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## ***Xenophobia and the place of the refugee in the rainbow nation of human rights***

*...the paradox involved in the loss of human rights is that such loss coincides with the instant when a person becomes a human being in general – without a profession, without a citizenship, without an opinion, without a deed by which to identify and specify himself (Arendt, 1958, 297).*

In the *Origins of Totalitarianism*, Hannah Arendt provides us with the haunting image of those rendered 'stateless' in Europe as a consequence of the two world wars. In Arendt's words these 'citizens of nowhere in the world', are no longer 'recognised or treated as humans'. Stripped of fundamental protections the refugee exists in 'the abstract nakedness of being human', the link between the human and the citizen destroyed (1958, 299). What Arendt wants to demonstrate is that '(T)he refugee-precariously positioned at the end of the distinction between human and nonhuman-becomes human (or, as Nietzsche would have it, "all too human"), only when no longer human, he is no longer capable of having rights' (Balfour and Cadava, 281).

The images Arendt paints become all too real when one visits the River Road camp overlooking Alexandra. An all-male camp of about 220 people hounded out of various townships in Johannesburg, it is fenced in and overlaid with barbed wire. Guards keep an eye on the inmates with access closely monitored through a single gate. I got there some two months after the violence first erupted and witnessed the spectre of Agamben's *homo sacer*, people reduced to bare life without the protection of legal or civil rights (Agamben, 1998).

Sibonile Mabhena, a 23 years old Zimbabwean inmate of the camp left the country of his birth in 2004 because he was 'starving' and jobs had dried up. He was living in Alexandra when a crowd gathered outside his shack on 10 May 2008. He knew some of them as they were his neighbours. They asked him to 'vacate the shack immediately'. It was already late at night but he bundled what he could together and slept with his family in the open veld. The following day he sent his wife and three year old child to Vereeniging while he went to sleep at Skilful Panelbeaters, his place of work in 10th Road in Kew, owned by a fellow Zimbabwean. On 12 May 2008 Skilful Panelbeaters was attacked by people from Alexandra who were brought to his workplace by taxi. Compressors and other equipment were stolen while vehicles were stripped to the bare shell. The panelbeating shop now serves as a makeshift parking lot for taxis. This is how Sibonile arrived at the River Road camp – without documents, family, home, or work.

If people were reduced to bare life in the camps, it however did not turn them into Foucault's 'docile subjects' (Foucault, 1997). Many refused to sign onto documents that could potentially scupper their ability to gain the status of refugees. They were prepared in the process to turn themselves into spectacles, taking to setting up shelters on the side of busy roads. In some of the camps inmates set up schools and elected

committees to defend the camps against attacks, to distribute food and other donations made by private humanitarian organisations and to represent their interests to the authorities.

African immigrants had already learnt to live on the margins of the system, finding ways to get their children to school, finding jobs and shelters to live in. At the same time many had to learn to live at a distance from the repressive arm of the state. These everyday individual resistances (Scott, 1985) were now translated into a collective response with committees elected to ensure the feeding of people, organise security, represent their stories to the media and liaise with humanitarian organisations.

The May 2008 xenophobic attacks resulted in the death of over 50 African immigrants. According to official reports some 342 shops were looted, 213 gutted and 1,384 people arrested (Minister of Safety and Security, Charles Nqakula quoted in Crush, J., et. al., 2008, 11). The attacks were greeted with shock and horror across South Africa. How could this be happening in a country with an international reputation for reconciliation and whose people were dubbed the 'rainbow nation of God' in recognition of their seeming 'miraculous' ability to overcome three century old racial division and oppression? It is also a country that is widely acknowledged for its founding constitution and emphasis on human rights supported by a well funded Human Rights Commission. From the government side blame put on the 'Third Force', right wing elements and criminals.

Minister in the Presidency Essop Pahad alluded to the role of right wing forces: 'We need to understand that xenophobia has historically been used by right wing populist movements to mobilise particularly the lumpen-proletariat against minority groups in society.' When asked to clarify his comments Pahad replied: 'All I am saying is we need to be very careful ... it is easy to mobilise in this way with right wing agendas' (Independent Online, 21/5/2008). Aziz Pahad, Deputy Minister of Foreign Affairs, fingered the 'Third Force' and criminals:

Let us not overlook the disturbing fact that sinister forces appear to have a hand in the escalation and spread of repulsive behaviour, which has regrettably led to the loss of innocent lives, both foreigners and South Africans ... The only time that South Africa has experienced this form of violence was pre-1994, and we all know that this was politically-motivated violence ... we were aware that criminal elements had exploited concerns and fears of the people (Independent Online 21/5/2008).

The director-general of the National Intelligence Agency, Manala Manzini, was probably the most outlandish, linking the violence to people wanting to disrupt the 2009 elections:

We believe that as South Africa prepares for another national election early next year, the so-called black-on-black violence that we witnessed prior to our first election in 1994 has deliberately been unleashed and orchestrated (M&G Online, 23/5/2008).

There was little acknowledgement that xenophobic violence has a longer history in post-apartheid South Africa. From the birth of the new democracy, the danger signals were there. As early as December 1994 and going into January 1995, African foreigners were attacked in Alexandra with many having their accommodation destroyed and others marched to the police station. The mobilisation was named 'Operation Buyelekhaya' (go back home) and involved

Armed gangs of youth, claiming to be members of the local ANC, South African Communist Party (SACP) and South African National Civic Organisation (SANCO) ... carried out a concerted campaign of intimidation and terror to rid the township of illegal aliens ... They specifically targeted Shangaan speakers and Zimbabweans and other residents with 'dark complexions' by throwing them and their possessions out of their homes and flats. Some of those targeted had their homes burnt down and their possessions looted. Others were frog-marched to the local police station where it was demanded that they be removed immediately (Minnaar & Hough, 1996, 188-99).

This was followed by a series of brutal attacks:

In September 1998, three migrants to South Africa were savaged by a mob on a train: one, a Mozambican, was thrown out while the other two, both Senegalese citizens, were electrocuted as they climbed the roof trying to escape the crowd. This violence was visited by members of a crowd who were returning from a rally in the country's administrative capital, Pretoria, who had gathered to protest under the banner of an organisation called 'Unemployed Masses of South Africa' who proclaimed to represent 32 000 jobless people (*Pretoria News*, 4 September 1998).

These intermittent outbreaks of xenophobic violence

culminated in December 2005 in the disgrace of Olievenhoutbosch, a community near Centurion in Gauteng Province, when groups of South Africans chased foreign Africans living in the Choba informal settlement from their shacks and businesses. Several were killed in the burning and looting ... Throughout 2006 and 2007, attacks on foreign nationals escalated in their brazenness and brutality. In a spate of attacks in 2007, over 100 Somalis were killed and Somali businesses and properties were looted and torched. Certainly there were plenty of danger signs. Government ministers should not have been surprised in May 2008 (Crush et al., 2008, 21).

The attacks on African foreigners in the last decade and a half were accompanied by a heightened language of hysteria and demeaning 'Othering' of African immigrants. This language was by no means confined to the townships but was rife in the press, in parliament and institutions of the state, particularly the SAPS and Home Affairs. The May 2008 attacks though were different. The previous violence was limited to one episode in one locale while the May attacks spread across the country, putting tens of thousands on the move, some 15 000 Mozambicans leaving the country in a convoy of busses, scores dead and injured and thousands seeking sanctuary in camps and makeshift shelters.

This article considers the different sources that contributed to an increasing xenophobic environment and argues for a fundamental shift in approach to African immigration.

### **Walking 'like a Mozambican'**

... police in South Africa arrest more people for violating immigration laws each year than for any other reason. Of those apprehended, most are forcibly repatriated, and many suffer human rights abuses, including physical torture and denial of access to legal representation ... In dealing with what they perceive as the 'foreign menace' police on the ground have become simultaneously more corrupt, militarised, and brutal (Murray, 2003, 453).

A Human Rights Commission (HRC) study of police methods revealed that 'there was substantial failure of enforcing officers to comply with even minimal requirements' of

the law (HRC, 1999, p. xx). This was particularly the case with proof of identification. The legal requirement in South Africa is that people do not have to carry identification. The 'official policy adopted by the SAPS is that individuals should be accompanied by police to retrieve their identity document (ID) if an officer suspects that they are illegally in the country but they allege they have valid documents' (HRC, 1999, p. xxi). What the HRC found was that more often than not suspects were not afforded this opportunity and were immediately arrested. The HRC also found that in many instances when an ID was produced it was simply torn up (HRC, 1999, p. xxvi).

The harsh reality of the brutal and callous way in which law enforcement officers could treat immigrants was brought home to South Africans in November 2000. SABC television showed white police officers setting dogs on three defenceless black men. The men, it subsequently emerged, were Mozambicans and were shown to be repeatedly attacked and crying out for the police to stop. This was to no avail as the attack lasted nearly an hour (*The Star* 8 November 2000). The environment for treating immigrants with impunity was helped by the way senior police officers labelled the majority of African immigrants as criminals. Senior Superintendent Johan Steyn was of the view that '90 percent of criminals who break into homes, commit armed robbery and rape the women are Zimbabweans' (*The Star*, 27 March 1999). Captain Giacomo Bondesio of the South African Police Service's Aliens Investigation Unit was of the considered opinion that 'as many as 90 percent of the Nigerians who applied for Section 41 permits – which grant temporary residence to political asylum applicants – were drug dealers' (*The Sunday Independent*, 22 June 22 1997).

These comments are not isolated, but symptomatic of widespread sentiments and created the conditions for the police to act with impunity. This stereotyping and lack of concern for immigrants rights was exemplified by a police officer who arrested a South African citizen, who was quickly deported because 'he walked like a Mozambican' (M&G 21 July 1994). In response to this process of identification Everett points out that in a study of women migrants that some changed

their traditional styles of dress after arriving in South Africa, both as a strategy for assimilation and to avoid attention, particularly from the police. One migrant explained that the police 'know how we walk and how we dress: South Africans put on trousers and Zimbabweans put on dresses'. Another added that she asked her brothers to teach her how to walk like South Africans before migrating in order to better assimilate. Finally, women simply attempted to go about their daily lives unnoticed wherever possible ... (Everett, 2007, 43-44).

These responses must be seen in the context of the particular methods used by the Internal Tracing units of SAPS to identify foreigners:

In trying to establish whether a suspect is an illegal or not, members of the internal tracing units focus on a number of aspects. One of these is language: accent, the pronouncement of certain words (such as Zulu for 'elbow', or 'buttonhole' or the name of the meerkat) ... Appearance is another factor in trying to establish whether a suspect is illegal – hairstyle, type of clothing worn as well as physical appearance. In the case of Mozambicans a dead give-away is the vaccination mark on the lower left forearm ... (Minnaar & Hough, 1996, 166-67).

These methods are particularly relevant as it was precisely similar methods that were used by communities to single out foreigners in the May 2008 xenophobic attacks. The

examples cited above date back to a decade or more. They illustrate that the problem did not spring up suddenly but has a long genealogy. In the past, it was usually explained away as a hangover of apartheid, but recent attacks show that xenophobia against African immigrants is much more deeply embedded in communities.

### Home Affairs

Some of the descriptive words and phrases used by South Africa's judges during litigation against immigration and asylum procedures of the Department of Home Affairs are very revealing. They include 'shameful', 'horrifying', 'dysfunctional', 'unconstitutional', 'unlawful', 'hypocritical nonsense', and they paint a graphic and debilitating picture of 'gross inhumanity' (Justine Gerardy, *The Star* July 26 2008).

High-ranking officials in the Department of Home Affairs have also been fingered for 'deliberately stalling reform of laws governing refugees and migration. Despite widespread knowledge of ill-treatment of foreigners, many state officials have dragged their feet, partly because of political sensitivity over the rights of foreigners' (Murray, 2003, 453). Some evidence of this foot-dragging is revealed in the long wait for people to hear of the result of their applications to be given the status of refugee. According to the UN, a refugee 'is a person fleeing from individual persecution, generalised human rights violations or armed conflict in their country of origin' (UNHCR, 1998, 2). In the period that the immigrant applies for refugee status they are given the status of asylum seekers. In 1999 there were 50,000 asylum seekers whose status was pending. In some cases asylum seekers had already waited six years for their applications to be appraised by Home Affairs (Harris, 2001, 14).

Home affairs spokespersons, also, in public pronouncements have contributed to and reinforced the idea of South Africa been overwhelmed by African immigrants and as the reason for South Africans not acquiring a better life. The then Minister of Home Affairs, Mangosuthu Buthelezi, told parliament in 1998 that if South Africans were 'going to compete for scarce resources with millions of aliens who are pouring into South Africa, then we can bid goodbye to our Reconstruction and Development Programme' (quoted in HRW, 1998, 20). Among the accusations made about 'illegal aliens' in the 1999 White Paper for example were:

- They compete for scarce resources with millions of South Africans living in poverty and below the breadline;
- They compete for scarce public services, such as schools and medical care, infrastructure and land, housing and informal trading opportunities;
- They compete with residents and citizens for our insufficient job opportunities, and offer their labour at conditions below those prescribed by law or the applicable bargaining agreements;
- A considerable percentage of illegal aliens have been involved in criminal activities; and
- They weaken the state and its institutions by corrupting officials, fraudulently acquiring documents and undeserved rights and tarnishing our image locally and abroad (quoted in Harris, 20, 2001).

The DHA in 1998-1999 in White Papers also introduced the idea of local communities getting involved in the 'detection, apprehension and removal of "illegal aliens"'. As

Williams was to prophetically reflect ‘in the context of high levels of xenophobia and intolerance towards foreigners, it is likely that the actions of South Africans will not be limited to mere reporting. There is a danger of South Africans taking the law into their own hands, even considering it their patriotic duty to take action against “illegal aliens”’ (1999, 2). Reflecting on the similarities of language used by the media and government agencies, Danso and McDonald held:

One could argue that there is a self-reinforcing mechanism at play, with the Department of Home Affairs (as well as the police and defence forces) issuing anti-immigrant statements and statistics and the media uncritically reproducing them. This creates a feedback loop to bureaucrats and policymakers as to the legitimacy and ‘correctness’ of what they are saying. When combined with the highly xenophobic attitudes of the population at large this self-reinforcing mechanism serves to foreclose more progressive policy options and acts to stifle (and even shutdown) more informed public debates on the issues (Danso and McDonald, 2001, 132).

Peter Vale has argued how globally and also in post-apartheid South Africa the movement of people across borders has mutated ‘from local issue, to international item and then, to security threat’ (Vale, 2002, 10). The consequence of this, Vale points out, that in terms reminiscent of

... the old South Africa, control and surveillance became overriding policy consideration ... solutions initially offered to the ‘problem’ of cross-border movement of people were settled within the disciplining boundaries affirmed by the principle of state sovereignty, notwithstanding a rhetorical understanding (to use a striking phrase from Francis Wilson) that migration had made the region. South Africa’s government, through the responsible minister, asserted that both refugees and migrants were considered to be a ‘problem’ (Vale, 2002, 12).

In similar fashion to Danso and McDonald, Vale argues that the fusion of migration and security has led towards ‘policy closure’ (Vale, 2002, 14).

The response from political leaders in response to allegations of growing xenophobia has often been denialism. Prior to the recent xenophobic violence that erupted in Alex on 11 May 2008, the African Peer Review Mechanism (APRM) that emanated in 2007 warned that ‘xenophobia against other Africans is currently on the rise and must be nipped in the bud’. Yet South African President Thabo Mbeki ‘denied that xenophobic tendencies existed in South Africa, pointing out that the country did not even have refugee camps’ (Wilson Johwa, *Business Day* 11 July 2006). This denialism came despite the weight of evidence to indicate otherwise. His intelligence services claim they advised him about the issue, and attacks on African immigrants had been highlighted in the media.

Comprehensive surveys had also pointed to strong and growing xenophobic attitudes. The South African Migration Project (SAMP) surveys conducted in 1997 and 1998 on the attitudes of South Africans toward immigrants and immigration were particularly instructive given subsequent events. The surveys were startling in the numbers of South Africans who possessed strong anti-immigration feelings, both in wanting to strictly limit the number of foreigners allowed into the country and in having negative images of foreigners. These views were held across class and race lines. Some 53 percent in 1998 wanted a ‘strict limit on the number of foreigners allowed in the country’. In the 1997 survey ‘people living in neighbouring countries’

were seen by 48 percent as a criminal threat, 29 percent thought they bring diseases and 37 percent believed they were a threat to jobs.

By 2006 the SAMP survey showed a deepening of attitudes:

- Nearly 50 percent support the deportation of foreign nationals including those living legally in South Africa. Only 18 percent strongly oppose such a policy.
- Some 74 percent supporting deporting anyone who is not contributing economically to South Africa.
- Some 76 percent want the borders to be electrified, up 10 percent from 1999.
- Those supporting refugee protection stood at 47 percent, those opposed 30 percent.
- Close to 75 percent are against increasing the number of refugees.
- Some 50 percent would support refugees staying in border camps. Only 6 percent are opposed.
- Just 30 percent would favour refugees working.

Clearly there was a mounting groundswell of xenophobic attitudes and the state's response which ranged from shock, apology, blaming the attacks on criminal elements and the seemingly ubiquitous third force, and even denial, is difficult to countenance.

### The media

The editor of a prominent South African weekly wrote in 2005 that the 'Media generally reflect social reality and relations within society. I would not blame the media for fanning xenophobia in any way' (Mondli Makanya quoted in McDonald and Jacobs, 2005, 306). Makanya, then editor of the *Mail and Guardian*, went onto bemoan how difficult it was 'to cover stories about Nigerians migrants as the fact is that a disproportionate number of people from that country, as opposed to migrants from elsewhere, say Congo or Senegal, are involved in crimes' (quoted in McDonald and Jacobs, 2005, 306). When pushed for evidence for his assertions Makanya could not provide any. Danso and McDonald conducted a rigorous study of the English language South African press coverage of cross-border migration between 1994 and 1998. They found three common stereotypes: 'migrants as job stealers, migrants as criminals and migrants as "illegals"'. (Danso and McDonald, 2001, 124) Criminality was almost exclusively linked to African immigrants while 'there is an almost complete lack of references to crime and illegality on the part of Western Europeans and North Americans in South Africa ... When African (and to a lesser extent Asian) migrants are associated with a criminal act the event becomes newsworthy, while the same crime committed by a white foreigner is ignored or given less publicity' (Danso and McDonald, 2001, 127).

They further found that the media also emphasised the impact of immigrants on state resources. So for example they point to the following newspaper articles: 'The government has to spend about R397, 000 on each illegal alien which translates into about R1,98 billion being spent on maintaining illegals last year'; and, 'This year alone it cost more than R210 million – a tenth of the entire programme budgeted for the (Reconstruction and Development Programme) – just to house, educate and police and give medical care to only sector of the problem: the illegal Mozambicans' (*The Star* 18 September 1995; *Financial Mail*, 9 September 1995). When using figures the media

were often simply repeating figures put out by official sources or simply projecting to the country as a whole from provincial estimates (Danso and McDonald, 2001, 125).

Danso and McDonald also found that the press used the word 'illegals' and 'aliens' to label African immigrants no matter what their particular status that in reality could run from permanent residents, work permit holders and refugees. Labelling is important for it often involves questions of power and allows 'authoritative state actors to serve the interests of some to the exclusion of others' (Moncrieffe and Eyben, 2007, 7).

In a study of the media conducted a couple of years into post-apartheid South Africa, Dolan and Reitzes found that the Department of Home Affairs and other government departments, such as the defence forces, were quoted 'more often than all other sources combined. Immigrants themselves receive only about 2 percent of the quotes, while specialists researching or analysing immigration are not quoted once. The clear implication is that immigrants are much talked about in the news columns, but do little talking themselves' (Dolan and Reitzes, 1996, 12). McDonald and Jacobs do concede that it is difficult to prove if a 'xenophobic press is merely a reflection of public sentiment or stems from xenophobia within the press itself ... What is clear (though) is that there is a cycle of negative (mis)representation of cross-border migration in the English-language print media in the country and it is likely that public opinion and journalistic opinion simply feed off each other' (McDonald and Jacobs, 2005, 306).

### **The oppressed has returned and its name is nationalism<sup>1</sup>**

Between resounding assertions of the unity of the continent and this xenophobic behaviour of the masses which has as its inspiration in their leaders, many different attitudes may be traced. We observe a permanent see-saw between African unity which fades quicker and quicker into the mists of oblivion, and the heart-breaking return to chauvinism in its most bitter and detestable form (Fanon, 1990, 126).

Gillian Hart warns against:

celebratory claims often bolstered by invocations of Polanyi's 'double movement' of an inevitable, cumulative rising tide of progressive working class and popular opposition springing from below to challenge the devastation wrought by the top-down extension of neoliberal market forces into all forms of life and livelihood. One of the limits of this currently popular 'optimistic' reading of Polanyi is its neglect of the possibility if not likelihood that what he called 'enlightened reactionaries' may well become major forces in protective counter-movements (2008, 4).

One of the reasons for 'celebratory claims' was that from about 1997 there has been a marked increase in community based protests around the commodification of basic services and lack of service delivery. These upsurges have fanned out countrywide, emerging and disappearing only to re-emerge in another place. There has been a definable theme to much of the protest around the provisions of services and houses and the targets have generally been local councillors. In 2004-2005 there were 5813 protests (as defined under the Regulation of Gatherings Act 205 of 1993) recorded by the SAPS and subsequently, an average of 10,000 per annum (Nqakula, C., 2007). While one cannot link all these protests to service delivery, it does indicate the incredible levels of social unrest.

One of the threads that runs through the various service delivery protests has been the language of betrayal (Wale, 2008). Alongside this has been rampant unemployment and growing inequality which meant the Gini coefficient soared from below 0.6 in 1994 to 0.72 by 2006 (Joffe, H., 2008, *Business Day*, 5 March). Hart's warning, given the xenophobic violence, has proven to be prescient. In similar vein the great historian of the French crowd in history, Rude, wrote of how 'the levelling instinct of the crowd might as readily be harnessed to an anti-radical as to a radical cause' (Rude, 1964, 225).

As if to illustrate the efficacy of this assertion *The Star* newspaper of 22 July 2008 on the same page highlighted the killing of Mozambican Francesco Nobunga in a xenophobic attack and a march in Pixley Ka Seme municipality in Mpumalanga. Four houses and a car belonging to local councillors in Vukuzaha township were burnt. Residents were responding to rates increases in which they claimed they were not consulted. The form that protests against worsening conditions takes often depends on the local context because the broader socioeconomic context is interpreted and shaped and acted upon by local circumstance.

The Human Sciences Research Council (2008, 5-7) found in its report on the May-June events a link between service delivery protests and xenophobic violent attacks:

Settlements that have recently experienced the expression of 'xenophobic' violence have also been the site of violent and other forms of protest around other issues, most notably service delivery ... findings elsewhere in this report demonstrate that the nature of the resistance to foreign migrants stems mainly from local economic and public resource competition, it is perhaps not surprising that in other respects respondents emphasised the spatial manner in which foreign migrants have settled in South Africa, i.e. integrated within existing and largely depressed communities ... South African citizens literally feel 'besieged' by a range of socioeconomic challenges. This feeling is particularly acute for men of working age who are struggling to find employment or make a living and feel most directly threatened by the migration of large numbers of 'working men' from other parts of the continent.

Patrick Bond (2008) points out that there are various ways in which the structural inequalities that continue to widen in post-apartheid South Africa could potentially be translated into violence against immigrants:

- Lack of jobs, as formal sector employment dropped by a million after 1994, and declining wage levels as a result of immigrant willingness to work for low pay on a casualised basis;
- Immigrant tenacity in finding informal economic opportunities even when these are illegal, such as streetside trading of fruits, vegetables, cigarettes, toys and other small commodities;
- Housing pressures whereby immigrants drive up rentals of a multi-occupant dwelling unit beyond the ability of locals to afford;
- Surname identity theft (including fake marriages to South Africans who only learn much later); and
- Increases in local crime blamed on immigrants.

There are certainly broader socioeconomic conditions under which scapegoats can come under the cosh in more intense local environments. Sociology offers some clues

as to why African immigrants might be convenient scapegoats. These involve visibility, vulnerability and the way in which the 'outsider' can easily come to play the role of 'economic villain', because 'often for victims of adversity it is at least some comfort to explain their misfortune by attributing it to the evil machinations of villains rather than as a consequence of remote, complex and hardly comprehensible forces' (Rinder, 1958-59, 257).

This should be linked to the fact as pointed out throughout the article that during the first decade and half of democracy there has emanated from government, the police and the media a language that defined the African migrant as a problem. South Africans attitudes showed a marked antagonism to African foreigners of all types as a HRW report attested:

In general, South Africa's public culture has become increasingly xenophobic and politicians often make unsubstantiated and inflammatory statements that the 'deluge' of migrants is responsible for the current crime wave, rising unemployment, or even the spread of diseases. As the unfounded perception that migrants are responsible for a variety of social ills grows, migrants have increasingly become the target of abuse at the hands of South African citizens, as well as members of the police, the army, and the Department of Home Affairs. Refugees and asylum-seekers with distinctive features from far-away countries are especially targeted for abuse (HRW, 1998, 4).

Mondli Makanya offered this opinion in 2004:

I think that most black South Africans understand why black, working class South Africans, feel the way they do. It's about economics. It's also about people in transition, about a class of people arriving below them, undercutting them and competing with them in a context where they must scramble, of high unemployment, where the state is absent (quoted in McDonald and Jacobs, 2005, 310).

Foreigners in turn became increasingly insular as the threats increased. Alan Morris found in his study of Nigerian and Congolese immigrants in Hillbrow that they saw black South Africans as 'prejudiced', 'parochial' and the men as 'violent.' They tended 'to accentuate negative representations of black South Africans and to homogenise and essentialise this group' (Morris, 1998, 1127-28).

In general terms Peberdy's research showed that the state routinely stigmatised African immigrants:

The State's attitudes to both immigrants and migrants is most evident ... in the way it argues non-South Africans threaten the nation by endangering its physical health, its ability to provide resources, employment and levels of crime. The language ... is replete with images of Africans as carriers of disease (Peberdy, 1999(a), 15).

By the time of the May 2008 attacks a powerful xenophobic culture had been created and state organs were geared to hounding African immigrants, the media to stigmatisation and stereotyping, while in many townships African immigrants lived under threat of scapegoating that carried within it the use of violence.

South Africa is not alone in having to confront the spectre of the refugee and the challenge this places for the idea of the nation-state in this period of globalised capitalism. As Comaroff and Comaroff point out, the migrant exposes:

... the contradictory logic of sovereign borders: the simultaneous necessity that they be open to various forms of flow – of finance, workers, commodities, consumers and

infrastructure – and yet enclaved enough both to offer competitive advantage for global enterprise and to serve the material interests of a national citizenry; in other words, to husband the kind of difference, the kinds of distinction between the local and the nonlocal, from which transnational capital may profit (Comaroff and Comaroff, 2005, 145).

These contradictions are illustrated in the way the Congress of South African Trade Unions (COSATU) has responded in post-apartheid South Africa. For example it has on the one hand, like at Volkswagen, signed away gains won during apartheid on the shopfloor on the altar of international competitiveness and exports. When striking workers tried to build an alternative fighting internationalism it was smashed by a combination of NUMSA and IG Metall, the German trade union (Bolsmann, 2006). Alongside this COSATU has bought into a ‘Proudly South African’ campaign that mobilises against imports and calls on South Africans to buy only locally produced products. So COSATU wants the world to buy products made in South Africa but wants South Africans to only buy local.

In the next section we focus on how some leading theorists are attempting to grapple with these issues of refugees, sovereignty and globalisation.

### **Globalisation, citizenship and the nation-state**

If the refugee represents such a disquieting element in the order of the nation-state, this is so primarily because, by breaking the identity between human and the citizen and that between nativity and nationality, it brings the originary fiction of sovereignty to crisis. Single exceptions to such principle, of course, have always existed. What is new in our time is that growing sections of humankind are no longer representable inside the nation-state – this novelty threatens the very foundations of the latter. Inasmuch as the refugee, an apparently marginal figure, unhinges the old trinity of state-nation-territory, it deserves instead to be regarded as the central figure of our political history ... The refugee should be considered for what it is, namely, nothing less than a limit-concept that at once brings a radical crisis to the principles of the nation-state and clears the way for a renewal of categories that can no longer be delayed (Agamben, 2000, 20-22).

Eric Hobsbawm, in reflecting on the future of nations and nationalism in the twenty-first century, points to three trends. The first is that ‘large regions of the globe remain both internationally and internally unstable’, reflected in part by ‘a global relapse into the first major epidemic of massacre, genocide and “ethnic cleansing” since the immediate years after the Second World War’ (2007, 84-85). This has increased the number of refugees with estimates varying between 20 and 40 million.

The second trend is the massive scale of people moving across national borders. The figures are staggering. Between 1998 and 2001 the United States, Canada and Australia had an influx of 3.6 million immigrants and fifteen states of the European Union between 1999 and 2001 had an inflow of approximately 4.5 million immigrants. The effect of these cross border movements according to Hobsbawm has meant that in ‘original home of nationalism’, Europe, ‘the transformations of the world economy are making short work of what the wars of the twentieth century, with their genocides and mass population transfers, appeared to produce, namely a mosaic of ethnically homogenous nation-states’ (2007, 87).

Many migrants, Hobsbawm points out, do not permanently cut themselves off from their original homelands. Many send remittances to their home countries and in North

Africa and the Philippines for example provide 10 percent of the GDP. Between 1994 and 2004 the number of countries allowing dual nationality increased twofold to ninety-three states. South Africa is one of these countries. For Hobsbawm these developments beg questions of citizenship 'rights and obligations in states where a substantial percentage of the inhabitants are absent from the national territory at any one time, and a substantial proportion of permanent residents have inferior rights to indigenous citizens' (2007, 88). In the South African case, it is the latter that is pertinent.

The third trend related to this massive movement of people is the resurgence of xenophobia which Hobsbawm concedes has been underestimated in his own writings on modern nationalism. For Hobsbawm the strength and 'rise of xenophobia reflects the social cataclysms and moral disintegration of the late twentieth and twenty-first centuries as well as mass international population movements. This combination is naturally explosive ...' (2007, 89). In Hobsbawm's reading, the increase and spread of xenophobia reflects the disintegrating of 'larger nation-state identities into self-regarding group identities ... And this in turn reflects, not least, the diminishing legitimacy of the nation-state for those who inhabit its territory, and the diminishing demands it can make on its citizens' (2007, 93).

Hobsbawm is not sure what, if anything will replace (the nation state) as a general model in the twenty-first century (2007, 94). Hobsbawm, in many senses returns to his earlier pronouncement in the final pages of *Nations and Nationalism Since 1780*, where, anticipating events at the end of the twentieth and into the twenty-first centuries he wrote: 'The owl of Minerva which brings wisdom, said Hegel, flies out at dusk. It is a good sign that it is now circling round nations and nationalism' (1990: 182-183).

Hobsbawm's views on the eroding power of the nation-state were taken much further by Hardt and Negri in *Empire* where they pointed to a world beyond national sovereignty, which has many echoes to the cosmopolitan worldview. There is 'no centre of imperial power' and the eroding of national sovereignty is seen as paving the way to increased chances of global democratic governance and this anticipates the need to 'develop a political theory without sovereignty' (Hardt and Negri 2000: 239). Despite some protestations to the contrary, the idea of cosmopolitanism is mostly linked to the idea of the declining importance of the nation state. Alongside the emergence of *Empire* with its simultaneous de-territorialisation and weakening of nation states, for Hardt and Negri, there is the forward march of the multitude. 'The multitude's resistance to bondage – the struggles against the slavery of belonging to a nation, and identity, and a people, and thus the desertion from sovereignty and the limits it places on subjectivity – is entirely positive' (Hardt and Negri 2000: 361). In a chapter in their book entitled *Endless Paths (The Right to Global Citizenship)*, Hardt and Negri write:

Autonomous movement is what defines the place proper of the multitude. Increasingly less will passports or legal documents be able to regulate our movements across borders ... The cities of the earth will at once become great deposits of cooperating humanity and locomotives for circulation, temporary residences and networks for the mass distribution of humanity. Through circulation the multitude reappropriates space and constitutes itself as an active subject (Hardt and Negri 2000: 397).

Hardt and Negri are of course referring to mass migration, that 'ha[s] become necessary for production' (2000). And the way the multitude becomes 'political' according to Hardt and Negri, is in the demand for global citizenship:

Residency papers for everyone means in the first place that all should have the full rights of citizenship in the country where they live and work ... *The general right to control its own movement is the multitude's ultimate demand for global citizenship* (Hardt and Negri 2000: 400).

While their unbridled optimism of the revolutionary potential of the migrant has been rightly criticised, Hardt and Negri through their analysis of contemporary capitalism do point to the importance of the phenomenon of migration and its potential for producing new subjectivities and languages of resistance.

It is instructive though, that despite the grand scheme of a cosmopolitan world and the romantic notion of the multitude moving across borders, the main way in which the multitude can at least initially defend and advance its rights is, Hardt and Negri contend, through 'full rights of citizenship in the country where they live and work'. In confronting xenophobia in South Africa we need to address the notion of citizenship and this means, as this paper will argue, confronting a trajectory that has seen argued in 1999 that 'the line between citizen and non-citizen is being drawn more clearly than before' (Peberdy (b), 1999, 2). In addressing this issue we need to take cognizance of Robin Cohen's typology of denizens and helots. He calls the more privileged group denizens who, while holding multiple citizenship, do 'not have the right to vote in the country of their residence or domicile ... Many of these alien residents may be well-paid expatriates who are not particularly concerned with exercising the franchise and have compensating employment benefits – a group in short, that can be seen as transcending the limits of the nation-state' (Cohen, 1991, 163). Hobsbawm also points to a group of migrants 'who now commute between homes, or even jobs and businesses, in the old country and the new ... Family occasions in one country, old or new, are attended at short notice by friends and relatives from three continents' (2007, 87). Cohen refers to the helots as 'people who have illegally entered the country, people who have overstayed the period granted on their entry visas, asylum-seekers who have not been recognized under the international Conventions, those who are working illegally, and those who have been granted only limited rights' (Cohen, 1991, 163). Helots are often excluded, detained or deported and 'regarded as disposable units of labour-power to whom the advantages of citizenship, the franchise and social welfare are excluded' (Cohen, 1991, 164).

It is the helots that have come under sustained attack in South Africa and it is their circumstance that needs to be most urgently addressed.

### **'Citizens of nowhere in the world' (Arendt, 1958)**

The conception of human rights based upon the assumed existence of a human being as such, broke down at the very moment when those who professed to believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships – except that they were still human (Arendt, 1958, 297).

Pronouncements of integrating displaced immigrants back into communities across South Africa in the present hostile environment are a recipe for further disaster. The

example of Francisco Nobunga who fled the Ramaphosa shack settlement in Ekurhuleni during the May xenophobic attacks is instructive. He returned to his dwelling with his South African-born wife, Sylvia Nosento. He lasted three weeks before he was killed. He produced a South African identity document as demanded by his attackers but it had a Mozambican address (*The Star* 22 July 2008).

The government insists on speedy re-integration, yet those expelled will have to enter an environment fraught with the persistent threat of violence. In the *Sunday Times* Victor Khupiso writes of what 'On Friday nights in Ramaphosa squatter camp, it's time for what locals call their "Kwerekwere-Free (Foreigner-Free) Society" campaign'. In haunting detail Khupiso chronicles how groups of young people spread out over the camp to hunt down foreigners. One of the young people told Khupiso that he could 'proudly say foreigners had decided to leave our area because they know what would happen to them if they are found. They would burn. Hell is waiting for them. We have stored some tyres' (*Sunday Times* 26 July 2008). The HSRC (2008) report calls 'on the government to conduct a national audit on the occupation of RDP housing and to take steps to ensure that only South Africans occupy this form of temporary shelter. Non-South Africans are welcome to acquire property through the usual commercial means or to take temporary accommodation that should be provided in designated areas until such time they move into private residence' (HSRC, 2008, 9-10). Does this mean that those non-South Africans occupying RDP houses will be evicted? This will only further stigmatise and isolate the poorest of African immigrants and embolden locals to 'take the law into their own hands'. It is also to misread the socioeconomic status of the majority of African migrants. The chances of them acquiring 'property through the usual commercial means' are pretty slim. The consequence of the HSRC (2008) recommendation is to have African immigrants living in 'Bantustans' as a permanent feature of the urban landscape. The recommendation of the HSRC report will only serve to exacerbate an already volatile and violent environment by feeding into and reinforcing an 'us' and 'them' attitude.

In similar fashion a SAMP report on the 2008 attacks by Jonathan Crush et al. reaches some rather strange conclusions and recommendations. They call for 'South African employers who flaunt labour laws in their hiring and employment of migrants ... to be exposed and prosecuted' (2008, 41). Given that migrants are stymied by the state in becoming legalised, they do not have access to basic social grants and state support. Thus, the denying of migrants who are deemed 'illegals' of jobs will leave them bereft of access to making a living, and play into the hands of the state in wanting to hound migrants into deportation camps and then back to their countries of origin. As their own report indicates a staggering 1.5 million people have been deported since 1994. Should not the demand rather be that migrants be given full rights to organise and be protected by labour law legislation?

If one reads Arendt carefully, a startling realisation beckons. This is that the discourse of human rights as well as the practice of bestowing them on particular classes of people, can actually serve incredibly oppressive and inhuman purposes. A person with citizenship rights exists because someone else living in the same territory, but in some way differently qualified, does not. Some have rights to housing and education and dignity entrenched, others less so. Ultimately, when everyone has been through the due process of law, another human right, some people will be packed off to

deportation camps for removal from their homes and livelihoods (the illegals) and others will be allowed to stay (citizens and 'genuine refugees').

Standing in utter nakedness of rights, including the right to life, in May 2008, some people living among us had only their bodily humanity to offer as proof that they deserved to be treated fairly, equally and with dignity. This was not enough.

What we do to the bodies of those without full rights differs only in a matter of degree. Some are robbed and killed; others are routinely mocked, locked up and deported by police. Still others are forced into living in ways that in practice deprive them of human rights; they work as virtual slaves on farms or sell their bodies. Because they are not citizens, in terms of the constitution their enjoyment of the fruits and protections of law in South Africa is limited. These are the perfectly legal marginalisations that most South Africans, including parliamentarians who decry actual killing and maiming, are perfectly comfortable with. And in bearing our human rights so proudly while others go without, we become less than fully human. That is the most scary thought. We become somehow marked by our arbitrary privileges and shamed by them.

If, according to Arendt, the refugee becomes fully human at the moment that they are stripped of all rights, in the sense that they are just human, purely, bodily a human form but nothing else, then perhaps the opposite is also true; that clothed with our rights which we are comfortable having and asserting against illegals, we become less human in the face of our acceptance and reinforcing of the nakedness of some among us. How do we respond to the breakdown between *the* refugee and *the* citizen?

In presenting the view of expediting the granting of those in camps the necessary documentation for them to legalise their stay in South Africa and affording those who have jobs the full protection of the labour laws to the parliamentary portfolio committee on foreign affairs on 25<sup>th</sup> July 2008, there was no support from the gathered parliamentarians. One ANC MP, Mtkeni Sibanda, argued that the attacks were an exaggeration and that the refugees were badly behaved and that there were forces behind some of the refugees stoking the fires of dissent. Another ANC MP, Dr Luthuli, raised the issue of being overwhelmed by African immigrants. The PAC member Dr Pheko asked why was I emphasising the killing of African immigrants when South Africans were also killed. He also said he was a refugee and that there was never an attempt or numbers did not destabilise the centre. He studiously avoided any support for granting existing refugees citizenship while proclaiming to be a 'Pan-Africanist till his death'. The DA representative Sheila Camerer started her input by making mention of the fact that the committee had undertaken a couple of reports on the rising xenophobia. I wondered why then the president of the country had not bothered to take cognizance of the reports, made reference to them in his response to the May 2008 attacks, and why fellow committee member Mtkeni Sibanda thought reports in the media and those like mine were exaggerated. She then went on to say that her constituency in Johannesburg's Northern suburbs takes in a part of Alexandra and that overwhelmingly those arrested for burglary and other crimes, the police chiefs told her, were African immigrants, especially Zimbabweans.

I witnessed here in strident language 'the signs of passing from ultra-nationalism to chauvinism, and finally to racism' (Fanon, 1990, 125).

It also illustrates that while emphasis has been placed in much writing on globalisation by sociologists on the movement in increasing scale of good and services across national borders there has been also a move to re-territorialise space through what Turner has called an 'immobility regime' that is geared to controlling the ability of migrants to enter a country. This is the paradox of globalisation that witnesses increased mobilities alongside 'new systems of closure' (Turner, 2007, 289).

### **Building a fighting coalition from below**

There is a basis around which organised labour, social movements and the organisations of African immigrants can unite for an anti-xenophobia movement that serves also to demand the legalisation of all African immigrants and to pressure the government into making the organs of state like Home Affairs more responsive to the needs of immigrants. In the longer term the Immigration Act of 2002 needs to be reviewed so that it is designed to make it much more user friendly to African immigrants.

Building a united front will not be easy:

Can we learn to conceive, theoretically and politically, of a 'grassroots' that would be not local, communal, and authentic, but worldly, well connected, and opportunistic? Are we ready for social movements that fight not 'from below' but 'across', using their 'foreign policy' to fight struggles not against 'the state' but against that hydra-headed transnational apparatus of banks, international agencies, and market institutions through which contemporary capitalist domination functions? (Ferguson 2006, 107).

For example, because of the lack of rights of African immigrants they are fodder for employers wanting to circumvent unions and create casualised jobs. The fight against casualised labour and unemployment has to bring African immigrants into the trade union fold. Of course, for organised labour to make this move means to play an effective part in the anti-xenophobia movement. This would mean breaching some of their own established ways of thinking through identity, entitlement and definition of social good. This is one that primarily reserves redress and delivery for those South Africans previously disadvantaged by apartheid, a status that a Nigerian migrant patently would not enjoy. These are just some of the conceptual and political breakthroughs that need to be made. It is not enough to issue press statements. Programmatic action is needed. Would COSATU, for instance, be as vocal about the excesses at Lindela as they are about the Scorpions? There are some positive signals like the principled campaigns of solidarity with Zimbabwean and Swazi workers as witnessed most recently by the August 2008 march on the Southern African Development Community (SADC) meeting in Johannesburg.

Similarly many township residents making up the social movements in an environment of scarce resources also see African immigrants as competitors. It is incorrect to suggest that the mere fact of social movement presence in a township acted as a guarantor against xenophobia, as some have done. Many shack dweller settlements in Durban for example have for over a decade now ensured that no more shacks are built. To then claim that because there has been no violence, there is no xenophobic sentiment is disingenuous. Further, the overwhelming number of townships in South Africa reported no xenophobic activity during the recent upsurges, whether strong social movements existed there or not. We need to recognise though

that there is some evidence that even within social movements that are radically anti-neo-liberal, some of its members harbour profound xenophobic attitudes. Social movements are just as captive of the nationalist imagination as the mainstream left and just as apt to act according to a territorial logic of who 'deserves' delivery as trade unions are.

However, there are also impressive counter-tendencies. The march sponsored by the Anti-Privatisation Forum (APF) against xenophobia during the May 2008 violence that drew in a broad number of organisations is a salutary case in point. The challenge is to build this kind of coalition into a permanent fighting organisation geared to defending and advancing the interests of African immigrants.

There are also issues of whether immigrants should maintain their own organisations and seek working relationships and joint campaigns or whether there should be a concerted effort to form one fighting organisation. These debates need to address concerns that have dogged efforts at non-racial organisation in the past. There is every danger that a migrant essentialism may also arise that, perhaps for good reason, prevents broad fronts developing. There are transnational networks to be created with those in the United States mobilising under the banner 'no human being is illegal', and with European migrant mobilisations of the undocumented, for example. There are tactical and strategic issues to be confronted that can only be taken forward in the cauldron of debate, discussion and struggle.

There are possibilities, in line with the hopes of Ferguson, to not only fight from 'below' but also 'across', to not only challenge the transnational apparatus 'of contemporary capitalist domination' but also to challenge a neo-liberal and exclusionary sub-imperialist state. Let me be clear. The stark policy choice is between increasing repression exponentially, to visit upon the bodies of (foreign) black Africans almost apartheid era levels of pain, surveillance and discomfort in our cities, hoping thereby to keep surplus populations in the 'Bantustans', or to accept and integrate the fact of migrancy into our economic and political thinking. To some extent the latent logic of the manner in which immigrants have been treated both by township residents, the police and government departments, has been to make South Africa a more painful place to live than where they came from before.

For policy makers, government functionaries and South Africans in general who see migrancy as an evil, recent xenophobic attacks, although embarrassing, have had an upside in slowing figures of 'illegal' entry and increasing mass repatriations. I am not one of those policy makers and perhaps that is what makes it easier for me to criticize. Migrancy should be a right, as difficult as that may seem to be to manage economically and socially. It is part of a struggle for survival. The challenge to commodification of basic services, evictions and proper housing has thrown up radical subjectivities and often pushed back the threat to bare life posed by the neo-liberal transition. This is all laudable and good. What it has not done is to crack the prison house of nationalist language and thinking about our future among those struggling for a better life for all. In the context of a continent in severe economic distress, with powerful pull factors into the territory of South Africa of immigrants also seeking a 'better life' and whose claims to oppression and exploitation are no less stark than those of black people who happen to have been born within South Africa's borders, such repression-orientated thinking is not going to address the issue of xenophobia.

What the outbreak of xenophobia has shown is that it is not enough to conceptualise the struggle as one for full citizenship and new economic policies for those entitled to a South African identity and decommodified services and a basic income grant for its people. In order to avoid repressing those seeking entry to South Africa as a result of extremities of poverty in other parts of Africa, there is a need for a shift of mindset to conceive of the leadership tasks of the revolution to at least being *sub-regional* in nature and expanding outward. What this means is that programmes that address economic deprivation and development need to have this construct rather than any other as their starting point.

During the struggle against apartheid, South Africans involved in liberation movement activities were wont to remark on the inevitability of the success of the destruction of white minority rule. Not only were demographics on their side, but the sheer desperation of a people fighting for survival and dignity sent cadre after cadre to the breach. In addition this struggle would be marked by history as one for social justice. In twenty years from now, if South Africans persist in their exclusivity, might not organised or unorganised immigrants reflect that their struggle too for entry into and inclusion into South Africa bore the marks of inevitability? They had demographics on their side and the desperation of a people fighting for dignity and survival. History too would mark their struggle as being one for social justice and against sub-imperialism and South African arrogance and callousness.

## Notes

1. Michael Ignatieff's phrase is 'The repressed has returned, and its name is nationalism' (1993) p.2.

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