



African Policing Civilian Oversight Forum

NGO observer status no. 372

Statement in response to the report of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa

73rd Ordinary Session of the African Commission on Human and Peoples' Rights

20 October to 9 November 2022

Banjul, The Gambia

ITEM 10: Activity Reports of the Members of the Commission & Special Mechanism

Honourable Chairperson and Commissioners,

The African Policing Civilian Oversight Forum (APCOF) welcomes this opportunity to make a statement in response to the report of the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa. We are a not-for-profit Trust based in Cape Town, South Africa, working broadly on issues of police accountability and governance in Africa.

APCOF expresses its ongoing concern about incidents of xenophobic violence and related hate crimes against non-nationals in South Africa. APCOF has

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conducted research into the prevention, detection and investigation of xenophobic violence by the South African Police Service (SAPS),ⁱ the role of community structures in preventing xenophobic violence,ⁱⁱ and the need to strengthen oversight and accountability in the policing of xenophobic violence.ⁱⁱⁱ A key finding was the urgent need for a policy framework to address the constitutional role of the South African Police Service (SAPS) in the prevention, detection and combatting of xenophobic violence and related hate crimes. The research also revealed a lack of national coordination which hampers the effectiveness of policing responses to violence; problematic attitudes to the recognition and response to crimes motivated by xenophobia; inadequate training for police on issues of migration law, diversity and inclusion; and a lack of early warning systems for xenophobic violence.

While we note that the South African government has adopted the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP), and a five year implementation strategy, the NAP is unfortunately silent on issues of policing.

Our reports recommended a number of legislative, policy and operational measures that the SAPS should take to improve its responses to xenophobic violence, and ensure that all people within the Republic of South Africa enjoy equitable access to non-discriminatory policing services. Drawing on our research, we call on the African Commission to urge the South African government to take the following measures to promote the rights of non-nationals, including the rights to life and property, and non-discrimination under the African Charter:

- Establish a national coordination mechanisms to improve responses to recurring xenophobic violence.
- Strengthen accountability to ensure that SAPS officials fulfil their obligation to deliver equal and non-discriminatory services to all persons who reside in the Republic of South Africa.

- Provide adequate training on immigration law, bias and non-discrimination to officers to assist in addressing attitudinal issues within the ranks of SAPS.
- Establish an early warning and response system to pre-empt and recognise trends that give rise to xenophobic violence.
- Ensure that xenophobic intent is attributable in crime statistics, and make the prevention, detection and investigation of xenophobic violence a priority crime.

Submitted on behalf of APCOF by:

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ⁱ Louise Edwards and Laura Freeman, ‘Policing and non-nationals: Analysis of police prevention, detection and investigation of xenophobic violence in South Africa’, African Policing Civilian Oversight Forum, 2021, available at <https://apcof.org/wp-content/uploads/policing-and-non-nationals-report.pdf> (accessed on 22 April 2022).

ⁱⁱ Louise Edwards, Azwi Netshikulwe and Laura Freeman, ‘Policing and non-nationals: Community Police Forums and xenophobic violence in South Africa’, African Policing Civilian Oversight Forum, 2021, available at <https://apcof.org/wp-content/uploads/policing-and-non-nationals-community-police-forums-and-xenophobic-violence-in-south-africa.pdf> (accessed on 22 April 2022).

ⁱⁱⁱ Laura Freeman, Lauren October and Louise Edwards, ‘Policing and non-nationals: External police oversight, accountability and xenophobic violence in South Africa’, African Policing Civilian Oversight Forum, 2022, available at <https://apcof.org/wp-content/uploads/policing-and-non-nationals-external-police-oversight-accountability-and-xenophobic-violence-in-south-africa-.pdf> (accessed on 22 April 2022).