴¹⁷

Between 03-05 July, Advocate Sheena Jonker (ADR) mobilised attorneys Thami Majola and Jothi Chellan to liaise with the police stations where the displaced foreign nationals were being held in order to initiate a process for bail applications and to facilitate the reuniting of the children with their parents.⁴¹⁸ On Monday 06 July, Attorney Chellan met with senior public prosecutors to discuss the next steps and reached the decision that charges would not be formulated or drawn up; SAPS took fingerprints of all those held overnight before release as standard procedure.⁴¹⁹ Later that day, Attorney Chellan attended Children’s Court with the affected parents and their children. The court was prepared to drop charges following the independent motivation by Mr Andrew and Mrs Rae Wartnaby who allowed the displaced persons to take refuge on their property, Hope Farm at Killarney Valley in Cato Ridge, as a private site where they could all be accommodated. At that point, all 143 persons were relocated to the Hope Farm premises, where donations from humanitarian organisations and local community members have provided them with tents, facilities, and

⁴¹³ Ntuli, N. (2015) “Foreigners still in refugee camps.” *The Mercury*. 01 July, Accessed online at: <<http://beta.iol.co.za/news/south-africa/KZN/foreigners-still-in-refugee-camp-1878891>> on September 2015.

⁴¹⁴ Naicker, J. (2015) “Provincial Joint Operational and Intelligence Structure ends illegal camping at Westcliff sports grounds in Chatsworth.” *South African Police Services - Media Statement from KZN Media Centre*. <<http://www.saps.gov.za/newsroom/msspeechdetailm.php?nid=5242>> on September 2015.

⁴¹⁵ Naicker, J. (2015) “Provincial Joint Operational and Intelligence Structure ends illegal camping at Westcliff sports grounds in Chatsworth.” *South African Police Services - Media Statement from KZN Media Centre*. <<http://www.saps.gov.za/newsroom/msspeechdetailm.php?nid=5242>> on September 2015.

⁴¹⁶ SRG Consultation with Ms Sheena Jonker and Access to Justice – 08 September 2015.

⁴¹⁷ eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015; KZNCC (2015) “Chatsworth Displaced Refugees Update 6 July 2015.” *KZN Christian Council*. 06 July, Accessed online at: <<http://www.methodist.org.za/news/07082015-0942>> on August 2015.

⁴¹⁸ Jonker, S. (2015) “Media statement to Daily News.” Posted to Facebook, 05 July. Accessed online at: <<https://www.facebook.com/sheena.jonker/posts/10153428227603638>> on August 2015.

⁴¹⁹ Jonker, S. (2015) “Media statement to Daily News.” Posted to Facebook, 05 July. Accessed online at: <<https://www.facebook.com/sheena.jonker/posts/10153428227603638>> on August 2015.; (2015) “Chatsworth police released 170 jailed migrants.” *eNCA*. 07 July, Accessed online at: <<http://www.enca.com/media/video/chatsworth-police-release-170-jailed-migrants>> on September 2015.

food. UNHCR has confirmed that those persons who at the time of finalising this report are have not accepted the UNHCR reintegration package, although it remains available to them should they reconsider.⁴²⁰

As of the time of writing, the estimated 140 displaced persons remain on the Hope Farm property. The SRG recognises that the situation remains a difficult one for all those involved. Central to the challenges are that the vast majority of the affected persons still do not feel safe beyond the perimeters of Hope Farm. One description noted that these communities are not only navigating the trauma of their previous experiences that led them to seek refuge in South Africa - the violent incidents and trauma of 2008 and of 2015 - but also that they face discrimination in South African society "every day and in every way...".⁴²¹ One of the envisioned benefits of the displaced persons' stay at Hope Farm has been to enable the various individuals and families to be in a peaceful environment where they can reflect and focus on working through their own situations so that in the near future they could consider the possibilities of their next options, including whether or not to re-integrate into the communities from which they were displaced.⁴²² The second group of displaced persons remain at Mpophomeni Farm, where they are slowly engaging humanitarian and local community based organisations through facilitated dialogue.⁴²³

At this point there has been no action with respect to the 6 September 2015 deadline, announced by Mkhambathini Municipality Mayor Thobekile Maphumulo, by which Hope Farm's owners were to either rezone their property or evict the displaced persons from the premises.⁴²⁴ Key concerns moving forward include the provision of additional basic services and infrastructure in light of the upcoming rainy season in the province, as well as the potential for heightened tensions within the communities of displaced persons at Hope Farm. Many of the individuals and families at Hope Farm continue to advocate for their re-settlement in countries outside of South Africa and their respective countries of origin; in its communication with the SRG, UNHCR noted that it conducted a Protection Needs Assessment of 982 Burundian and Congolese refugees and asylum seekers in Durban in July 2015 and that "a good number of refugees may need prioritized intervention from UNHCR

⁴²⁰ UN High Commission for Refugees: Southern Africa Office Written Submission to SRG – 02 September 2015.

⁴²¹ SRG Consultation with Ms Sheena Jonker and Access to Justice – 08 September 2015.

⁴²² SRG Member's Visit to Hope Farm - 07 July 2015; SRG Consultation with Ms Sheena Jonker and Access to Justice – 08 September 2015.

⁴²³ KZNCC (2015) "Update on KZNCC Anti-xenophobia programme – as of 09 September 2015." *KZN Christian Council*. 09 September.

⁴²⁴ Ndaliso, C. (2015) "Cato Ridge farmer told to rezone." *Independent Online*. 04 August, Accessed online at: <<http://beta.iol.co.za/dailynews/news/cato-ridge-farmer-told-to-rezone-1894989>> on September 2015.

through resettlement to third countries; however the majority will need continued support for their protection and integration.”⁴²⁵

7.3.2. Responses by Local, Provincial, and National Government Structures

The developments of March-May 2015 led to a number of government structures undertaking investigative responses. Some of the following are outlined below:

- **KZN Special Reference Group on Migration and Community Integration:** Following a Provincial Executive Council meeting on 01 April 2015, the Provincial Government established the SRG. The SRG is mandated to report on the causes and consequences of the violent incidents and advise the Provincial Government on immediate and long-term strategies to prevent their recurrence.
- **KZN Provincial Inter-Ministerial Committee:** In response to the developments involving violence against foreign nationals, on 1 April 2015 a decision by the KZN Provincial Executive Committee established a Provincial Inter-Ministerial Committee. This committee, chaired by MEC TW Mchunu (Community Safety and Liaison), included MEC SM Dhlomo (Health), MEC W Thusi (Transport), MEC N Dube-Ncube (Social Development), MEC M Mabuyakhulu (Economic Development, Tourism and Environmental Affairs), MEC N Sbidla-Saphetha (Arts, Culture, Sports and Recreation) the Mayor and the Deputy Mayor of eThekweni Municipality.⁴²⁶ This Provincial Inter-Ministerial Committee was tasked with developing and implementing the Provincial Government’s response to the challenges, and has been supported by a Technical Task Team of Provincial and Municipal Officials (led by the Provincial HOD for COGTA and the Deputy City Manager of eThekweni Municipality).⁴²⁷
- **Ad-Hoc Joint Committee on Probing Violence Against Foreign Nationals:** On 06 May 2015, a motion was tabled by ANC Deputy Chief Whip Doris Dlakude to establish an ad-hoc joint committee to investigate incidents of violence against foreign nationals in KZN, Gauteng and other areas throughout the country; a motion in the NCOP to similar effect was taken one day later. The Ad-Hoc Joint Committee, co-chaired by MP NR Bhengu (NA) and MP T Motlashuping (NCOP) established the work of the committee to focus on the root causes of the violent incidents.⁴²⁸ Since June 2015,

⁴²⁵ UN High Commission for Refugees – Southern Africa Office Written Submission to SRG – 02 September 2015.

⁴²⁶ eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015.

⁴²⁷ eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015.

⁴²⁸ Parliamentary Communication Services (2015) “Parliament on probing violence against foreign nationals committee meeting.” *South African Government – Media Statements*. 25 June. Accessed online at: <

the Committee has met on three occasions (04, 12, 25 June), conducted oversight visits to KZN and Gauteng (06-11 June) and to the Western Cape (04 August) in order to engage a broad range of stakeholders. Further, the Committee instituted a public consultation process in order to receive submissions from the general public. Initially mandated to report back to Parliament on 30 August, the Ad-Hoc Committee has since requested two extensions of its programme of work beyond 30 September 2015.⁴²⁹

- **Meeting Between the President of South Africa and Stakeholders (22 April 2015):** On 22 April 2015, the President of South Africa convened a meeting with approximately 40 representatives from a number of communities and stakeholder groups in order to discuss migration issues and the promotion of better relations between South Africans and foreign nationals. The meeting, which included representatives from government, business, sport, trade union movements, religious leaders, community formations, youth formations, children's organisations, disabled persons' organisations, traditional authorities, arts and sports fraternities, resolved to form a committee to engage the government's Inter-Ministerial Committee on Migration. The stakeholders also submitted a number of suggestions to the President on solutions to resolve these challenges.
- **Meeting between the President of South Africa and representatives of foreign national communities (24 April 2015):** On 24 April 2015, the President convened a meeting with over 50 representatives of foreign national communities residing in South Africa. The objective was to listen to the concerns expressed by these representatives, communicate the government's efforts to end the violent incidents and to engage on long-term solutions.⁴³⁰ A number of potential actions and solutions emerged from the meeting, which were then to be presented to the government's Inter-Ministerial Committee on Migration.
- **Programme of Outreach for Ministers and Deputy Ministers (21 – 30 April 2015):** From the 21-30 of April, the government deployed its Ministers and Deputy Ministers to engage communities on a wide range of issues involving migration and cohesion

<http://www.gov.za/speeches/parliament-probing-violence-against-foreign-nationals-committee-meeting-25-jun-2015-0000> on September 2015.

⁴²⁹ PMG (2015) "Committee Report on Probing Violence Against Foreign Nationals: consideration postponed due to lack of quorum." *Ad-Hoc Joint Committee on Probing Violence against Foreign Nationals*, Parliamentary Monitoring Group. 22 September, Accessed online at: <<https://pmg.org.za/committee-meeting/21536/>> on October 2015.

⁴³⁰ The Presidency (2015) "President Zuma holds fruitful discussions with representatives of foreign nationals." *The Presidency of the Republic of South Africa, Press Statement*. 24 April, Accessed online at: <<http://www.thepresidency.gov.za/pebble.asp?reid=19569>> on August 2015.

between local South Africans and foreign nationals. A majority of the 77 public engagements undertaken by Ministers and Deputy Minister specifically focused on issues of migration and relations with foreign nationals, and included representatives from the following Ministries: Agriculture, Fisheries and Forestry; Arts and Culture; Communications; Economic Development; Energy; Environmental Affairs; International Relations and Cooperation; Labour; Mineral Resources; Public Enterprises; Public Works; Sport and Recreation; Ministry in the Presidency; Tourism; Trade and Industry, and; Transport.⁴³¹

- **Inter-Ministerial Committee on Migration:** On 12 April 2015, President Zuma deployed the Ministers of Home Affairs, Police, and State Security, as part of the government's Security Cluster, to begin spearheading the response and engaging on many of the issues relating to the wave of violent incidents targeting foreign nationals.⁴³² Soon after, the government announced the creation of the Inter-Ministerial Committee on Migration whose mandate has been to "strengthen and broaden the scope of work started by the government's security cluster."⁴³³ Chaired by Minister J Radebe (Minister in the Presidency, Planning, Monitoring and Evaluation) the Committee comprises Ministers from 14 different government ministries.⁴³⁴ The Committee's work has involved a comprehensive assessment and review of the underlying dynamics and tensions both within and between communities, including issues related to migration policies and labour legislation. The Inter-Ministerial Committee, which received operational support from NATJOINTS, is the responsible structure for oversight of Operation Fiela-Reclaim.⁴³⁵ The Inter-

⁴³¹ The Presidency (2015) "Migration update: Programme of Ministers and Deputy Ministers." *The Presidency of the Republic of South Africa, Press Statement*. 21 April, Accessed online at:

<<http://www.thepresidency.gov.za/pebble.asp?relid=19526>> on August 2015.

⁴³² (2015) "Ministers deployed to Durban to deal with xenophobic violence." *eNCA*. 12 April, Accessed online at: <<https://www.enca.com/south-africa/zuma-deploys-ministers-durban-amid-violence-against-foreigners>> on August 2015.

⁴³³ GCIS (2015) "Inter-Ministerial Committee on Migration media briefing statement." *Department of Government Communications and Information Services*. 28 April, Accessed online at: <<http://www.gcis.gov.za/newsroom/media-releases/inter-ministerial-committee-migration-media-briefing-statement>> on August 2015.

⁴³⁴ The Ministries involved include: Minister in The Presidency: Planning, Monitoring and Evaluation (Chairperson); Minister of Police(Deputy Chairperson); Minister of Home Affairs; Minister of Cooperative Governance and Traditional Affairs; Minister of International Relations and Cooperation; Minister of Defence and Military Veterans; Minister of Social Development; Minister of Health; Minister of Basic Education; Minister of State Security; Minister of Justice and Correctional Services; Minister of Small Business Development; Minister of Trade and Industry; and Minister of Human Settlements. Source: GCIS (2015) "Inter-Ministerial Committee on Migration media briefing statement." *Department of Government Communications and Information Services*. 28 April, Accessed online at: <<http://www.gcis.gov.za/newsroom/media-releases/inter-ministerial-committee-migration-media-briefing-statement>> on August 2015.

⁴³⁵ GCIS (2015) "Inter-Ministerial Committee on Migration media briefing statement." *Department of Government Communications and Information Services*. 28 April, Accessed online at: <<http://www.gcis.gov.za/newsroom/media-releases/inter-ministerial-committee-migration-media-briefing-statement>> on August 2015.

Ministerial Committee on Migration has provided a number of updates since 28 April with respect to on-going developments and key initiatives concerning migration and security-based issues.

- **SAHRC's Investigation into the remarks by the Zulu King Goodwill Zwelithini:** On 15 March, the Zulu King Goodwill Zwelithini delivered remarks at a moral re-generation event held in Pongola, KZN, at an event hosted by the KZN Provincial Government. Some of the comments made by the King during his speech have been interpreted by a number of sectors and media outlets as one of the contributing factors to the violent developments that overtook KZN between March-May.⁴³⁶ On 15 April, a South African citizen lodged a formal complaint with the SAHRC; two days later, the SAHRC acknowledged receipt of the complaint and indicated that it would conduct an investigation into such remarks.⁴³⁷ During the course of its investigation between April-June, the SAHRC conducted a number of consultations with a number of individuals who have issued complaints about the violence against foreign nationals, based in Gauteng, as well as with the Advisors of King Goodwill Zwelithini.⁴³⁸ Although the SAHRC had committed to releasing its findings by the end of June 2015, its report had yet to be released by the time of the writing of this report. It is also important to note that the SAHRC's KZN office has received a number of violent threats as a result of this investigation.⁴³⁹

⁴³⁶ SRG Consultation with Foreign National Representatives – 14 May 2015; SRG Consultation with Church and Clergy Leaders – 23 June 2015; SRG Consultation with Project Empower – 02 July 2015; Ndou, C. (2015) "Foreigners must go home – King Goodwill Zwelithini." *The Citizen*. 23 March, Accessed online at: < <http://citizen.co.za/349347/foreigners-must-go-home-king-zwelithini/>> on August 2015; Mashaba, S. (2015) "Foreigners remarks puts king in a fix." *The Sowetan*. 28 March, Accessed online at: < <http://www.sowetanlive.co.za/news/2015/03/28/foreigners-remark-puts-king-in-a-fix>> on August 2015; Kalenga, A. (2015) "'Zulu King didn't incite violent attacks'." *Eyewitness News*. 10 April, Accessed online at: < <http://ewn.co.za/2015/04/10/KZN-govt-denies-Zulu-King-incited-xenophobic-attacks>> on August 2015; Munusamy, R. (2015) "Xenophobia and bloodshed in His Majesty's kingdom." *Daily Maverick*. 15 April, Accessed online at: < <http://www.dailymaverick.co.za/article/2015-04-15-xenophobia-and-bloodshed-in-his-majestys-kingdom/>> on August 2015; (2015) "King Goodwill Zwelithini to fully co-operate with HRC investigation." *The New Age*. 19 May, Accessed online at: < http://www.thenewage.co.za/159590-1007-53-King_Zwelithini_to_fully_cooperate_with_HRC_investigation> on August 2015.

⁴³⁷ SA Human Rights Commission (2015) "MEDIA STATEMENT: SAHRC condemns xenophobic attacks on foreign nationals." *South African Human Rights Commission*. 17 April, Accessed online at: < <http://www.sahrc.org.za/home/index.php?ipkMenuID=91&ipkArticleID=331>> on August 2015.

⁴³⁸ SA Human Rights Commission (2015) "SAHRC in final stages of investigation into King's alleged utterances." *South African Human Rights Commission*. 19 May, Accessed online at: < <http://www.sahrc.org.za/home/index.php?ipkMenuID=91&ipkArticleID=334>> on August 2015.

⁴³⁹ (2015) "Xenophobic thugs: 'We'll burn you alive'." *CityPress*. 26 April, Accessed online at: < <http://www.news24.com/Archives/City-Press/Xenophobic-thugs-Well-burn-you-alive-20150429>> on September 2015; African News Agency (2015) "SAHRC staff received threats due to Zwelithini investigation." *The Citizen*. 29 April, Accessed online at: < <http://citizen.co.za/372703/sahrc-staff-received-threats-due-to-zwelithini-investigation/>> on September 2015.

- **Responses from King Goodwill Zwelithini, including peace Imbizo and address to the opening of the Provincial House of Traditional leaders:** On 20 April, King Goodwill Zwelithini, the KZN Provincial Government (through COGTA) and the eThekweni Municipality convened an Imbizo entitled, “Fight Against Attacks on Foreign Nationals” or “*Ubuntu Abande Ebantwini*.”⁴⁴⁰ Convened at Moses Mabhida Stadium in Durban, the Imbizo was attended by traditional leaders including *Amakhosi*, *Izinduna*, and *Amabutho*, religious leaders, national, provincial and municipal government officials and members of the general public. During his speech, King Goodwill Zwelithini encouraged all persons in South Africa to respect the law and to protect foreign nationals wherever possible; in this light, he announced the creation of the KZN Public Peace Process. King Goodwill Zwelithini also rejected claims that his remarks one-month prior had instigated the violent attacks, and encouraged the SAHRC to also investigate the role of the media in contributing to the violence. It is also important to note that prior to and during the Imbizo, a variety of media houses reported that attendees were singing anti-foreigner songs and slogans for a number of hours prior to the start of the ceremonies.⁴⁴¹

On 30 April, during his address at the opening of the Provincial House of Traditional Leaders in Ulundi, King Goodwill Zwelithini announced certain regulations and recommendations to strengthen relations between South Africans and foreign nationals in the province, including:⁴⁴²

- *“That foreign nationals, following their introductions to local traditional leaders, should be accompanied to the Zulu Royal Palace in Ulundi with their Ambassadors to be introduced to the Zulu King*
- *That each traditional leader should have the personal details of all foreign nationals living under their territories*
- *That locals who wish to accommodate foreign nationals should receive permission from their local traditional leaders*
- *That traditional leaders should verify that foreign nationals under their territories possess valid documents to reside in the country*

⁴⁴⁰ GCIS (2015) “Fight Against Attacks Foreign Nationals; King Goodwill Zwelithini.” *Department of Government Communications and Information Services (GCIS)*, Development Communication. 20 April, Accessed online at: < http://www.gcis.gov.za/sites/www.gcis.gov.za/files/docs/His_Majesty_Pictorial_Durban_Imbizo.pdf>

⁴⁴¹ (2015) “King Goodwill Zwelithini holds anti-xenophobia Imbizo.” *eNCA*. 20 April, Accessed online at: < <http://www.enca.com/south-africa/live-king-zwelithini-holds-anti-xenophobia-imbizo>>, on September 2015; Pather, R. (2015) “Five take-home messages from King Goodwill Zwelithini’s Imbizo.” *The Daily Vox - South Africa*. 22 April, Accessed online at: < <http://www.thedailyvox.co.za/five-take-home-messages-from-king-goodwill-zwelithinis-imbizo/>> on August 2015.

⁴⁴² Hans, B. (2015) “King reveals xenophobia plans.” *Independent Online*. 01 May, Accessed online at: < <http://beta.iol.co.za/news/south-africa/KZN/king-reveals-xenophobia-plan-1852618>> on September 2015.

- *That traditional leaders should be able to authenticate, with support from local police and DHA, the arrangements by which foreign nationals settle in specific areas and be capable of monitoring such arrangements*
 - *That local municipalities, DHA, and SAPS should ensure that all foreign nationals who want to run businesses be regulated under strict guidelines*
 - *That the Ingonyama Trust Board should provide guidelines on allocating land to foreign nationals*
 - *That traditional leadership should attend a workshop focusing on laws governing foreign nationals in South Africa*
 - *That various levels of government should come up with such guidelines before 25 June 2015*
 - *That Premier SE Mchunu organise a meeting between the Zulu King, traditional leaders, the government and ambassadors to talk about the xenophobic attacks, illegal immigrants and the relationship between KZN and affected countries.”*
- During the 19 August 2015 presentation to the Parliamentary Portfolio Committee on Police, the NATJOINTS outlined a number of interventions undertaken jointly by DHA, Department of Labour, Department of Small Business Development that will specifically examine certain legal regulatory frameworks and potential interventions. Some of the issues identified are outlined below:⁴⁴³
 - *Online verification system for asylum permits rolled out to all ports of entry and IMS business units;*
 - *Implementation of Passenger Name Record (PNR)⁴⁴⁴;*
 - *Biometric capturing of data relating to all travellers entering South Africa linked to the Movement Control System;*
 - *Conduct Inspections and record details and documentation of all the foreign employees at:*
 - *formal business sector and retail sector that make use of temporary, low cost or unskilled labour;*
 - *Informal business sectors;*

⁴⁴³ NATJOINTS (2015) *Multi-Disciplinary Integrated National Action Plan to Reassert the Authority of the State: Operation Fiela-Reclaim*. Presentation to the Parliamentary Portfolio Committee on Police. Parliamentary Monitoring Group, 19 August, Accessed online at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150819Presentation_Operation_Fiela_19_Aug_2015.pdf> on September 2015.

⁴⁴⁴ The Passenger Name Record (PNR) is a DHA system used to collate all information of persons traveling into the country for purposes of screening individuals for potential security threats. Source: South African Government (2014) "ICAO Regional Facilitation Seminar – Information Paper Prepared by South Africa." *International Civil Aviation Organisation*. Accessed online at: <<http://www.icao.int/ESAF/Documents/meetings/2014/FAL-FEB/SOUTH%20AFRICA-Annex%209-Facilitation%20and%20Implementation%20Status.pdf>> on October 2015.

- *Hotel and hospitality industry;*
 - *Ensuring all employees are legally documented;*
 - *Enforcement of immigration legislation through deportations;*
 - *Borderline surveys of communities residing in borderline areas in relation to foreign nationals crossing the borderline for social reasons (e.g. health and education);*
 - *Develop regulations regarding the movement of borderline residents from neighbouring countries;*
 - *Effective tracing and monitoring of documented and overstaying foreign nationals;*
 - *Develop a database of all foreign nationals who enter South Africa;*
 - *Immigration policy review;*
 - *Research on international immigration legislation in terms of aligning South Africa's policies with international norms and standards;*
 - *Enforcement of legislation through joint operations on verification of documents."*
- **Diplomacy-based responses from Department of International Relations and Cooperation (DIRCO):** DIRCO also initiated a number of responses to the developments in order to specifically mitigate the international impact of the violent attacks. DIRCO's responses included engagement with African foreign missions in South Africa, engaging affected countries' foreign ministries through the South African Heads of Missions; the Activation of Joint Emergency Evacuation Contingency for South Africans living outside the country; monitoring of the effect of the current situation on South African citizens and businesses abroad; and feedback from South African Missions with respect to developments in their respective countries.⁴⁴⁵ These activities were supported by a briefing of all African missions in South Africa by the

⁴⁴⁵ GCIS (2015) "Inter-Ministerial Committee on Migration media briefing statement." *Department of Government Communications and Information Services*. 28 April, Accessed online at: <<http://www.gcis.gov.za/newsroom/media-releases/inter-ministerial-committee-migration-media-briefing-statement>> on August 2015;

NATJOINTS (2015) *Presentation to the Parliamentary Portfolio Committee on Home Affairs: Violence Against Foreign Nationals and Related Small Businesses*. Parliamentary Portfolio Committee on Home Affairs, Parliamentary Monitoring Group. 28 April, Accessed online at: <<http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150428natjoins.pdf>> on September 2015;

Salmon, A. (2015) "Summary on Recent Developments - Presentation by the Ad-Hoc Joint Committee on Probing Violence Against Foreign Nationals." Ad-Hoc Joint Committee on Probing Violence Against Foreign Nationals, Parliamentary Monitoring Group. 12 June, Accessed online at: <<http://pmg.org.za/files/150612summary.ppt>> on August 2015;

NATJOINTS (2015) *Multi-Disciplinary Integrated National Action Plan to Reassert the Authority of the State: Operation Fiela-Reclaim*. Presentation to the Parliamentary Portfolio Committee on Police. Parliamentary Monitoring Group, 19 August, Accessed online at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150819Presentation_Operation_Fiela_19_Aug_2015.pdf> on September 2015.

Ministers of International Relations and Cooperation, State Security, and Home Affairs on 17 April.

7.3.3. Security and Justice Responses

Another series of important developments concern the manner in which the province's police and justice systems have responded to the developments and violence against foreign nationals. In terms of the justice system's responses to the developments of 2008, the NPA indicated that by 2009 they had successfully seen 79 criminal cases through to completion, leading to convictions for public violence, robbery, housebreaking and theft, malicious damage to property, murder, assault, intimidation and possession of dangerous weapons. The Minister of Justice and Correctional Services, on 24 August 2015, noted that between May 2008 – October 2009, there were 597 cases going to court that involved incidents of violence against foreign nationals: "of these 597 cases, 217 had been withdrawn; 59 cases had been finalised with a verdict (98 guilty, 61 not guilty); 9 cases were still partly-heard; 75 cases were still to be tried and in 77 cases, further investigation was still being finalised whilst 27 warrants of arrest were also issued."⁴⁴⁶

In terms of the police and justice system's responses to the outbreak of violence on 29-30 March 2015, the SRG has heard how many police stations (including the local stations in Isipingo) opened their facilities to the affected persons to take refuge and immediately increased their visibility in the affected areas as both a response and a deterrent.⁴⁴⁷ To some extent, SAPS officials were reported to have attempted interventions to calm and disperse angry crowds of local South Africans, but in one instance, also advised foreign nationals to gather their belongings and run away since they could not control the crowds.⁴⁴⁸ Many police officials also safely transported displaced persons to the nearest temporary shelters.⁴⁴⁹ In terms of the structured security response, the PROVJOINTS structure was activated with Provincial Police Commissioner Ngobeni as Chair, all district disaster management centres were put on high alert and a 24-hour call centre established, operational centres were activated in the affected police clusters, and a dedicated team of detectives was set up to investigate the incidents.⁴⁵⁰

⁴⁴⁶ PMG (2015) *Written Reply by the Minister of Justice and Correctional Services to Parliamentary Question NW3302 E*. National Assembly Committee on Justice and Correctional Services, Parliamentary Monitoring Group. 24 August, NW 2829. Accessed online at: <<https://pmg.org.za/committee-question/593/>> on September 2015.

⁴⁴⁷ SRG Consultation with KZN PROVJOINTS – 11 August 2015; SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

⁴⁴⁸ SRG Interviews conducted at Chatsworth Shelter – 30 April 2015.

⁴⁴⁹ SRG Interviews conducted at Chatsworth Shelter – 30 April 2015.

⁴⁵⁰ KZN Presentation on "Government Response for Displaced African Immigrants" – Received Electronically on 29 April 2015.

However, various individuals have noted complaints against the conduct of SAPS officials during the most urgent periods of the developments, with the PROVJOINTS structure, noting that it had received complaints from individuals in the uMlazi, KwaMashu, Ntuzuma and Inanda areas that local SAPS officers could be heard making disparaging remarks against foreign nationals and that SAPS officials had stood idle during periods of looting.⁴⁵¹ One written submission explicitly noted,

*“The police were hesitant over arresting propagators of the violence and often arrived too late. They gave the unfortunate message that these acts were not regarded as criminal and so did not warrant arrest and prosecution.”*⁴⁵²

Another refugee was quoted as remarking, *“South Africa does not have police, because if they did, many of us would still be in our homes rather than being in the shelters.”*⁴⁵³

Amongst the many responses to the developments, SAPS, through the Inter-Ministerial Committee on Migration and the NATJOINTS structures, operationalised Operation Fiela-Reclaim on 21 April 2015 as a direct response to combat and deter the tensions against foreign nationals and to root out many underlying aspects of criminality throughout the province. This intervention, which led to the deployment of over 5,500 SAPS officers between April-July 2015, will be discussed in more detail in Section 7.3.4 below. In order to strengthen the intelligence presence in KZN, 263 additional intelligence operatives, including representatives from the National Intelligence Coordinating Committee (NICOC), South African Police Service Crime Intelligence (SAPS-CI), South African National Defence Force - Defence Intelligence (SANDF DI) and State Security Agency (SSA) were deployed to the province.⁴⁵⁴ Further, the NPA was instructed to give “priority to the prosecution of cases related to attacks against foreign nationals.”⁴⁵⁵

In a 29 April 2015 safety and security update, the eThekweni Municipality noted that it had 432 incidents reported to SAPS officials, that 265 criminal cases had been registered, that it

⁴⁵¹ SRG Consultation with SAPS:PROVJOINTS – 11 August 2015; Written Submission 74 – Received 21 July 2015; Written Submission 81 – Received 05 August 2015.

⁴⁵² Written Submission 40 – Received 15 July 2015.

⁴⁵³ Written Submission 74 – Received 21 July 2015.

⁴⁵⁴ Salmon, A. (2015) “Summary on Recent Developments - Presentation by the Ad-Hoc Joint Committee on Probing Violence Against Foreign Nationals.” Ad-Hoc Joint Committee on Probing Violence Against Foreign Nationals, Parliamentary Monitoring Group. 12 June, Accessed online at: <<http://pmg.org.za/files/150612summary.ppt>> on August 2015.

⁴⁵⁵ GCIS (2015) “Inter-Ministerial Committee on Migration media briefing statement.” *Department of Government Communications and Information Services*. 28 April, Accessed online at: <<http://www.gcis.gov.za/newsroom/media-releases/inter-ministerial-committee-migration-media-briefing-statement>> on August 2015.

had affected 225 arrests and that 57 cases had been taken to court.⁴⁵⁶ On 17 May, the IMC provided the following update on progress with respect to cases violence against foreign nationals. “Out of 87 cases, 83 have been postponed for further investigation. Four cases have been finalised as follows within KZN:

- *“One case of theft where the accused was fined R500 or 10 days’ imprisonment,*
- *One case relating to possession of a dangerous weapon where the fine was R3 000 or 30 days’ imprisonment,*
- *A case relating to malicious injury to property where the accused threw stones at a shop where a fine of R3 000 or 6 months’ imprisonment was imposed and*
- *An assault matter was finalised through an alternate dispute resolution process, after the complainant and accused agreed to a mediation process.”⁴⁵⁷*

On 24 August, in response to parliamentary question NW2829 on progress to date, the Minister of Justice and Correctional Services provided a national update: as of end-July 2015, 110 cases had been brought forward, 7 had been withdrawn or struck off the roll, 6 had been finalised, 97 had not yet been finalised. Of the six that had been finalised, there were 4 convictions, one *nolle prosequi* (decision not to prosecute) and one finalised through ADR.⁴⁵⁸

The SRG’s consultations with the National Director for Public Prosecutions (NDPP) – KZN revealed a number of issues faced in pursuing these investigations. The NDPP noted that the ‘dedicated courts’ referred to by Minister Radebe in the 28 April briefing by the IMC were never intended to be established as separate court structures; instead, the DOJ was always planned to fast-track and prioritise cases involving incidents against foreign nationals, especially in the magistrates’ courts of Chatsworth, uMlazi, Ntuzuma, and Durban Magistrates Court.⁴⁵⁹ A number of senior prosecutors (below the tier of the Chief Prosecutor) were commissioned as Senior Public Prosecutors (SPPs) to receive dockets relating to the violent attacks on foreign nationals, screen the dockets and expedite the prosecution of the cases. The initial mandate was to fast-track cases where a South African was accused and foreign nationals were complainants; however this was the prioritisation

⁴⁵⁶ KZN Presentation on “Government Response for Displaced African Immigrants” – Received Electronically on 29 April 2015.

⁴⁵⁷ GCIS (2015) “Statement by Inter-Ministerial Committee on Migration.” *Department of Government Communications and Information Services*. 17 May, Accessed online at: <<http://www.gcis.gov.za/newsroom/media-releases/statement-inter-ministerial-committee-migration>> on August 2015.

⁴⁵⁸ PMG (2015) *Written Reply by the Minister of Justice and Correctional Services to Parliamentary Question NW3302 E*. National Assembly Committee on Justice and Correctional Services, Parliamentary Monitoring Group. 24 August, NW 2829. Accessed online at: <<https://pmg.org.za/committee-question/593/>> on September 2015.

⁴⁵⁹ SRG Consultation with the NDPP: KZN – 06 July 2015.

mandate was then amended to include all cases where foreigners were involved, whether it was a complaint of one foreign national against another, or one where a foreign national is the accused and a South African is the complainant.⁴⁶⁰

In its consultation with the SRG, the Deputy Director of Public Prosecutions expressed concerns that cases involving violent attacks on foreign nationals had not been given due attention by prosecutors as previously mandated.⁴⁶¹ This observation was based on the limited investigations, postponements, low finalization rates of cases relating to violent attacks against foreign nationals. The Deputy Director noted that the slow pace of completing these investigations is challenge for all cases and emerge from a number of factors, such as prosecutors overloaded with cases, Legal Aid offices are short staffed, and too few court interpreters contributed to further delays.⁴⁶² Other challenges included difficulties in securing witness statements and apprehending suspects, with one written submission even observing that *“asylum seekers, refugees and migrants are often forced to drop criminal cases against their attackers in exchange for being allowed back into the community.”*⁴⁶³ Corruption is also alleged to contribute to increase delays, as both nationals and foreign nationals alike can be detained and released by paying bribes to security officials.⁴⁶⁴

7.3.4. Operation Fiela–Reclaim

Operation Fiela-Reclaim (Fiela from the *Sesotho* word ‘to sweep’) remains one of the most visible institutional consequences of the violence against foreign nationals in South Africa. On 21 April 2015, Minister of Defence and Military Veterans Nosiviwe Mapisa-Nqakula announced to the public that members of SANDF had been deployed to support the SAPS; two days later on 23 April, the President of South Africa issued an official letter to National Assembly Speaker MP B. Mbete informing the Legislative chamber that he authorised the employment of 338 members of the SANDF *“to assist the SAPS to maintain law and order in KZN, Gauteng and any other area in the Republic of South Africa as the need arises.”*⁴⁶⁵

⁴⁶⁰ SRG Consultation with the NDPP: KZN – 06 July 2015.

⁴⁶¹ SRG Consultation with the NDPP: KZN – 06 July 2015

⁴⁶² SRG Consultation with the NDPP: KZN – 06 July 2015.

⁴⁶³ SRG Consultation with the NDPP: KZN – 06 July 2015; Written Submission 74 – Received 31 July 2015.

⁴⁶⁴ Written Submission 70 – Received 31 July 2015.

⁴⁶⁵ The Presidency (2015) “Employment of Members of the South African National Defence Forces in Cooperation with the South African Police Services to maintain Law and Order in KZN, Gauteng, and any other area in the Republic of South Africa.” Letter from President JG Zuma to National Assembly Speaker B Mbete. *Parliament of the Republic of South Africa - Announcements, Tablings, and Committee Reports*. P750. 30 April, Available online at: <http://www.parliament.gov.za/live/commonrepository/Processed/20150505/604377_1.pdf> on September 2015.

In a letter that was tabled in both houses of Parliament on 30 April 2015, the President further noted that the duration of this employment would be for the period of 21 April – 30 June 2015 and would cost R 4,242,448.⁴⁶⁶ Operation Fiela-Reclaim has combined the work of SAPS (leading partner) into an integrated structure with the SANDF, the NPA, the DOJ, the DHA, the SSA, and Metro Police Departments on a per-needed basis.⁴⁶⁷ Implemented by NATJOINTS in conjunction with the respective PROVJOINTS, Operation Fiela-Reclaim is structured through a five-pillar action plan (Safety and Security, Humanitarian Services, Legal and Regulatory Framework, Communication and Community Outreach, and International Cooperation) and focuses on specific priority sectors of criminal activity.⁴⁶⁸

Operation Fiela-Reclaim was initiated during a period of heightened tensions emanating from the incidents of violence and intimidation against foreign nationals. At her press briefing on 21 April 2015 at a police station in Alexandra, Johannesburg, Minister Mapisa-Nqakula discussed how the media images capturing the death of foreign national Emmanuel Sithole and the on-going violence against foreign nationals in Alexandra motivated SANDF to respond in support of SAPS and to serve as a deterrent against future violence.⁴⁶⁹ However the South African government, specifically through the Inter-Ministerial Committee on Migration and SAPS Officials, have explicitly noted that Operation Fiela-Reclaim is intended to combat criminality throughout the country and not just on issues related to tensions between locals and foreign nationals.⁴⁷⁰ On 08 July 2015, the Department

⁴⁶⁶ The Presidency (2015) "Employment of Members of the South African National Defence Forces in Cooperation with the South African Police Services to maintain Law and Order in KZN, Gauteng, and any other area in the Republic of South Africa." Letter from President JG Zuma to National Assembly Speaker B Mbete. *Parliament of the Republic of South Africa - Announcements, Tablings, and Committee Reports*. P750. 30 April, Available online at: <http://www.parliament.gov.za/live/commonrepository/Processed/20150505/604377_1.pdf> on September 2015.

⁴⁶⁷ NATJOINTS (2015) *Multi-Disciplinary Integrated National Action Plan to Reassert the Authority of the State: Operation Fiela-Reclaim*. Presentation to the Parliamentary Portfolio Committee on Police. Parliamentary Monitoring Group, 19 August, Accessed online at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150819Presentation_Operation_Fiela_19_Aug_2015.pdf> on September 2015.

⁴⁶⁸ Priorities of Operation Fiela-Reclaim: 1) Illegal Firearms, Ammunition and Explosives; 2) Illicit Drugs, Contraband Items, Liquor and Second Hand Goods; 3) Human Trafficking, Prostitution, Crime against women & children and persons with disabilities; 4) Defacing of Historical Statues and Symbols; 5) Hijacking and illegal Occupation of Buildings and/or Lands; 6) Unregistered Businesses/Illegal Businesses; 7) Reduction of Serious, Property and Violent Crimes; 8) Undocumented Migrants & Border Security; 9) Road Safety and Traffic Management; 10) Enforcement: SASREA and Regulation of Gatherings Act; 11) Transnational Crimes; 12) Commercial Crimes.

Source: NATJOINTS (2015) *Multi-Disciplinary Integrated National Action Plan to Reassert the Authority of the State: Operation Fiela-Reclaim*. Presentation to the Parliamentary Portfolio Committee on Police. Parliamentary Monitoring Group, 19 August, Accessed online at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150819Presentation_Operation_Fiela_19_Aug_2015.pdf> on September 2015.

⁴⁶⁹ (2015) "Media Briefing by Minister of Defence and Military Veterans N. Mapisa – Nqakula." *Eyewitness News - Video*. 21 April, Accessed online at: <<http://ewn.co.za/2015/04/21/Defence-minister-arrives-in-Alexandra-for-briefing>> on September 2015.

⁴⁷⁰ GCIS (2015) "Inter-Ministerial Committee on Migration media briefing statement." *Department of Government Communications and Information Services*. 28 April, Accessed online at: <<http://www.gcis.gov.za/newsroom/media-releases/inter-ministerial-committee-migration-media-briefing-statement>> on August 2015;

of Defence's spokesperson, Sipiwe Dlamini, confirmed that SANDF had received a request to extend its deployment in Operation-Fiela reclaim, with media reports suggesting that this was envisioned until 31 March 2016; however, on 07 September the Defence Minister went on record to indicate that the SANDF's involvement in Operation Fiela-Reclaim had ended on 30 June 2015, and that her Department had not received a request to extension of the SANDF's employment beyond 30 June.⁴⁷¹

Operation Fiela-Reclaim has come under significant scrutiny from various civil society organisations and public figures for different aspects of its conceptualisation and implementation. Challenges relate to whether the government had adhered to the constitutional requirements necessary for the deployment of the SANDF within South Africa's borders. Section 201 (2) gives the President of South Africa with the sole authority to deploy the defence force, with Section 201 (2)(A) authorising the President to do so 'in co-operation with the police service'; further, Section 201 (3) necessitates that the President,

"must inform Parliament promptly, and in appropriate detail, of –

- (a) The reasons for the employment of the defence force,*
- (b) Any place where the force is being deployed,*
- (c) The number of people involved, and*
- (d) The period for which the force is expected to be employed."*⁴⁷²

Section 18 (1) of the Defence Act 42 of 2002 details that the President may authorise the employment of the Defence Force inside of South Africa or in international waters in order to, "(a) preserve life, health or property in emergency or humanitarian relief operations; (b)

GCIS (2015) "Statement by Inter-Ministerial Committee on Migration." *Department of Government Communications and Information Services*. 17 May, Accessed online at: <<http://www.gcis.gov.za/newsroom/media-releases/statement-inter-ministerial-committee-migration>> on August 2015;

PMG (2015) "Farlam Commission recommendations; Operation Combat & Operation Fiela & Operation Tornado: SAPS briefing; Roll-out of generators at SAPS stations: SAPS/Public Works." *Transcript of the Meeting of the Parliamentary Portfolio Committee on Police, Parliamentary Monitoring Group*. 19 August, Accessed online at: <<https://pmg.org.za/committee-meeting/21365/>>, on September 2015.

⁴⁷¹ Helfrich, K. (2015) "Exclusive: SANDF involvement in Operation Fiela extended." *DefenceWeb*. 03 July. Accessed online at: <http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=39774:exclusive-sandf-involvement-in-operation-fiela-extended&catid=111:sa-defence&Itemid=242> on September 2015; Nicolson, G. (2015) "Military is the new normal: The army's extended Fiela deployment." *Daily Maverick*. 08 July, Accessed online at: <<http://www.dailymaverick.co.za/article/2015-07-08-military-is-the-new-normal-the-armys-extended-fiela-deployment/>> on September 2015; (2015) "Extension of SANDF role in Operation Fiela merely 'a request'." *Times Live*. 08 July, Accessed online at: <<http://www.timeslive.co.za/politics/2015/07/08/Extension-of-SANDF-role-in-Operation-Fiela-merely-a-%E2%80%98request%E2%80%99>> on September 2015; African News Agency (2015) "SANDF no longer part of Operation Fiela – Mapisa-Nqakula." *The Citizen*. 07 September, Accessed online at: <<http://citizen.co.za/699456/sandf-no-longer-part-of-operation-fiela-mapisa-nqakula/>> on September 2015.

⁴⁷² South African Constitution (1996). Section 201 (3).

ensure the provision of essential services; (c) support any department of state, including support for purposes of socioeconomic up-liftment; and (d) effect national border control.”⁴⁷³ Section 19 (1) of the Defence Act 42 of 2002 notes that the Defence Force may be employed in cooperation with SAPS, in terms of section 201 (2)(A) of the Constitution “...in the prevention and combating of crime and maintenance and preservation of law and order within the Republic.”⁴⁷⁴ A number of public commentaries have argued that the President’s letter informing Parliament of the employment of SANDF did not meet the constitutional requirements of ‘appropriate detail’ as set out in Section 201 (3) of the Constitution; these commentaries specifically question whether the phrases “...to assist the SAPS to maintain law and order...” and “... in KZN, Gauteng and any other areas in the Republic of South Africa as the need arises” would be viewed as fulfilling the Constitutional obligation set forth in Section 201 (3)(A) and (3)(B).⁴⁷⁵ This specific issue has not been tested in a court of law.

Another specific challenge relates to the varying degrees of oversight afforded to Operation Fiela-Reclaim. Section 19 (2) of the Defence Act 42 of 2002 states that:

“(2) If the employment of the Defence Force in co-operation with the South African Police Service is authorised as contemplated in subsection (1), the Minister must give notice of such employment by notice in the Gazette within 24 hours of the commencement of such employment and, upon such employment being discontinued, within 24 hours of such discontinuation give notice of the discontinuation by notice in the Gazette.”

However, none of the National Government Gazettes between April 21 (the day Minister Mapisa-Nqakula announced SANDF’s employment) and 24 April (one day after the President submitted his letter to the National Assembly) make any mention of SANDF’s employment.⁴⁷⁶ Similarly, none of the National Government Gazettes issued on 30 June or 01 July make mention of the discontinuation of SANDF’s employment, as necessitated by

⁴⁷³ Defence Act 42 (2002) Section 18 (1).

⁴⁷⁴ Defence Act 42 (2002) Section 19 (1).

⁴⁷⁵ Wallis, L. (2015) “Has the President used the defense force legally?” *GroundUp*. 04 June, Accessed online at: < http://www.groundup.org.za/article/has-president-used-defence-force-legally_3001> on September 2015; Minnié, L. (2015) “The SANDF and Operation Fiela.” *CASAC*. 03 July, Accessed online at: < <http://www.casac.org.za/wp-content/uploads/2015/02/The-SANDF-and-Operation-Fiela.pdf>> on September 2015; de Vos, P. (2015) “SANDF internal deployment: Undesirable, possibly illegal.” *Daily Maverick*. 08 July, Accessed online at: < <http://www.dailymaverick.co.za/opinionista/2015-07-09-sandf-internal-deployment-undesirable-possibly-illegal/>> on September 2015;

⁴⁷⁶ With reference to: National Gazette No. 38725, Vol. 598 (21 April) through National Gazette No. 38733, Vol. 598 (25 April).

Section 19 (2) of the Defence Act, read with the President’s established timeline for SANDF’s employment between 21 April through 30 June 2015.⁴⁷⁷

Another specific issue pertains to Parliamentary oversight of Operation Fiela-Reclaim. Although the letter sent by the President on 23 April 2015 was tabled to both houses of the Legislature on 30 April 2015 and referred to the Joint Standing Committee on Defence on 05 May 2015, the Committee only reviewed and adopted this letter on 18 June 2015, 49 days later.⁴⁷⁸ The Joint Standing Committee on Defence had convened meetings on 30 April, 14 May, 28 May, 04 June and 18 June. When asked about the delays in the tabling of the letter, the Chairperson of the Committee, MP E Mlambo, is quoted in the meeting’s minutes as stating that “... *due to the time of bureaucratic processes, a delay was to be expected, and it would be very difficult to find out exactly why this letter had been late, [as affirmed by the Secretary].*”⁴⁷⁹ The fact that the standing Committee’s adoption of the letter occurred only seven days before the expected expiration of Operation Fiela-Reclaim represents a challenge for parliamentary oversight.

Available statistics on Operation Fiela in KZN shed more light on the manner in which it has been conducted, as well as the outcomes of its interventions. Between April and July 2015, there were 94 interventions conducted in KZN, under the umbrella of Operation Fiela-Reclaim (third most of the nine provinces). During this period, there were 1,441 arrests in KZN, 10,611 searches of persons, 1,076 searches of premises, and 3,522 searches of vehicles. Between April and June 2015, in KZN there were 916 arrests: of which 362 were categorised as ‘arrests of illegal foreign nationals only’, constituting 39.5% of the arrests made during this period.⁴⁸⁰ In our consultation with the SANDF, officials disclosed that the SANDF had participated in 15 of the 94 Operation Fiela-Reclaim interventions to date, with its last involvement on 13 June 2015.⁴⁸¹

⁴⁷⁷ With reference to: National Gazette No. 38915, Vol. 600 (30 June) through National Gazette No. 38951, Vol. 601 (02 July)

⁴⁷⁸ Parliament (2015) “Announcements, Tabling and Committee Reports – 05 May 2015.” *Parliament of the Republic of South Africa*. P.937, Accessed online at: <

http://www.parliament.gov.za/live/commonrepository/Processed/20150507/604706_1.pdf> on September 2015.

⁴⁷⁹ PMG (2015) “Committee business: Consideration and adoption of outstanding minutes; Consideration of a Letter from the President.” *Parliamentary Joint Standing Committee on Defence, Transcript of Meeting*. 18 June, Accessed online at: <<https://pmg.org.za/committee-meeting/21109/>> on September 2015.

⁴⁸⁰ Adapted from: NATJOINTS (2015) *Multi-Disciplinary Integrated National Action Plan to Reassert the Authority of the State: Operation Fiela-Reclaim*. Presentation to the Parliamentary Portfolio Committee on Police. Parliamentary Monitoring Group, 19 August, Accessed online at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150819Presentation_Operation_Fiela_19_Aug_2015.pdf> on September 2015.

⁴⁸¹ SRG Consultation with SANDF – 26 August 2015.

With specific respect to Operation Fiela-Reclaim interventions conducted in the eThekweni Municipality between 21 April and 11 August 2015, there have been 32 interventions resulting in a total of 617 arrests; of these, 210 were arrested as ‘illegal foreign nationals’, thereby constituting the single largest percentage of offences for arrests during these operations.⁴⁸² The second most prominent reason for arrest during the eThekweni operations was for various drug-related reasons, with 91 arrests during this same period of 21 April – 11 August 2015.⁴⁸³ One concern noted with respect to the information below is that in all of the information currently surveyed by the SRG, the number of arrests reported directly matches the number of charges reported – this immediate correlation, read in conjunction with the number of arrests reported by the media during various Operation Fiela-Reclaim exercises, enables one to consider that individuals are detained as a result of these interventions but not charged.

Table 15: Operational Feedback from Operation Fiela-Reclaim: April- July 2015 ⁴⁸⁴										
PROVINCE	GP	WC	EC	KZN	FS	MP	NW	LI	NC	TOTAL
Number of Operations	91	168	31	94	57	44	78	163	55	781
DEPLOYMENT STATISTICS										
SAPS	14,131	7,918	4,707	5,581	4,368	3,135	4,995	5,748	2,070	52,653
Joint Department Role Players	6,740	4,705	1,979	1,871	2,304	4,654	1,955	1,426	1,111	26,745
Total Deployed	20,871	12,623	6,686	7,452	6,672	7,789	6,950	7,174	3,181	79,398
ARRESTS										
Arrests	4,722	1,782	553	1,441	702	1,523	1,251	1,736	615	14,325
SEARCHES										
Search of Persons	37,610	22,420	12,278	10,611	6,019	19,221	11,726	35,728	1,176	156,789
Search of Premises	5,936	3,527	3,246	1,076	1,873	4,509	2,977	3,187	159	26,490
Search of Vehicles	11,168	5,997	4,408	3,522	879	5,657	2,058	7,112	398	41,199

⁴⁸² PMG (2015) *Written Reply by the Minister of Police to Parliamentary Question NW2508*. National Assembly Committee on Police, Parliamentary Monitoring Group. 11 August, Accessed online at: <<https://pmg.org.za/committee-question/312/>> on September 2015.

⁴⁸³ PMG (2015) *Written Reply by the Minister of Police to Parliamentary Question NW2508*. National Assembly Committee on Police, Parliamentary Monitoring Group. 11 August, Accessed online at: <<https://pmg.org.za/committee-question/312/>> on September 2015.

⁴⁸⁴ Adapted from: NATJOINTS (2015) *Multi-Disciplinary Integrated National Action Plan to Reassert the Authority of the State: Operation Fiela-Reclaim*. Presentation to the Parliamentary Portfolio Committee on Police. Parliamentary Monitoring Group, 19 August, Accessed online at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150819Presentation_Operation_Fiela_19_Aug_2015.pdf> on September 2015.

PROVINCE	GP	WC	EC	KZN	FS	MP	NW	LI	NC	TOTAL
Arrests (All Crimes)	3,064	1,264	460	916	283	1,225	881	1,314	561	9,968
Arrests (Excluding Illegal Foreign nationals)	617	647	95	554	60	228	296	568	234	3,299
Arrests (Illegal Foreign Nationals Only)	2,447	617	365	362	223	997	585	746	327	6,669

Some civil society organisations and individuals have criticised Operation Fiela-Reclaim for what they interpret to be its increasing and disproportionate targeting of undocumented foreign nationals throughout the country. This line of criticism argues that Operation Fiela-Reclaim, whose mandate is to combat all forms of criminality throughout the country, has focused disproportionately on arresting undocumented foreign nationals in South Africa and thereby equating foreign nationals with criminals.⁴⁸⁶

7.3.5. Re-Integration of displaced persons into communities

The re-integration of the displaced persons back into local communities is one of the most important consequences of the violent attacks. These processes began in earnest on 23 April 2015 and is central to reducing tensions and preventing future recurrences. Municipal officials estimate that approximately 1,220 displaced foreign nationals returned to their communities throughout KZN. However these figures may underestimate the total number of affected persons who have reintegrated since April 2015, as many displaced persons left the Shelters without notifying officials.⁴⁸⁷ The re-integration process comprises of both the structured re-integration process, spearheaded by the inter-departmental Re-Integration Implementation Task Team, as well as the financial packages provided by UNHCR to support the displaced and affected foreign nationals. While the re-integration process has taken an ambitious and holistic approach to facilitating community-based dialogues, there have been a number of identified challenges that have led to a relatively slow process. Very few of the

⁴⁸⁵ Adapted from: NATJOINTS (2015) *Multi-Disciplinary Integrated National Action Plan to Reassert the Authority of the State: Operation Fiela-Reclaim*. Presentation to the Parliamentary Portfolio Committee on Police. Parliamentary Monitoring Group, 19 August, Accessed online at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150819Presentation_Operation_Fiela_19_Aug_2015.pdf> on September 2015.

⁴⁸⁶ Written Submission 19 – Received 30 June 2015; (2015) “People’s Coalition Against Xenophobia - Media Briefing.” *Polity*. 08 May, Accessed online at: <<http://www.polity.org.za/article/peoples-coalition-against-xenophobia-2015-05-08>> on September 2015; Evans, J. (2015) “Rights coalition slams Operation Fiela.” *News24*. 12 May, Accessed online at: <<http://www.news24.com/SouthAfrica/News/Rights-coalition-slams-Operation-Fiela-20150512>> on September 2015; Section27 (2015) “Press Statement on Operation Fiela.” *Section 27*. 12 May, Accessed online at: <<http://section27.org.za/2015/05/press-statement-on-operation-fiela/>> on September 2015; ANA (2015) “SA govt. xenophobia response a ‘festering contradiction’.” *The Citizen*. 12 May, Accessed online at: <<http://citizen.co.za/380894/sa-govt-xenophobia-response-a-festering-contradiction/>> on September 2015; Smithers, M. (2015) “Who’s the ‘dirt’ to be swept away?” *Independent Online*. 07 June, Accessed online at: <<http://beta.iol.co.za/sundayindependent/whos-the-dirt-to-be-swept-away-1868517>> on September 2015.

⁴⁸⁷ eThekweni Municipality Final Report on Shelters for Displaced Persons – 30 March - 06 July 2015.

government-led re-integration dialogues have involved both local communities and the displaced and affected foreign nationals.

Department of Community Safety and Liaison-led re-integration process

The reintegration activities are led by the Re-integration Implementation Task Team, comprising the DSD: National and the KZN Department of Community Safety and Liaison, and are supported by a number of other departments including the Department of Arts and Culture (DAC) and COGTA.⁴⁸⁸ The initial perspectives of Municipal officials was that re-integration would be an easy process; however, after surveying the foreign nationals in the shelters, the Task Team recognised that many did not want to go back to their communities, which sparked the repatriation of foreign nationals.⁴⁸⁹ Municipal officials conducted fact-finding dialogues in all of the affected areas in order to try and understand what underlying issues contributed to the dynamics and what steps would be needed to encourage an environment where the displaced persons could re-integrate in a peaceful and sustainable manner.⁴⁹⁰

The re-integration dialogues have sought to comprehensively address many of the underlying issues that contributed to the violence against and displacement of foreign nationals. *The strategic objective of the process, to re-integrate the displaced persons back into their communities, was set out to be achieved through a number of inter-related processes, including:*

- *“The profiling of displaced persons to determine their circumstances before and after displacement;*
- *Assessing the readiness of both displaced persons and affected communities for reintegration*
- *Preparation of displaced persons and communities for re-integration*
- *Monitoring the success of reintegration, and*
- *Ensuring the sustainability of reintegration through community dialogues.”⁴⁹¹*

⁴⁸⁸ The Re-Integration Task Team includes representatives from: Department of Community Safety and Liaison, COGTA, eThekweni Municipality (Safer Cities, Community Participation, Speakers’ Offices, International Governance and Relations), Department of Health, Department of Social Development (National and Provincial), Department of Home Affairs, Department of Education, Department of Human Settlements, and Department of Arts and Culture. Source: KZN Presentation “Reintegration of Displaced Foreign Nationals – Progress Report” - 05 May 2015.

⁴⁸⁹ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

⁴⁹⁰ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

⁴⁹¹ Presentation “Reintegration of Displaced Foreign Nationals – Progress Report” 05 May 2015; DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG 07 September 2015.

The Re-integration Implementation Task Team has implemented a multi-pronged methodology in order to conduct the re-integration dialogues. The dialogue process has incorporated the *Community Capacity Enhancement (CCE) Model*⁴⁹² and the *Project Mikondzo*⁴⁹³ framework. The following are featured in the below text boxes:

Figure 3: Community Capacity Enhancement (CCE) Model

The CCE model is a dialogue based, participatory approach for that incorporates listening, enquiry, and reflection. Through the use of open community discussions, the approach strives to help participants to understand critical issues, generate new thinking and solutions, and encourage confidence in participant's own knowledge and engender community ownership. The facilitation of these community dialogues involve six steps: relationship building, identification of concerns, exploration of concerns, decision-making and planning, action, and reflection and review. The internationally-recognised CCE model was developed by UNDP.

Figure 4: Project Mikondzo Model

Project Mikondzo is a DSD flagship programme aimed at improving and extending the reach of DSD-sponsored service delivery programmes, specifically in some of the country's poorest communities. Guided inputs by local community structures, social workers, and community based organisations, the initiative seeks to provide targeted responses to specific issues on the ground. Identification of key service delivery issues depends upon fact-finding missions, focus group discussions and interviews with key informants. Project Mizkondo interventions enable DSD officials to intervene directly and engage other government structures towards resolving specific issues.

These two models were chosen for specific reasons: first, the CCE Model had been used previously by DSD: National as its base methodology for conducting community dialogues on a number of social issues (i.e. HIV/AIDS and teenage pregnancy). The methodology had proven effective for engendering community participation in establishing clear expectations, timelines and deliverables for new and improved service-delivery projects.⁴⁹⁴ The Project Mikondzo methodology was later incorporated into the re-integration approach through the directive of Social Development Minister Dlamini, who recognised that the violence against foreign nationals had taken place within some of the communities most challenged by service-delivery issues and there needed to be a more rigorous assessment of what communities needed.⁴⁹⁵

In practice, the re-integration dialogue methodology comprises a number of stages for the conduct of the re-integration dialogues:

⁴⁹² Description of CCE Model adapted from Progress Report: Reintegration of Displaced Foreign Nationals 2015 – 05 May 2015.

⁴⁹³ SRG Consultation with DSD: National – 13 July 2015; Dlamini, B.O. (2013) "Statement by the Minister for Social Development, Ms Bathabile Dlamini, at the Project Mikondzo Media Briefing." *Department of Social Development, Media Statement*. 01 September, Accessed online at: <

http://www.dsd.gov.za/index.php?option=com_content&task=view&id=527&Itemid=106> on September 2015.

⁴⁹⁴ SRG Consultation with DSD: National – 13 July 2015.

⁴⁹⁵ SRG Consultation with DSD: National – 13 July 2015.

1. *“Profile the displaced persons (in Shelters) and the affected communities in terms of perceptions, expectations, and desires;*
2. *Conduct separate introductory sessions with leaderships of displaced persons and local communities in order to educate about the process for re-integration dialogues and to solicit buy-in into the process (including through ward War Rooms, Operation Sukuma Sakhe (OSS) teams, Ward Committees, Ward Councillors and Community Mobilisers;*
3. *Conduct separate focus group sessions with displaced persons and affected communities in order to understand the key issues affecting the respective communities for unpacking what they identify as the root causes and impacts of key issues, and to propose recommendations and solutions;*
4. *Convene a focus group session with all participants (affected communities and displaced persons) to address and promote constructive dialogue, engage previous findings, and to develop community-driven solutions and programmes;*
5. *On-going evaluation and monitoring of progress, continued dialogues with affected communities.”⁴⁹⁶*

The initial mandate of the Re-Integration Implementation Task Team was to target 32 identified wards within eThekweni Municipality (i.e. what it had identified as hotspots) over the course of six months (May – October 2015).⁴⁹⁷ Initially, the Re-Integration Implementation Task Team administered 160 sample questionnaires to the displaced persons in the three shelters and conducted 86 interviews with displaced foreign nationals in order to assess their perceptions and considerations with respect to re-integration.⁴⁹⁸ After a series of preliminary consultations with the affected communities, the Re-Integration Implementation Task Team recognised that many of the issues raised involved basic issues of service delivery and therefore took the decision to expand the scope of its activities for at least 12 months in order to cover all 103 wards in eThekweni.⁴⁹⁹

⁴⁹⁶ DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG 07 September 2015.

⁴⁹⁷ The identified hotspots include: The identified hotspots include: Ward 01 (Kwaximba); Ward 03 (Emaqadini); Ward 04 (Intshanga); Ward 06 (Hammersdale); Ward 07 (Ntshongweni); Ward 09 (Molweni); Ward 13 (Marainhill); Ward 15 (Mpola); Ward 17 (Klaarwater); Ward 18 (Pinetown); Ward 24 (Chesterville); Ward 25 (Kennedy Road); Ward 26 (Durban CBD including Point); Ward 27 (Morningside); Ward 28 (Berea); Ward 31 (Overport); Ward 32 (Durban CBD: Albert Park); Ward 33 (Durban CBD: Umbilo); Ward 34 (Greenwood Park); Ward 48 (Phoenix); Ward 49 (Phoenix); Ward 64 (Montclare); Ward 67 (Adams, South Region); Ward 71 (Shallcross); Ward 71 (Chatsworth); Ward 78 (uMlazi); Ward 85 (uMlazi); Ward 88 (uMlazi); Ward 89 (Isipingo); Ward 90 (Isipingo); Ward 94 (Makutha, South Region) and Ward 97 (Amazimtoti). Source: DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG 07 September 2015.

⁴⁹⁸ Progress Report: Reintegration of Displaced Foreign Nationals 2015 – 05 May 2015.

⁴⁹⁹ SRG Consultation with DSD: National – 13 July 2015.

As of 8 September 2015, the Re-Integration Task Team has conducted 16 community-based dialogues in 16 different wards, and conducted 16 presentations on Operation Mikondzo in 12 different wards. Concerning this list, the first instance a Ward is listed considers that the dialogue served only as an introductory session involving local leadership structures, where those specifically denoted included full community based dialogues (but excluding the displaced foreign national communities). The Department of Community Safety and Liaison also indicated that it successfully convened collective dialogues with both local communities and affected foreign nationals in the areas of Malukazi and Isipingo.⁵⁰⁰ The dialogues have also been conducted with the support of organisations such as IOM and the KZN Christian Council. In preparation for the dialogues, the DSD also trained 45 participants in the CCE methodology from various government departments (e.g. COGTA, Safer Cities, Department of Community Safety and Liaison, DSD: Provincial and Community Participation): 22 of these participants were foreign nationals from eThekweni, Howick, and Pietermaritzburg.⁵⁰¹ The expected timeline is to conduct the initial dialogues involving the local communities (and not those foreign national community members) at all 32 hotspot wards before the end of 2015.⁵⁰² It appears then that joint dialogues⁵⁰² will only begin in 2016 some eight months after the violent episodes earlier this year.

Table 17: Progress of DSD-Led Initiatives in eThekweni Municipality (September 2015) ⁵⁰³						
Community Dialogues ^x				Project Mikondzo Presentations		
Date	Ward	Target	Actual	Date	Ward	Area
13 – 15 May	Ward 71	100	85	19 May	Ward 13	Marianhill
13 – 15 May	Ward 12	100	89	21 May	Ward 15	Mpola
13 – 15 May	Ward 13	100	123	21 May	Ward 15	Tshelimnyama
23 May	Ward 38	100	100	22 May	Ward 17	Klaarwater
21 -23 May	Ward 89	100	112	26 May	Ward 17	Klaarwater
26 to 27 May	Ward 17	100	102	28 May	Ward 78	Umlazi
02 to 03 June	Ward 78	100	52	03 June	Ward 12	Kwandengezi
02 to 03 June	Ward 61	100	56	10 June	Ward 07	Ntshongweni
14 to 15 July	Ward 72	100	53	15 June	Ward 07	Ntshongweni Area
14 to 15 July	Ward 09	100	89	17 June	Ward 09	Molweni
16 to 17 July	Ward 04	100	76	25 June	Ward 71	Shallcross
16 to 17 July	Ward 24	100	90	29 June	Ward 72	Welbdartch
25 to 26 July	Ward 26	100	78	01 July	Ward 13	Marianhill
20 to 21 August	Ward 94	100	45	01 July	Ward 4	Intshanga

⁵⁰⁰ SRG Consultation with Department of Community Safety and Liaison: KZN – 24 July 2015.

⁵⁰¹ Adapted from: DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG 07 September 2015.

⁵⁰² SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

⁵⁰³ Adapted from: DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG 07 September 2015.

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26 to 27 August	Ward 59	100		02 July	Ward 26	South Beach
08 to 09 September	Ward 60	100	Pending	03 July	Ward 24	Chesterville
10 to 11 September	Ward 33	100	Pending			
17 to 18 September	Ward 32	100	Pending			
06 to 07 September	Ward 18	100	Pending			
^x : Denotes that community dialogues have only involved local South Africans (except for Ward 89, where two Pakistani-nationals participated).						

The dialogues are beneficial and progressive steps because they promote collective dialogue in order to combat perceptions and misunderstanding, encourage the development of community driven interventions and solutions, and ensure that communities have clear expectations about the timelines and expected outcomes of potential projects. These dialogues could address some of the misconceptions locals and foreign nationals hold of one another, especially considering that locals perceive foreign nationals isolate themselves and do not participate in some of the community activities and customs.⁵⁰⁴ Further, the DSD’s decision to broaden the scope of the community dialogues to all wards (and not just those identified as hotspots) has enabled the re-integration team to identify communities that, although not affected by the violence, harbour grievances that could contribute to increased antagonisms in the near future.

The central challenge to the DSD-led re-integration dialogues is that they have not yet progressed to the stage where local and foreign nationals are convened in the same forum. In written communications with the SRG on 8 September, a DSD official confirmed that the completed dialogues (Table 17 above) only comprised South Africans, and that there would be a separate dialogue process focusing on foreign nationals. Only after the completion of these dialogues would the Re-integration Task Team convene dialogues including locals and foreign nationals; this was then reaffirmed by a representative of eThekweni Municipality involved in the dialogues process.⁵⁰⁵ The logic behind this approach is that whenever the communities of South Africans and foreign nationals are brought together, there will not be unaddressed or underlying issues that inhibit their successful integration. This process will only convene dialogues between locals and foreign nationals, at the earliest, in January 2016.

Other identified challenges include political interference and lack of cooperation by some local officials.⁵⁰⁶ Although government officials cautioned that these problems were not

⁵⁰⁴ SRG Consultation with Department of Community Safety and Liaison – 24 July 2015.

⁵⁰⁵ Department of Social Development email to the Special Reference Group, 08 September 2015; SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

⁵⁰⁶ SRG Consultation with DSD: National – 13 July 2015; SRG Consultation with Department of Community Safety and Liaison: KZN – 24 July 2015.

widespread and did not imply that officials openly rejected foreign nationals in their communities, the interference stemmed from competition between local leadership with respect to the upcoming 2016 Local Government Elections (where the re-integration dialogues became an election-campaign related issue). In addition, there were allegations that some individuals in local leadership were affiliated with the individuals or business entities that participated in intimidation, looting, or violence.⁵⁰⁷ Another central challenge is that many leaders were unaware of this process and that the Re-Integration Task Team had to conduct introductory sessions with local leadership, thus delaying the process. DSD: National also reported that they faced logistical and mobilisation based challenges in convening representative samples of the respective sectors and communities within a given ward for the dialogues.⁵⁰⁸ Finally the pace of the process has been delayed by a lack of available funding for the convening of these community dialogues, with the majority of the financial resources for these activities coming from DSD.⁵⁰⁹

Given the current developments posed by the foreign nationals currently taking refuge at Hope Farm, and the slow pace of the DSD-sponsored re-integration dialogues, we note the statement made by Minister in the Presidency Jeff Radebe that “[the community dialogues] have successfully contributed to the peaceful re-integration of all those families that were displaced in April.”⁵¹⁰ The SRG feels that the dialogues cannot be assessed thoroughly until officials have successfully convened dialogues that include foreign nationals and local communities simultaneously. While the SRG recognises the potential pitfalls in rapidly bringing various communities into a single forum without addressing underlying issues and laying the groundwork, it is urgent that the process becomes more comprehensive in order to accomplish more.

UNHCR Re-Integration Packages

As one of the leading international partners responding to the challenges emanating in April 2015, the UNHCR (in conjunction with its local partner RSS), developed a three-tiered system for re-integration packages to be given to the displaced persons and affected foreign nationals. The collective package has sought to provide for an estimated 3,000 persons and includes a rental subsidy and food vouchers for 2 months, once off provision of basic non-

⁵⁰⁷ SRG Consultation with DSD: National – 13 July 2015; SRG Consultation with Department of Community Safety and Liaison: KZN – 24 July 2015; SRG Consultation with KZN PROVJOINTS – 11 August 2015.

⁵⁰⁸ Adapted from: DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG 07 September 2015.

⁵⁰⁹ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

⁵¹⁰ GCIS (2015) “Media briefing on Operation Fiela by Inter-Ministerial Committee on Migration.” *Department of Government Communications and Information Services*. 07 September, Accessed online at: <<http://www.gcis.gov.za/newsroom/media-releases/media-briefing-operation-fiela-inter-ministerial-committee-migration>> on September 2015.

food items, and up to three months of psychosocial support.⁵¹¹ The packages were tiered as R3 300 payment for individuals and up to R7,000 per family; the total financial contributions from UNHCR are estimated at \$605,000. The statistics given below and provided by the UNHCR, reflect the actual progress achieved through 01 September 2015 with respect to the re-integration packages:⁵¹²

- *“1,928 individual cases assessed (including livelihood restart assistance assessments)*
- *183 individuals and 292 families (575 total households) provided with package of 2 months’ rental and 2 months’ assistance (475 households); out of the 475 households, 1000 provided with cash packages*
- *177 households affected by violence, but remaining in community, benefitted from food and rental assistance*
- *56 households, affected but not necessarily displaced, received only food assistance*
- *21 individuals and 6 families (i.e. 27 households in Grey Town) benefitted from R9,900 total worth of shopping vouchers*
- *Out of 327 refugees and asylum seekers who reported that their livelihood activities were negatively affected by the attacks, 130 families and 74 individuals (204 households) assisted with restarting their lives activities*
- *21 applications rejected or suspended – mostly due to fraudulent claims*
- *97 applications still awaiting final decision*
- *1,349 persons benefitted from psycho-social support via lay counsellors*
- *Hope Farm: 14 August UNHCR Assessment Mission concluded that 138 persons’ present were offered reintegration package but had not accepted; the package however remains available to them”*

A number of important considerations emerge from the consultations with respect to these packages. One perspective is that many of the affected persons consider that the package is too small to make a meaningful contribution to an individual or family’s reintegration.⁵¹³ Another has been that many locals have expressed their concerns that foreign nationals receive these packages but that similar financial support is not provided to local South Africans.⁵¹⁴ A final consideration is that some of the displaced persons have perceived the

⁵¹¹ UN High Commission for Refugees: Southern Africa Office Written Submission to SRG – 02 September 2015.

⁵¹² UN High Commission for Refugees: Southern Africa Office Written Submission to SRG – 02 September 2015.

⁵¹³ SRG Attendance at KZN Anti-Xenophobia Forum - 29 June 2015.

⁵¹⁴ SRG Consultation with eThekweni Municipality Disaster Management Cluster – 10 September 2015.

UNHCR reintegration as being forced upon them despite their resistance to re-integrating back into their respective communities.⁵¹⁵

7.4 Societal Consequences of Violence

Societal consequences are those that impacted relations between the actors involved in the events of March to May 2015. These can be grouped under the following headings:

- i. the Peace March of 8 April
- ii. breakdown in trust
- iii. fear of intimidation
- iv. perceptions and stereotypes
- v. reintegration challenges
- vi. the responses from NGOs, and
- vii. trauma

7.4.1. The Peace March of 8 April

Individuals in the SRG's consultations referenced the negative consequences of the postponed 08 April Peace March. This march, organised by the Congolese Solidarity Campaign along with the Somali Association of South Africa and other foreign national organisations. The organisers' permits were revoked at the last minute following security concerns. However, those who expressed their desires to march in spite of the revoked permit were confronted by tear gas, water cannons and rubber bullets. In a statement released on Tuesday 14 April, Abahlali baseMjondolo expressed concern over the repression with which the march had been greeted.⁵¹⁶ Many perceived that the response to the March raised questions over the extent to which the authorities were willing to take a stand against the violent attacks that were taking place, consequently raising questions about the relationship between the state and foreign national organisations in the context of local political tensions and competition. However, another perspective is that the authorities, including SAPS, took the decision to ban the 08 Peace March because they feared that its occurrence would in fact lead to more violence. The province then arranged its own march for Thursday 16 April, which was attended by thousands of people.

⁵¹⁵ SRG Consultation with Ms Sheena Jonker and Access to Justice – 08 September 2015.

⁵¹⁶ Abahlali baseMjondolo (2015) "Abahlali baseMjondolo Statement on the Ongoing Xenophobic Attacks." 14 April, Accessed online at: <<http://abahlali.org/node/14685/>> on September 2015.

7.4.2. Breakdown in Trust

Another key consequence of the attacks was the laying bare of the severe breakdown in trust between foreign nationals who were victims of the attacks and had been displaced, and local government structures. This breakdown came to a head in the disputes over the movement of foreign nationals from the Isipingo Shelter to the Chatsworth Shelter (as discussed in Section 7.3.1 of this report. Due to poor communication and the failure to consult with foreign national representatives these moves were taken place in an acrimonious atmosphere fraught with tension, and further contributed to perceptions that the South African government was not capable of protecting foreign nationals. This continued to be a concern following the closure of the Chatsworth Shelter in July 2015 and the subsequent re-location of displaced persons to Hope Farm – many of the individuals currently at the farm, according to a group working daily with them, still express mistrust of government structures.⁵¹⁷

7.4.3. Fear of intimidation

While a number of foreign nationals interviewed in the aftermath of the attacks stated that intimidation was not something new that only emerged after the attacks, they expressed their fears about returning to the areas from which they had fled. One young Burundian woman, of school-going age, would return home without her parents (who remained at the transit shelter) during the week in order to attend school, but returned to the transit shelter on weekends for fear of remaining in their city block of flats over the weekend.⁵¹⁸ Another transit shelter dweller, when asked if there were any warning signs of the March-May attacks, indicated that there weren't obvious signs, but that "In Umlazi, even to walk there, my heart tells me I'm in a wrong place". During the period of the attacks, the interviewee also affirmed that when it got dark, he would be too afraid to catch a taxi after 5pm.⁵¹⁹

7.4.4. Perceptions and stereotypes

A number of perceptions and stereotypes were also re-enforced following the outbreak of violence. For example, MSF reported how foreign nationals in the Temporary Shelters were too afraid to speak on their cell phones in taxis out of fears of being identified as foreign nationals. There were also anecdotes from the transit shelters of people paying with only the exact amount at local markets and shops in order to avoid having to ask for change, and hence their accents being heard. Perceptions held by foreign nationals of locals also appeared to become more entrenched following the violent attacks. Some foreign nationals

⁵¹⁷ SRG Consultation with Ms Sheena Jonker and Access to Justice – 08 September 2015.

⁵¹⁸ SRG Interviews conducted at Chatsworth Shelter – 30 April 2015.

⁵¹⁹ SRG Interviews conducted at Chatsworth Shelter – 30 April 2015.

perceive South Africans to be primitive, violent, barbaric and sexually deprived, and ignorant of the history of Africa and even of South Africa (as referenced in Section 6.4.2 of this report).⁵²⁰ Management of perceptions by local, provincial and national governments was conducted in a haphazard and reactive manner. The messages from national government, for example, were carefully worded in a manner that may not necessarily have assuaged the fears of those who were under attack. According to Professor Loren Landau at WITS, for example, government's messages seemed to be aimed more at containing the crisis and bringing the issue to a rapid close than genuinely dealing with the problems underlying the crisis.⁵²¹

7.4.5. Re-integration challenges

In the aftermath of the attacks, the reintegration process has brought both opportunities and challenges. While these challenges have a significant impact on societal relations, they have been covered in detail in Section 7.3.5 above.

7.4.6. Responses from NGOs

A number of NGOs and community-based organisations were involved in responding to the immediate aftermath of the attacks as well as in the longer-term reintegration efforts. Some of these included but are not limited to MSF, Al-Imdaad Foundation, Gift of the Givers, Red Cross, Refugee Pastoral Care, the KZN Christian Council (KZNCC), Diakonia Council of Churches, Durban Dialogue and the various local communities around the transit shelters. There were also reports that local employers were willing to assist their employees in returning to work and protecting them as far as possible.⁵²² The following section will briefly highlight some of the different kinds of responses and interventions undertaken by NGOs throughout the province. While this list is not an exhaustive one of efforts provided by individuals and organisations throughout the province, it does highlight the diversity of responses undertaken:

MSF, for example reoriented its work in providing medical humanitarian intervention in the immediate aftermath of the attacks to meeting the psychological needs of traumatised foreign nationals, especially at the Chatsworth Shelter.⁵²³

⁵²⁰ SRG Consultation with Foreign National Representatives – 14 May 2015; SRG Consultation with Project Empower – 02 July 2015; Written Submission 65 – Received 30 July 2015.

⁵²¹ Stone, S. (2015) "News Analysis: Government response to xenophobia too little, too late." *Business Day*, 24 April, Accessed online at: <<http://www.bdlive.co.za/national/2015/04/24/news-analysis-government-response-to-xenophobia-too-little-too-late/>> on September 2015.

⁵²² SRG Consultation with Médecins Sans Frontières – 30 April 2015.

⁵²³ Médecins Sans Frontières (2015) "Southern Africa: MSF adapts medical response to needs of people displaced by xenophobic violence, providing psychological care for those traumatized." *Médecins Sans Frontières*, 21 May.

- The Minara Chamber of Commerce worked closely within established processes and structures to coordinate contributions and donations from individuals throughout the province. According to the organisation, “People were very magnanimous... and immediately willing to contribute with all resources, and this is where the Minara Chamber stepped in, to try and coordinate with all individuals.”⁵²⁴
- Durban Dialogue was the outcome of a gathering of more than 20 churches and Christian NGOs in acknowledgement of the weaknesses in church responses to the challenges that emerged from the 2008 xenophobic violence.⁵²⁵ Durban Dialogue worked in partnership with the Red Cross, Refugee Social Services and UNHCR to share resources and devise a coordinated relief response. This group, too, was initially involved in immediate relief response, and shifted later to providing psycho-social and reintegration support to displaced families. The group was also able to report how local churches rallied to support those foreign nationals who were exploited or victimised during the violence. Utilising its own resources, the grouping also drafted its own report on relations between locals and foreign nationals within its member churches, and tendered it as a written submission to the SRG.
- Civil society organisations were not only visible in the transit shelters, but made efforts to visit so-called ‘hidden communities’ of mainly Somali and Ethiopian foreign nationals who remained in the city centre and did not move to transit shelters at the height of the violence. For example, MSF was requested by a meeting of NGOs to visit hidden communities and KZN Christian Council offered a vehicle for the visiting such communities.⁵²⁶
- The KZNCC, Diakonia Council of Churches and Refugee Pastoral Care were also important stakeholders in providing humanitarian support, convening forums of concerned stakeholders on a regular basis, coordinating multiple responses and providing safe refuge for some foreign nationals at the height of the challenges.

Accessed online at: <<http://www.msf.org/article/southern-africa-msf-adapts-medical-response-needs-people-displaced-xenophobic-violence>> on September 2015.

⁵²⁴ SRG Consultation with Minara Chamber of Commerce – 30 July 2015.

⁵²⁵ Durban Dialogue, 2015. “Report on Xenophobia in South Africa by Durban Dialogue”, 30 July 2015. Received by the Special Reference Group as a written submission in response to the public call for submissions. The Durban Dialogue Report is one of the written submission referenced through the anonymized coding process throughout this report.

⁵²⁶ Minutes from the Civil Society Coalition on Xenophobia – 05 May 2015.

There were also, however, some responses from communities that appeared to threaten reintegration efforts. According to MSF, for example, local communities protested around the Isipingo shelter in the last week of April, resulting in those within the shelters living in fear of violent attacks from locals. Locals voiced their dissatisfaction that provisions for the shelters were made with urgency, while certain amenities, such as water and lights, were not yet available to local communities.⁵²⁷ Questions were raised as to who was paying for the establishment of the shelters and why South African taxpayers' money should be directed to this purpose. A further anecdote asserts that some locals took for themselves resources intended for foreign nationals at the Isipingo Shelter.⁵²⁸ MSF noted that, compared to 2008, in the aftermath of the 2015 violent attacks there was a lesser degree of (CSO) involvement in promoting reconciliation and dialogue between community leaders. This resulted in a concern that top-down approaches would not assist in resolving long-term challenges.

Based on the consultations cited above, it appears that there were both challenges and opportunities presented by the responses of communities to the violent attacks against foreign nationals. While a variety of NGOs, CSOs and faith-based groupings rallied to support the victims of violence and harassment, they were assisted in their efforts by the pledges and donations of individuals and communities. In other cases, however, communities responded with hostility both to the suggestion that foreign nationals would return, and to the assistance provided to them.

7.4.7. Trauma

Trauma is “an emotional response to a terrible event like an accident, rape or natural disaster. Immediately after the event, shock and denial are typical. Longer term reactions include unpredictable emotions, flashbacks, strained relationships and even physical symptoms like headaches or nausea”.⁵²⁹ In its submission to the SRG, UNHCR noted that it has provided psycho-social support to 1,349 persons affected by the outbreak of violence.⁵³⁰ MSF reported findings of “significant levels” of post-traumatic stress among the majority of transit shelter residents at Chatsworth, using an internationally recognised screening tool, the Harvard Trauma Questionnaire. This questionnaire rates the frequency with which respondents experience nightmares, flashbacks, a sense of hopelessness and helplessness. According to MSF psychologist Gail Womersley,

⁵²⁷ SRG Consultation with Médecins Sans Frontières – 30 April 2015.

⁵²⁸ SRG Consultation with Project Empower – 02 July 2015.

⁵²⁹ American Psychological Association. 2015. “Trauma” accessed online at: <http://www.apa.org/topics/trauma/> on 19 September, 2015.

⁵³⁰ UN High Commission for Refugees: Southern Africa Office Written Submission to SRG – 02 September 2015.

*“The kind of trauma I saw in the Chatsworth Camp is similar to what I’ve seen in displacement camps in Central African Republic and South Sudan where people have been exposed to active conflicts. From our interviews with these camp residents it’s clear that some have suffered cumulative traumas. They have experienced violence in their countries of origin; again during the 2008 xenophobic violence, and yet again in 2015. However, they also tell us about the daily level of discrimination and alienation they experience – at hospitals, in minibus taxis and from police elsewhere”.*⁵³¹

In addition, many refugees had traumatic travel experiences as they made their way from their countries of origin to South Africa, using a variety of means of transport including often walking long distances.

Church leaders and clergy, for example, pointed to the need for ‘healing of memories’ sessions and stress and trauma counselling. In the consultation with university academics and students at the Durban University of Technology (DUT), mention was made of the trauma faced by first-year foreign national students, who seldom have the opportunity to express themselves. The power of language is very salient, with the words used to describe foreign nationals holding much influence in how foreign nationals are perceived in South African society. The trauma faced by foreign nationals after the March-May attacks furthermore left some people afraid of venturing out of their homes, or places of safety. In addition to the trauma suffered by victims and the displaced, a number of participants in the consultations pointed to the trauma even experienced by perpetrators of the attacks.

A view emerged that there is a lot of pain ‘in what can still be characterised as a ‘wounded society’.⁵³² The trauma described above has implications for the implementation of measures to address the events of March to May 2015.

⁵³¹ Médecins Sans Frontières (2015) “MSF’s response to xenophobic violence in South Africa.” *Médecins Sans Frontières*. 20 May, Accessed online at: <<https://www.msf.org.za/msf-response-xenophobic-violence-south-africa>> on September 2015.

⁵³² SRG Consultation with DA: KZN – 26 June 2015.

8. FINDINGS

The SRG recalls that its mandate has been to identify the causes of the violence and the consequences resulting from the outbreak, and to advise on potential solutions and programmes that will contribute towards alleviating the underlying dynamics and preventing the recurrence of such violence. Given the available information and the breadth of inputs received, the SRG presents the following considerations, findings, and recommendations.

In 2015, migration throughout the world presents huge challenges for communities and governments alike. Rapid population growth in the global South puts pressure on governments to support their populations. The globalisation of information and economies, a defining feature of the 21st century, enables people to be interconnected no matter where they are, facilitating migration flows. The number of violent conflicts within countries continue to displace millions each year. With over 230 million international migrants worldwide, the resulting pressures of migration and community integration manifest throughout the world, and will continue to do so for the near future. The African continent, Europe, the Mediterranean, the Balkans, the Middle East, the south Pacific, and the Americas are all confronted by the unprecedented pressures emanating from migration.

The violent attacks that took place in KZN between March - May 2015 exposed deep-seated antagonisms and misunderstanding within and between many of the province's communities. These attacks, which left seven dead, many injured, and thousands displaced over a period of weeks, are more concerning as South Africa experienced similar violence eight years ago.

It is recognised that other African countries supported South Africa's liberation struggle. Many South African leaders have highlighted this relationship as means of encouraging South Africans to reciprocate this kindness. African leaders condemned the March-May 2015 violent attacks, reminding South Africans that they were not subjected to violence when South Africans sought exile in Africa. South Africans, in turn, felt that the two situations were not comparable: South Africans in exile on the continent generally did not integrate into the local communities or start businesses.

South Africa enjoys a mutually beneficial trade relationship with the rest of the continent. Since the dismantling of apartheid, South Africa has developed a reputation as a beacon of stability and prosperity for many people across the rest of the continent. The South African government heavily relies on intra-African trade to support its trade balance and meet its

energy demands. This relationship highlights the inextricable links between South Africa and the rest of the continent.

Extensive research has highlighted how communities of foreign nationals can be positive economic and social contributors to the communities in which they settle. Some communities of foreign nationals that settle in South Africa have skills and trading abilities. The country has a progressive policy towards asylum seekers and refugees, and this is an indication of the country's commitment to the human rights of all people. South Africa's recently revised Immigration Act is designed to welcome those immigrants with scarce skills while excluding those at the lower end of the skills spectrum. There are significant shortcomings in these policies. There is no overarching, integrated policy for migration yet, and the current policies do not account for the status and protection of undocumented foreign nationals already inside the country. The act of being undocumented is not criminal and some do contribute to South Africa's economy and society. Those responsible for implementing the policies at South Africa's borders, at the DHA, and within criminal justice institutions have resource and capacity related challenges. The resulting gaps in implementation leave foreign nationals vulnerable and fuel fear and mistrust of foreign nationals amongst many South Africans.

A number of the underlying tensions between local communities and foreign nationals, tracing back to before the 2008 violent attacks, have not been resolved. The majority of foreign nationals live within local communities, but the absence of meaningful dialogue, prevalent stereotypes and misperceptions continue to characterise these dynamics and relationships. A number of foreign nationals emphasise that they face constant discrimination and prejudice in their daily lives. Local and foreign national communities complain of a lack of social interaction with one another. The underlying tensions have not been resolved and there is a strong possibility of a recurrence.

The violent attacks started in and around KZN's township communities, and the attacks disproportionately targeted African foreign nationals. A number of African foreign nationals have integrated into township communities, and a subset of them have found success in the informal sector. Their economic success has fuelled competition between themselves and many local South Africans, who continue to struggle for their day-to-day survival. A number of South Africans perceive African foreign nationals as direct competitors for limited social resources and economic opportunities. Many foreign nationals are still not accepted within KZN's communities.

Both the underlying and proximate causes of the March-May 2015 violence are complex and multi-faceted. The high levels of poverty and unemployment, intermittent service delivery, and inequitable access to basic resources, amongst others, are to some extent the unresolved challenges of apartheid's social engineering. Relative socio-economic deprivation, heightened competition for employment and social services, widespread perceptions of impunity for criminals and a systemic lack of dialogue have further impeded cohesive and constructive relationships. South Africans continue to struggle with unemployment and poverty, and are challenged by the influx of foreign nationals into their communities, which South Africans perceive to be at their expense. The dominant myths, stereotypes, and negative perceptions held by both local and foreign national communities about one another are damaging to the promotion of greater social cohesion. The limited integration evident today, where people have reached a state of co-existence but not acceptance, affects all people inside the province, a problem experienced not only by foreign nationals but also by people born outside of KZN.

South Africa's leadership has also faced much criticism as a result of this outbreak of violence. Beyond the widespread international condemnation for the attacks, many foreign nationals throughout the province seemingly harbour even greater distrust of those in authority. It is noted that the government's response to the crisis was more rapid, organised, and comprehensive than in 2008. However, the government has yet to finalise and implement its *National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance*. While some of the underlying dynamics that contributed to this crisis cannot be resolved overnight, there are a number of coherent and coordinated interventions that must be put in place to actively address these challenges in the immediate and long-term.

Projections of demographic and migration trends in Southern Africa point to situations where there will be marked increases of migration into South Africa in the near future and the long term. Although South Africa is currently experiencing an economic down-turn, the country is projected to remain relatively prosperous and stable for the near future, and therefore a preferred destination for many persons in search of safety, stability and opportunity. Restrictive migration policies will not deter the movement of persons across South Africa's borders. South Africa cannot comprehensively address the issues of migration and development in isolation from its neighbours, members of the Southern African region, and the African continent in its entirety.

The South African Constitution protects the rights and dignity of all persons who reside in the country. In order to realise these commitments, the country must come together and

work towards greater cohesion and collaboration. It is important for all South Africans to take responsibility for the development and growth of their country, and to be prepared to engage and cooperate with all persons regardless of their origins and background. It is important for foreign nationals inside the country to continue their efforts to integrate, respect and appreciate the cultures and customs of the communities in which they settle. It is also important for the South African government to ensure that all of its policies and civil servants respect the rights and dignity of all human beings. Nearly fifteen years ago, the eyes of the world were focused on KZN as Durban hosted the United Nations World Conference on human rights, tolerance and inclusion. In the future, it is hoped that KZN can become a model for integration and cohesion.

It is in this context that the SRG presents the below findings:

1. It is the conclusion of the SRG that the immediate cause of the 2015 outbreak of violence against foreign nationals in KZN was the result of deliberate efforts of select individuals, some of whom had interests in the informal trading sector, to drive away competition by foreign national-owned businesses.⁵³³ Although limited in scope, these deliberate efforts sparked the outbreak of widespread incidents of criminality, violence and looting of properties owned by foreign nationals.
2. Perceptions of what occurred at KwaJeena's Supermarket in Isipingo at the end of March 2015 served as the trigger for the violent attacks, looting and widespread criminality in specific affected areas of the province.⁵³⁴ Stakeholders across a wide range of sectors of society overwhelmingly identified this labour dispute as the catalyst for the violence. Government institutions responsible for investigating the reported dispute highlighted that, contrary to the common belief, KwaJeena neither hired foreign nationals nor employed them as temporary labour during the dispute. Perceptions that KwaJeena's Supermarket hired foreign national labour nonetheless dominated public consciousness and sparked criminality in Isipingo on 29 March.
3. The longer-term causes underpinning the outbreak of violence are multi-faceted and complex. The triple challenges of poverty, socio-economic inequality, and unemployment contributed to an environment of heightened tensions within and between many communities.⁵³⁵ In KZN communities, prejudice is more common than

⁵³³ See Sections 6.2.2, 6.2.3, 6.3.5, 6.3.8 and 6.4.2 of this report for more information.

⁵³⁴ See Section 6.2.2 of this report for more information.

⁵³⁵ See Section 6.2.1 and 6.2.2 of this report for more information.

acts of violence against foreign nationals.⁵³⁶ The resulting tensions can and have been exploited by individuals or groups with narrow self-interests, and this contributed to violence.

4. Many communities throughout the province were unaffected by the outbreak of violence. Some actively relied on comprehensive, long-standing and collaborative arrangements to rapidly share information, dispel unfounded rumours, and prevent violence. The arrangements developed in the community of KwaDukuza are noteworthy examples that can support long-term dialogue and cohesion.⁵³⁷ The KwaDukuza model is especially valuable as it involves locals and foreign nationals equally, and promotes on-going dialogue, information sharing and documentation, regulatory oversight, and cooperative management in the informal business sector. The KwaDukuza model also brings together representatives from the community as well as government, non-government, private sector and community based stakeholders.
5. The vast majority of the displaced foreign nationals fled their homes out of fear of being attacked as opposed to experiencing actual or impending attacks.⁵³⁸ The violence and criminality that defined these attacks were concentrated in relatively few areas throughout eThekweni Municipality and the province, while the individuals who sought refuge travelled from as far away as Estcourt and Eshowe.⁵³⁹ The reality that such pervasive fears could compel so many individuals to flee for safety points to a situation where foreign nationals did not feel safe in their homes or communities.
6. The majority of allegations against foreign national traders, in respect of business practices, have been found to be perceptions not based on facts.⁵⁴⁰ For example, far from receiving preferential treatment on religious grounds, the SRG found that a number of foreign national traders participate in a cooperative pricing scheme open to everyone. Another example is the allegation that foreign nationals do not register their businesses, whereas consultations with the relevant government institution highlighted that foreign national businesses are more likely to be compliant.⁵⁴¹

⁵³⁶ See Section 6.4.2 of this report for more information.

⁵³⁷ See Section 6.2.3 of this report for more information.

⁵³⁸ See Section 7.4.3 of this report for more information.

⁵³⁹ See Annexure 10.5 of this report for more information on the identified hotspots and the list of affected communities, as compiled by relevant government departments.

⁵⁴⁰ See Section 6.2.3 of this report for more information.

⁵⁴¹ See Section 6.3.5 of this report for more information.

7. Unfounded rumours, misinformation, fake videos and images, and exaggerated headlines spread through social media and some traditional media heightened anxieties throughout the province.⁵⁴² Inflammatory public statements by individuals in leadership positions may have contributed to the prevailing atmosphere of fear throughout communities in the province.⁵⁴³ It is also important to acknowledge that the media played an important positive role in facilitating communication and information sharing amongst different communities, providing public support for the people displaced in the shelters and ultimately reducing the tensions.
8. Foreign nationals are vulnerable members of KZN society, irrespective of their immigration status. These vulnerabilities manifest through structural, institutional, and societal dimensions, and include but are not limited to:
- Prejudices and negative stereotypes that result in discrimination and open hostility;⁵⁴⁴
 - Lack of protection from security and law enforcement agencies, and exploitation of foreign nationals' vulnerability by some members of law enforcement bodies;⁵⁴⁵
 - Discernable differences within South African communities because of the different appearances, cultures and languages of foreign nationals;
 - Lack of bankability and intermittent access to government services;
 - Lack of knowledge and awareness by locals of foreign nationals' histories, experiences, and cultures, and vice versa;
 - A widespread perception exists that most African foreign nationals in KZN are undocumented and irregular, despite the reality that some individuals are in possession of valid immigration documents and have lived in South Africa for many years. This perception is compounded by another that there are far larger numbers of undocumented foreign nationals in the province than available data would indicate.⁵⁴⁶
9. Since 1994, South Africa has instituted a progressive open-door policy of allowing foreign nationals into the country, especially asylum seekers and refugees.⁵⁴⁷ A number of foreign nationals have peacefully settled and integrated into various communities throughout the country, including into township communities. The recent developments, as well as widely documented hostility towards foreign nationals

⁵⁴² See Section 6.3.9 of this report for more information.

⁵⁴³ See Section 6.3.7 of this report for more information.

⁵⁴⁴ See Section 6.4.2 of this report for more information.

⁵⁴⁵ See Section 6.3.6 of this report for more information.

⁵⁴⁶ See Section 6.3.4 of this report for more information.

⁵⁴⁷ See Section 4.2.1 of this report for more information.

throughout the country, highlight the fact that there are still significant underlying tensions between communities of foreign nationals and local communities. While South Africa may not be unique in this regard, there is nonetheless a widespread feeling amongst foreign nationals that they have never been accepted fully within South African communities.⁵⁴⁸

10. Issues surrounding the management of KZN's borders, and perceptions that such borders are porous and unmanageable, remain amongst the most prominent concerns for many South Africans. The SRG's site visit to the border area between South Africa and Swaziland highlighted a number of important issues.⁵⁴⁹ While there are a few formal border crossings along the country's borders with Lesotho, Swaziland, and Mozambique respectively, the borders have a mixture of formal and informal crossing points. To a certain extent, some of these informal crossings are necessary: the lack of formal crossings within close proximity to these border communities causes individuals with legal South African documents to cross the borders daily in order to access schools, hospitals, markets, and social services. Although these daily movements are supervised and sanctioned by SANDF, many of these individuals who cross the border at informal crossings cannot do so in a dignified manner. The more urgent challenge faced by border patrol officials is that much of the border area is difficult to traverse, and therefore difficult to regulate. In many places the border between South Africa and its neighbouring countries is constituted only by a cattle fence that traverses the natural environment. While SANDF officials have established regular and semi-permanent outposts to monitor the border, they struggle to respond rapidly if they observe or are alerted to illegal crossings in spaces between their outposts.

11. At the time of this report, the government-led re-integration process remains a work in progress.⁵⁵⁰ Led by the Department of Social Development (DSD)'s National Office, and the KZN Department of Community Safety and Liaison, the re-integration dialogues are the start of a necessarily thorough and ambitious approach to reintegration. The dialogues have sought to identify the underlying grievances and challenges facing local communities within each of eThekweni Municipality's wards. There is a concern that very few, if any, of the dialogues have included foreign nationals up to this point. The process appears to have been driven largely by government without the meaningful participation of a wide range of community-based associations and organisations (save for the United Nations High Commission for Refugees (UNHCR)), that could make the process more

⁵⁴⁸ See Section 6.4.3 of this report for more information.

⁵⁴⁹ See Section 6.3.1 of this report for more information.

⁵⁵⁰ See Section 7.3.5 of this report for more information.

effective and help it reach more areas. Further, a number of submissions highlight the inhibiting role of individuals who are more preoccupied with their campaigns for the 2016 local government elections than the sustainable re-integration of foreign nationals into their communities.⁵⁵¹

12. Very little intelligence information appeared to be available before the outbreak of violence against foreign nationals and even those alerts which were communicated to leaders did not receive the attention they deserved.⁵⁵² Structures responsible for intelligence and information gathering did not provide important signals that could have led to the prevention of violence and the ensuing panic.

13. There is a lack of effective and impartial policing throughout the province, which disproportionately impacts foreign nationals.⁵⁵³ Many foreign nationals alleged that they have been discriminated against by law enforcement officials and have been solicited and induced to pay bribes. Numerous law enforcement officials do not have the necessary knowledge about the rights of foreign nationals and their immigration documents. Systemic challenges leave many gaps in law enforcement's capacities to prevent, respond to, and investigate crimes adequately. This leaves foreign nationals with the impression that they are not protected by police. Nonetheless, it is important to recognise the positive and constructive role that police officials undertook during the crisis, including their efforts to provide safe havens for displaced foreign nationals on police station premises prior to the establishment of the temporary shelters, and their later efforts to safeguard the shelters.⁵⁵⁴

14. There is a widespread perception that the justice system is slow and impeded by significant delays. The challenge of a slow moving justice system has had an impact on foreign nationals as they feel increasingly vulnerable to criminal acts.⁵⁵⁵ The 2007 Department of Justice and Constitutional Development (DOJ&CD)'s study highlighted many deficiencies in the criminal justice system: our inquiry has revealed that many of the challenges in this study have not been addressed sufficiently.

15. The South African Constitution clearly protects the rights and dignity of all people in the country, South Africans and foreign nationals alike. The 1998 Refugees Act is a progressive law intended to integrate asylum seekers and refugees into South African

⁵⁵¹ See Section 7.3.5 of this report for more information.

⁵⁵² See Section 6.3.8 and Annexure 10.7 of this report for more information.

⁵⁵³ See Section 6.3.6 of this report for more information.

⁵⁵⁴ See Section 7.3.3 of this report for more information

⁵⁵⁵ See Section 6.3.6 of this report for more information.

society.⁵⁵⁶ The recently-revised 2014 Immigration Policy is informed by South Africa's prevailing socio-economic conditions and the consequent need to ensure sustainable economic development and employment.⁵⁵⁷ South Africa's approach to migration and community integration is in line with the commitments set forth in various continental and global conventions, charters, treaties and common positions to which South Africa is signatory.⁵⁵⁸ However, there are still structural and institutional gaps that inhibit the full implementation of these commitments and policies:

- Migration patterns on the continent point to a situation where it will not be possible for the country, now or in the foreseeable future, to insulate itself from migration;
- Challenges managing South Africa's border areas and the processes for documenting, regulating, and supporting foreign nationals inside the country contribute to South Africans perceiving the presence of all foreign nationals as unlawful;⁵⁵⁹
- There are gaps in policy with respect to the status and rights of economic migrants (especially low-skilled) within the country. There is also a lack of an explicit policy for integration within the Refugees Act.

16. There were some instances where government incorporated lessons learned from the 2008 violent attacks, and others where progress has been insufficient.⁵⁶⁰

- The immediate responses from provincial and municipal disaster management structures were greatly improved compared with those from 2008, especially in terms of the speed in which the authorities established the temporary shelters;⁵⁶¹
- One difficulty experienced in 2008 that persists in 2015 is that local leaders continue to impede reintegration processes for immediate political and economic gains;⁵⁶²
- An unheeded recommendation from 2008 is that national government has not finalised and implemented the National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance, conceptualised following the 2001 Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Despite recommendations following 2008 to urgently finalise and implement this programme, the NAP

⁵⁵⁶ See Section 4.2.1 of this report for more information.

⁵⁵⁷ See Section 4.2.1 of this report for more information.

⁵⁵⁸ See Sections 4.2.3 and 4.2.4 of this report for more information.

⁵⁵⁹ See Sections 6.3.1, 6.3.2, and 6.4.1 of this report for more information.

⁵⁶⁰ See Section 4.4.2 of this report for more information.

⁵⁶¹ See Section 7.3.1 of this report for more information.

⁵⁶² See Section 7.3.5 of this report for more information.

- remains in draft form and will only undergo a public consultation process in 2015-2016;
- The closure of the Refugee Reception Offices (RROs), as part of the government's campaign to root out corruption, has produced unintended difficulties for refugees and asylum seekers to comply with the laws, who now have to travel long distances.⁵⁶³ It is problematic that these individuals can only access their case files at a specific RRO and not at their nearest facility. There are now additional resource burdens on the remaining under capacitated RROs.

⁵⁶³ See Section 6.3.3 of this report for more information.

9. RECOMMENDATIONS

- 1. Innovative solutions to reduce tensions in the small and informal trading sectors:** The Provincial Government, through the Department of Economic Development, Tourism and Environmental Affairs, should support and encourage the creation of a number of cooperative and mutually beneficial platforms that can reduce tensions between local and foreign national communities operating in the small and informal trading sectors. There is recognition that business competition in a macro-environment of slow economic growth and increasingly scarce socio-economic resources, contribute to heightened tensions. All solutions must consider medium-and long term demographic and economic trends, should be inclusive, cooperative and participatory, and should encourage beneficiaries to take responsibility for the growth of their businesses and communities. Some potential solutions, which can be developed jointly and cooperatively with the support of various private sector entities and civil society organisations (CSO)s, include:
 - Moderate government support to open up opportunities for all individuals in the informal business sector;
 - Integrated long-term planning and development initiatives within communities to ensure that all stakeholders can benefit from new developments, as in the eThekweni Integrated Transport System model;
 - The creation of cooperative and economic hubs or market places where local and foreign national traders can jointly trade and cooperate (e.g. the informal market along the South African – Mozambican border at Gate 6);
 - The development of appropriate business skills training programmes, undertaken by both government departments and private sector entities (business chambers, retailers and wholesalers) that focus on long-term business development, mentorship and apprenticeship programmes, essential financial and accounting skills. These programmes should be accompanied by rigorous and frequent evaluation, oversight, and monitoring mechanisms;
 - Formalised cooperative traders’ forums, as exemplified by the arrangements developed in the community of KwaDukuza.
- 2. Developing and Enhancing National Policies on Migration:** All persons inside the country must be respected as human beings and treated with the rights afforded to them by the Constitution. Existing policies on migration do not speak sufficiently to the realities and current projections of migration trends in the region, in three distinct ways: there is still no national migration policy; the Immigration Act, which intends to prevent individuals

from entering South Africa as undocumented individuals, does little to protect the many foreign nationals already in the country without the necessary documents; and the Refugees Act does not explicitly detail South Africa's approach to integration for asylum seekers and refugees. Given that it is unlikely that South Africa can completely stop the flow of people into the country, it is important that future policy promotes greater regularised and documented movement of all persons. This approach would protect the interests of South African citizens and support undocumented persons who have already integrated successfully into South Africa. The SRG recommends that the KZN Provincial Government advocates for the following national policy considerations:

- A nation-wide campaign to incentivise all undocumented foreign nationals already in the country to register and receive appropriate documentation, without criminalising their current presence in the country or mandating their repatriation. An example of this is the framework used in the Zimbabwe Special Dispensation Programme;
 - The consideration of a long-term pathway for undocumented migrants who have spent extended and uninterrupted time in South Africa to receive rights of residency. This pathway would ideally be comprised of checks and balances, such as the length of a person's stay, whether the affected person has family in the country, etc. to ensure that these individuals can be protected and not criminalised under the law, while contributing to the development and growth of the province and of South Africa;
 - A nation-wide consultative process, chaired under the IMC, that engages South African communities on current migration policy and its weaknesses, projections of current and future migration trends in Southern Africa; and processes that will promote greater documentation and regularisation of those undocumented foreign nationals already in the country;
 - An explicit provision within the amended Refugees Act that details South Africa's progressive approach to integrating asylum seekers and refugees into the country.
3. **Strengthening Re-Integration through a more collaborative approach:** The DSD: National and KZN Department of Community Safety and Liaison should explore and solicit support from stakeholders to strengthen the re-integration dialogues. A number of religious groups and civil society organisations have expressed willingness to support these dialogues and have undertaken their own processes to bring together communities of locals and foreign nationals. The relevant government departments should explore options for including additional partners in these dialogues and the KZN Provincial Government should appeal to the National Government for additional financial resources to strengthen these processes. The relevant government departments should also consider expanding the methodologies used for the re-integration dialogues to

include diverse tools such as story-telling, narrative dialogues, performance and art based activities and trauma healing exercises. These activities have been advocated by many different stakeholders and would aim to heal deep wounds and traumatic experiences and promote greater trust within and between different communities.

4. **Sensitising and Educating Civil Servants on the Rights and Documentation of Foreign Nationals:** The Provincial Government should develop and implement a mandatory province-wide education and sensitisation campaign for all civil servants on the categories of foreign nationals and their rights. This programme should prioritise all law enforcement agencies, as well as social security, and public health officials. The intention is to explain South Africa's legal commitments to all persons as well as the different classifications of foreign nationals' documentation. Visual material detailing different categories of documentation for foreign nationals and ways of distinguishing between valid and counterfeit documents (e.g. the posters developed for the new currency notes) should be developed and displayed prominently at all police stations, public hospitals, clinics, municipal and government departments in KZN.
5. **Documenting Lessons Learned from the Government Responses and Disaster Management Processes:** eThekweni Municipality and the KZN Provincial Government should ensure that all government responses to the March-May 2015 outbreak of violence are well documented, analysed, and incorporated as appropriate into future policy. This is in light of the SRG's assessment that there is a possibility for recurrence. We recommend that the authorities, in coordination with various stakeholders, develop and populate a publicly accessible database of all the responses undertaken with respect to this outbreak of violence. Local government officials should also undertake constructive dialogues and debriefing sessions with representatives of affected communities and established non-government organisations (NGOs) in contributing to disaster related responses. There is also a need for Disaster Management officials throughout government structures to receive comprehensive training in logistical management as well as conflict resolution practices, as offered by UNHCR. Disaster Management officials should develop a pool of community-based volunteers for deployment during periods of heightened tensions. These volunteers would be ideal for promoting greater coordination, developing and practicing disaster management scenarios, and exploring planning alternatives and best approaches to disaster response.
6. **Strengthening the capacities of and resources for institutions managing migrants, refugees and asylum seekers:** Government entities responsible for oversight of issues related to migration, including those stationed at South Africa's borders, DHA

inspectorate officials and RROs, should be strengthened. The SRG recommends that the relevant Provincial Departments advocate for increased human and financial resources to strengthen their capacities to implement government policy. With respect to a number of specific issues, the SRG recommends the following:

- Increase the number of DHA Inspectorate Officials permanently stationed in KZN in order to better investigate and regulate compliance with government policy;
- Enable refugees and asylum seekers to access their case files at any RRO throughout the country;
- Increase investment in human capacity in order for DHA RROs to fast track and conclude all outstanding applications for refugee status that have been unadjudicated for over six months. The multi-year backlog on appeals must be addressed similarly;
- That all DHA branches throughout the province have a dedicated point person/resource desk for all refugee and asylum seeker issues: this dedicated point person/resource desk would be able to inform refugees and asylum seekers of the regulations, processes, documentation, and resources necessary for them to ensure compliance with the law.

7. **Upgrading the physical infrastructure of KZN's border areas:** It is important that the KZN Provincial Government advocates for the speedy adoption of the Border Management Agency Bill in order to strengthen the country's capacity to monitor its borders. The SRG also recommends that the relevant departments and agencies consider the creation of additional formal border crossings adjacent to cross-border communities. These formal border crossings would constitute important steps to ensure the dignified and regular movement of persons while promoting greater capacity for the relevant authorities to accurately document and record this movement. Another important recommendation is for the relevant authorities to consider strengthening the existing single cattle fence (which constitutes much of the border) with two fences and a road running in-between. This is intended to help border officials reach all areas of the border in order to prevent irregular entry into the country.

8. **Provincial Audit on Intelligence Structures and Early Alert Systems:** The KZN Provincial Joint Operations Intelligence Structures (PROVJOINTS) should conduct an inter-departmental audit of all existing intelligence structures and early alert systems in order to promote greater collaboration and information sharing while reducing unnecessary duplication and the inefficient use of limited financial and human resources.

9. Pro-active information sharing on foreign nationals in the province and in South Africa:

There is a clear need for both the Provincial and National Governments to clarify and counteract inaccurate information and dangerous speculation about the number of foreign nationals in KZN and in South Africa. Much of the data that is available is spread across a number of different stakeholders and government departments. Through the IMC and under the DHA, government structures should create a free standing and easily accessible web platform that provides accurate information on the legislation governing migration into the country, clear guidelines on the rights of all persons in the country, regular and undocumented; the responsibilities that foreign nationals assume upon entering South Africa; clear charts highlighting the processes for individuals to ensure compliance with the law; as well as accurate data on the number of foreign nationals in the country. This information should be monitored and updated quarterly. This website should be readily available in a number of South African languages as well as French, Portuguese, Shona, Somali, Amharic, and Swahili amongst others.

10. Ensuring Leaders Make Responsible Public Statements: The SRG recommends that leaders exercise greater care with their public remarks. Leaders must consider the potential ramifications, both intended and unintended, of statements that are provocative, stereotypical and may be perceived as harmful by any group of persons or individuals. Responsible leaders can play positive and proactive roles in preventing and mitigating tensions within their communities.

11. Education based campaigns to promote more cohesive and sustainable community relations:

- **Education campaigns in schools on diversity and cohesion:** There is a need for educational campaigns that promote respect for diversity and tolerance, which target learners from very young ages. These programmes and campaigns should focus on the premise that cohesion, unity and common identities can be forged and celebrated through recognising and understanding differences in nationalities, religions, ethnicities, and languages.
- **Long-term strengthening of education programmes and skills development:** It is imperative that the Provincial Government strengthens its long-term investment in the province's education programmes for primary, secondary and tertiary learners. The province should also consider expanding its support for FETs, and developing courses that focus on basic financial literacy and business skills. Education must continue to receive great emphasis in order to ensure that South Africans are capacitated to meet the demands of the country's evolving economy and to promote

higher levels of sustainable and long-term employment, which has been identified as one of the underlying cause of tensions between different communities.

- **Discouraging hate speech, derogatory and discriminatory language:** As part of the Provincial Government's information campaigns, there is a need to speak out against hate-speech, derogatory and discriminatory language, in line with the Constitution.

12. Pro-active foreign policy to address migration-related issues: The Provincial Government should work with the national government for the full implementation of Member States' commitments to the United Nations (UN), African Union (AU) and Southern African Development Community (SADC) frameworks on migration, refugees and asylum seekers. South Africa should also seek greater implementation of regional and continental agreements on economic development and trade, in addressing push factors that contribute to migration into South Africa. Provincial and local government officials, in their international and domestic engagements, should promote deepened understanding between citizens of South Africa and those of other African countries.

13. Creating and strengthening local forums to promote cohesion within communities: Provincial and local authorities should consider supporting the creation of local committees working on peace, throughout KZN, as dialogue forums and dispute resolution mechanisms. These committees, which would convene local and foreign national representatives in the same forum, would ideally engage with community-based disputes and respond to emerging conflicts. These structures would positively contribute to mutual understanding and greater trust between different communities and would mitigate potential outbreaks of violence.

14. The SRG recommends that this entire report be made public and that its records be stored in either the national archives or an institution with similar competencies. The supporting documentation and data should be stored where it can be accessed publicly while respecting the confidentiality of the written submissions.

10. ANNEXURES

10.1. List of SRG External Meetings and Activities

#	Date	Consultation/Meeting	Venue
APRIL 2015			
1	09 April 2015	Meeting with the Premier ES Mchunu to receive mandate	Office of the Premier
2	14 April 2015	Briefing from Municipal and Provincial Officials	City Hall
3	16 April 2015	Meeting with Linda Zama and John Wills	Office of the Premier
4	21 April 2015	First SRG Meeting and appointment of Secretariat	ACCORD
5	23 April 2015	Site Visit to Phoenix Shelter and visit to Warehouse utilised by Somali + Ethiopian Traders	ACCORD and Phoenix
6	28 April 2015	Meeting with Sheena Jonker of Access to Justice	ACCORD
7	29 April 2015	Consultation with Inanda Ntuzuma and KwaMashu (INK) Business Association	KwaMashu
8	29 April 2015	Public Launch of SRG: Press Conference and Visit to Chatsworth Shelter	Chatsworth Youth Centre
9	30 April 2015	Consultation with Médecins Sans Frontières	ACCORD
10	30 April 2015	Consultation with Somali and Ethiopian Nationals	ACCORD
11	30 April 2015	Field Research at Chatsworth Shelter	Chatsworth
MAY 2015			
12	05 May 2015	Attendance at Meeting for Civil Society Coalition on Xenophobia	Diakonia Center – Durban CBD
13	07 May 2015	Field Research at Chatsworth Shelter	Chatsworth
14	11 May 2015	Attendance at Reintegration Meetings hosted by eThekwini Municipality	Isipingo
15	14 May 2015	Consultation with Representatives of Foreign Nationals Associations	Denis Hurley Centre
16	15 May 2015	Attendance at Business Skills Development Workshop	Clermont
17	21 May 2015	Attendance at Reintegration Meetings hosted by eThekwini Municipality	Malukazi
18	22 May 2015	Consultation with Lawyers for Human Rights representing Ethiopian, Congolese and Burundian Communities	ACCORD
19	25 May 2015	Interview with Ms Pat Horn, Streetnet International	Overport
20	26 May 2015	Meeting with Naleen Balgobind, Manager: Refugee Reception Centre Durban, Department of Home Affairs	ACCORD
21	27 May 2015	Focus Group with student leaders and academics from DUT	DUT

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22	28 May 2015	Attendance at Community Dialogue on Xenophobia, hosted by Ladysmith DAC	Dundee
23	28 May 2015	Consultations with Representatives of Chinese and Taiwanese Communities	Newcastle
JUNE 2015			
24	08 June 2015	Consultation with Department of Home Affairs - KZN Office	Umgeni Road Office
25	10 June 2015	Consultation with Abahlali BaseMjondolo	Salisbury Centre – Durban Central
26	11 June 2015	Consultation with Mayibuye Peoples Movement	Dennis Hurley Centre
27	12 June 2015	Consultation with the Community of KwaDambuza	KwaDambuza
28	17 June 2015	Consultation with the Community of KwaDukuza	KwaDukuza
29	17 June 2015	Initial Consultation with Trade Unions	Denis Hurley Centre
30	18 June 2015	Presentation Delivered at Youth Parliament	Greytown
31	23 June 2015	Consultation with Church Leaders and Clergy	Denis Hurley Centre
32	26 June 2015	Consultation with Democratic Alliance – KZN	DA Offices, Mt Edgecombe
33	29 June 2015	Attendance at KZNCC Anti-Xenophobia Forum	Building Industry House – Durban CBD
JULY 2015			
34	02 July 2015	Consultation with Project Empower	Diakonia Center – Durban CBD
35	06 July 2015	Consultation with Deputy Director of Public Prosecutions – Adv Sankar	PMB High Courts - PMB
36	07 July 2015	Briefing to Ad Hoc Joint Committee on Probing Violence Against Foreign Nationals	City Hall – Durban CBD
37	09 July 2015	Briefing to Premier SE Mchunu	Premier's Office - Durban CBD
38	09 July 2015	Consultation with Ithala Bank	Umlazi
39	13 July 2015	Consultation with Department of Social Development (National) on Reintegration	ACCORD
40	23 July 2015	Consultation with Economic Freedom Fighters - KZN	Denis Hurley Centre
41	23 July 2015	Consultation with Department of Labour - KZN Office	Royal Office Block, DBN
42	23 July 2015	Secretariat Attendance at eThekweni Disaster Management - Reintegration and Community Dialogues Meeting	Office for Disaster Management, DBN
43	25 July 2014	Consultation with Department of Community Safety and Liaison - KZN	Truro House, DBN

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44	30 July 2015	Consultation with Minara Chamber of Commerce	Minara Offices, Sherwood DBN
45	31 July 2015	Secretariat Attendance at the eThekweni Disaster Management Xenophobia Task Team Meeting	Warwick Junction, DBN
AUGUST 2015			
46	04 August 2015	Consultation with NAFCOC	ACCORD
47	06 August 2015	Field Visits to South Africa/Swaziland Border Areas	Onverwacht Border Post and Informal Border Area
48	06 August 2015	Community Dialogue in uPhongolo	uPhongolo Local Municipality
49	07 August 2015	Consultation with ANC - KZN	ANC Provincial Office, DBN
50	11 August 2015	Consultation with Pietermaritzburg Chamber of Commerce	ACCORD
51	11 August 2015	Consultation with SAPS - KZN	ACCORD
52	20 August 2015	Consultation with Leadership of UMgungundlovu District Municipality	Pietermaritzburg
SEPTEMBER 2015			
53	08 September 2015	Consultation with Access to Justice NGO and Ms Sheena Jonker	ACCORD
54	09 September 2015	Member visit to Tradeport	Phoenix, Durban
55	10 September 2015	Consultation with Dr Musa Gumede, eThekweni Disaster Management Team	ACCORD
56	21 September 2015	Consultation with Tradeport	Tradeport
57	30 September 2015	Attendance at KZN Inter-Religious Council AGM	Durban
OCTOBER 2015			
58	01 October 2015	Preliminary Consultation with SARS - Criminal Investigations Unit	ACCORD

10.2. List of SRG Internal and Project Meetings

#	Date	Project Meeting	Venue
1	17 April 2015	First SRG Meeting and appointment of Secretariat	ACCORD
2	21 April 2015	Internal SRG Meeting	ACCORD
3	30 April 2015	Internal SRG Meeting	ACCORD
4	11 May 2015	Internal SRG Meeting	ACCORD
5	14 May 2015	Internal SRG Meeting	ACCORD
6	22 May 2015	Internal SRG Meeting	ACCORD
7	26 May 2015	Internal SRG Meeting	ACCORD
8	03 June 2015	Internal SRG Meeting	ACCORD
9	25 June 2015	Internal SRG Meeting	ACCORD
10	08 July 2015	Internal SRG Meeting	ACCORD
11	24 July 2015	Internal SRG Meeting	Emmanuel Cathedral, DBN
12	24 August 2015	Internal SRG Meeting	ACCORD
13	10 September 2015	Internal SRG Meeting	ACCORD
14	15 September 2015	Retreat on Draft SRG Report	ACCORD
15	23 September 2015	Retreat on Draft SRG Report	ACCORD
16	12 October 2015	Retreat on Draft SRG Report	ACCORD
17	14 October 2015	Retreat on Draft SRG Report	ACCORD
18	16 October 2015	Retreat on Draft SRG Report	ACCORD
19	26 October 2015	Retreat on Draft SRG Report	ACCORD
20	27 October 2015	Retreat on Draft SRG Report	ACCORD
21	28 October	Retreat on Draft SRG Report	ACCORD

10.3. SRG Call for Submissions and list of Mediums for Dissemination

Call For Submissions on Community Peace in KwaZulu-Natal

The KwaZulu-Natal Provincial Government has appointed an independent Special Reference Group on Migration and Community Integration in KwaZulu-Natal (KZN), chaired by Judge Navi Pillay, former United Nations High Commissioner for Human Rights. It will investigate the causes of the recent attacks on foreign nationals, and advise the Premier.

The Special Reference Group would like to hear from you!

Individuals and organisations can write to the Special Reference Group and tell us what has built peace and what has challenged peace between foreign nationals and locals in communities in KZN. You can also tell us how positive relations between foreign nationals and locals could be strengthened in KZN. Submissions should be made as soon as possible, but no later than Friday, 31 July, 2015.

By Email: rtsecretariat@accord.org.za

By Fax: Special Reference Group Secretariat, Fax: +27 31 502 4160

By Post: Special Reference Group Secretariat, c/o African Centre for the Constructive Resolution of Disputes (ACCORD), Private Bag X018, Umhlanga Rocks, 4320, South Africa.

All submissions will be treated as private and your name and identity will not be released. The Special Reference Group might want to talk to you in person about your submission.

ACCORD House • 2 Golf Course Drive
Mount Edgecombe • 4300 • South Africa
Private Bag X018 • Umhlanga Rocks • 4320
Tel: +27 31 502 3908 • Fax: +27 31 502 4160
email: rtsecretariat@accord.org.za



Special Reference Group on
**MIGRATION
& COMMUNITY
INTEGRATION**
in KwaZulu-Natal

ISIMEMEZELO SOMPHAKATHI WAKWAZULU NATALI

UHulumeni wesifundazwe saKwaZulu-Natal uqoke ithimba elizimele eliholwa uJaji Navi Pillay, owayesakuba i-commissioner ebhekele amalungelo abantu kwi nhlangano yezizwe (United Nations) ukuba libhekisise ngokukhethekileyo imbangela yodlame kwabokufika kuleli bese leluleka uNdunaNkulu wesifundazwe.

Leithimba lifisa ukulalela imibono yakho!

Abantukanye nezinhlangano bayanxuswa ukuba babhalelelelithimba ukuzwakalisa lezo zinto ezakhe ukuthula phakathi kwabokufika kanye nabaseNingizumu Afrika. Ungaphinda usazise ngalokhu okuyinselelo emphakathini nokudale udlame futhi waluleke ithimba ngalokhu okungenziwa ukuze abantu Ningizumi Afrika bahlalisane kahle nabantu bokufika kwelikaMthaniya. Izimpakamiso zingenziwa ngokubhala ziqondiswe kulemininingwane elandelayo ungasakashi uMsombuluko womhlaka, 31 July, 2015:

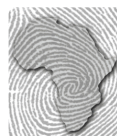
NgePosi: Special Reference Group on Migration and Community Integration in KZN, African Centre for the Constructive Resolution of Disputes (ACCORD), Private Bag X018, Umhlanga Rocks, 4320, South Africa.

Ngesikhahamezi : Special Reference Group Secretariat, +27 31 502 4160.

Nge Email: rtsecretariat@accord.org.za

Ithimba linelungelo lokubiza imibuzo uma kunesidingo, umbhali wesiphakamiso angabizwa ukuzochaza kabanzi. Amagama abalobi beziphakamiso ayogodla.

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Special Reference Group on
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Media platform for Dissemination of SRG Advert for Submissions	Placement date range
RADIO	
1. Gagasi FM	First half of July 2015
2.1 SAFM	Early August 2015
2.2 Metro	Early August 2016
2.3 Lotus	Early August 2017
2.4 5FM	Early August 2018
2.5 Ukhozi	Early August 2019
PRINT MAIN	
1.1 Sunday Tribune	Late June- Late July
1.2 Daily News	Early to mid-July
1.3 Isolezwe	Mid-July
1.4 Natal Mercury	Late-July
2. Sunday Times	Late June, mid July
3. Ilanga	Late June, mid-July
4. Daily Sun KZN	Late June - Late July
5. Soccer Laduma	Early July, mid-July
6. Mail & Guardian	Early & mid-July
7. Financial Mail	Mid-July
8. Witness (PMB)	Mid & late July
PRINT TABLOID	
1.1 (NAB) Chatsworth Rising Sun	Mid-July
1.2 Maritzburg Sun	Mid-July
1.3 Tongaat, Verulam & Phoenix Sun/	Mid-July
1.4 Eyethu Umlazi	Mid-July
1.5 Overport Rising Sun	Mid-July
2.2 eThekwini Times	Late-July
INTERNET	
1. News24/City Press/Witness (Ads24/SpaceStation)	Late July
2. IOL	Late July

10.4. Anonymized List of Written Submissions Received

Written Submission	Category (Individual, Institution, Organisation, Association)	Date Received
Written Submission 1	Individual	29 April 2015
Written Submission 2	Association	30 April 2015
Written Submission 3	Organisation	07 May 2015
Written Submission 4	Organisation	22 May 2015
Written Submission 5	Institution	26 May 2015
Written Submission 6	Association	28 May 2015
Written Submission 7	Individual	03 June 2015
Written Submission 8	Individual	13 June 2015
Written Submission 9	Individual	15 June 2015
Written Submission 10	Individual	13 June 2015
Written Submission 11	Individual	15 June 2015
Written Submission 12	Individual	17 June 2015
Written Submission 13	Individual	18 June 2015
Written Submission 14	Individual	23 June 2015
Written Submission 15	Individual	25 June 2015
Written Submission 16	Individual	26 June 2015
Written Submission 17	Individual	28 June 2015
Written Submission 18	Individual	29 June 2015
Written Submission 19	Individual	30 June 2015
Written Submission 20	Individual	30 June 2015
Written Submission 21	Individual	01 July 2015
Written Submission 22	Individual	02 July 2015
Written Submission 23	Individual	02 July 2015
Written Submission 24	Individual	05 July 2015
Written Submission 25	Individual	06 July 2015
Written Submission 26	Individual	07 July 2015
Written Submission 27	Individual	08 July 2015
Written Submission 28	Individual	08 July 2015
Written Submission 29	Individual	09 July 2015
Written Submission 30	Individual	10 July 2015
Written Submission 31	Individual	12 July 2015
Written Submission 32	Individual	12 July 2015
Written Submission 33	Individual	12 July 2015
Written Submission 34	Individual	13 July 2015
Written Submission 35	Individual	14 July 2015
Written Submission 36	Organisation	15 July 2015

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Written Submission 37	Organisation	15 July 2015
Written Submission 38	Organisation	15 July 2015
Written Submission 39	Individual	15 July 2015
Written Submission 40	Organisation	15 July 2015
Written Submission 41	Individual	16 July 2015
Written Submission 42	Institution	17 July 2015
Written Submission 43	Institution	20 July 2015
Written Submission 44	Institution	20 July 2015
Written Submission 45	Individual	21 July 2015
Written Submission 46	Individual	21 July 2015
Written Submission 47	Individual	21 July 2015
Written Submission 48	Individual	21 July 2015
Written Submission 49	Individual	22 July 2015
Written Submission 50	Individual	23 July 2015
Written Submission 51	Individual	23 July 2015
Written Submission 52	Individual	23 July 2015
Written Submission 53	Individual	24 July 2015
Written Submission 54	Individual	26 July 2015
Written Submission 55	Individual	26 July 2015
Written Submission 56	Individual	27 July 2015
Written Submission 57	Organisation	28 July 2015
Written Submission 58	Individual	28 July 2015
Written Submission 59	Individual	28 July 2015
Written Submission 60	Individual	29 July 2015
Written Submission 61	Individual	29 July 2015
Written Submission 62	Individual	29 July 2015
Written Submission 63	Individual	29 July 2015
Written Submission 64	Association	30 July 2015
Written Submission 65	Organisation	30 July 2015
Written Submission 66	Organisation	30 July 2015
Written Submission 67	Organisation	31 July 2015
Written Submission 68	Individual	31 July 2015
Written Submission 69	Individual	31 July 2015
Written Submission 70	Organisation	31 July 2015
Written Submission 71	Organisation	31 July 2015
Written Submission 72	Individual	31 July 2015
Written Submission 73	Individual	31 July 2015
Written Submission 74	Individual	31 July 2015
Written Submission 75	Organisation	01 August 2015
Written Submission 76	Individual	01 August 2015

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Written Submission 77	Organisation	01 August 2015
Written Submission 78	Individual	01 August 2015
Written Submission 79	Individual	01 August 2015
Written Submission 80	Individual	03 August 2015
Written Submission 81	Individual	04 August 2015
Written Submission 82	Individual	04 August 2015
Written Submission 83	Organisation	04 August 2015
Written Submission 84	Individual	10 August 2015
Written Submission 85	Institution	11 August 2015
Written Submission 86	Individual	14 August 2015
Written Submission 87	Individual	14 August 2015
Written Submission 88	Individual	16 August 2015

10.5. List of Affected Communities as compiled by eThekweni Municipality

TABLE OF AFFECTED COMMUNITIES AND INITIAL LOCATION IN CAMPS		
Ward	Community Name	Camp Location
12	KwaNdengezi	Chatsworth
13	Marianhill	Chatsworth
17	Shallcross/Crossmoor	Chatsworth
64	Bellington	Chatsworth
71	Lusaka	Chatsworth
71	Bottlebrush	Chatsworth
72	Welberdatch	Chatsworth
72	Risecliff/Demat	Chatsworth
73	Montford/Croftdene	Chatsworth
25	Overport	Isipingo
25	Putnans Hill	Isipingo
26	Durban Station	Isipingo
30	Mayville	Isipingo
76	Umlazi (D, J, G, K, T)	Isipingo
89	Malukazi	Isipingo
90	Dakota/Pilgrim Informal Settlement	Isipingo
90	Isipingo	Isipingo
99	Mkhomazi/Umkomaas	Isipingo
101	Cato Manor	Isipingo
11	Quarry Heights	Phoenix
11	Sea Cow Lake	Phoenix
23	New Germany Road	Phoenix
23	Sea Cow Lake	Phoenix
34	Effingham	Phoenix
36	Effingham	Phoenix
58	Waterloo (Phase 5)	Phoenix
59	Zwelisha	Phoenix
60	Buffelsdraai	Phoenix
60	Ntomba (Trenance Park)	Phoenix
60	Canelands	Phoenix
60	Verulam CBD	Phoenix
	Dassenhoek	Chatsworth
	Escourt	
	Eshowe	
	Mobeni Heights	
	Nquthu	

DSD identified the following areas: The identified hotspots include: Ward 01 (Kwaximba); Ward 03(Emaqadini); Ward 04 (Intshanga); Ward 06 (Hammersdale); Ward 07 (Ntshongweni); Ward 09 (Molweni); Ward 13 (Marainhill); Ward 15 (Mpola); Ward 17 (Klaarwater); Ward 18 (Pinetown); Ward 24 (Chesterville); Ward 25 (Kennedy Road); Ward 26 (Durban CBD including Point); Ward 27 (Morningside); Ward 28 (Berea); Ward 31 (Overport); Ward 32 (Durban CBD: Albert Park); Ward 33 (Durban CBD: Umbilo); Ward 34 (Greenwood Park); Ward 48 (Phoenix); Ward 49 (Phoenix); Ward 64 (Montclare); Ward 67 (Adams, South Region); Ward 71 (Shallcross); Ward 71 (Chatsworth); Ward 78 (uMlazi); Ward 85 (uMlazi); Ward 88 (uMlazi); Ward 89 (Isipingo); Ward 90 (Isipingo); Ward 94 (Makutha, South Region) and Ward 97 (Amazimtoti). Source: DSD Draft Consolidated Executive Summary Report of Community Dialogues on Xenophobia Conducted in eThekweni Municipality – Submitted to SRG 07 September 2015.

10.6. Reintegration Framework Proposed by DSD: 05 May 2015⁵⁶⁴


Action	Responsible Departments
IMMEDIATE-TERM IMPLEMENTATION FRAMEWORK	
Stakeholder Identification and Engagement	Community Safety and Liaison, Safer Cities, DSD – National, DAC
Community Mapping of Affected communities	Re-Integration Implementation Task Team
Identification and Training of Community-Based NPOs and Re-integration task team members <i>(migration sensitization trainings and conflict resolution trainings)</i>	Re-Integration Implementation Task Team
Workshop Field Workers on CCE Methodology	DSD – National
SHORT TERM IMPLEMENTATION FRAMEWORK	
Orientation of Community Development Practitioners, safety volunteers and Community development workers on CCE Methodology	Re-Integration Implementation Task Team
Convene Meetings with leadership structure (per nationality) to lobby and introduce plan of action <i>(In Shelter)</i>	Re-Integration Implementation Task Team
Engage displaced persons in sample questionnaires of stakeholder profiling <i>(In Shelter)</i>	Re-Integration Implementation Task Team
Focus group discussions with foreign nationals in the transit sites per nationality to assess their perceptions about what has happened and about the communities where they are displaced from	Re-Integration Implementation Task Team, Orientated Community Development Practitioners and Community Development Workers, Safety Volunteers, Social Workers
Analyse questionnaires from displaced persons re: perceptions and expectations <i>(In Shelter)</i>	Re-Integration Implementation Task Team, Orientated Community Development Practitioners and Community Development Workers, Safety Volunteers, Social Workers
Disseminate information re: engagements outcomes from Questionnaires <i>(In Shelter)</i>	Re-Integration Implementation Task Team
Information Gathering: Community Profiling with Community Leadership and Sample Community Members to assess causal effects of violence and proposed solutions <i>(In Communities)</i>	Re-Integration Implementation Task Team, Orientated Community Development Practitioners and Community Development Workers, Safety Volunteers, Social Workers
Document and compile dialogue outcomes for dissemination with critical stakeholders	Department of Arts and Culture

⁵⁶⁴ Presentation “Reintegration of Displaced Foreign Nationals – Progress Report” 05 May 2015; Progress Report: Reintegration of Displaced Foreign Nationals 2015 – 05 May 2015

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Recruitment of Community leaders to be trained on CCE Methodology <i>(In Communities)</i>	Re-Integration Implementation Task Team Municipal and Traditional Leadership Structures
Conduct community dialogues on fortnight basis	Re-Integration Implementation Task Team
Conduct Dialogues with Communities as a collective <i>(In Communities)</i>	Re-Integration Implementation Task Team
Action	Responsible Departments
LONG-TERM IMPLEMENTATION FRAMEWORK	
Train community leaders on CCE Methodology	Department of Social Development (National) and IOM Re-Integration Implementation Task Team
Consultations with community leaders to pave the way for focus group engagements and interventions	Department of Social Development (National) and Re-Integration Implementation Task Team

10.7. December 2015 Letter from the KZN Somali Community Council

 KZN SOMALI COMMUNITY COUNCIL (KZNSCC) "NPO Reg: 085-929" Flat 10 Universal House 53 Beatrice Street Durban 4001 P. o. Box 61570 Bishops Gate 4008			
<hr/>			
		Reference: SCC001_14 Date: 03 Dec 2014 Ibrahim Hassan ☎ +27 83 984 8903 ☎ +27 31 301 2421 ✉ scc@live.co.za	
Moses Mabhida Building 300 Langalibalele Street Pietermaritzburg KwaZulu-Natal 3200			
Att: The Honourable Premier of KwaZulu-Natal <i>Mr. Edward Senzo Mchunu</i>			
CC: eThekweni Municipality Mayor Councillor <i>Mr. James Nxumalo</i>			
CC: Provincial Commissioner: Kwazulu-Natal <i>Lieutenant General BM Ngobeni</i>			
CC: Public Protector Provincial Representative <i>Adv. Mlandeli Nkosi</i>			
CC: The South African Social Security Agency, Regional Executive Manager <i>Ms Pearl Bengu</i>			
RE: Assistance to curb a xenophobic activity noticed in some townships around Durban Municipal area			
«Dear Mr Edward Senzo Mchunu »			
This refers to a xenophobic behavior exhibited by the local tuck-shop owners at Kwamashu, Inanda, Siyanda, Lindilani, Newland & Richmond farm, which falls under Durban Metropolitan Municipality. Pamphlets have been distributed to the local community members by local tuck-shop owners. The pamphlet reads: "we are the trading organization and asking all residents to remove out all immigrants (foreigners) from your yards/houses before end of this 30 November 2014? We are sick and tired of them. THIS IS A WARNING LETTER. You know what is going to happen if you don't do the right thing". This incident was also reported by local newspaper "Daily Sun" on 27 November 2014 (please see the extract attached).			
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KZN SOMALI COMMUNITY COUNCIL (KZNSCC)
"NPO Reg; 085-929"
Flat 10 Universal House 53 Beatrice Street Durban 4001
P. o. Box 61570 Bishops Gate 4008

Such evidence of xenophobic sentiments have been reported to local ward councillors and relevant police offices in order the incident to be addressed and properly mitigated before it spirals into mob violence.

We are humbly requesting from your respective office to initiate prevention mechanism to address the matter before it turns out of control.

We look forward to your continued co-operation in all our endeavors.

Yours faithfully

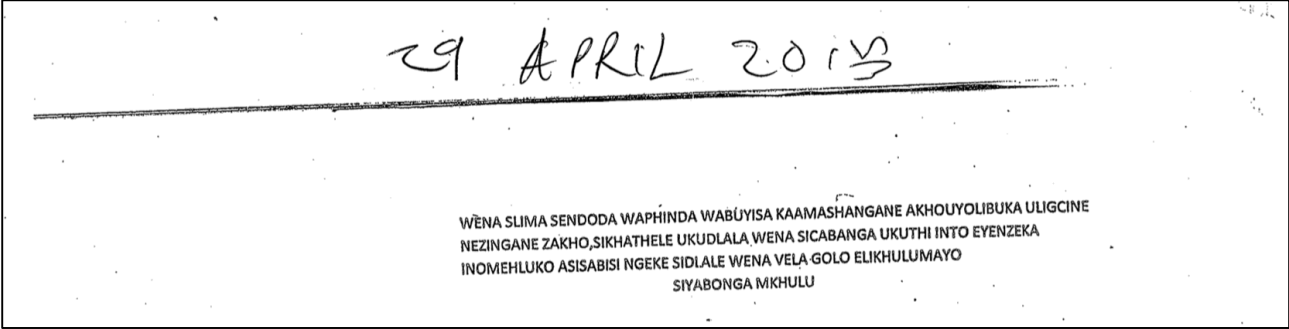
Ibrahim Hassan

KZNSCC Chairman



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10.8. Pamphlets Allegedly Distributed to Foreign National Business Owners in April 2015



10.9. List of reported damage to shops owned by Ethiopian Traders in KZN

Please note that at the time of submission to the SRG, the below list included the full names of the shop owners, their contact numbers, and shop's name. The SRG has withheld this information in order to protect the identities of the traders.

Area or Location	Coast Amount	Case No.	Comment	Signature
Inand Area 5B	190,000	52/04/2015	Owner	[Signature]
Makhele	120,000	76/04/2015	Owner	[Signature]
Makhele Dubele	120,000		Owner	[Signature]
N.W. Dubele	155,000	132/02/2015	Owner	[Signature]
Kumakuta	250,000		Owner	[Signature]
N.W. S. Yanda	190,000	140/04/2015	Owner	[Signature]
W. P. R. G. E.	185,000	140/04/2015	Owner	[Signature]
S. P. R. G. E.	175,000		Owner	[Signature]
Nowo Land	170,000		Owner	[Signature]
Chathu	150,000		Owner	[Signature]
Folani	160,000		Owner	[Signature]
Zindzi	165,000	457/10/15/15	Owner	[Signature]
S. P. R. G. E.	100,000	77/04/2015	Owner	[Signature]
S. P. R. G. E.	47,000	143/14/2015	Owner	[Signature]
d. I. H. A. N. O.	150,000	10/01/04/2015	Owner	[Signature]
Empola	350,000	270/04/2015	Owner	[Signature]
B.	158,000	331/04/2015	Owner	[Signature]
Umlazi	120,000	610/4/2015	Owner	[Signature]
M. U. K. Z. B. Z.	100,000	358/10/3/2015	Owner	[Signature]
S. Y. A. M. A. B.	151,000	480/04/2015	Owner	[Signature]
Lindelani	200,000	597/04/2015	NO	[Signature]
N. F. U. Z. U. M. O.				
Madati	280,000	398/04/2015	Owner	[Signature]
Inchangsi	R180000	35/02/2015		[Signature]
Lindelani				
Rismon Farm	190,000	231/4/2015	Owner	[Signature]
INANDI	190,000	232/4/2015	Owner	[Signature]
Lindelani	250,000	240/4/2015	Owner	[Signature]
Kulamashu	20,000		"	[Signature]
Umlazi	20,000	21/04/2015	"	[Signature]
Lindelani	15,000	332/04/2015	"	[Signature]
Lindelani	16,000	591/04/2015	"	[Signature]
BASTA	170,000	232/4/2015		[Signature]
Inand Area 3	250,000	424/4/2015	"	[Signature]
Inand Area 3	220,000	812/04/2015	"	[Signature]
D. I. H. E. D. E. L. A. N. I.	200,000			

Area / Location	Coast Amount	Case No.	Comment	Signature
Komashe	50,000.00	574/04/10		[Signature]
Basta (In)	200,000.00	268/04/10		[Signature]
Umlazi	240,000.00	349/04/2015		[Signature]
Chilemtama	220,000.00	464/4/2015		[Signature]