

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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South Africa: Amnesty International calls on government to protect those at risk of “xenophobic” attack

Amnesty International today called on the South African government to take all necessary measures to protect the human rights of people at continuing risk of violent attacks and displacement from their homes on the basis of their perceived ethnic origins or status as “foreigners” or asylum-seekers.

The organization urged the government to ensure that those who have been subjected to this violence and displacement have access to humanitarian assistance, legal remedies and psycho-social support. No deportations should be carried out without access to full and fair asylum procedures and other full procedural guarantees. Law enforcement agencies should take effective steps to investigate the attacks and those responsible should be brought to justice.

Amnesty International condemns the human rights abuses that have been and continue to be committed against individuals, families and groups defined on the basis of their perceived identity or status.

In the wave of killings, beatings, sexual assaults, looting and destruction of property, the victims have been identified by the perpetrators according to their alleged identity or status. This violence has now occurred in at least five provinces, including most currently in the Durban and Cape Town areas.

Amnesty International acknowledges that members of the government have publicly denounced the violence and are taking some steps to improve the coordination and level of security response to it. All members of the security forces carrying out law enforcement duties, including any members of the armed forces, should comply with the UN Code of Conduct and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In conjunction with the commendable work of non-governmental service-providing organizations there also has been an improvement in the official responses to humanitarian needs of the many thousands displaced by the violence.

Members of government at national and provincial levels and leading ANC officials have publicly referred to possibly politically-motivated, organized, ‘third force’ origins of this violence. Whatever may be the factual basis for these views, Amnesty International urges that any official inquiry into the violence be independent and impartial and investigate fully, among other things, any evidence of negligence by law enforcement officials either in the form of failures to act on information provided to them about threats or planned attacks and/or their having turned a ‘blind eye’ to actual attacks.

In addition, the inquiry should examine the role of possible contributory factors to the violence. These include the longstanding pattern of discriminatory practices and attitudes

shown towards asylum-seekers, refugees and migrants by officials, including from the Department of Home Affairs (DHA), the police services and also the magistracy.

Legal and advocacy organizations, including Amnesty International, have repeatedly raised with the government their concerns that these practices and attitudes result in effective denial of access to asylum determination procedures, place individuals at risk of arbitrary arrest, unlawful deportation, or forcible return to their countries of origin where they may be subjected to further human rights violations. In addition, an implicit official denial that Zimbabweans in South Africa may be in need of international protection may also have contributed to the hostility towards this group, who have been targeted in the current violence.

Amnesty International is also concerned that those responsible for earlier incidents of attacks on individuals or businesses owned by non-South Africans, including as recently as March 2008, do not appear to have been brought to justice -- thereby contributing to a climate of impunity for these abuses. Moreover, there appear also to have been no disciplinary or other measures taken against police officers who were involved in a high profile police raid on Johannesburg's Central Methodist Church on 31 January this year, during which hundreds of migrants, asylum-seekers and refugees sheltering at the church were subjected to arbitrary arrest and in some cases excessive force by police. They also were subjected to delays in access to necessary medical treatment for chronic illnesses or injuries received at the hands of the police. Some of those arrested were also unlawfully detained due to the improper and prejudiced conduct of the magistrate who presided over bail hearings.

While the national Minister of Home Affairs publicly stated that no-one affected by the violence should be subjected to deportations, Amnesty International has received reports of deportations occurring, including allegedly involuntary ones. Amnesty International urges the Minister and the DHA to ensure, in cooperation with other relevant departments and service-providers, that any person displaced or otherwise affected directly by the violence should receive counselling support and legal and other advice to enable them to make an informed decision about whether they wish to return to their country of origin. This measure is particularly important in the case of those individuals who had already applied or attempted to apply for asylum or have received refugee status.

Finally, Amnesty International urges the national Minister of Social Development to exercise his discretion under section 5 of the Social Assistance Act of 2004 to ensure that all those displaced by the violence, irrespective of their citizenship status, are able to receive emergency assistance grants.