From May 2008 to 2011: Xenophobic Violence and National Subjectivity in South Africa*  

JUDITH HAYEM  
(Clerse-Cnrs, Université Lille 1)

This article examines the recurrence of xenophobic attacks in 2011 in the light of the events of May 2008. Using archives and secondary data, examining slogans and discourses heard at the time and reflecting on the author’s own involvement as an activist alongside foreign residents displaced by the 2008 attacks, it is argued that the xenophobic attacks demonstrated a shift in the national subjectivity or conception of citizenship, from an inclusive notion implying participation in the future South African society to a dialectical representation of nationals against foreigners. It is further argued that, in its mismanagement of the 2008 crisis, the South African government contributed to the emergence of such attitudes and did nothing to stop the violence; hence its repetition. The notion of human rights that has emerged in South Africa is one of the keys to an understanding of the representations at stake: whereas human rights used to be a universal and founding notion in post-apartheid South Africa, they are now seen as a national privilege regarding access to basic needs. The article shows that the humanitarian management of the May 2008 crisis by the South African Government contributed considerably to obscuring the notion of ‘human rights’. In order to oppose such a dangerous policy, there is an urgent need to revive the political debate in South Africa.

On 10 June 2011, the African Centre for Migration Studies at Witwatersrand University in Johannesburg published a worrying press statement about ‘a nation-wide escalation of threats and violence against foreign traders in townships and informal settlements across South Africa’.1 A chronology of events followed: ‘January, Butterworth – four men arrested for posing as customers and then attacking two Somali nationals, killing one of them’; ‘February, Ramaphosa – Threats against local foreign shop owners’, and so on. The chronology of escalating xenophobic violence becomes longer as winter and local elections approach. While in these instances it is principally shopkeepers that are being targeted, fomented by local businessmen unhappy with the competition of foreign nationals, this succession of violent events echoes the xenophobic attacks which hit many foreign nationals in South Africa in May 2008.

In 2008, the violence started in Alexandra on the night of 11 May and lasted for four more nights before the police contained it. It then spread to other townships and informal settlements, principally in Gauteng (including the Johannesburg Central Business District (CBD)), but also in Mpumalanga, Kwazulu Natal and the Cape.2 The nature of the attacks did

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not vary much from place to place, characterised by the brutalisation of people identified as foreigners by their neighbours. They were beaten by South African assailants armed with sticks and machetes. On occasion, women were raped and shacks and shops allegedly belonging to foreign nationals systematically looted after their inhabitants or owners had been evicted. Many foreign nationals fled from their homes in fear, seeking safety at the local police station or taking refuge in churches, municipal halls or sports grounds.

By 30 May, when the attacks finally ceased, 62 people had been killed, hundreds had been injured and lost their homes and belongings, and tens of thousands had been displaced. During those two weeks, thousands of foreign nationals from neighbouring countries crossed the border back to their place of origin. Malawians and Mozambicans living in South Africa fled the country en masse on 23 and 24 May 2008. But there were those (especially refugees and asylum seekers) who could not or did not wish to return to their country of origin and who did not dare to return to their homes in the South African townships. By the end of June, several camps were opened in Cape Town and Johannesburg to accommodate people stranded outdoors in winter without any proper facilities. Government finally organised ‘temporary camps’ in Gauteng with the help of UNHCR (the United Nations High Commissioner for Refugees) and the Cape Town municipality hosted the displaced in vacant holiday sites.

These events created an awareness of xenophobia amongst NGOs and Community Based Organisations (CBOs) that enabled them to be much more active in confronting it in 2011 than they had been in 2008. By contrast, government silence in the face of the xenophobic attacks of 2011 was, once again, deafening and its reaction inconsistent. Thus, under the heading ‘ANC Dithers on Xenophobia’, Ilham Rawoot wrote in the Mail & Guardian on 24 June 2011: ‘The ANC in Limpopo is not quite sure what to do with Tebogo Mojapelo, the ward councillor who was arrested last week for her alleged involvement in the murder of a Zimbabwean in Seshego, near Polokwane’. The article considers whether or not the ANC should suspend the councillor and organise by-elections. But ‘[t]hat will leave the community without a councillor for a while. But if we don’t suspend her, that is sending a message that this is acceptable’, comments one perplexed local party representative.

Nor have tribunals been any clearer about whether to condemn or ignore such events. According to the NGO Lawyers for Human Rights, in May 2011, ‘71 members of Greater Gauteng Business Forum (GGBF) were arrested in Katlehong, a township east of Johannesburg, and charged with intimidation’ after they had sent letters to foreign businessmen, giving them ‘seven days to vacate their premises or face drastic action’. But ‘they were later released after paying a small fine and only nine arrests have since been made in Soweto’, where other threats occurred. Ramjathan-Keoth, responsible for the Refugee and Migrant Rights Programme, told The Sowetan on 17 May 2011 that he ‘was also concerned by the lack of forceful police response and intervention in the evictions [...] the police’s response in some instances has given people the green light to continue their intimidation’.

Should we be surprised by the recurrence of xenophobic attacks in South Africa and by the government’s lack of responsible reactions to it? Analysing discourses during 2008 and scrutinising some of the challenges and issues raised at the time, this article argues that indeed we should not be surprised. I show that some of the political issues raised in the May 2008

Footnote 2 continued
5 http://www.lhr.org.za
attacks illustrated an important subjective shift regarding current ideas of the nation and conceptions of citizenship in South Africa. The xenophobic discourse, developed increasingly since the 1990s by the South African Department of Home Affairs and the media in relation to migrants and migration,\(^7\) seems to have been internalised by many people in South Africa as a new way to conceptualise their relationship to the nation. This conception departs radically from the spirit of reconciliation inspired by Nelson Mandela, and initially espoused by the ANC and then taken up by many South Africans.

Whereas post-apartheid democracy has been praised by many for its ability to peacefully include all the inhabitants of the country in the ‘new South Africa’ and create a sense of belonging to the nation for all, the opposite of this ideal has been the prevailing political undercurrent, illustrated by the May 2008 attacks as well as by the (mis-)management of the crisis by government. Being South African is now promoted on a differentiating basis: nationals \textit{versus} those seen as foreigners. Hence, an exclusionary process has come to be part of the idea of citizenship. It is informed by a conception of national belonging based on differentiation between groups and on potentially opposed interests, rather than on inclusivity whereby people are seen as belonging to the country, whatever their former race or community, because they live there – whether they be nationals or not. This subjective crisis and its regular resurgence underline the ongoing political rupture between the post-apartheid subjective sequence of negotiation and reconstruction (1994–1999) and the current dominant political subjectivity in South Africa. What served as a principle in the nation-building process in 1994, and is still officially a cornerstone of the South African Constitution (namely the assumption, deriving from the 1955 Freedom Charter\(^8\), that ‘South Africa belongs to all who live in it, united in our diversity’) has proved, \textit{de facto}, to be obsolete.

In this article I argue that a three-stage process, inaugurated by the May 2008 crisis, epitomises the corruption of the post-apartheid notion of ‘human rights’: the xenophobic violence (11–30 May); the opening of the temporary shelters to host the people displaced by the attacks (end of June); and their chaotic closure (from July to September). This process is one of the keys to understanding the new national political subjectivity pervasive today. It is suggested that many people in South Africa currently understand the notion of human rights enshrined in the Constitution not so much as a political and universal principle applicable to all, but as political promises on which government must deliver. Moreover, the government’s use of the notion of human rights, as an international standard in dealing with the humanitarian crisis that followed the 2008 violence, obscured the implicit debate on rights, and on the right to rights, opened up by the political rhetoric of the xenophobic attacks.

To advance this argument, I examine the acts and discourses of South African people and officials in 2008, relying on secondary literature and data (such as press articles covering the attacks on a day-to-day basis), analyses and interviews conducted by the HSRC (Human Sciences Research Council) and FMSP\(^9\) ( Forced Migration Studies Programme), and interviews

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7 See for instance, M. Neocosmos, \textit{From ‘Foreign Natives’ to ‘Native Foreigners’: Explaining Xenophobia in Post-apartheid South Africa. Citizenship and Nationalism, Identity and Politics} (CODESRIA, 2006, 2010), pp. 85–8; D. Vigneswaran, ‘Undocumented Migration: Risks and Myths (1998–2005)’, in A. Wa Kabwe-Segatti (ed.), \textit{Migration in Post-apartheid South Africa: Challenges and Questions to Policy Makers} (Agence Française de Développement, Notes and Documents, 38, Mars 2008), pp. 135–59. Drawing on several convergent studies, both authors show how, in spite of the public denunciation of xenophobia by the post-apartheid South African state, many Home Affairs officials have regularly described foreigners as ‘illegal aliens’ and ‘criminals’. As a result, Human Rights Watch (quoted by Neocosmos, \textit{From ‘Foreign Natives’ to ‘Native Foreigners’}, p. 86) concluded as early as 1998 that ‘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 and even the spread of diseases’.


9 FMSP has now been renamed the African Centre for Migration Studies.
conducted by researchers with townships dwellers regarding their views on foreign nationals and the issue of their so-called reintegration in the aftermath of May 2008. I also use fieldwork notes and observations based on my own involvement with some of the people displaced by the attacks in July to August 2008 in one of the crisis centres in Gauteng on road R28, between Krugersdorp and Randfontein, next to the Lindela detention centre.

Following Neocosmos, I here focus on xenophobia as a ‘political discourse’ and process of exclusion where politics is, as the French anthropologist, Lazarus, suggests, a ‘form of thinking’. What is elucidated here is: what are those forms of thinking and what are their rationales? Hence, in this text, when I refer to a shift of national subjectivity, I mean a change in the politics of belonging to the nation (more often than not influenced by the state), and people’s intellectual adhesion to or rejection of those politics. In this analysis, the notion of citizenship is employed alternately with that of national subjectivity to refer not only to the formal juridical principles in place but also to competing political visions and political subjectivities regarding who is (or is not) a citizen and who is (or is not) part of the nation.

Xenophobic Attacks as an Effect of A New National Subjectivity in South Africa

Victims of the attacks were, most of the time, non-South African African people living and working in South Africa. Some of them had been there for a very long time, some had arrived more recently. Some were documented and some were not. South African people were attacked too, when trying to protect their foreign neighbours, or because of their foreign spouse, or because they were mistaken for foreigners (as not South African enough) by the assailters. In some places their not speaking the dominant language in the area was turned into a sign of extraneity. In others, older Mozambican migrants were left in peace but newcomers in the township, such as Zimbabweans, were attacked. In other places again, some South African citizens, originally from Pedi or Venda ethnic groups, were attacked as if not South African enough. The common denominator among all these people was their actual or assumed status of makwerekwere (‘foreigners’ in Johannesburg slang): as if some people ‘belong’ to the nation more than others; they were attacked because of their not being thought to be South African. In some places, newspapers reported that people brandished their ID cards in order to prove their nationality and to avoid being assaulted. People were attacked

10 I was involved on road R28 as an activist of ADF (African Diaspora Forum) and not as a scholar. ADF is a federation of foreign national aid associations. It was funded before the attacks occurred and initially was meant to promote inter-cultural values, reciprocal knowledge and peaceful relationships between South Africans and foreign African migrants. When the attacks started, it helped the displaced with food, shelter and comfort and kept a critical eye on the situation in the temporary shelters. ADF members became intermediaries with the authorities on the R28 in order to avoid violence against people left stranded there and sorted out their situation, following their failed expatriation via Lindela. See www.adf.org.za for more details, and T. Polzer and A. Wa Kabwe-Segatti, ‘From Defending Migrant Rights to New Political Subjectivities: Gauteng Migrants’ Organisations After May 2008’, in Landau (ed.), Exorcising the Demons Within, pp. 173–99.
11 Neocosmos, From ‘Foreign Natives’ to ‘Native Foreigners’; p. 15.
14 Ibid.
15 It has been now corroborated that at least 12 of the 62 people killed were South African people of Venda or Shona origin, supposedly darker than other South Africans and who did not speak or understand Zulu.
because they were seen as outside the nation, as non-nationals — whether this was actually the case or not.

The reason for their rejection is not (or not primarily) a cultural or religious one, nor an ethnic or racial one. When a dominant language in a locality is used as a marker of belonging, for instance, it serves as a lingua franca and a symbol referring to the ‘authentic’ nation, an ‘indigenous’ citizenship, to use Neocosmos’s expression. It is not primarily an ethnic referent, focusing on a single community with a particular culture, territory and rules. Therefore, I would argue that speaking of an ‘ethnic cleansing’17 is inadequate, as ethnicity generally conveys notions of culture, language, religion, and a specific political organisation, none of which were issues centrally at stake here. We should rather speak of a ‘national cleansing’ as the attackers chased people away for seeming to be (according to crude stereotypes) foreigners, in other words non-nationals.

‘We do not want foreigners here. They must go back to their country.’; ‘Phuma amakwerekwere, phuma!’; ‘Foreigners must go away!’; and ‘Go back to Zimbabwe!’, were common phrases heard during the attacks. This view restricts belonging to a country to only those who hold its nationality. Foreigners are ascribed to ‘their country’, so that ‘our country’ only welcomes those who are said to be ‘nationals’. Similarly, after interviewing various stakeholders in different townships, researchers indicate that ‘the communities in general […] feel satisfied that foreigners have finally been removed from their space and society’.18

Such views pose key questions that are important not only in South Africa but for all governments in a globalised world where migrations and population movements for economic and political reasons are now common. Does one country only belong to those who hold its nationality, or does it belong to all who live in it? And, reciprocally, do you need to be a national to be considered as part of a country you live in? These are crucial issues raised by the May 2008 xenophobic attacks, especially in a country where capitalism has long relied on migrant labour recruited both internally and across borders, and previously regulated by apartheid laws governing influx control.19 In the aftermath of apartheid, the end of influx control did not end internal migration from rural areas to towns, whilst international migration has intensified as in other parts of the world20 — a consequence both of South Africa’s welcoming official policy towards international refugees and asylum seekers and of its attractiveness to economic migrants. And yet this welcoming posture is at odds with the brutality of the actual migrant experience, as has been well documented.21

Who belongs to the nation is never an uncontroversial issue and every nation state deals legally with the question of defining who is or is not its citizen. Nevertheless, the definition of a citizen does not necessarily draw on a divide between who is a national and who is not. For instance, in Robespierre’s 1793 first draft of the French revolutionary Constitution — which was never applied, but which illustrates one extreme example — one can read that a citizen is ‘every man born and domiciled in France, aged over 21 [and] Every foreigner aged

21 A. Wa Kabwe-Segatti speaks of a ‘new paradox: despite the overall legal framework offering migrants in general more rights and guarantees than ever before, their situation in terms of human rights’ abuses, economic and social rights and day to day interaction remains a preoccupying one’. Indeed, drawing on several research studies Neocosmos described a long list of ‘criminalization, policing and [often illegal] repatriation’ of foreign migrants in South Africa. Lindela centre is the incarnation of these exactions. Both insist that the lack of a proper ANC policy on immigration contributes to that situation.
over 21 who is domiciled in France for over a year and who either: makes a living out of his work, buys a property, marries a French woman, adopts a child, feeds an elderly person. Here, as noted by the French historian Françoise Gauthier, citizenship did not refer to nationality but activated the notion of the French medieval ‘rights of the inhabitants’.

The approaches taken by South African governments have never come close to that notion. Landau shows how, while answering the question of knowing who is a citizen in South Africa, colonial and apartheid policies in their various stages, and in different ways, were built on the concept of insiders and outsiders, giving way to what he calls a ‘demonic society’. Neocosmos, drawing on Mamdani’s analysis and showing the systematic opposition by the state of rural migrants to urban dwellers, reaches a similar conclusion. But he also reminds us how various South African organisations theorised and enacted a more inclusive ‘pan-Africanist’ and ‘active’ notion of citizenship whilst fighting against the apartheid regime. For trade unions, civic organisations, street committees and the like that developed these ideas in the political struggle of the 1980s, ‘national unity’ was founded on an inclusive notion of ‘non-racialism’.

Neocosmos writes that ‘fundamentally, the popular movement gave practical content to the initial statement of the Freedom Charter (…) that South Africa belongs to all who live in it (…). The important point here is that it provided an active conception of citizenship while it gave in its practice a universal content to those prescriptions’. Following the political line of the ANC during the struggle against apartheid, the spirit of the 1996 Constitution precisely sought to eradicate the idea that unequal rights should be applied to people because they were considered as different and inferior or superior to one another. It clearly held that South Africa (the whole country and its whole territory) belongs to all who live in it. With apartheid abolished and a new democratic regime negotiated for all, the new constitution asserted a new sense of belonging to the country, one not based on racial or ethnic criteria but, rather, on a collective belonging to the nation which was to be built. South Africa did not choose to build its constitution on an explicit multiracial or multicultural type of recognition, but rather used the democratic notion of equality by which everybody in the country was to have access to the same rights. Indeed, the constitution opens with the following preamble, echoing the Freedom Charter of 1955:

We, the people of South Africa,
Recognise the injustices of our past;
Honour those who suffered for justice and freedom in our land;
Respect those who have worked to build and develop our country; and
Believe that South Africa belongs
to all who live in it, united in our diversity.
We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to,
Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;
Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law [. . .]

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23 See Landau (ed.), *Exorcising the Demons Within*.
26 Neocosmos, *From ‘Foreign Natives’ to ‘Native Foreigners’*, p. 56.
Thus, being part of South Africa is conceived of in terms of being and living in the country, of ‘unity in diversity’. A reference is also made to those who built and developed the country which can, a priori, include non-citizens, in particular foreign migrant workers who have contributed for years to mining, farming and other industries. Indeed, all Mozambican illegal immigrants living in South Africa were offered amnesty when the new constitution was adopted. This approach represented a path towards reconciliation for all nationalities, ethnicities and groups in South Africa; it draws on a vision in the literature of a nation which is seen as socially inclusive. In the South African case, it is important to note that it also insists on the common building of the country as a basis for political inclusion, not only implying access to rights for all but also political agency for all (and not just political representation). In other words, inclusion was to be understood not only as an objective technical decision by the state, but as a subjective prospect and a political decision for everybody living in the country: seeing oneself as part of a single, common country or not; getting involved in the political building of that ‘new South Africa’ or not. This issue was thus central to the democratic process.  

Moreover, this inclusive conception implied that no revenge was sought against former political enemies: the people of South Africa agree to live together in peace, as the preamble also puts it. The Truth and Reconciliation Commission contributed to that process and opened the way for a way of life for all South Africans based on new shared principles. Amongst those new principles were ‘human rights’ which, as noted by the French jurist, Spitz, are [here] absolutely different from what the words of ordinary language express. They are specific values of the new South Africa, like apartheid was [once] the value which built South Africa [. . . .] A human right is not something which is forever engraved in the bronze of an intangible table of laws or in the intention of a lawyer, it is what a large number of people can agree on provisionally after having debated as far as possible. 

In this ability to debate, Spitz sees the characteristic of an ‘open society’, a society that ‘does not pretend to have a dogmatic way to answer the questions it asks oneself. That implies that it deliberates to reach an answer which is not already given’ – especially not already given by the state alone without the participation of other sources of policy such as NGOs, political organisations, members of civil society, inhabitants, and so on.

Now that the euphoria of the 1994 elections has long died away and xenophobic feelings are increasing, sceptics argue that the vision of a state ‘led by the people’, and the idea of building an inclusive nation, might never have been politically feasible anyway, that it was just the optimism of the moment at work. My fieldwork, conducted in factories in Durban (1997) and in Nelson Mandela Bay, Port Elizabeth (1999), and an analysis of workers’ political subjectivities at the time, contradicts that assumption. When I interviewed factory workers about their understanding of being a worker in South Africa, they replied unanimously that it meant ‘building the country’, ‘participating in its economy’. In their own words and in their own ways, they insisted that being at work in the factory was their way of expressing their national feeling. For them, ‘being part of the nation’ translated as ‘nation producers’. Feeling part of the

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29 It must be noted though that in the South African Constitution, being a citizen is a keyword at the end of the paragraph in contrast with the previous lines. Perhaps this ambiguity in the Constitution itself is at the heart of the change in the concept of the nation.


nation and defining what it should be was a political process, where the state and its law did not play a unique role but where people – here workers – shaped that role. Indeed, Mandela’s conception of the building of the country was personally internalised by the workers I interviewed. When asked what it meant for them to be a worker in South Africa, the interviewees (around 30 people – white, black and Indian in Durban; black, coloured and white in Port Elizabeth – were chosen at random and interviewed in each factory) unanimously replied that it had to do with building the country, its economy, being part of South Africa, and so on. The political subjectivity I identified there was then characterised by what I then called a ‘productivist unanimism’. National unity was based on the notion of building a common future for all. In these workers’ case, national feeling was located in the factory and had to do with a subjective understanding of being at work; an example of ‘active citizenship’.

In retrospect, it must be stressed that my interlocutors also had a strong consciousness of and trust in their own agency and argued that they were part of the political process at work in the country because they had a job in contrast with the many unemployed. National feeling did not overtly appear to be based on an opposition between nationals and foreigners. It was based on a collective wish to build the country; political perceptions did not relate exclusively to an electoral choice or an assessment of government performance; instead, people had their own prescriptions about the future of the country and described themselves as involved in that policy.

What about now? What do the 2008 xenophobic attacks tell us about the current political sequence and its rationales, about how much has changed? I argue that we now face a national concept of subjectivity based on an opposition between nationals and foreigners, and my hypothesis is that the issue of (human) rights as conceived today in South Africa contributes to the emergence of this new subjectivity.

From ‘Human Rights’ as Political Principle to ‘Human Rights’ as Political Entitlement

Scrutinising data on the xenophobic attacks of May 2008 reveals that one of the motives of the attackers when brutalising and looting foreign nationals was that they believed that they compete with citizens or, in their view, that they illegitimately access economic goods, facilities or rights to which only those who are stereotypically seen as South African should be entitled. Significantly, the onset of violence in Alexandra followed a local meeting where a community representative alleged that RDP (Reconstruction and Development Programme) houses had been given or sold to foreigners. Those houses are officially meant to be owned for at least five years by their South African owners before they can be sold to someone else. Similarly, Danny Turken’s film, Affectionately Known as Alex, has a scene where, before May, women are toyi-toying in a street demanding that RDP houses be returned to them. The signs they hold read ‘Phuma amakwerekwere, phuma!’

33 Although I would not talk of ‘economic citizenship’, my findings echo Michael Neocosmos’s notion.
34 For more detail, see J. Hayem, La figure ouvrière en Afrique du Sud (Paris, IFAS-Karthala, 2008).
35 I did not interview workers on that specific issue at the time nor conduct similar research with the unemployed, which might have contrasted with those results. Nevertheless their replies show that an alternative notion of subjectivity in relation to the nation and the country did exist at the time, at least among employed workers. See J. Hayem, ‘The “Voucher” Strike: Workers’ Political Subjectivities in Post-apartheid South Africa’, Journal of Asian and African Studies, 47, 5 (2012), pp. 516–29.
37 Zulu for: ‘Go away foreigners go!’
Community Policing Forum, organised just after the outbreak of the attacks, one sees a community leader saying to an excited crowd that it can’t be right to kill people but ‘We are fighting for our rights!’ Similarly, in the interviews conducted by FMSP, many residents complain that what they are entitled to from government is protection from foreigners, such as this Madelakufa resident who expresses a concern and a logic shared by many: ‘In this area, the community is tired of migrants and it looks like they are receiving from our government more than us, some of them have houses we still don’t have houses’ (Madelakufa, Tembisa resident for 15 years, interviewed 22 August 2008).

South Africans involved in the attacks tended to develop a sense of legitimate entitlement38 linked to their national being: priority should be given to South Africans because they are nationals. Researchers from SWOP (Sociology of Work Unit, Witwatersrand University) reached similar conclusions in their research on eight case studies where service delivery protests and xenophobic attacks took place. Van Holdt39 writes in the introduction that:

> [the township dwellers they interviewed] engage in struggle to enforce a national citizenship regime through which they are defined as citizens with the right to lay claims to a redistribution of resources through the simultaneous exclusion of foreign nationals as non citizens whose access to accumulation of resources is thereby rendered ‘illicit’.

During a two-day workshop in Alexandra in July 2008, a focus group organised by SAWID (South African Women in Dialogue) comprising Alexandra women asserted that ‘Foreigners are violating our human rights!’ What kind of ‘rights’ do people refer to here? Most probably, those rights enshrined in the Bill of Rights of the South African constitution and central to the RDP: housing, access to health, electricity, water, and so on. The Bill of Rights indeed lists a series of rights ‘for all the people in the country’.40 Among these rights one finds equality, human dignity, life, freedom of expression, religion, opinion, trade, residence, fair labour, property and, especially important for our argument here, sections 26 and 27 indicate a ‘right to have access to’ housing, health care, food, water, social services and education.

Access to these latter rights, which are also basic needs, was a central part of the ANC programme for the 1994 elections. The RDP promoted them and asserted that access to housing, electricity, water and sanitation was the primary objective of the new government. In his inaugural State of the Nation speech on 24 May 1994, Mandela indicated that: ‘My government’s commitment to create a people-centred society of liberty binds us to the pursuit of the goals of freedom from want, freedom from hunger, freedom from deprivation, freedom from ignorance, freedom from oppression and freedom from fear. These freedoms are fundamental to the guarantee of human dignity’.41 The frontier between political principles for the building of a new nation and political promises, from a political party to its constituency, was unclear here. Nevertheless, as Naude42 points out, the formulation of the constitution is specific in Sections 26 and 27. It does not read that ‘every citizen has a right to’

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38 Devan Pillay develops a close argument about a culture of entitlement in ‘Relative Deprivation, Social Instability and Cultures of Entitlement’, in Hassim, Kupe and Worby (eds), Go Home or Die Here, pp. 93–104.
39 Von Holdt, Langa, Molapo, Mogapi, Ngubeni, Dlamini & Kirsten, The Smoke that Calls, p. 27.
40 As noted in an article written by L. Haigue and H. Solomon from the Centre for International Policy Studies in Pretoria which was published in the Cape Argus, the new 1998 Refugee Act is rather progressive and opens, at least theoretically, most of those rights to foreign residents, once asylum status or refugee status is granted, with the exception of political rights. Citizenship is a requirement for the right to vote, as is the case in most countries.
as for all other sections, but that every citizen has ‘a right to access’ them and that ‘[t]he state must take reasonable legislative and other measures, within available resources, to achieve the progressive realisation of each of these rights’. Naudé also insists that this conception encourages civil society and various stakeholders to take their share in the access to human rights (including basic needs), while bargaining with the state.

In other words, as already stressed, the other important aspect of the ANC’s policy for ‘building the nation’ in 1994 was the idea that this programme is ‘led by the people’ and not only by the state. From that perspective, you are not only entitled to a right, but somehow responsible for its achievement. In order for a policy to come true and for the state to deliver what the constitution stands for, everyone in the country is encouraged to contribute in their own way to the political accomplishment of that statement within the whole of society.

In 2008, arguing that their human rights, as stated in Sections 26 and 27, were not being fulfilled was legitimate to many people, who still live in informal settlements without ‘access to’ basic needs. In spite of significant progress initially being made in that regard, commodification of many services by the liberal state contributed to their deprivation. Interviews conducted with people in the areas where the attacks started confirm that their complaints mostly concerned access to housing, competition for jobs (and hence for a living), overcrowding of settlements or townships and long-awaited access to water or electricity. Human rights as basic needs are still absent for most of the population of South Africa. Nevertheless, deprivation of basic services was not a sufficient condition for the attacks to start: many underprivileged areas stayed calm and many resisted xenophobic attackers and protected foreigners.

Lack of services was already present just after 1994 and there were no such massive xenophobic attacks. An important qualitative and subjective change took place in the meantime. When some people now shout that ‘foreigners are violating our human rights’ it shows that a ‘human right’ is not conceived of as a political principle which applies to all in the country. It is seen as a national privilege which can be refused to those who do not belong to the nation. Suggesting that foreigners (or those considered to be foreigners) are ‘violating’ South Africans’ human rights not only makes them responsible for the problems facing the poorest people in the country, it also suggests that South Africans, as South Africans, are entitled to those rights as members of the nation, whereas others who are not nationals are endangering them, attacking them, and therefore that non-nationals should be deprived of them. Here, people do not claim access to these rights as political principles for all but as electoral promises specifically for nationals. They do not subscribe to the universal meaning of ‘human rights’ but to a particular, national advantage. Political thinking and conceptions of the role of the state do not relate to the notion of a common good for the whole society but to electoral and clientelist strategies. The meaning of ‘human rights’ is thus challenged and the way it is debated now in South Africa shapes the nature of politics at work in the country.

43 Of course, Mandela does not call for a demagogic conception of representation where people should be followed whatever the direction they are heading towards, including even xenophobia. He contends rather that the State can be prescribed by people.


45 Ex-Department of Home Affairs minister Buthelezi’s (in Mandela presidency) words echo like a premonition to that view when he stated that ‘[i]f we as South Africans are 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’. See ISS paper at http://www.iss.co.za/pubs/ASR/6No1/Christie.html, retrieved July 2011.
Instead of ‘politics’ being addressed in the name of the general interest (a better life and a better society for all), it is deployed to refer to particular interests to be secured in the polls and through political connections.

Consequently, May 2008 raised several stark questions for the government and the nation. Do foreign nationals belong to the country or not? Is the national government responsible for their well being or not? How does the notion of human rights operate in South Africa: are we speaking of a new political principle to guide the new South Africa as Spitz suggests? Are we speaking of universal and worldwide principles? Or must we consider a ‘particularist and nationalist application of the notion’ as suggested by the statement that ‘foreigners are violating’ them? Are foreign nationals entitled to human rights like other people, not only de jure but also de facto? Or does the government ultimately agree with the xenophobic mob when they point at foreigners as the source of their problems and suggest that some rights, including basic ones, should be reserved for nationals? Finally, what kind of political relationship links the people of South Africa and their government regarding the common rules to be followed? The situation of the R28 displaced and, more generally, the camps’ management, at least in Gauteng, illustrates the ANC government’s answers and silences on these issues.

Government Ambivalence in the Face of Xenophobia

During the 2008 crisis, several elements illustrated the ambivalence of the South African state towards foreign nationals living in the country. Many contradictory decisions, or absence of decisions, indicate that at the end of the day, while officially condemning the attacks, the government did not clearly contest the attackers’ rationale. In many cases, the government ended up acting as if foreigners were just passers-by in the country and not, as was the case for many of them, permanent residents there. The South African government chose to act as if the situation was either a criminal issue (the hypothesis of a third force or of criminal motives behind the attacks) or a migratory one, and not an internal social and political crisis. Interestingly enough, and similar to the situation in Zimbabwe at the same time, there was said to be no political crisis, if any crisis at all.

The then Minister of Safety and Security, Charles Nqakula, initially responded to the attacks in Alexandra by claiming: ‘It is only a problem, but if it were a crisis, it would be happening right across the country’. However, when the attacks spread throughout the country, the government did not significantly modify its perception or labelling of the situation. This policy of silence can be seen as a tacit approval of the chasing away of foreigners by angry South Africans; the lack of political acknowledgement of the nature of the events facilitated the departure of thousands of foreigners living in South Africa. In Gauteng, the ambivalence manifest in the declarations and decisions of various state actors was visible not only during the attacks but also when dealing with the displaced people afterwards and, in particular, with those left stranded on the R28 after they had been released from Lindela.

48 In fact, the humanitarian crisis, referred to international standards, was the only one to be properly acknowledged.
Initial Reactions

In the first place, the government was very slow to react to the attacks. Then President Thabo Mbeki was in Japan at the beginning of May and did not get back in time. He and Jacob Zuma, the then ANC president, did not visit the communities until the end of May. In fact, Winnie Madikizela Mandela was one of the few political leaders to do so at an early stage of the crisis, when she went to Alexandra to meet with the displaced on 15 May.

At a lower level, the mobilisation of local ANC leaders was very uneven too. With the help of local organisations and volunteers, some of whom were affiliated to the ANC, leadership interventions and meetings seem to have curbed or avoided violence. But there does not seem to have been a clear general signal from the ANC leadership at the top to call for the end of violence in the townships, nor was there a directive to actively oppose or prevent the violence. Several community leaders interviewed by FMSP (in Alexandra, Atteridgeville and Masiphumele, for example) indicate that even when they were asked to come down to engage with the grassroots support, ANC local leaders did not necessarily care to do so or did not explicitly call for peace. In some instances, political calculation might have come before political will – the national elections were around the corner and the wish to secure a constituency might have outweighed the urgency to actively take a stance against xenophobia.

It can be argued that another manifestation of the government’s inability to acknowledge the nature of violence in the country was its initial reluctance to send the army in to stop the attacks (there were ten days of violence and many deaths before the government decided to deploy the army). Objectively, the death toll as well as police inability to stop the violence, probably justified army intervention. Yet, whereas calls from various political opposition parties, churches and civil society organisations fell on deaf ears, it was only after the National Union of Mineworkers (NUM) demanded the intervention of the army in order to protect its own members (essentially, to insist that some of its members were also foreigners and deserved protection too) that President Mbeki agreed to it. ‘Many NUM members come from neighbouring countries such as Lesotho, Zimbabwe, Malawi, Zambia, Swaziland and others. We therefore can’t allow the situation to be polarised further’, said NUM Deputy General Secretary, Oupa Komane, on 20 May 2008. The army was sent in the next day.

Why such a time lapse? Many people, including human right activists, were concerned that army intervention would create a situation which might recall the State of Emergency in the last years of apartheid and so they initially opposed army intervention; this was probably a concern for government as well. But to take such a decision needed a political analysis regarding the present and the future, not only an analysis of how the present echoed the past. As such, I would suggest that the proximity of the NUM intervention to government’s decision to act was not coincidental: first, because it insisted that foreign workers were part of their affiliates, hence part of South Africa, and as such needed protection from the State; second, because it also stressed the ‘polarised’ aspect of the situation, national versus foreigners, which invalidated the arguments about the attacks only involving criminals and hence to be treated by the police. The efficiency of the NUM’s long-standing ‘non racial’ and

50 To make a comparison: when US President George Bush did not visit New Orleans after Hurricane Katrina, this was widely understood as a sign of how little he cared for the people affected.
51 Democratic Alliance spokesman, John Moodey, observed as early as 15 May that ‘The army should only be used in a civilian context in case of serious emergency. But I believe we may have reached that stage’, SAPA.
53 On 15 May, SAPA reported that ‘Lawyers for Human Rights expressed concern about the army being used to help quell the violence. ‘Such use of the military risks exacerbating the situation and creating a security environment similar to that continuously used prior to 1994’’, the organisation said.
‘non-nationalist’ political stand has been assessed locally as well. While studying the absence of xenophobic violence in Khutsong, a township next to the mining city of Carletonville, and in spite of the township being regularly involved in violent demarcation protests, Kirshner argues that ‘Despite recent challenges’, the NUM, which was actively involved in opposing ‘the powerful mining industry and its attempts to divide workers along ethnic and national lines (…) during the apartheid era (…) has fostered collective bonds between citizens and non-citizens in the mining workforce’.55

It took the government even longer to call publicly and articulately for peace and not just to condemn the violence. Even then, the ambivalence of Mbeki appears in his naming the victims ‘foreigners’. In his address to the nation on Africa Day,56 while calling for peace among neighbours, the president alternately used the notion of ‘African brothers and sisters’ and the term ‘foreign guests’ to designate the victims of the attacks. While the pan-Africanist call seems welcoming and inclusive in the mouth of the originator of the African Renaissance, a guest is someone who does not stay permanently; you host him or her but he or she does not belong to your home. While this phrasing might apply to the many tourists in South Africa, when used to designate people living and working in the country, sometimes for years, it replicates, although in a more subtle way, the insider/outsider vision of the nation.

As for ANC’s acknowledgement of the role of foreigners in the country, it was systematically made in the past tense. Many ANC leaders and veterans insisted on the role neighbouring countries had played in the struggle as an argument for peace and respect; others (including the president himself) stressed the role foreign labour had played in the development of the South African economy. For instance, on 25 May 2008, Mbeki declared57:

We must never forget that our economy was built by the combined labour of Africans drawn from all countries of our region, many of whom died in our mines together with their fellow South African workers. Neither should we forget that many people from other African countries helped to build our liberation movement, while many in our region died because of apartheid aggression as they supported us in the struggle to defeat apartheid.58

But no government official clearly stated the role that foreign labour currently played in the country. As for Zuma, in spite of the fact that he also condemned the violence, his insistence on the idea that ‘we cannot allow South Africa to be famous for xenophobia. We cannot be a xenophobic country’59 brings into question his priorities: South Africa’s brand image on the eve of the 2010 FIFA World Cup, or the life and death of many people?

Finally, the fact that the government had promised to create a special court in order to judge the 1,400 people arrested during the violence but finally did not do so, also weakens its condemnations of the attacks. The Director of Public Prosecutions had said in June that he planned to proceed by July.60 Instead, many suspects were released under pressure from the community, political leaders and families.61 In other instances, in spite of court appearances,
the cases were postponed because the victims (who had often left the country in the meantime) ‘could not identify the attackers’. One year later, as noted by Mason and Misago, only 16 per cent of those appearing in courts had received effective convictions. Once again it is difficult to resist the conclusion that this amounts to non-treatment, passivity and silence on the part of the South African government with regard to the rights of non-citizens. Mason and Misago write that, ‘the disproportionate withdrawal rate (39 per cent) suggests that priority status was given to those cases too late to ensure that justice was served, and that the system failed to recognise or was indifferent to the outcomes of forced mobility caused by crises such as this’.62

Reintegration Talks

The second and more important aspect of government action in the face of xenophobic violence was the decision made regarding the thousands of displaced people gathered in town halls and police stations when the attacks ceased. The Minister of Home Affairs, Mapisa-Nqakula, very quickly stated that ‘all people would be moved back to their home with the aid of the police’ and she insisted that ‘no one – whether they are in the country legally or illegally – would be deported’.63 However, she did not say how that was meant to happen. When searching for clarity regarding this aspect, in government press statements, official sites or discourses, there is little to be found except that, initially, reintegration was seen as an alternative to the camps for the displaced.

Indeed, President Mbeki declared that he was opposed to the creation of camps, which would entrench a spatial division between foreign nationals and South Africans and thus reinstate an objective division between them. Instead, he argued in favour of ‘reintegration’. By this he meant that people should go back to the townships to live together with their neighbours. On 3 July 2008, in his address at the National Tribute in Remembrance of the victims of attacks on foreign nationals, in Tshwane, the president was more specific and indicated that work would be undertaken ‘without unnecessary delays’ towards reintegration. He promised assistance for a ‘return to normal life’, ‘addressing of the tensions between native and immigrant Africans’ and ‘addressing the challenge to entrench the understanding that this includes full acceptance within all our communities of new residents from other countries, as well as the understanding among the latter that we welcome them as good neighbours and citizens’. However, the impact of this call for reconciliation and unity was weakened by his insistence that the attacks were not xenophobic but ‘criminal acts’. ‘I know that there are some in our country who will charge that what I have said constitutes a denial of our reality’, said Mbeki, ‘[but] I will not hesitate to assert that my people are not diseased by the terrible affliction of xenophobia . . . .’. This refusal to acknowledge the political dimension of the attacks and denial of the discriminatory nature of the violence casts doubt, I would suggest, on the ability and political will to reintegrate foreign nationals into the townships.

As far as the Minister of Home Affairs was concerned, the only indication she gave about how reintegration would proceed was that the police would be used to undertake it. Interestingly enough, on the day after the minister’s statement, the ‘police commissioner in Alexandra – interviewed by The Star – confirmed that none of the foreigners thrown out of their homes would be deported but he declined to say when – or if – they would be taken back to their homes in Alexandra’. He added: ‘My job is stabilisation not re-integration’.64

62 Ibid.
Indeed, as his comments rightly suggest, returning people to neighbourhoods from which they have been violently expelled requires social and political work to reduce violence and organise the restoration of peace, not only in legal and military terms (stabilisation), but also in social terms to establish how they live together and according to which principles, rules and understandings. Indeed, in places where the attacks had been light and where the population organised for discussions to take place and conflict to be resolved, reintegration proved successful and positive.65

In this respect, one might have expected the government, at local or at national level, to take the lead in organising actions and debates in favour of reintegration. Yet no such initiative occurred, except from mandating the Human Sciences Research Council (HSRC) to conduct a study on the possibilities of reintegration. In the conclusion of their report, completed in two weeks and released in June 2008 under the title *Citizenship, Violence and Xenophobia in South Africa: Perceptions from South African Communities*, the HSRC researchers wrote:

> There was an overwhelming sentiment that while violence committed against foreign nationals was not legitimate or acceptable, foreigners should return home and only be allowed back to their communities under strictly regulated conditions. This indicates that reintegration could take considerably longer and be fraught with more complications than perhaps anticipated. If government does not engage with and address this sentiment, the possibility of successful reintegration will be diminished.

This passage was one of the very few parts of the report repeated at length by the media,66 reinforcing the idea that the displaced were indeed in South Africa on an irregular basis. Such ‘hasty’ conclusions, and other recommendations in the report, such as ‘[moving] urgently and effectively to protect South Africa’s borders and points-of-entry’, or listening ‘to the views of South African people who would like their voices heard on how to deal with the influx of foreigners in the country’,67 certainly contributed to the fact that the government did not hurry to reintegrate foreigners. Thus, rather than suggesting a route to reintegration, the report contributed further to creating a ‘fortress South Africa’ mindset, to quote the words of the anthropologist John Sharp. It probably reinforced the government’s decision not to contradict overtly the popular verdict on foreigners as well.

This perception was underscored at a unique event I attended in Gauteng. Held in the Alexandra sports ground, about 2,000 women from Alexandra met over two days to discuss ways to try to restore their relations with foreign nationals as a prelude to their reintegration into local communities.68 It was organised by South African Women in Dialogue (SAWID), an NGO presided over by Zanele Mbeki, President Mbeki’s wife.69 It was organised partly with plenary sessions where the recent xenophobic issues were discussed and condemned in very general terms, and partly with workshop sessions where participants gathered around specific themes for discussions. These discussions showed clearly how South African women were prejudiced against foreigners and how much access to basic needs was at the centre of their daily life and frustrations. These debating sessions were intended to build new skills for peace in the

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68 In some places where no violence erupted, such as Soweto, local organisations worked hard to calm the spirit and avoid any outbursts of violence. Similarly, in Alexandra, some NGOs and local civics tried their best to restore peace. I am here referring to the absence of active state-led action for reintegration, organised and assumed as such.
townships, unravel misconceptions and find an alternative to violence as means to express discontent and voice demands on the state. But two days were much too short a period to produce a positive result. Moreover, many women would seem to have attended the meeting simply because there was free food available – an indication of how deprived they were, but also that they were not necessarily receptive to or concerned with the debates. Most importantly, no men and no foreigners, male or female, attended the meeting. Thus, however courageous and indicative of good will this two-day conference might have been, it could not possibly have created a proper debate on the reintegration of displaced foreigners in the township.

Another action taken to fight xenophobia is striking in its underestimation of the issue and the lack of political will by the government. By the beginning of August, two weeks before the camps were initially due to be closed, SAFM (the national radio station which broadcasts only in English) started issuing short messages extolling the role of the African diaspora in South Africa, the cosmopolitan aspects of Johannesburg’s life, and so on. This kind of political radio message had been used in advertising the ‘new South Africa’ in 1994 and after. At that time, the Simunye (‘living together’) campaign was extended all over the country in eleven languages, on radio and TV and over several months, and it proved effective. This time, however, after a few days with little audience response, the reintegration campaign stopped. In effect, then, little political will to work for reintegration was demonstrated.

Further, a major opportunity to integrate foreign people into the nation and recognise their participation in the local economy might have been to launch a proper documentation process to legalise the status of all the so-called ‘illegal aliens’. This kind of operation had been successful in 1996 and Kader Asmal, former Minister of Labour, argued for it following the May xenophobic attacks. Others, like Neocosmos, thought similarly that people should be documented on the basis of their living and working in the country, both acknowledging and legitimising their presence, and undermining the existence of a double labour market and price competition within the labour force. This, he argued, offered the foundation of an alternative ‘notion of citizenship founded on place of work rather than descent’, one that did not necessarily entail a change of nationality to be effective. Here, the government had an opportunity to demonstrate an inclusive vision of the nation whilst simultaneously expanding rights as a means of compensating the victims for the loss of their belongings. It would also have provided a clear-cut answer to the human rights debate by defining human rights as rights for all and not simply as electoral promises.

Instead, government opted for a partial amnesty solution: displaced people would not be deported, but undocumented people would be granted a six-month temporary permit in order to apply for a formal permit during that period. The Minister of Home Affairs’ comment in The Mercury speaks for itself: ‘Is general amnesty the route we should take? Those people [people documented in 1996] now have permanent residence in South Africa. Not only do they have permanent residence, but [they are] obviously tapping [into] service delivery. I am not sure that that is the route we should follow’. Regarding partial amnesty, her comment reveals widespread suspicion: ‘... we also don’t want a situation where [an amnesty] would be taken advantage of by people other [than] the ones who are displaced’. Her comments


72 Although it is good news for Zimbabwean people living in South Africa, the Zimbabwean documentation project launched in September 2010 cannot qualify as such as it stresses a bilateral agreement between South Africa and Zimbabwe within SADC rather than access to rights based on working in a country.

were in keeping with a long list of statements from the Home Affairs ministry. Instead of taking advantage of the opportunity to document foreign nationals, government perpetuated the perception it had already inspired, of a large influx of illegal aliens in the country.

Instead of organising amnesty or reintegration, the government, which had constantly opposed creating any refugee camps in South Africa until then, finally agreed to be helped by UNHCR in order to open ‘temporary shelters’. On 30 May 2008, after declaring Gauteng and Western Cape ‘disasters areas’, several sites were opened, thanks to the gift from UNHCR of 2,000 tents.


While analysing state intervention and state discourses regarding reintegration during the crisis, one can identify a third interpretation of human rights to emerge: that of the humanitarian discourse. In examining government representatives’ speeches and actions, in particular toward the R28 displaced, it is apparent that, in this case, so-called international human rights were often disrespected and combined with violence.

The creation of camps was made necessary by the humanitarian crisis. The UNHCR pleaded for their opening to avoid a health disaster. But living in temporary shelters quickly became a nightmare for their inhabitants. The camps created around Johannesburg suburbs were isolated, people inside them found themselves far away from their former homes and jobs as well as from their children’s schools, and all the more deprived of autonomy as there was no adequate transport in the areas to which they had been relocated. They were now behind barbed wire, protected but enclosed in this protection and with little vision of their future. Their main questions (as I myself found when I talked to people inside the camps and with the displaced people on R28 in July 2008) were: ‘What next in order to get back to normal life? Where do we go next? When do we get out of the camp and where to?’

In such a context, the announcement of a partial amnesty for illegal immigrants created an unstable political situation in the camps (especially in Glenanda/Rifle Range and Akasia); this decision represented a police operation rather than a political treatment of the crisis. It gave no guarantees to the undocumented who had been displaced regarding their ultimate legal status, apart from being first filed and then fingerprinted by Home Affairs. Moreover, while undertaking this registration in order to organise the closing of the shelters, the authorities did not indicate what would happen to their inhabitants afterwards. In many places it created fear and anger amongst the displaced. The tension was even greater among those who had already been granted refugee or asylum seeker status, who did not understand why they should exchange a two-year residency permit for six-month one. The operation was typical of the biopolitics of the camps – as identified

75 I visited various camps with ADF on 20 July and had informal discussions with several displaced people. OCHA and Amnesty International investigations corroborate those findings.
76 Home Affairs officials told ADF that they used the opportunity to issue a new type of secured documentation which included fingerprints. This was never clearly explained to the people and, indeed, was a strange explanation. Amnesty reports confirm that ‘there was poor communication about the implications of camp residents signing the ‘Individual Data Collection Form’ (Amnesty Report, p.11) and that some government statements amounted to ‘a clear threat on the part of the South African state to breach it’s legal obligations’ (p. 13).
by Michel Agier\textsuperscript{77} in reference to Michel Foucault’s neologism\textsuperscript{78} – and created the usual tensions. In practice, it meant people were to be counted, identified and only secondarily maintained as human beings; certainly they were not to be listened to or discussed with as social and political beings. Agier mentions several cases, in various camps around the world that he investigated, where this type of operation leads to revolts and violence, and writes that ‘access to “Human rights” is founded on the anonymity of the victims; only suffering justifies their being kept alive by the activity of a humanitarian third party [….] a passive refugee is the norm; an active refugee is a scandalous hypothesis [….]’.\textsuperscript{79} Inhabitants of the South African temporary shelters, confronted with registration, were no exception. In Rifle Range/Glenanda, where a lot of the foreigners displaced were asylum seekers or political refugees, the announcement of the new registration was vigorously rejected. As one displaced person later told me on the R28: ‘We were afraid. We are treated like criminals. We are not criminals. Our permits are valid to circulate and look for a job. Why do they ask for our fingerprints? For what permits? Why? We are refugees and asylum seekers. Why is the previous permit not valid anymore?’\textsuperscript{80}

Tension rose and the South African police replied violently to the anger of the camp inhabitants and their organisation against registration. ‘Four security guards have been taken hostages and beaten up […] The police came in the camp and removed the intimidating people’, explained the camp manager to me on 20 July. He insisted: ‘If they do not co-operate, the Minister is adamant we’ll revoke their asylum seeker [status]! […] If no registration: deportation!’\textsuperscript{80} The following day, the Minister of Home Affairs visited the camp and was booed by its inhabitants. In consequence, she turned her anger against the displaced and declared – in contradiction with her previous promises and the reality of the people’s refugee status – ‘Those people have two weeks to leave the shelters, they must submit to registration. They entered the country illegally […] if they do not obey they will be deported’.\textsuperscript{81} In so saying, the Minister publicly threatened not to respect the law (political refugees normally cannot be deported and it is very unusual and exceptional to revoke asylum status). The following day between 700 and 900 people were taken from the camp to a detention centre to be deported in retaliation against their refusal to be registered and fingerprinted. Thus, the Minister turned the displaced into the accused, treating the victims of xenophobia as criminals. Far from working towards reintegration, she represented the displaced as illegal aliens, responsible for their own fate. As a result, the next day, \textit{The Sowetan} front page read: ‘900 Xenophobia Rebels Arrested!’

In a press conference at Lindela a few days later, referring to people now released from the deportation centre but camping at the side of R28 and asking for help in finding a new home, the Minister responded to journalists’ questions about their reintegration by saying that government had ‘already done its best to reintegrate people’ and that she did not understand why people were pleading to go back to the place where they had been attacked. She considered that government ‘did not have any more responsibility with them’.\textsuperscript{82} She also encouraged NGOs, and ADF in particular, to take the matter up ‘if they managed to talk with those people’. Throughout the press conference, the Minister made clear her wish to have the

\textsuperscript{78} M. Foucault, ‘La naissance de la médecine sociale’, pp. 207–28, in \textit{Dits et écrits}, t. 2 (Paris, Gallimard, 2001). This concept is used to indicate that power and politics are exerted on people’s lives and bodies (\textit{bios} in Greek) as opposed to territories.
\textsuperscript{79} \textit{Ibid.}, p. 223.
\textsuperscript{80} Personal discussion with camp manager at Glenanda/Rifle Range.
\textsuperscript{81} SAFM afternoon interview with Minister of Home Affairs, Mapisa-Nqakula, 24 July 2008.
\textsuperscript{82} Personal notes taken during Minister of Home Affairs, Mapisa-Nqakula’s speech at the press conference in Lindela Repatriation Centre on 31 July 2008.
UNHCR take charge of the problem, despite the insistence of the UNHCR High Commissioner for Southern Africa that ‘government is responsible for the people’ – demonstrating that the South African government did not want to work on reintegration and declined its responsibility towards the victims of violence. This conclusion is shared by UNOCHA (the UN Office for the Co-ordination of Humanitarian Affairs) in its additional comments on the crisis. It observes, cautiously but firmly, that ‘camp closure dominated the coordination attempts rather than a commitment to integration’. The Amnesty International Report goes further, noting that: ‘the failure to provide a plan for safe and sustainable reintegration into South African society in light of the on-going threat of xenophobic violence are all actions regarded by Amnesty International as creating a situation of coercion with regards to voluntary repatriation decisions’.

While pretending to comply with the international standards of the UNHCR in terms of Disaster Management, the government in practice avoided treating the actual political and social situation of the displaced. It provided shelter, food and medication, along the lines of what Agier calls a ‘humanitarian government’, but only in such a way as to treat displaced people as ‘bare life’ (zoe) – in the words of Giorgio Agamben – and not as social and political life (bios). As soon as the displaced started to organise and contest registration and finger printings, and demanded explanations about their future – thus demonstrating that they were not only human beings with biological needs but also social and political ones with rights and ways to voice their demands – they were stigmatised and repressed. Several attempts to find a solution were made, particularly by ADF volunteers who implemented a registration in order to identify who wanted to be reintegrated, who wanted to go back to his country of origin. Despite this, in the end local government sent in the police to arrest the people on a charge of loitering. Road R28 was temporarily closed, journalists asked to step back, policemen deployed (equipped with barbed wire and a water cannon as in the old apartheid days, in case of resistance); women and children were taken to a nearby social centre while the men were arrested and jailed. At the end of the day, in spite of legal intervention from various NGOs, more than 120 people were deported, while others decided to go to their home country when they were finally released. Only 30 families were reintegrated into the townships. Volunteer repatriation as well as reintegration was organised by NGOs, in particular ADF. The government did not deal with it. In this episode, displaced foreign nationals living in South Africa were clearly treated as outsiders: their legal status was denied, as was their right to be there, as well as their wish to be assisted by local and national government. More specifically, their wish to be treated as local residents was rejected.

While using international standards to deal with disaster management, the South African state did not tackle the issue of national subjectivity and xenophobia as it was emerging in South Africa at this precise historical and political moment. Instead of addressing and

84 Amnesty Report, p. 28.
87 After long debates we had convinced the R28 people to come forward to us indicating what they wished for their future. Those lists convinced UNHCR representatives to come on the ground to process people officially. But as soon as they arrived on road R28 and started their administrative work, police arrived too.
89 Personal interview with M. Gbaffou, ADF President, Johannesburg, 28 July 2009.
engaging with the assertion that ‘foreigners are violating our human rights’, it blurred the picture even more, adding the humanitarian meaning to the polysemy of notions of human rights. As long as human rights in the sense of biological needs (food, clothes, health and shelter) were being looked after inside the camps, government did not concern itself with the issue of ‘human rights’ outside the camps, or in society at large. Hence its argument that it had done all it could do and had to do, in spite of the main issue being ignored or silenced. Ignoring the political questions raised by the R28 displaced (What’s going to happen to us next? Where do we go after the camps? What is the registration for?) was probably done deliberately in order, first, to secure a constituency for the elections and, second, to make clear to foreigners that they did not wish to assist them. The displaced of R28 were very clear about it. As one RDC displaced person told me: ‘All the people we saw since we were in Jeppe police station stand by us. We haven’t got any problem with the permit, the problem is xenophobia. We do not need any permit and we are taken to Lindela! The real problem is government!’

Conclusion

The South African state’s attitude during the May 2008 crisis entrenched a dialectical type of national subjectivity – nationals versus foreigners – to which the ANC Government contributed through its mismanagement of violence. Thus, May 2008 can be seen as a demonstration of the popular assimilation of the anti-foreigners political discourse which had developed in the country. The lack of action in favour of reintegration, the lack of unequivocal condemnation of the perpetrators and the lack of acknowledgment of the role and contribution of foreigners to the life of post-apartheid South Africa confirmed clearly the ANC government’s anti-foreigner orientation. Moreover, despite South Africa’s progressive legal framework on asylum-seekers and refugees, and despite the government’s willingness to show its ability to respect international humanitarian standards while ‘managing’ what it described as a ‘disaster’, the ANC government ultimately succumbed to the prevailing politics of xenophobia. In turn, as I have argued, these politics contributed to transforming the national subjectivity from an inclusive participant notion of ‘collectively building the nation’ to a division between nationals and (sometimes supposed) non-nationals. The recurrence of attacks in 2011 was a consequence of this politics and of the mismanagement of the initial crisis.

In parallel with that change of subjectivity, the May 2008 attacks show that the notion of human rights in South Africa has become blurred. Human rights have been transformed from political principles to political promises or humanitarian notions, so that a new ‘deliberation’ (in the words of Spitz), is urgently needed if the country is to become an ‘open society’. There is some hope in this respect. The work of NGOs, civics, scholars, activists, unions, townships inhabitants and many other people in civil society has already contributed to the debate, to the restoration of peace and to the fight against xenophobia. Neocosmos, for instance, has noted the statement by Abahlali baseMjondolo, the Durban shack-dwellers’ organisation, in reaction to the May 2008 xenophobic attacks and the response of government, that: ‘an action can be illegal. A person cannot be illegal. A person is person where ever they may find themselves’. Kirshner, too, reminds us that during the same attacks Khutsong inhabitants mobilised to reassure foreign neighbours that there would be no violence against them.

90 Foreign policy and pre-crisis xenophobia also played their part but lie outside the scope of the present analysis.
92 Kirshner, ‘We are Gauteng People’.
Without undermining the tactical aspect of solidarity amongst residents in order to resist local politics in the township, argues Kirshner, a ‘new category of belonging’ has been built in Khutsong, one that ‘exceeded other divisions, such as citizens and non-citizens’. More recent positive signs also exist, including people’s resistance to the eviction of foreign traders in some of the townships targeted by the GGBF, and prompt press statements issued by various organisations to warn against xenophobic upsurges. But much more is needed if the debate is to become effective in reversing xenophobic attitudes.

Such a debate can only enhance South African democracy. If political discussion is to be captured by and left entirely to political élites, exclusively within a representative type of democracy as opposed to enabling a more open political debate where people talk for themselves and contribute directly to the formulation of a common future, it must inevitably feed a clientelist type of politics that will also reinforce the divide between this affluent élite and the poor. As Sharp93 has argued, this can only feed xenophobic thinking: for many in government, and among the economic élite of whatever colour, xenophobia becomes a way of displacing demands for better access to basic needs. The revival of a political debate in which people contribute to the formulation of policy themselves is thus probably the key issue in this regard.

JUDITH HAYEM
Clerse´ (Centre Lillois d’Etudes et de Recherches Sociologiques et économiques) SH2, Faculté des Sciences économiques et Sociales, Université Lille 1, 59655 Villeneuve d’Ascq Cedex. E-mail: judith.hayem@univ-lille1.fr

93 Sharp, ‘Fortress SA’. 