



**Seminar on
policing and
non-nationals**
Community Police
Forums and xenophobic
violence in South Africa

22 September 2021



SIGRID RAUSING TRUST



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1. Executive summary

The African Policing Civilian Oversight Forum (APCOF) has received support from the European Union (EU) for a three-year project that is intended to improve the capacity of the South African Police Service (SAPS) to prevent, detect and investigate xenophobic violence and related hate crimes. In 2021, APCOF published research aimed at understanding the role that Community Police Forums (CPF) can play in this regard as part of the formal architecture of policing, violence prevention and safety in South Africa. The research report entitled, 'Policing and non-nationals: Community Police Forums and xenophobic violence in South Africa', was launched during a hybrid event held on 22 September 2021. This event was attended by a range of stakeholders from government, academia and civil society.

The research report explores the challenges inherent in both the legislative and policy framework in respect of CPFs and in the implementation of such framework. It also explores opportunities to bolster the role of CPFs in actively preventing, and responding to, violence against non-nationals within the context of the existing CPF framework, and investigates broader responses by South Africa in addressing this issue, including through the National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance.

The launch event was moderated by APCOF's **Themba Masuku** and commenced with opening remarks by the **Hon. John Jeffery**, Deputy Minister of Justice and Correctional Services, about the centrality of the NAP to the government's approach in addressing the issue of xenophobic violence and related hate crimes. **Thomas Tiedmann**, head of the Governance and Social Sectors of the Delegation of the EU to South Africa, then discussed the measures taken to address this issue in Europe, as well as the support extended by the EU to South Africa. **Louise Edwards** of APCOF thereafter presented the report findings on behalf of the research team. After outlining the key findings of the report, she detailed the recommendations for strengthening the prevention role of CPFs in the broader efforts to prevent xenophobic violence and related hate crimes. These include:

- The need to address deficiencies in the regulatory framework for CPFs;
- Creating more-inclusive CPF membership;
- Enhancing the capacity of CPFs to develop and implement community safety planning, and to work at community level to address local-level safety concerns;
- Securing resourcing for CPFs in order to support the effective implementation of their mandate;

- Establishing mechanisms and procedures to improve information flow between CPFs and the SAPS as part of early-warning mechanisms;
- Broadening the concept of what ‘prevention’ means so as to move beyond just crisis management into a proactive, preventive role for CPFs; and
- including CPFs as a formal stakeholder in NAP implementation planning and delivery.

Lily Hlophe of the Democracy Development Programme (DDP) then presented complementary research – also supported by the EU – on strengthening the intervention capacities of civil society in promoting the integration of migrants into South African communities. Closing remarks were made by **Commissioner Chris Nissen** of the South African Human Rights Commission (SAHRC), which has been a key stakeholder in the efforts to promote social cohesion, including the protection of the human rights of non-nationals in South Africa.

Among the key themes emerging from the launch was the recognition of the need to invest in the capacity of key role players to implement law and policy aimed at preventing violence against non-nationals, and to promote equality and non-discrimination in policing services. Within this context, it was

recognised that CPFs have the potential to play a transformative role in promoting social cohesion and preventing violence. However, significant investment is needed to ensure that CPFs are both supported and capacitated to undertake this work, and are integrated into the broader NAP implementation effort so as to ensure consistency of approach.



CPFs have the potential to play a transformative role in promoting social cohesion and preventing violence

2. Setting the scene regarding xenophobic discrimination and violence in South Africa: The problem, intervention opportunities, and cross-learning



As stated, the launch was moderated by **Themba Masuku, APCOF Programme Manager**, who opened proceedings with a summary of the challenges faced by South Africa in addressing discrimination and violence against non-nationals and others on the basis of their national origin. This includes the findings of APCOF's research, which has identified the limited capacity of role players in the field of policing to effectively prevent, detect and investigate these crimes. Xenophobic discrimination and violence persist, which has a serious impact on the lives and livelihoods of people who are targeted.

In his opening address, the **Hon. John Jeffery, Deputy Minister of Justice and Constitutional Development**, reiterated that there is no place for xenophobia and hate crimes in a free and democratic South Africa. While South Africa is marking 25 years since the adoption of the 1996 Constitution, racism, racial discrimination and xenophobia continue to be experienced in society, alongside other forms of discrimination and prejudice, such as sexism and homophobia. In adopting the NAP, Cabinet signalled its commitment to promote achievement of the constitutional guarantees of equality and freedom from all forms of discrimination. The NAP represents a collective commitment by South Africans to values that will break with the country's hurtful and damaging past, and keep the country's moral compass trained on a path of renewal and growth.

CPFs have a role to play in the implementation of the NAP. They can help facilitate the integration of migrants into communities, and can develop and implement mechanisms to ensure that non-nationals receive the policing services to which they are constitutionally entitled. CPFs can also encourage and facilitate reporting of crimes by and against non-nationals, and can establish an accessible directory of service providers that will provide assistance to victims of racism, racial discrimination, xenophobia and related intolerance.

Support by APCOF for the Department of Justice and Constitutional Development's efforts to develop training in human rights, and in the rights of migrants and refugees, was welcomed. The assistance will bolster the Department's current efforts to conduct restorative-justice community dialogues in KwaZulu-Natal, which dialogues are being rolled out in committee together with a range of other government departments and social partners. The aim of these dialogues is to foster tolerance, revive reconciliation, and rebuild social cohesion among affected communities, and to urgently assist such communities to rebuild their lives by facilitating access to various forms of support and services.

Thomas Tiedmann, Head of Section: Governance and Social Sectors, Delegation of the EU to South Africa, reiterated the EU's commitment to addressing all forms of racism and intolerance, and reflected on the initiatives in Europe and South Africa to translate these political commitments into reality. Since 2008, the EU has had a framework in place to ensure that serious manifestations of racism and xenophobia are punishable within EU countries. This includes directives related to hate crimes and hate speech, as well as to responsibilities of the police in respect of these offences.

However, despite these measures, people across the EU continue to be subjected to racism, xenophobia, and other forms of intolerance because of their race, colour, religion, descent, nationality, sexual orientation, gender or other characteristics. Reporting of incidents is low, and when incidents are in fact reported, police officers do not always record them as hate crimes. Therefore, hate crimes remain under-recorded, and are ultimately an invisible crime.

In reflecting on the EU situation, and on the lessons that South Africa can learn from this, it is clear that some of the basic measures that the authorities can put in place to step up efforts to prevent and counter the spread of intolerance and hatred include sharing experiences, raising awareness, improving data collection and monitoring trends

In reflecting on the EU situation, and on the lessons that South Africa can learn from this, it is clear that some of the basic measures that the authorities can put in place to step up efforts to prevent and counter the spread of intolerance and hatred include sharing experiences, raising awareness, improving data collection and monitoring trends. The European Commission is facilitating the exchange of information and good practices among EU member states through civil society networks and expert groups. The EU is also committed to supporting implementation by South Africa of the NAP, which includes support for data collection and management by the Department of Justice and Constitutional Development, and grants made to APCOF and the DDP to examine issues related to policing and the role of civil society, respectively. The APCOF report will be important in refocusing discussion on the meaningful role that CPFs can play in preventing xenophobic violence and as a critical stakeholder in supporting the SAPS to find solutions to the gaps in its capacity to respond to xenophobia and related crimes.



3. The role of CPFs in preventing xenophobic violence and related hate crimes: Research findings

On behalf of the research report's authors, **Louise Edwards, Director of Research and Programmes at APCOF**, presented the findings and recommendations of their report entitled 'Policing and non-nationals: Community Police Forums and xenophobic violence in South Africa'.

The research is part of a broader EU-funded project to address the detection and prevention of, and response to, xenophobic violence and related hate crimes, and is the second of three research outputs. The first examined the role of the SAPS in the prevention, detection and investigation of these crimes, while the third will identify how to strengthen the role of external police oversight mechanisms in supporting the SAPS to achieve more effective and accountable responses to the challenge.

The CPF research was conducted using multiple research methods, namely: a literature review; an analysis of legal and policy frameworks; field research; and semi-structured interviews with respondents. Respondents included: police officers; policing experts; staff of the Civilian Secretariat for Police Service and of provincial departments of community safety; civil society; and community members.

The research found five key gaps in the current regulatory and policy framework of CPFs as well as in the capacity of CPFs to respond effectively to safety and security challenges such as xenophobic violence and related hate crimes – elimination of these gaps is critical to the overall functioning of CPFs. The first of the gaps is a lack of inclusivity in the composition of CPF structures, which means that CPFs are not always representative of the communities they serve. Furthermore, limited training and capacity building for CPF members to carry out their mandates, or to understand their role in the broader context of safety, security and constitutionalism in South Africa, was identified as a challenge. Related to these, constraints – both technical and financial – concerning the capacity of CPFs to design and implement community safety planning affect their ability to meaningfully engage in preventive safety planning. Geographical and jurisdictional issues were also identified that impact on the effectiveness of the SAPS, CPFs and other community structures to identify and address various issues. Finally, the cross-cutting issue of a chronic lack of funding and resourcing for CPFs was both a standalone finding and a factor in the other challenges identified in the report.

The study also analysed evidence from communities that have experienced xenophobic violence, including how CPF structures have functioned and responded, and why. Three scenarios were tracked: (a) CPFs as exacerbating or being involved in the violence; (b) CPFs as preventing xenophobic violence; and (c) CPFs as irrelevant or unimportant in the prevention of xenophobic violence. A key lesson from the tracking exercise was that CPFs are most effective in preventing xenophobic violence when they include non-nationals in their work, when they work effectively with other community structures, and when they have received capacity support regarding conflict

resolution, safety planning, and understanding xenophobia and non-discrimination. This is important evidence supporting the report's recommendations on inclusivity of, and capacity support for, CPFs.

The report also considered how prevention is conceptualised for CPFs, and how this conceptualisation inhibits their capacity to effectively deliver on their prevention mandate. There are three interrelated issues that the report identifies as requiring action if this issue of conceptualisation is to be addressed. These include an overhaul of the regulatory framework in order to enable CPFs to fulfil their prevention mandates; increased support for CPF involvement in community safety planning; and the need to address attitudinal factors which inhibit the effectiveness of CPFs to deliver on their mandate at the level of the individual and at the level of a local structure.

Drawing on the research findings, the report makes a number of recommendations to strengthen the role of CPFs as a partner in safety and security in South Africa, and, in particular, on how CPFs can play a more active and meaningful role in preventing xenophobic violence and related hate crimes at a community level. It thus recommends:

- **Closing the gap in the regulatory framework governing CPFs** in order to ensure that the framework is complete and cohesive. This includes updating and finalising the 2019 Draft Policy on Community Policing; making the necessary legislative amendments so as to ensure that the relationship between the SAPS and the CPFs is clarified; and developing an induction resource for CPFs in order that all members clearly understand their role and functions in relation to crime prevention and police–community relations.
- **Ensuring that CPFs are inclusive and representative of the communities they serve**, which corresponds to clear research findings that representivity is important in multiple ways, including as a tool to aid in the prevention of violence. This encompasses, for example, model CPF constitutions that recognise inclusivity and representation, a code of conduct that includes zero tolerance for xenophobia, and the development of specialised training to address issues of diversity, multiculturalism, and conscious and unconscious bias.
- **Supporting the development of community safety plans and other prevention activities** such as community dialogues and outreach to non-national communities and South Africans on issues of crime, violence, safety and non-discrimination. What are clearly needed to support the CPFs in carrying out their mandates concerning community safety planning, implementation and oversight are training and support tools, as well as the integration of community policing paradigms and the functions of CPFs into police training.
- **Clarifying the relationship between the SAPS, sector forums, CPFs, and CPF subforums** in order to end unnecessary confusion and duplication in overlapping locations. This includes the need for the SAPS to work directly with communities to identify policing sectors that reflect recognised communities or recognised parts within communities.
- **Securing resourcing for CPFs** to ensure that CPFs have adequate resources to implement community safety plans and to carry out other prevention activities.
- **Improving the flow of information between CPFs and the SAPS** as part of the development of the NAP's Rapid Response Mechanism, which will also require training and resources for CPFs pertaining to the collection and dissemination of information.
- **Broadening the conceptualisation of early-warning systems in order to include violence-prevention planning** that is more holistic. This should include a formal role for CPFs and for Community Safety Forum safety planning in programming for the prevention of racism, racial discrimination, xenophobia and related intolerance in terms of NAP implementation.
- **Including CPFs as key stakeholders in the implementation of the NAP**, both in terms of planning and delivery. This should include the integration of CPFs in the planning and development of NAP implementation relating to the following key NAP outcomes: data collection, prevention, law reform, and building coherence into measures for addressing the challenge.



4. Complementary research findings: The role of civil society in integrating migrants into South African communities

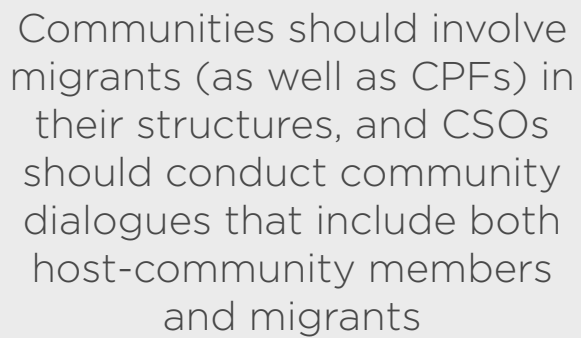
As part of EU support to address issues related to xenophobic violence and related hate crimes in South Africa, research has been undertaken by the Migration Project at the DDP. This research focuses on strengthening the intervention capacities of civil society organisations (CSOs) for lessening xenophobic tendencies among African migrants, South Africans and duty bearers in KwaZulu-Natal (KZN). The research was presented by the DDP's Lily Hlophe, who explained that the project aims to contribute to improved community interrelationships and conflict reduction in KZN through socio-economic cooperation between African migrants and local host communities. The project utilises several methodologies and includes: working with CSOs and the media; conducting research in local communities to understand the dynamics of each community; community engagement; and entrepreneurial training.

CSOs are already very active in working with migrants. This includes informal support for building skills to facilitate intercommunity communication work, focusing on cooperation between entrepreneurs. It is important to ensure that CSO interventions are sustainable – with migrants and locals working together – and that there is community access to, and trust in, CSOs. CSOs are a good source of accurate information for both government and citizens through the role that they play in enhancing transparency by facilitating necessary debates about such topics as migration and social cohesion.

The research findings relate to the experience of the DDP in working with migrants and community traders, as these aspects cannot be discussed in isolation from working with host communities – in particular, issues of integration are contested because of high levels of distrust on the part of both groups. The feelings of migrants are based mainly on their treatment by host communities, while the feelings of local South African communities are often based on what they hear or read in the media. A number of locals do their best to assist migrants, but this is not consistent across all communities. In some communities, migrants face hostility and resistance. In others, mediation has been utilised to provide or establish structures for conflict resolution between migrants and South Africans. When conflicts arise between neighbours or community members (including between locals and migrants), the system of mediation affords all parties the opportunity to resolve the conflict and remedy violations. Mediation is an effective way of diffusing tensions and of achieving conflict resolution without resorting to violence.

Recommendations based on the DDP's experiences of working with migrants and communities include ensuring that CSOs working in communities with migrants avoid treating migrants or local communities as homogenous groups. Rather, CSOs should find a way to disaggregate according to different variables, for example gender or age, with interventions by CSOs being responsive to the various needs of the disaggregated groupings.

Communities should involve migrants (as well as CPFs) in their structures, and CSOs should conduct community dialogues that include both host-community members and migrants. Also, more engagement with media bodies is required regarding the way they discuss migration in order to ensure that they are not only reporting on fear of migration, but also on issues to do with the barriers and fears that migrants face, and to ensure that they promote social cohesion.



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5. Final thoughts

In reflecting on the discussions of the day, **Commissioner Chris Nissen of the South African Human Rights Commission** emphasised that CPFs have a role to play in ensuring oversight over the police and in broader transformation of the police. Accordingly, the CPF's role should not be diminished. Strengthening the capacity and role of CPFs, and ensuring that they are effective, needs to be revisited because of the critical role they play in community cohesion and violence prevention.

The research findings by APCOF and the DDP are to be welcomed and indicate that there is an urgent need to support capacity building in respect of CPFs so that they are effective in their oversight role over the police. This is critical, as it is unlikely that the police alone will ensure that CPFs are effective. Thus, there is a need for other role players to contribute.

ABOUT THIS LAUNCH REPORT

The African Policing Civilian Oversight Forum (APCOF) is funded by the European Union (EU) in order to support the development of the South African Police Service's (SAPS) capacity to detect and prevent, and respond to, xenophobic violence and related hate crimes. The present project is set against the backdrop of numerous incidents of xenophobic violence and hate crimes directed, since 2008, at non-nationals and other persons marginalised on the basis of their national origin who reside in the Republic of South Africa. Outbreaks of xenophobic violence have, however, persisted, and the SAPS' capacity to effectively detect, prevent and respond has been questioned, despite successive research studies, inquiries and recommendations by national, regional and international human rights bodies over the past 11 years designed to strengthen the SAPS' capacity.

The present research was conducted in order to better understand the role under regulation and policy that Community Police Forums can play in the prevention of xenophobic violence and related hate crimes in South Africa. It explores the challenges inherent in the legislative and policy framework and its implementation that have resulted in critical failures. The report examines whether a broader understanding of 'prevention' in the context of the role of Community Police Forums is required, before identifying opportunities to bolster their role in actively preventing and responding to violence against non-nationals.

ABOUT APCOF

The African Policing and Civilian Oversight Forum (APCOF) is a network of African policing practitioners from state and non-state institutions. It is active in promoting police reform through strengthening civilian oversight over the police in Africa. APCOF believes that strong and effective civilian oversight assists in restoring public confidence in the police; promotes a culture of human rights, integrity and transparency within the police; and strengthens working relationships between the police and the community.

APCOF achieves its goals through undertaking research and providing technical support and capacity building to state and non-state actors including civil society organisations, the police and new and emerging oversight bodies in Africa.

APCOF was established in 2004, and its Secretariat is based in Cape Town, South Africa.



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