

# SOUTHERN AFRICA LITIGATION CENTRE

## **Open Letter to the African Commission Regarding the Xenophobic Attacks in South Africa**

23 April 2015,

Dear Chair and Commissioners of the African Commission on Human and Peoples' Rights,

We, the undersigned civil society organisations, write to you as concerned organisations and citizens of the African continent to raise concern about the xenophobic attacks currently occurring, mainly against African foreign nationals, in the Republic of South Africa. We come to you, as the body responsible for the promotion and protection of human rights in the African continent, requesting you to call upon the South African government to take concrete steps to end these attacks, prosecute perpetrators and protect foreign nationals living in their territory from violations of their human rights, including the right to life.

As civil society organisations based in and working on human rights issues on the African continent, we are particularly concerned about the loss of lives, injuries to persons, and damage to private property and the dignity of foreign nationals living in South Africa, which are a grave violation of their rights protected under the African Charter on Human and Peoples' Rights (the African Charter). The right to life, not to be subjected to torture, cruel, inhuman and degrading treatment, and the right to strict equality before the law are non-derogable rights - not dependent on a person's status in a country. The status of foreign nationals who are victims of the attacks in South Africa is therefore irrelevant.

We note statements of several governments, including the South African government, to provide assistance for individuals leaving the country. While those who wish to leave should be assisted to do so, the solution to the violence should not be to repatriate all foreign nationals, but to ensure an environment in the country in which their rights are protected. Furthermore, the acts of those carrying out attacks against foreign nationals should not be rewarded by assisting them to achieve their objective of ridding South Africa of foreign nationals. In this regard, we remind all States of the provisions of Article 12 of the African Charter which prohibits the mass expulsion of foreign nationals, including mass expulsion aimed at national groups.

We are further concerned by comments made by persons in positions of authority and influence which may amount to incitement to violence and the role that these play in perpetuating xenophobia. While some statements have been made to condemn the violence, we are concerned that not enough concrete steps are being taken to prevent such attacks, prosecute perpetrators, protect foreign nationals and prevent the mass coerced exodus of foreign nationals from the country.

We, the undersigned organisations, request the African Commission to call upon the government of South Africa to:

- Protect foreign nationals from further attacks, including by increasing police presence in high-risk areas and immediately implementing conflict resolution initiatives in these areas involving the Department of Home Affairs.
- Provide urgent humanitarian assistance to internally displaced foreign nationals in the country, including counselling for trauma.
- Bring perpetrators of violence against foreign nationals to justice. To facilitate such prosecutions the Department of Justice should set up special courts, as was done during the 2010 World Cup in South Africa, to deal with all cases of violence against foreign nationals in a bid to ease the burden on the courts. Information on accessing these courts should be widely disseminated.
- Investigate and bring to justice the instigators behind the perpetration of the violence.
- Condemn unequivocally comments by persons in positions of authority and influence which may amount to incitement to violence.
- Effectively engage the broadest possible South African public, in order to curb and eradicate xenophobia and xenophobic violence. These messages should be repeated, constantly re-iterated and not only heard after crises moments. They should be accessible, in local languages, should be expressed directly to communities, and should involve local leaders.

In 2008, the xenophobic attacks left at least 62 dead, hundreds wounded, and contributed to the displacement of 100,000 people or more. Following those attacks the South African Human Rights Commission prepared a report<sup>1</sup> with their findings and recommendations. We call on you to remind the South African government of this report and call upon the government to immediately implement the recommendations found therein.

In addition, we request you to call upon governments of other countries to ensure steps are taken to prevent reprisals against South African nationals in their territories. International organisations should also assist with humanitarian assistance for internally displaced foreign nationals in South Africa and those returning to their own countries following the attacks.

**Submitted by the Southern Africa Litigation Centre**

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Signed by the following concerned Civil Society Organisations based in and working on human rights issues on the African continent:

1. Lawyers for Human Rights (LHR - South Africa)
2. SADC Lawyers Association (SADC LA)
3. Legal Resources Centre (LRC), South Africa
4. Zimbabwe Human Rights NGO Forum, Zimbabwe
5. The Media Institute of Southern Africa (MISA)
6. Legal Assistance Centre (LAC), Namibia
7. Women Advocates' Research and Documentation Center (WARDC), Nigeria
8. Africa Legal Aid (AFLA)
9. Coalition for the International Criminal Court (CICC)
10. International Commission of Jurists (ICJ – Kenya)
11. Centre for Human Rights and Rehabilitation (CHRR), Malawi
12. Centre for Development of People (CEDEP), Malawi

13. The Centre for Accountability and Rule of Law (CARL), Sierra Leone
14. The Media Foundation for West Africa (MFWA)
15. The Children Education Society (CHESO), Tanzania
16. Coalition Ivoirienne pour la Cour Pénale Internationale (CI CPI), Cote d'Ivoire
17. Réseau Equitas Côte d'Ivoire (REQCI), Cote d'Ivoire
18. Groupe de Travail sur les Instruments Internationaux (GT2I)
19. International Refugees Rights Initiative (IRRI)
20. Foundation for Human Rights Initiative (FHRI), Uganda
21. The Institute for Security Studies (ISS)
22. Human Rights First Rwanda Association (HRFRA), Rwanda
23. The Scalabrini Centre of Cape Town, South Africa
24. Southern African Centre for the Constructive Resolution of Disputes (SACCORD), Zambia
25. Initiative for Civil Liberties (ICL), Zambia
26. The Consortium for Refugees and Migrants in South Africa (CoRMSA), South Africa
27. Engender Rights Centre for Justice (ERCJ), Zambia
28. Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN), Kenya
29. Namibia Women's Health Network (NWHN), Namibia
30. Centre for Human Rights Education Advice and Assistance (CHREAA), Malawi
31. The AIDS and Rights Alliance of Southern Africa (ARASA)
32. Transbantu Association Zambia (TBZ), Zambia
33. Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender (ZACRO)
34. Women and Law in Southern Africa, Mozambique (WLSA – Mozambique)
35. Women and Law in Southern Africa, Zimbabwe (WLSA – Zimbabwe)
36. Tshwaranang Legal Advocacy Centre (TLAC), South Africa
37. Centre for Girls and Interaction (CEGI), Malawi
38. Associação Justiça Paz e Democracia (AJPD), Angola
39. Pan African Positive Women's Coalition – Zimbabwe
40. Pan African Positive Women's Coalition - Southern Africa and Indian Ocean Islands
41. Centre for Applied Legal Studies (CALs), South Africa
42. Lawyers Forum for Human Rights (LFHR), Malawi
43. Coalition for the Prevention of Unsafe Abortion (COPUA), Malawi
44. Ladder for Rural Development (LAFORD), Malawi
45. Association of Human Rights Organisations (AHURIO), Uganda
46. Sexual Rights Centre (SRC), Zimbabwe
47. Associação de Reintegração dos Jovens/Crianças na Vida Social (SCARJoV), Angola
48. Associação, Mulher, Lei e Desenvolvimento (MULEIDE), Mozambique
49. Matrix Support Group, Lesotho
50. African Development and Peace Initiative (ADPI)
51. Paralegal Advisory Service Institute (PASI), Malawi
52. The AIDS Foundation of South Africa (AFSA), South Africa
53. Botswana Network on Ethics, Law and HIV/AIDS (BONELA), Botswana
54. Treatment Advocacy and Literacy Campaign (TALC), Zambia
55. Southern Africa HIV & AIDS Information Dissemination Service (SAfAIDS)
56. Centre for Human Rights, University of Pretoria (CHR), South Africa
57. Temba Community Development Services, South Africa
58. Omunga, Angola
59. AIDS Legal Network (ALN), South Africa
60. Communities' Initiatives for Holistic Social Advancement (CHISA), Malawi

61. Protection Enfants Sida (PES), Democratic Republic of Congo
62. Ndifuna Ukwazi (NU), South Africa
63. Malawi Network of Religious Leaders Living with or Personally Affected by HIV and AIDS (MANERELA+), Malawi
64. Legal Resources Foundation, Zambia
65. ENDA Santé
66. Panos Institute Southern Africa
67. Socio-Economic Rights and Accountability Project (SERAP), Nigeria
68. Darfur Women's Action Group (DWAG), Sudan
69. Civil Resource Development and Documentation Centre (CIRDDOC), Nigeria
70. Affirmative Action Initiative for Women (NCAA), Nigeria
71. Coalition of Eastern NGOs (CENGOS), Nigeria
72. Nigerian Coalition for the ICC (NCICC), Nigeria
73. Legal Defence and Assistance Project (LEDAP), Nigeria
74. Youth for a Child in Christ (YOCIC), Zimbabwe
75. Susceptible Iyanai Chinoda OVC Care and Trust (SICO), Zimbabwe
76. Center for the Study of Violence and Reconciliation (CSVR), South Africa
77. Rede Moçambicana de Lideres Religiosos Vivendo com HIV e SIDA (MONERELA+), Mozambique
78. Association Africaine de Défense des Droits de l'Homme (ASADHO)
79. Initiative for Social and Economic Rights (ISER), Uganda
80. International Alliance on Natural Resources in Africa (IANRA)
81. Africa International Development and Environment in the XXI century (AIDE21)
82. FEMNET - African Women's Development and Communications Network
83. Women Environmental Programme Nigeria (WEP-Nigeria)
84. Niger Delta Women's Movement for Peace and Development (NDWPD), Nigeria
85. Positive-Generation, Cameroon
86. Civil Society Organizations Network (CSO Network – Kenya)
87. NamRights Inc, Namibia
88. Collectif Sénégalais des Africaines pour la Promotion de l'Education Relative à l'Environnement (COSAPERÉ), Sénégal
89. Center for Health, Human rights and Development (CEHURD), Uganda
90. Human Rights Consultative Committee (HRCC), Malawi
91. Centre for Youth Empowerment and Civic Education (CYECE), Malawi
92. Youth and Society (YAS), Malawi
93. Poverty Reduction Network (PORENET), Mozambique
94. Khulumani Support Group, South Africa
95. African Men for Sexual Health and Rights [AMSHeR]
96. Society for International Development (SID)
97. Prévention Information et Lutte contre le SIDA (PILS), Mauritius
98. Kenyans for Peace with Truth and Justice (KPTJ), Kenya
99. Amnesty International Senegal (AI Senegal)
100. Section 27, South Africa
101. Masimanyane Women's Support Centre, South Africa
102. Gay & Lesbian Network, South Africa
103. Amnesty International Mali (AI Mali)
104. Equality Now, Kenya
105. Corruption Watch, South Africa
106. Child Rights Advocacy and Paralegal Aid Centre (CRAPAC), Malawi
107. African Center for Justice and Peace Studies (ACJPS)

108. Zimbabwe Lawyers for Human Rights (ZLHR), Zimbabwe
109. Media Rights Agenda (MRA), Nigeria
110. National Right to Food, Malawi
111. Malawi Economic Justice Network (MEJN), Malawi
112. Malawi Health Equity (MHEN), Malawi
113. Malawi Network of People Living With HIV/AIDS (MANET+), Malawi
114. Church and Society Programmes - CCAP Synod of Livingstonia, Nkhoma, Blantyre, Zambia, and Harare
115. Civil and Political Space Platform (CSP Platform), Malawi
116. Centre for Governance and Public Participation (CeGPP), Malawi
117. The Institute for Political Interaction (IPI), Malawi
118. Ukhondo Services Foundation, Malawi
119. Women's Rights Advancement and Protection Alternative (WRAPA), Nigeria
120. Civil Society Education Coalition (CSEC), Malawi
121. Centre for Youth and Children Affairs (CEYCA), Malawi
122. Development Dynamics Nigeria
123. International Commission of Jurists (ICJ-Africa Programme)
124. Pan African Lawyers Union (PALU)
125. Human Rights Network Uganda (HURINET-U), Uganda
126. Swaziland Lawyers for Human Rights (SLHR), Swaziland
127. Open Society Foundation for Southern Africa (OSISA)
128. Human Rights Institute of South Africa (HURISA), South Africa

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<sup>1</sup> Report on the SAHRC Investigation into Issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence against Non-Nationals, [http://www.sahrc.org.za/home/21/files/Reports/Non%20Nationals%20Attacks%20Report\\_1-50\\_2008.pdf](http://www.sahrc.org.za/home/21/files/Reports/Non%20Nationals%20Attacks%20Report_1-50_2008.pdf) (accessed 23 April 2015)