

# TARGETING FOREIGNERS

## Xenophobia among Johannesburg's police

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Several media and research studies have reported on police abuse and ill-treatment of undocumented foreigners in South Africa, concluding that xenophobia is a major problem in the SAPS. But how pervasive is xenophobia in the police? Where does it come from and what can be done about it? Based on a survey of police officials in the Johannesburg area, this article examines the phenomenon and attempts to provide some answers.

**X**enophobia in the police was given a public face in South Africa in 1999 when six white police officials were shown on national television racially assaulting and abusing two illegal immigrants from Mozambique.<sup>1</sup> Since then, there have been other media and research reports documenting the abuse and ill-treatment of foreign nationals by police officials.<sup>2</sup> According to Bruce and Newham, the intolerance of foreigners is:

...partly because [foreigners] are generally blamed for problems such as unemployment and crime, but also because of their marginal and vulnerable status; members of the SAPS of all races frequently target black legal and illegal immigrants, for harassment. The extent of this problem is such that South African citizens who appear to be foreign often experience harassment at the hands of the police.<sup>3</sup>

Xenophobia in the police has become especially relevant considering the enormous influx of immigrants into Johannesburg in the last ten years, many of them undocumented. The large numbers of immigrants makes their treatment by state officials an important issue, particularly since the key

operational strategy of the South African Police Service (SAPS) in the past five years has resulted in the frequent targeting of illegal immigrants for arrest.<sup>4</sup>

The SAPS is certainly aware of the problem, and xenophobia has been placed firmly on the transformation agenda. Yet research suggests that after more than a decade, there "has been a lack of change in the values and attitudes of a significant proportion of police members".<sup>5</sup> Although no statistics are available to quantify the problem, studies suggest that xenophobia takes different forms and that the problem in the SAPS is not limited merely to attitudes, but often involves violence, abuse, and ill-treatment of foreigners.<sup>6</sup>

### **Why worry about xenophobia' in the police?**

Twelve years into democracy, painful memories of apartheid and the systematic repression of black people are still relatively fresh in people's minds. In 2001 president Thabo Mbeki urged all South Africans "to be vigilant against racism and xenophobia as it will undermine our young democracy".<sup>8</sup>

It is also significant that South Africa has signed several international conventions on the protection of refugees and vulnerable groups, as well as the

International Convention on the Elimination of All Forms of Racial Discrimination.<sup>9</sup> Moreover, the country's Constitution forbids any unfair discrimination, including discrimination based on people's social origin: "the state may not discriminate directly or indirectly against anyone on one or more grounds, including race, gender... social origin... birth".<sup>10</sup>

Furthermore, the SAPS Code of Conduct, which police officials sign on appointment to the Service, commits police officials to uphold the Constitution and protect the fundamental rights of every person. It follows then that any unfair discrimination against foreigners violates the Constitution and the police Code of Conduct.

### Survey of SAPS' views

In 2004 the Centre for the Study of Violence and Reconciliation (CSV) conducted research on diversity and transformation in the SAPS based on a case study of the Johannesburg policing area.<sup>11</sup> The survey covered a representative sample of 580 uniformed police officials drawn from the 3,660 members in the 21 police stations around Johannesburg (Table 1).<sup>12</sup> Primary qualitative data was collected through 45 semi-structured, in-depth interviews with police officials of all race and gender groups. The results of the qualitative research informed the analysis of the survey data.

*Table 1: Survey sample*

| Race     |        |        | Number | % within race group |
|----------|--------|--------|--------|---------------------|
| Black    | Gender | Male   | 392    | 83.9                |
|          |        | Female | 75     | 16.1                |
|          | Total  |        | 467    | 100.0               |
| Coloured | Gender | Male   | 13     | 76.5                |
|          |        | Female | 4      | 23.5                |
|          | Total  |        | 17     | 100.0               |
| Indian   | Gender | Male   | 11     | 78.6                |
|          |        | Female | 3      | 21.4                |
|          | Total  |        | 14     | 100.0               |
| White    | Gender | Male   | 63     | 76.8                |
|          |        | Female | 19     | 23.2                |
|          | Total  |        | 82     | 100.0               |
| Total    | Gender | Male   | 479    | 82.6                |
|          |        | Female | 101    | 17.4                |
|          | Total  |        | 580    | 100.0               |

### Views about diversity training in the SAPS

As shown in Table 2, a minority of SAPS members (35%) indicated that they had received some training on race and discrimination. Although male officials (39%) were slightly more likely than females (32%) to have attended, the difference is small.

*Table 2: 'Have you received any type of training that deals with race and discrimination?'*

| Gender |     | Black % | Coloured % | Indian % | White % | Total % |
|--------|-----|---------|------------|----------|---------|---------|
| Male   | Yes | 38.4    | 53.8       | 27.3     | 41.3    | 38.9    |
|        | No  | 61.6    | 46.2       | 72.7     | 58.7    | 61.1    |
| Total  |     | 100.0   | 100.0      | 100.0    | 100.0   | 100.0   |
| Female | Yes | 25.3    | 50.0       | 66.7     | 47.4    | 31.7    |
|        | No  | 74.7    | 50.0       | 33.3     | 52.6    | 68.3    |
| Total  |     | 100.0   | 100.0      | 100.0    | 100.0   | 100.0   |

The decision as to who attends training, workshops or conferences in the police often rests with station commanders. As such, police officials tasked with work that is considered most important, along with those in short-staffed units, are less likely to attend such training. This problem was described as follows by an official involved in diversity training:

Commanders rarely send detectives, members from crime intelligence and crime prevention. Yet these members have the greatest contact with foreigners. The same people are always sent to these workshops just to meet the required numbers, otherwise there is no commitment to ensure that all members attend these types of workshops. (black female captain)

Some respondents acknowledged that the lack of training in cultural diversity was impacting on their ability to provide adequate policing to immigrants:

[I]t is difficult to police foreigners because we do not understand their language or culture. As a result we sometimes do not believe what they say because most police officials believe that foreigners are lying [in order] to remain in the country...Most police officials do not understand that foreigners are human too with human rights. (white male captain)

However, other SAPS members indicated that diversity training was unnecessary for police officials:

We cannot afford to send our members all the time for training and workshops that have nothing to do with policing work. If I had to send members to all these human rights workshops I will be left with few members to deliver services, and communities will be up in arms. (black male superintendent)

Perceptions about illegal immigrants in general no doubt also influence decisions about the need for diversity training in the police. There was a view that the increase in the number of foreigners in the country...

...is as a result of police not being tough [enough] on illegal immigrants. They do what they want and commit crime and when we arrest them they run to human rights groups who then accuse police of being racist. (black male superintendent)

As a result of this approach to who gets selected for training, civilian members are often sent on the courses that are regarded as 'irrelevant' to police work, in order to comply with SAPS management's requirements regarding training.

The literature reveals conflicting views on the impact of diversity training on transforming police organisations. A pro-diversity training view argues that it promotes good relations between different ethnic, ideological, cultural, and racial, class and gender groups.<sup>13</sup> A more sceptical view suggests that diversity training exacerbates tensions and reinforces prejudices.<sup>14</sup> However, despite the weaknesses that have been identified in diversity training, the changing nature of the role of the police may make diversity training essential. McDonald argues that in the USA for example, "fighting crime is not always the highest priority of the police. Maintaining racial and ethnic peace is seen as outweighing the enforcement of the law."<sup>15</sup>

#### **Are illegal immigrants' involved in crime?**

The survey asked police officials whether they thought that most illegal immigrants commit crime.

Table 3 shows that the vast majority (87%) of SAPS members do think this is the case.

*Table 3: 'Are most undocumented immigrants in Johannesburg involved in crime?' by race*

|       |          | Agree<br>% | Disagree<br>% | Neutral/<br>Don't know<br>% | Total<br>% |
|-------|----------|------------|---------------|-----------------------------|------------|
| Race  | Black    | 91.0       | 7.9           | 1.1                         | 100.0      |
|       | Coloured | 64.7       | 35.3          | -                           | 100.0      |
|       | Indian   | 85.7       | 14.3          | -                           | 100.0      |
|       | White    | 69.5       | 25.6          | 4.9                         | 100.0      |
| Total |          | 87.1       | 11.4          | 1.6                         | 100.0      |

These perceptions could make undocumented immigrants more vulnerable to police abuse.<sup>16</sup> According to the United Nations Working Group on Arbitrary Detention, "many foreigners are deprived of their liberty, some with legal residence papers, some claiming asylum, who say they have been arrested arbitrarily and are not able to contest the validity of their detention."<sup>17</sup> The view of one respondent below concurs with this assertion:

We do not want illegal foreigners in this country because they cause a lot of serious crimes, don't pay tax and it is often difficult to solve a crime caused by illegal immigrants because of lack of their fingerprints. We can never solve especially serious crimes because of these faceless people who do not even have a physical address where we can find them...whenever we suspect that they are illegal we arrest them and in many instances they try to be clever by producing fake papers...we tear those up in front of them to frustrate their efforts and send them to Lindela. (Indian male captain)

Landau also observed that immigrants are easy targets for police extortion, often due to their tenuous legal status and/or inadequate identity documents.<sup>18</sup> This, coupled with immigrants' need to carry cash, has led a significant number of inner-city police officials to see them as 'mobile ATMs'. From a police perspective, arresting foreigners serves multiple purposes. Most obviously, it helps to meet arrest targets. Police officials privately admit that

they round up ‘the usual suspects’ – refugees, asylum seekers, and other immigrants without proper identification papers – precisely for this purpose. This practice was confirmed by a police official in the survey:

There is pressure on us (police officials) to effect arrests. In the police you are promoted, respected and given accolades if you have many arrests under your name. Often, it is less important that an arrest results in a successful prosecution because that is the job of the prosecutor and investigating officer. As a result we target illegal immigrants for arrest because you cannot afford to have under your name a zero arrest in a month. (black male inspector)

The pressure to make arrests can have many negative consequences on police performance, not least with regard to the mistreatment of immigrants. The South African Human Rights Commission reported in December 2000 that many arrested persons were deliberately prevented from providing documents, and that valid identity documents were destroyed by the police. This resulted in the detention and deportation of legal immigrants as well as South African nationals.<sup>19</sup> According to the report, most police officials interviewed made no distinction between people who have committed crimes, and undocumented immigrants. This explains why, during the SAPS’ ‘Operation Crackdown’ crime combating activities, such a large number of immigrants are arrested by the police.

Despite an overwhelming perception that undocumented immigrants are involved in crime, no statistical evidence is available to substantiate these claims.

#### *Police views according to rank*

As unfair discrimination is a disciplinary offence in the SAPS, one might have hoped that this problem would be limited to a few ‘bad apples’. However, the analysis of data according to rank in Table 4 is consistent with the results in Table 3, which indicates that xenophobia in the police may be widespread.

The problem does, however, appear to be more significant among the lower ranks, which could explain why some respondents expressed the view that “senior commanders, although not supportive of abusing foreigners, they do not condone it either”. Nevertheless, there are members who recognise prejudicial attitudes as problematic and unacceptable, and in complete violation of the norms and standards expected from the SAPS:

Cases of ill-treatment of illegal foreigners that get reported to us are taken very seriously. They are investigated and if found to be true, disciplinary measures are taken against that member, which may result in suspensions or a member being expelled from the service. I will not tolerate police abuse of their power because it is those few cases that make headlines and in the process give the police a bad image, and the bulk of the good work we do go unnoticed. (senior Indian male police official)

#### **Consequences of xenophobia among police officials**

Professionalism, police conduct, efficiency, respect for the rule of law and the quality of service delivery are fundamentally affected when police officials are racist or xenophobic. These attitudes are often linked to an increase in incidents of corruption, police criminality and abuse of people’s constitutional and human rights – and consequently

*Table 4: ‘Are most undocumented immigrants in Johannesburg involved in crime?’ by rank*

|                    | Constable | Sergeant | Inspector | Captain | Supt   | Senior Supt | Total  |
|--------------------|-----------|----------|-----------|---------|--------|-------------|--------|
| Strongly agree     | 91.6%     | 91.9%    | 84.3%     | 84.2%   | 61.5%  | -           | 87.1%  |
| Strongly disagree  | 7.7%      | 6.3%     | 13.9%     | 15.8%   | 30.8%  | 100.0%      | 11.4%  |
| Neutral/Don’t know | 0.6%      | 1.8%     | 1.8%      | -       | 7.7%   | -           | 1.6%   |
| Total              | 100.0%    | 100.0%   | 100.0%    | 100.0%  | 100.0% | 100.0%      | 100.0% |

people are less confident that police will act impartially.

Landau points out that “non-South Africans living or working in Johannesburg report having been stopped by the police far more frequently than South Africans.”<sup>20</sup> His comments are based on a survey conducted by the University of the Witwatersrand which found that 71% of refugees interviewed said they had been stopped by the police, as opposed to 47% of South Africans.<sup>21</sup>

Despite this, even South African citizens have suffered the consequences of xenophobia in the police. Since many locals still do not have identity documents, they too are at risk of being apprehended and deported. The South African Human Rights Commission found that one in five ‘illegal immigrants’ in the Lindela repatriation centre was in fact a South African national who could not produce his or her identity document.<sup>22</sup>

Another estimate is that about “30% of people arrested by police on suspicion of being illegal immigrants are in fact South Africans. They are picked up because they are too dark and they happen to be in the wrong place at the wrong time”.<sup>23</sup> Bizarrely, even off-duty police officials who are unable to produce their identification run the risk of being apprehended and detained:

...I was drinking at a tavern when police raided the place. I told them I was a police official...but these guys arrested me for failing to follow instructions from a police official and for being illegal in the country. I was locked up for the whole night until someone I knew at the police station alerted them that they had arrested a police official. (black male captain)

Another consequence of xenophobia in the police is that police strategies to address the problem of corruption in the SAPS may be compromised. As discussed above, immigrants are often targeted for extortion to the extent that in some countries this has been referred to as a ‘street tax’. It is also not unheard of for police to demand money for the release of an undocumented immigrant.<sup>24</sup>

### **Improving the situation**

Although the SAPS has made tremendous progress since the 1990s in building a professional police service, much still needs to be done to change police attitudes towards foreigners. The central role played by the police in consolidating our young democracy requires vigilance over police conduct and attitudes that may undermine gains already achieved. In this regard, the following should be considered:

#### *Strengthening management and oversight systems*

Eradicating xenophobia requires internal and external systems to monitor police conduct. Holdaway argues that addressing the problem of police discrimination requires that “actions that led to discrimination be described and analysed in order to intervene accordingly”.<sup>25</sup> Police managers have to strengthen their internal management systems to enable them to quickly identify problematic conduct. This may also involve encouraging police officials to report incidents of police abuse of foreign nationals.

Currently, there are a number of external oversight bodies (the Independent Complaints Directorate, the Human Rights Commission, the Secretariats for Safety and Security, parliamentary portfolio committees, the Gender Commission and the Public Protector) that can receive and investigate cases of police abuse of power reported to them. It may be necessary for a single oversight structure to take responsibility for xenophobia, to ensure that such cases are speedily investigated and culprits are charged and prosecuted.

#### *Diversity training*

Given that only about a third of respondents in the survey had attended a workshop, training session or conference dealing with race and diversity, it is unsurprising that not much headway has been made with transformation in the SAPS. Perhaps attention needs to be given to who gets trained as well as the quality of the training. Changing the attitudes and behaviour of individual police officials is crucial to ensure that they accept the transformation agenda and act accordingly.

### Changing police culture

According to Chan, "taking the police to the communities and bringing the communities to the police" is critical to changing police culture.<sup>26</sup> Since much of the current police culture is 'anti-foreigner', it means that forums and programmes where police officials and foreigners will be exposed to one another, need to be created.

Also, since SAPS policy makes provision for the employment of foreigners, steps need to be taken to ensure they do not enter or work in an environment that is hostile to them. McDonald argues that creating a new value base is essential for creating a new positive culture in the police.<sup>27</sup> These values are about integration, equality, mutual respect, and acceptance of diversity. The conduct of police officials should reflect the country's changing cultural norms regarding tolerance for diversity, respect for human rights, and equality.

Clearly, the failure to eradicate xenophobia in the police service undermines transformation, reconciliation, and the image of the SAPS both internally and abroad. Johannesburg is the commercial centre of the country, and with its transport infrastructure, is seen as a gateway to most parts of Africa and the world. It is also a host to national and international events that draw people from diverse cultural and racial backgrounds. South Africa will host the soccer World Cup in 2010 and thousands of soccer supporters will arrive in the country from all over the world. Police officials need to be adequately prepared to do their work in such a diverse environment.

### Endnotes

- 1 The 'dog incident', as it is now commonly referred to, was described by journalist Max du Preez as the "worst pornography of racism and violence on another human being ever witnessed", *The Star*, 8 November 2000.
- 2 See B Harris, A Foreign Experience: Violence, Crime and Xenophobia during South Africa's transition, *Violence and Transition*, 2001. Lawyers for Human Rights Roll Back Xenophobia Campaign: A National Plan of Action, 1999. M Nduru, South Africa does not roll out welcome mats for all immigrants, *Mail and Guardian*, 22 August 2005. J Crush and V Williams, Making up the Numbers: Measuring 'Illegal Immigration' to South Africa, *Migration Policy Brief 3*, Southern African Migration Project, 2001.
- 3 D Bruce and G Newham, Racism, brutality and corruption are the key human rights challenges facing the transformation of the SAPS, in Reconstruct, *The Sunday Independent*, 10 December 2000.
- 4 E Pelsler, Operation Crackdown: The New Police Strategy, *Nedbank ISS Crime Index 4(2)*, April and May 2000.
- 5 D Bruce and G Newham, op cit.
- 6 J Crush and V Williams, op cit. B Harris, Xenophobia: A new pathology for a new South Africa?, in D Hook and G Eagle (eds), *Psychopathology and Social Prejudice*, Cape Town, University of Cape Town Press, 2002. B Harris, op cit, 2001. SAHRC *Report into the Arrest and Detention of Unsuspected undocumented Migrants, Final Report*, Johannesburg, 1999. Human Rights Watch, *Prohibited Persons: Abuse of Undocumented Migrants, Asylum Seekers and Refugees in South Africa*, New York, 1998.
- 7 'Xenophobia' is defined as a "hatred or fear of foreigners" (South African Pocket Oxford Dictionary of Current English, 1994).
- 8 T Mbeki, Letter from the president: Statement on Xenophobia, *ANC Today* 1(18), 25-31 May 2001.
- 9 SA signed the international conventions on the protection of refugees and vulnerable groups in January 1994. In 1995 and 1996 respectively, SA acceded to and ratified the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa as well as the 1951 UN Convention and its 1967 Protocol relating to the Status of Refugees. In December 1998, SA signed the International Convention on the Elimination of All Forms of Racial Discrimination.
- 10 Constitution of the Republic of South Africa, Act 108 of 1996.
- 11 G Newham, T Masuku and J Dlamini, *A decade of transformation of the South African Police Services: A Study of Police Perspectives on Race, Gender and the Community in the Johannesburg*, CSV, Johannesburg, 2005.
- 12 The survey results can be generalised in terms of gender. However, in terms of race, only results for black and white respondents can be generalised.
- 13 S Holdaway, Police Race Relations in England and Wales: Theory, Policy and Practice, *Police and Society* 7, 2003, pp 49-74.
- 14 LA Gould, Can an old dog be taught new tricks? Teaching cultural diversity to police officers, *International Journal of Police Strategies and Management* 20(2), 1997, pp 339-356.
- 15 WF McDonald, The Emerging Paradigm for Policing Multiethnic Societies: Glimpses from the American Experience, *Police and Society* 7, 2003, pp 231-253.
- 16 D Bruce & G Newham, op cit.
- 17 Algerian judge Leila Zerrougui quoted in *Too many in*