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## CRIMES AND XENOPHOBIC ATTACKS ON NIGERIAN IMMIGRANTS IN SOUTH AFRICA: LEGAL AND POLICY IMPLICATIONS\*

### Abstract

The intensifying rise in xenophobic attacks against foreigners in different nationalities fundamentally threatens the wellbeing and security of diasporas populations around the globe. Therefore, a lot of political inquires have been raised with reverence to the conscientiousness of states to save from harm the lives and property of citizens both within and across national limitations. This article aims at assessing xenophobic attacks on Nigerian immigrants in South Africa. Data for this study was gathered from mainly secondary sources. The secondary data was collected from books, journal articles, government publications and news media and were content analyzed. The study underlines the causes, forms and implications of xenophobic attacks against diasporas populations in South Africa. Additionally, it argues that contests surrounding the multifaceted spaces of dispossession in urban areas, citizenship and belonging should be central to the discussions on violence in South African. Xenophobic violence in cities is an occurrence that warrants policy consideration and unswerving intercession by central government and local authorities. The indistinctness surrounding the notion is discussed and critical features that describe xenophobia are outlined. The paper momentarily delineates the developmental consequences of rampant xenophobia for migrant and host populations while probing policy options to tackle it. In conclusion, given the increasing unemployment rate and deepening inequality in South Africa and India, xenophobic attitudes are likely to persist and increase. The task of those tackling xenophobia is consequently principally a defensive one in order to avert attitudes from turning into violence.

**Keywords:** Xenophobic, Legal, Nigeria, South Africa and Policy

### Introduction

Analyses on xenophobia emerge alienated with a number of scholars in dispute that xenophobia is entrenched in history, others that modernization strengthens the jaggedness of the global economy. Xenophobia is faulted on a contradictory set of global procedures, patent with closures in the borderless surges and limitless opportunities emphasized by free movement of capital, generating economic discrepancies between countries and regions. The “human development upshots of xenophobia for both immigrant and host populations are pessimistic, destructive, and damaging”.<sup>1</sup>

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<sup>1</sup> Francis B. Nyamnjoh, ‘Insiders and Outsiders: Citizenship and Xenophobia in Contemporary Southern Africa’ [2006], (112) (6), *Dakar, London and New York CODESRIA and Zed Books*.

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Assaults on non-nationals indicate a menace to social order and fairness which typifies anarchy. When social conflict proceeds, human rights are desecrated in the process as intolerance and ill-treatment of foreigners becomes collectively tolerable leading to lawlessness as was the case in the 2008 South African xenophobic attacks which made international captions. This was a time when black foreigners living in informal settlements, predominantly, were unlawfully assaulted by neighborhood groups of Black Africans who blamed foreigners of dislodging them economically.<sup>2</sup> This is a germane example of how Xenophobia makes worsen the susceptibility of migrant groups, revealing them to customary pestering, bullying, and maltreatment by nationals, employers, and law enforcement agencies. It is argued that South Africans' unenthusiastic approaches in the direction of non-nationals are fundamentally tilting towards other Africans, even though there are increasing reports of unfairness towards new arrivals from the Indian sub-continent<sup>3</sup>.

For a while now, the world has been under pressure to accepting why xenophobic attacks have continued in South Africa. World leaders had at diverse point, damned the wind of xenophobia in South Africa with a call on the government of the country to speed up battle against the monstrous activities. Reacting to this however xenophobic attacks have remained unfortunately unswerving in South Africa ever since the country got her independence in 1994. The assent gives more imminent on the increasing rate of xenophobia in the Rainbow Nation<sup>4</sup>. Even though those approaches were a trait of life in South Africa before 1948, the government policy of apartheid, in place from 1948 to 1994, decisively ingrained narrow-mindedness of "difference" in South African society. Although the State and its people have since made momentous advancement in their efforts to conquer the country's apartheid past, racial and ethnic identities still have a strong collision on the customary culture.<sup>5</sup>

The transformed xenophobic attacks in South Africa on Nigerians and other fellow Africa equivalent is an unattractive drift that raises grave apprehension among experts and political analysts of foreign relations. Take for example the February 22, 2017 state of affairs in Pretoria resulted in the loss of blameless lives and priceless properties damaged by some militant youths in South Africa. According to Nigeria's senior special adviser on foreign affairs and diaspora, Abike Dabiri-Erewa, the country lost about 116 nationals from 2016 to 2017, due to the unlawful acts championed by some hoodlums in the host country.<sup>6</sup> This vestige a foremost slow down and which poses a danger to the peripheral relations of Nigeria and South Africa. The attacks and prowling of goods belonging to Nigerian businessmen and women were established by the President of the Nigerian Community in South Africa in the report issued by the News Agency of Nigeria. From the report, it was established that over five buildings occupied by

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<sup>2</sup> Jonathan Crush, 'The Dark Side of Democracy: Migration, Xenophobia and Human Rights in South Africa' [2002], (38) (6), *International Migration*, 103-133.

<sup>3</sup> Ibid.

<sup>4</sup> Innocent I. Olijio, 'Public Perception of Nigerian Newspaper Coverage of Xenophobic Attacks in South Africa' [2015], (40), *New Media and Mass Communication*, 22-24.

<sup>5</sup> Ibid.

<sup>6</sup> Torinmo Salau, 'Nigerians Suffer Xenophobic Attack in South Africa Again' (*Ventures Africa*, 20 February 2017) <http://venturesafrica.com/xenophobic-attack-on-nigerians-in-southafrica/>, accessed 8 January 2021.

Nigerian business were burnt with unparalleled looting<sup>7</sup>. This action is adversative to immigration law and does not obey the rules to the principle of fundamental human rights

### **Methodology**

Data for this study was collected from mainly secondary sources. The secondary data was collected from books, journal articles, government publications, news media and letters and were content analyzed to reflect the Xenophobic attacks on Nigerian immigrants in South Africa.

### **History of Xenophobic attack on Diaspora population in South Africa**

The repulsive tendency of xenophobic violence in South Africa which has time and again been besieged at Africans is not a new happening in the country. Nevertheless, the improved current assaults have spawned severe anxieties within and beyond the African continent. The expression of xenophobia attacks on Africans can be traced to 1995; when youths in the Alexandra township of Johannesburg damaged and burgled the homes of undocumented immigrants and consequently rallied the migrants to the police station where they demanded that the foreigners be without delay extradited to their home countries.<sup>8</sup> The violent xenophobic attacks sustained on migrants in 2008 when South Africans besieged immigrants from Mozambique, Zimbabwe, Malawi and other African countries, which resulted in assaults and raiding of immigrants' homes and businesses, and killing more than twenty foreign nationals in just one week. By the time the violence settles a total of sixty foreign nationals were killed and thousands put out of place from their homes and businesses<sup>9</sup>.

The first expression of xenophobic assaults on Nigerians can be traced to August 2000, when seven Africans, among whom two Nigerians, were killed in the Cape flats in the district of Cape Town. Ever since then attacks on Nigerians have turn out to be customs for South Africans. In 2016, twenty Nigerians were allegedly killed. Xenophobic attack was taken to superior heights with extra-judicial murders and police viciousness which besieged Nigerians. In 2016, a 34-year-old Nigerian, Tochukwu Nnamdi, was extra-judicially executed by the police.<sup>10</sup> On 18<sup>th</sup> February 2017, Nigerians in South Africans were attacked, leading to prowling and setting on fire of their business premises. In a related streak, on the same day, February 18, 2017, Nigerians living in Pretoria West were assaulted by South Africans. The President of the Nigerian Union in South Africa, Mr Ikechukwu Ayene, established the attacks. All through the attack, five buildings occupied by Nigerian businessmen, a church belonging to Nigerians, and a garage with 28 cars under mend were burgled and burnt by South Africans,

<sup>7</sup>News Agency of Nigeria, 'Another two Nigerians killed in South Africa' (Premium Times NG, 15 May 2018) <https://www.premiumtimeng.com/news/top-news/268536-two-nigerians-again-killed-in-south-africa.html>, accessed 15 February 2021.

<sup>8</sup> Stephanie M. Burchard, 'Xenophobia: South Africa's successor to apartheid', (IDA, 30 April 2015), <https://www.ida.org/idamedia/Corporate/Files/Publications/AfricaWatch/africawatch-Apr-30-2015-vol8.ashx>, accessed 30 April 2021.

<sup>9</sup>Ibid.

<sup>10</sup> Isiaka Wakili and Abdullateef Salau, 'Xenophobia: 116 Nigerians killed in S/Africa – The Presidency' (Daily Trust, 21 February 2017) <https://www.dailytrust.com.ng/news/general/xenophobia-116-nigerians-killed-in-s-africa--presidency/186130.html>, accessed 14 February 2021.

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leading to the injuries sustained by a Nigerian pastor. One frequent trait of the attack on Nigerian was that their shops and businesses were burgled before being set ablaze<sup>11</sup>. As on 27th February 2017, a total of one hundred and sixteen Nigerians were detailed to have been killed in South Africa due to xenophobic attacks<sup>12</sup>. Separately from the loss of innocent lives, Nigerians lost businesses and properties worth millions of dollars for the reason of the ugly tendency of xenophobic violence in South Africa.

### **Causes of the Xenophobic Attacks on Nigerians in South Africa**

The germane reasons given by South Africans particularly the locals who are the perpetrators of these violence, hinges on crimes and criminality and other several weak reasons whilst institutional breakdown could be seen as the core causes of the mounting aggravation in the midst of South Africans, the locals consideration otherwise<sup>13</sup>. There is also the insinuation that

“local residents claim that foreigners took job opportunities away from local South Africans and they accept lower wages, foreigners do not participate in the struggle for better wages and working conditions. Other local South Africans claim that foreigners are criminals, and they should not have access to services and police protection. Foreigners are also blamed for their businesses that take away customers from local residents, engage in drugs and the spread of diseases such as HIV/AIDS.”<sup>14</sup>

The second school of thinking was speedy in discharging the argument of South Africans particularly the locals for their violent attacks on their African brothers from other countries. Dismissing the rationale as blurred, it stated that:

South Africans have been attacking foreigners who they accuse of stealing their jobs and women. In my opinion, the accusations are preposterous. How could one steal a woman when relationship between two adults is supposed to be consensual; it also does not make sense that foreigners have been depriving South Africans of job. If South African employers find those from abroad better qualified than the South African counterparts, why blame foreigners<sup>15</sup>

Going down memory lane to map out the root cause of the hostility, it was further reiterated that:

South Africa has a long history of subjugation of the indigenous black population. The state sponsored apartheid regime was designed to keep the blacks at the lower rung of the social order. Apart from being viciously restrained from achieving parity with the whites in their homeland, the blacks

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<sup>11</sup>Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Touwen Carien, ‘Ernesto Burning: An Analysis of Dutch Print Media Coverage on the 2008 Xenophobic Violence in South Africa’ (*Carientouwen*, September 2009) <https://carienjouwten.wordpress.com/essays/reporting-on-xenophobia>, accessed 17February, 2021.

<sup>14</sup> Ibid

<sup>15</sup> Bayo Olupohunda, ‘True Reasons Behind Xenophobic Attacks in South Africa’ (*Politic Naija*, 27 April 2015) [www.politic.naija.com](http://www.politic.naija.com), accessed 9March 2021.

could also not access such critical social amenity like education. Their inability to receive education during apartheid has ensured that the generation of blacks has not acquired the skills necessary to successfully compete in a post-apartheid, the white minority still controls the economy of the Rainbow nation while the black majority remains in township to watch the dream of a post-apartheid Eldorado unrealized. Frustration has turned into hatred towards other African who the now accuse of taking jobs meant for them<sup>16</sup>

There are numerous impetuous factors that have encouraged the perpetration of xenophobic killings in South Africa:

1. Firstly, is the usual feeling of insecurity on the part of South Africans that foreign person are taking over the jobs that should customarily be set aside for them. Consequently, the only rational way for them to show their criticism and opposition is to instigate attacks on such foreigners with the opinion that they would be defending and enviously guarding what is exclusively theirs.
2. Secondly, law enforcement agents in South Africa, most particularly the police, emerge to be sluggish in responding to anguish call by victims whenever they are in peril. It is for this rationale that many bystanders believe that police officers frequently take sides to the benefit of South Africans which should not be. Law enforcement agents are anticipated to execute their duties devoid of any prejudice, terror or favour.
3. Thirdly, is the diminishing economic affluence of South Africa over the years under the ruling African National Congress. The foremost consequence of that dimension is that numerous South Africans themselves are in terrible need of employment as the economic state of affairs bites harder.
4. Fourthly, is the poor knowledge of history by the hostile youths. It is not a humorous thing when younger generations have no or very poor understanding of the past. They appear not to understand the fundamental role played by Nigeria and other African countries in the fight for the emancipation of many South Africa countries from the manacles of apartheid.<sup>17</sup>

Xenophobia is seen at the heart of South Africa's multifaceted predicament as the expression which has to do with abhorrence for foreigners is usually viewed differently in South Africa as the term 'foreigner' frequently refer to African and Asia non-nationals as other foreigners particularly those from the Americans and Europe are bulged up with 'tourists' or even better, referred to as expatriates<sup>18</sup>. In other words:

“Many South Africans look at the attacks on enterprising African immigrants from Somalia the Democratic Republic of Congo, Mozambique, Nigeria and Malawi often running shops, stalls and other businesses in the informed

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<sup>16</sup> Ibid

<sup>17</sup> Adewale Kupoluyi, 'Why Xenophobic Attacks persist in South Africa' (*Vanguard Newspaper*, 9 March 2017) <https://www.vanguardngr.com/2017/03/xenophobic-attacks-persist-south-africa/>, accessed 27 April 2021.

<sup>18</sup> Sibusiso Tshabalala, 'Why Black South Africans are attacking foreign Africans but not foreign whites' (*Quartz*, 15 April 2015) <https://qz.com/384041/why-black-south-africans-are-only-attacking-foreign-africans-but-not-foreign-whites/>, accessed 15 February 2021.

economy and resolve that the current attacks on foreigners are more afro phobic, than xenophobic. Many ask “why is it that a Somali man can run a shop in a township, get raided and beaten up, while a white immigrant in town continues to run a restaurant full of patrons?<sup>19</sup>”

According to this field of thought, the rationale for the attacks on black foreigners is South Africa was the outcome of menace from the past, fuelled by present. He reasoned that apartheid was a sinister tool used to persuade self-hate and tribalism and long after the bane of apartheid, the chauvinism of the past is being refueled in the present.

Although the position of the two schools lend a lot of credibility to the undertakings in South Africa particularly recognizing the reality that the dismantling of apartheid saw to the incursion of citizens of other African countries into South leading to the raise in the flourish of crime, the security armed forces which the government uses as an apparatus to protect lives and properties be permitted to do their constitutional duties rather than the people taking laws into their hands.

### **Xenophobia attack and the political and cultural undertone to it**

In order to really make sense of xenophobia in South Africa means placing it within a comprehensive history of the politics of omission recognized during the colonial era and Apartheid, a history which persist to shape concepts of rights to belonging, opportunities and space.<sup>20</sup> The history of the ‘alien’ in South Africa society, begins during the colonial period but attained a more complicated and dangerous standing during the Apartheid era. All through this period, the state used the idea of the alien to rebuff both rights of residence and political rights to the city’s ‘surplus people’. The scheme was legitimized in the name of supporting the wellbeing and safety of the then white population. Any gatecrasher who was not unambiguously requisite and authorized in urban areas was seen as a deplete on resources and a danger to the preferred cultural and political order, a bequest that continues to outline not only the approach to foreign but to domestic migrants who are frequently measured un-entitled trespassers too.<sup>21</sup>

According to the Citizens Rights in Africa Initiative, the ethnic separation and seclusion under Apartheid fashioned productive ground for xenophobia in quite a lot of ways: First, “it formed racialized conceptions of personality and value, which encouraged Black South Africans to see themselves not only as substandard to whites, but as well as disengage from the rest of the continent.” Second, it encouraged division and compartmentalization of different populations

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<sup>19</sup> Ibid

<sup>20</sup> Micheal Neocosmos, ‘From ‘Foreign natives’ to ‘Native foreigners’: Explaining xenophobia in post-apartheid South Africa, citizenship and nationalism, identity and politics’ [2008], *CO DESRIA*. Noor Nieftagodien, ‘Xenophobia’s Local Genesis: Historical Constructions of Insiders and the Politics of Exclusion in Alexandra Township’ in Loren Landau, (eds), ‘Exorcising the Demons Within: Xenophobia, Violence and Statecraft in Contemporary South Africa’ [2011], *Wits University Press*. Jean-Pierre Misago, ‘Disorder in a Changing Society: Authority and the Micro-Politics of Violence’ in Landau Loren, (eds), ‘Exorcising the Demons Within: Xenophobia, Violence and Statecraft in Contemporary South Africa’ [2011], *Wits University Press*.

<sup>21</sup> Ibid.

as a means of governance and disheartened incorporation or contact between groups. Lastly, it legitimized violence as a means of communicating grievances and achieving political ends”.<sup>22</sup> Apartheid consequently served as a forerunner to modern-day socio-political configurations and approaches to mobility and outsiders. As a Mozambican respondent in Atteridgeville stated;

“This thing is something we inherited from the Boers because when we came to South Africa we arrived into their hands. They encouraged the hatred of outsiders and people would point out to them that at such a place there is a Shangani [Tsonga speaker from South Africa or Mozambique] person and they would come and deport you. So even the children grew up in that culture of discrimination where they could distinguish that this person is from this area and they are of a certain tribe”.<sup>23</sup>

Throughout the Apartheid rule, unfettered human mobility persisted to be seen as a risk to the physical and economic well-being of populace, and prejudice against foreigners is frequently reflected and subjugated in political scapegoating, unfounded inflation of immigration statistics<sup>24</sup>,unimpeded suppositions concerning opportunistic refuge claims or foreign participation in criminal activities, and xenophobic positions among the police<sup>25</sup>and Home Affairs. Officials frequently blame foreigners for a diversity of social ills. For example, a former high position official with Home Affairs stated in 2002 that:

“Approximately 90 per cent of foreign persons who are in RSA with fraudulent documents, i.e., either citizenship or migration documents, are involved in other crimes as well [note: there is no known factual basis for this claim] [...] it is quicker to charge these criminals for their false documentation and then to deport them than to pursue the long route in respect of the other crimes that are committed”.<sup>26</sup>

More lately, but providing comparable validation, a different member of the Department of Home Affairs openly affirmed at a committee meeting in 2011 that foreigners who settled in South Africa were consuming resources. The official queried the use of human rights regulation and the constitution to put up with foreigners and recommended that they should be bowed away, as immigrants were by other countries such as Spain:

“Really, this intake, for how long are we going to continue with this as South Africans? Is it not going to affect our resources, the economy of the country?”

<sup>22</sup>Citizenship Rights in Africa Initiative (CRAI), ‘Tolerating Intolerance: Xenophobic Violence in South Africa’, [2009]

<sup>23</sup> Jean-Pierre Misago, ‘Xenophobic Violence in South Africa: Reflections on Causal Factors and Implications’ [2009]

<sup>24</sup> Jonathan Crush & Vincent Williams, ‘Making up the numbers: Measuring “illegal immigration” to South Africa’ [2001], *Southern Africa Migration Programme*. Ingrid Palmay, ‘Refugees, safety and xenophobia in South African cities: the role of local government Centre for the study of violence and reconciliation’[2002]

<sup>25</sup> Gareth Newham, Themba Masuku, & Jabu Dlamini, ‘A decade of the transformation of the South African police services: A study of police perspectives on race, gender and the community in the Johannesburg’ [2005],*CSV Johannesburg*

<sup>26</sup> Ibid

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We've never enjoyed our freedom as South Africans. We got it in 1994 and we had floods and floods of refugees or undocumented people in the country and we always want to pretend it's nothing like that".<sup>27</sup>

Whilst expressing regret after being damned by civil society organizations, these views are nevertheless shared by several people in the country and are probable to help out to legitimize unenthusiastic observations in the midst of the public.

The South African government in 2010 modified the Act of 2002, depicting it even more barely protectionist and preventive in terms of labor market admittance and asylum than it had previously been. According to the then Minister of Home Affairs, the law making alters were premeditated to, "bring to an end the increase of organized crime, trafficking in persons and corruption" as well as to speed up employment conception for South Africans.<sup>28</sup>

Such declarations simply strengthen imitations that immigrants are foremost sources of insecurity and joblessness. The government in 2011 furthermore began to closedown refugee welcome offices formerly positioned in five of the country's foremost urban centers with strategy to shift them all to the borders. Though the proper rationalizations for this shift were monetary, civil society spectators propose it was aggravated by needs to stalk the professed 'flood' of asylum seekers from making it to the cities<sup>29</sup>. These crusades to manage and enclose asylum seekers and person in exile are in line with an on-going debate about discontinuing the country's lengthy standing 'non-encampment' guiding principle for acknowledged refugees which permitted refugees to self-settle anywhere they liked in the country.<sup>30</sup>

Citizens frequently resonance long eminence state dialogues blaming foreigners and migrants more by and large for a lot of the country's socio-economic problems.<sup>31</sup> As in executive dialogues, a lot of these admired viewpoint and observations centre on crime, misdemeanor and "the image of a delicate incursion of South African territory"<sup>32</sup>as well as what is professed to be "illegitimate" contest for limited resources and opportunities including businesses, employments, houses, social services and women.<sup>33</sup> The authority of observations, legends and rumors to mobilize joint accomplishment has been acknowledged in many diverse

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<sup>27</sup> Political Bureau, 'Xenophobia: LHR hails MP's apology' [*IOL News*, 5 July 2011]

<https://www.iol.co.za/news/politics/xenophobia-lhr-hails-mps-apology-1093413>, accessed 15 February 2021.

<sup>28</sup> Nkosazana Dlamini-Zuma, 'Briefing by Minister Dlamini-Zuma regarding Immigration' [*Gov. ZA*, 22 March 2011] <https://www.gov.za/transcript-copy-briefing-minister-dlamini-zuma-regarding-immigration-ammendment-bill-imbizo-media#>, accessed 15 February 2021.

<sup>29</sup> Roni Amit, 'Lost in the Vortex: Irregularities in the Detention and Deportation of Non-Nationals in South Africa' [2010], (76), *Forced Migration Studies Programme Research Report*. Consortium for Refugees and Migrants in South Africa (CoRMSA), 'Protecting refugees, asylum seekers and immigrants in South Africa during 2010' [2011]

<sup>30</sup> Ibid

<sup>31</sup> Loren Landau & Hakima Haithar, 'Somalis Are Easy Prey' [*Mail and Guardian*, 2 March 2007]<https://pressreader.com/south-africa/mail-guardian/20070302/281706905220991>, accessed 2 March, 2021.

<sup>32</sup> Darshan Vigneswaran, 'Lost in space: residential sampling and Johannesburg's forced migrants forced migration studies programme' [2007], *Wits University*

<sup>33</sup> Loren Landau & Jean Pierre Misago, 'Who to blame and what's to gain? Reflections on space, state, and violence in Kenya and South Africa' [2009], (99), *Africa Spectrum*

circumstances. Created and repeatedly toughened through a mixture of sources especially the media, they turn out to be the yardsticks of public discuss<sup>34</sup>, as it is argued that:

“Scapegoating tendencies and public rhetoric of fear and loathing collectively shape and define the contours of symbolic threat posed by immigrants. That is, they transform diverse migrant groups in the public imagination as an undifferentiated mass, representing a menace and threat to the well-being and security of host populations”.<sup>35</sup>

Stereotyping foreigners and other recluses help out in their persecution, and uneducated judgments are frequently reproduced unchecked by the media. Press indications to overpowering ‘floods’ of foreigners entering the country amplify existing worries and distrustful manners in the nonexistence of dependable figures or any trustworthy foundation upon which to compute the true scale of immigration.<sup>36</sup>

As a result of the unparalleled levels of xenophobic hostility in May 2008, political analyst, politicians, academics, media and rights activists put to the fore diverging justification to account for the brutality and xenophobia in South Africa in general. A good number of these clarifications are based on normative suppositions, political underlying principle and ideological positions rather than pragmatic verification. They variously elucidate the attacks as caused by the involvement of a “third force,” poor border control, poor service delivery, poverty, joblessness, bribery or rising food or product prices.<sup>37</sup> Those connecting the events to “afro-phobia” correspondingly “missed” the experiential authenticities; given that it is not only Africans nevertheless also Pakistanis, Bangladeshis and Chinese who have been subject to antagonism and xenophobic brutality.<sup>38</sup>

What is possibly most distinguished about the writing on xenophobia in South Africa is the level to which it has positioned nationality as the lone fault line for partition. While immigration and structural issues have an effect on many communities in the country, we do not see brutality in all of them.<sup>39</sup>

A critical understanding of the timing and position of xenophobic violence in South Africa, means bearing in mind such practices within the context of violence in informal settlements

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<sup>34</sup> Ibid

<sup>35</sup> Ibid

<sup>36</sup> Crush Jonathan and Williams, V, ‘Making up the numbers: Measuring “illegal immigration” to South Africa’ [2001] (Brief 3 No.7), *Southern Africa Migration project*.

<sup>37</sup> Human Sciences Research Council, ‘Citizenship, Violence and Xenophobia in South Africa: Perceptions from South African Communities’, Democracy and Governance programme [2008], *Pretoria: HSRC*. Jean Pierre Misago, ‘Xenophobic Violence in South Africa: Reflections on Causal Factors and Implications’ [2009] (Bulletin CPS 10), Synopsis Policy Studies.

<sup>38</sup> Gqola Pumla, ‘Brutal inheritances: Echoes, negrophobia and masculinist violence,’ in Shireen Hassim, Tawana Kupe, & Eric Worby (Eds), ‘Go home or die here: Violence, xenophobia and the reinvention of difference in South Africa, Johannesburg’ [2008], *Wits University Press*.

<sup>39</sup> Jean Pierre Misago, ‘Disorder in a Changing Society: Authority and the Micro-Politics of Violence’ in Loren Landau, (ed.), ‘Exorcising the Demons within: Xenophobia, Violence and Statecraft in Contemporary South Africa’ [2011], *Wits University Press, Johannesburg*.

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and townships. Violence has been a unrelenting characteristic of community life since the initiation of these settlements, exemplified by decades of social and economic difficulty, oppressive policing, unlawful predation and a resultant recourse to vigilantism.<sup>40</sup> A lot of analysts pointed to a “culture of violence” where brutality is authorized and acknowledged as a communally lawful means of solving difficulties and achieving both “justice” and material objectives.<sup>41</sup> For instance it is emphasized that in those areas, “violence frequently became a normative means of pursuing material interests, resolving conflicts and seeking justice”<sup>42</sup>. Correspondingly, it is revealed that, “although it is inappropriate to speak of any culture in homogeneous or universalized terms, there can be little doubt that violence has gained a level of social acceptability rarely seen elsewhere in the world”.<sup>43</sup>

Violent behavior in opposition to foreigners is just “politics by other means” and its influential purposes are positioned in local political economy and micro-political developments.<sup>44</sup> There are a number of reasons or attributes that bond places affected by brutality while distinguishing them from those devoid of prevalence of violence. These include:

1. Headship vacuums and opposition for community leadership that allow the materialization of corresponding and self-serving leadership structures. In most cases, violence occurs in areas where official local authority or community leadership is unswervingly involved in the violence or complicit with the perpetrators, weak or measured unlawful;
2. A lack of trusted, punctual and effectual conflict declaration apparatus that leads to vigilantism and crowd justice. As all societies are faced with conflicts in one way or another, it is how these conflicts are resolved that establishes whether they live in peace or not;
3. Deficiency of rule of law, a well-defined customs of vigilantism and crowd justice as well as a culture of impunity with regard to public violence in general and xenophobic violence in scrupulous, that continues to hearten the ill-intentioned to attack non-nationals for a diversity of reasons; and
4. Local authorities’ prop up and enforcement of unlawful practices and illegitimate concessions such as forcing victims of the violence to drop charges against their attackers, price fixing, the restraining of the number of foreign-owned business in a given area, among others, that not only violate the law but also reinforce communities’ bitterness towards foreign nationals who are not prepared or enthusiastic to meet the terms with those ‘compromises’.<sup>45</sup>

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<sup>40</sup>Gary Kynoch, ‘Crime, conflict and politics in transition era South Africa’ [2005], (104), *African Affairs*, 493

<sup>41</sup>Brandon Hamber & Steve Kibble, ‘From truth to transformation: South Africa’s truth and reconciliatory commission’ [1999], *Catholic institute for international relations*.

<sup>42</sup>Gary Kynoch, ‘Crime, conflict and politics in transition era South Africa’ [2005], (104), *African Affairs*, 493

<sup>43</sup>Jean Pierre Misago, ‘Disorder in a Changing Society: Authority and the Micro-Politics of Violence’ in Loren, B, (ed.) ‘Exorcising the Demons within: Xenophobia, Violence and Statecraft in Contemporary South Africa’ [2011], *Wits University Press, Johannesburg*.

<sup>44</sup> Loren Landau & Jean Pierre Misago, ‘Who to blame and What’s to gain? Reflections on space, state, and violence in Kenya and South Africa’ [2009], (1) (44), *Africa Spectrum*.

<sup>45</sup> Ibid.

The indication above advocates that xenophobic hostility is consequently the product of both nationalist and localized politics rather than an unavoidable product of multi-ethnic or multi-national multiplicity amidst social and economic marginalization.

### **Implications of the Xenophobic Attacks on Nigerians in South Africa**

Intellectuals and political analysts have expressed apprehension concerning the significance of xenophobic brutality principally committed by some destructive youths in South Africa on blameless black foreigners which customarily has resulted in a political cold war between Nigeria and South Africa. Given this, the two countries being superior economies in Africa have more to lose if the circumstances continue. Position in a different way, the ruthless assaults on Nigerians have been analyzed by professionals to be an unappreciative reciprocation from South Africa due to the reality that the former enthusiastically played a noteworthy responsibility in invigorating the latter from the constrain of colonialism through the apartheid policy.<sup>46</sup>

Nevertheless, ever since the annihilation of the apartheid policy in South Africa which improved healthier socio-economic and political prospects for the black South Africans, the problem of the xenophobic violence has been resurfacing, and the susceptible individuals remain foreigners from associate black countries ranging from Zimbabwe, Kenya, Uganda and Nigeria. Bearing in mind the Nigerian circumstance, the crisis does not only terrorize the amiable and mutual affiliation connecting her and South Africa, nevertheless it also confronts the Afro-centrism as a fundamental standard of Nigeria's foreign policy.<sup>47</sup> Although Nigeria is a prevailing provincial force in Africa, the matter of xenophobia could be a further danger to its supremacy which has faced a severe slow down owing to action and inaction from neighboring countries in the African continent. In lieu of this, the repercussion of the xenophobic attacks on Nigerians in South Africa can be classified into two; Diplomatic or Political, and bilateral economic repercussions.<sup>48</sup>

### **BI-Lateral Economic Implication**

From the economic perspective, there are several South Africa businesses operating in Nigeria in diverse divisions ranging from telecommunications, services, consumer goods, mining, agriculture, oil and gas, aviation, construction and hospitality. Few of these companies include MTN, Eskom Nigeria, South Africa Breweries, Power Gaint, Stanbic Bank, Eskom Nigeria, Refresh product, Shoprite and Multi-choice among others. South Africa is said to be on the beneficial side with regards to bilateral relationships for the reason that they are less Nigerian

<sup>46</sup> Ismail Bello, Asmau Dutse & Muhammad Othman, 'Comparative analysis of Nigerian foreign policy under Muhammadu Buhari's administration 1983-1985 and 2015-2019' [2017], (4) (43), *Asia Pacific Journal of Education, Arts and Sciences*. Asmau Dutse & Ismail Bello, 'Fight against terrorism and economic development as key Nigeria's foreign policy objectives under Muhammadu Buhari 2015-2017' [2017], (5) (123), *Asian Journal of Multidisciplinary Studies*. Dallaji A. Ishaku, 'Nigeria-South Africa Relations: Partnership, reversed patronage or economic Imperialism, Nigeria and the World. A Bolaji Akinyemi Revisited' [2012], *NIIA Publishing*.

<sup>47</sup> Olumuyiwa Amao & Ufo Okeke-Uzodike, 'Nigeria, Afro-centrism, and conflict resolution: After five decades-how far, how well?' [2015], (15) (1), *African Studies Quarterly*.

<sup>48</sup> Ibid.

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companies operating in the country.<sup>49</sup>The repercussion of the attacks on Nigerians led to calls by the Nigerians for retaliation particularly on South Africa's business concern in the country. When the government did very little on these, some youths took the law into their hands by attacking MTN, one out of many South Africa's businesses in Nigeria. As accounted by the Nigerian Communication Commission (NCC), over fifty-four million subscribers make use of MTN which continues to be the largest telecommunication industry in Nigeria.<sup>50</sup>

Diverse factions in Nigeria have continued to terrorize South African business benefit. Amongst them are the Niger Delta revolutionaries who's foremost objection was on the incessant xenophobic attacks on Nigerians who were carrying out their lawful business in South Africa was uncalled for the reason that South Africans in Nigeria were not under any form of attacks. One of the militant leaders revealed that "It is so regrettable that a country and nationals that had enjoyed the greatest affection of Nigerians were now repaying such hospitality with mindless killing and brutality".<sup>51</sup> Despite the fact that the Niger Delta youths issued a warning to disturb South African businesses in Nigeria, Youths under the auspices of Nigerian students in a kind of payback attack shutdown the MTN headquarters office situated in the Federal Capital Territory of Nigeria, the Abuja office on 23<sup>rd</sup> February 2017.<sup>52</sup> Although there was no account of any loss of lives or injure throughout the protest from some angry Nigerian youths, the activities of the telecommunication industry (MTN) were interrupted on that day which served as an overflow end result of the recorded repulsive circumstances in South Africa. In spite of the speedy reaction from the Nigerian government to guarantee tranquility, the business of MTN was interrupted by the swarming Nigerian youths who lay blame on the South African government of carelessness and lack of political resolve to guarantee the protection and safety of Nigerians in South Africa. Given this, the offensive act of xenophobic brutality tends to throw the two countries into economic disruption.

The feasibility of the two-sided economic association enjoyed by the two countries can be significantly affected if the occurrence of xenophobia is not effectively abridged.<sup>53</sup> In reality, the two countries have an amiable connection in opposing economic-related areas. The problem of xenophobic brutality poses a menace not only to their economic binding but also to the sustainability of African harmony and safety. Both countries cannot afford to engage each other in an injurious aggressive cold war, as the inclination of Africans attacking equal Africans in the name of xenophobia remains an obstruction to the socio-economic development of the two countries.<sup>54</sup>

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<sup>49</sup>Sheriff Folarin, Jide Ibietan, & Felix Chidozie, 'Nigeria and the BRICS: Regional dynamics in emerging economies' studies' [2016], (1), *Journal of South African Business Research*, 1-18

<sup>50</sup>Nigeria Communication Commission, 'Market share by operator' (NCC, 11 June 2017) <http://www.ncc.gov.ng/stakeholder/statistics-reports/industry-overview#view-graphs-tables-2>, accessed 18 February, 2021.

<sup>51</sup> Ibid

<sup>52</sup> Dipo Olowokeere, Xenophobi Attacks: Protesters shutdown MTN Nigeria Office, accessed 20 March, 2021, <https://businesspost.ng/general/xenophobic-attacks-protesters-shutdown-mtn-nigeria-office/>

<sup>53</sup> ibid

<sup>54</sup> ibid

In a nutshell, diplomatic co-existence between Africans is not open to discussion for any significant economic expansion to be achieved. Businesses and investments cannot grow in unpredictable environments, and the security risk created by the relentless attacks on Nigerians and other blacks in South Africa may result to economic disruption not only in the host country but also in the affected countries.

### **Diplomatic and Political Implications**

The account of the diplomatic affiliation involving Nigeria and South Africa is further than two decades. All through the apartheid policy, Nigeria was one of the strong campaigners in opposition to the white supremacy in South Africa. In actuality, the Nigerian government gives out over 300 visas to South Africans to journey overseas all through the fight for blacks' acknowledgment in the country. This was carried out to show her camaraderie with the anti-apartheid movement in South Africa.<sup>55</sup> Nevertheless, ever since the annihilation of the apartheid policy in South Africa joined with autonomy of Nelson Mandela, the country observed political self-government which permitted the citizens to be in charge of the socio-economic and political environment of the country. Despite the fact that Nigeria had beforehand maintained supremacy inside the African continent, its hegemonic power has been confronted by South Africa and other neighboring countries.<sup>56</sup>

Both countries have incessantly competed with regards to the hegemonic dependability on the continent. In spite of being the continent's two largest economies that exercise military and diplomatic powers, the affiliation between both countries has been portrayed as unpredictable in current years.<sup>57</sup> It was observed that the South African government had not in reality made known the political will to curtail the danger which had resulted in the loss of guiltless lives and properties damaged. According to the Special Advisor to Nigeria's President on Diaspora matters, Abike Dabiri, the recurrent accredited xenophobic attacks in South Africa may possibly be credited to hate speeches and propaganda originating from the political class in South Africa.<sup>58</sup>

In a comparable streak, diverse stakeholders in Nigeria ranging from members of the lawmaking arms of government, members of labor unions, the academic world and other concern groups have called for diplomatic retaliation. One of the members of Nigeria's National Assembly Senator Gbenga Ashafa, Senate board member on Foreign Affairs was quoted to have said: "I don't see us doing anything tangible by way of arresting these attacks without this government standing up and having some diplomatic reprisal".<sup>59</sup>

<sup>55</sup>Samuel Orovwuje, 'Xenophobia and Nigeria/South Africa relations' (*The Nation*, 24 February 2017) <https://thenationonline.net/xenophobia-nigeriasouth-africa-relations/> accessed 15 March 2021.

<sup>56</sup> Ibid.

<sup>57</sup>Paul Carstenand Anamesere Igboeroteonwu, 'Nigerian student protesters demand South Africans leave the country' ( *U.K Reuters*, 23 February 2017), <https://uk.reuters.com/article/uk-safrica-nigeria-xenophobia-idUKKBN1621CU>, accessed 1 January 2021

<sup>58</sup> Ibid.

<sup>59</sup>Gbenga Ashafa, Channels TV, 'Nigerians Attacked Again in South Africa' (*Channels TV*, 17 March 2017), <https://www.channelstv.com/2017/03/17/nigerians-attacked-again-in-south-africa/>, accessed 3 March 2021.

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In the final breakdown, the menace of xenophobia as deep-rooted within the South African communities could deteriorate to a diplomatic paddle which cannot improve the socio-economic and political improvement of the continent. All hands are required on deck by the two governments to tackle the repulsive circumstances and to guarantee such a thing does not occur in the future. The outcome of xenophobic attacks could lead to grave security infringe and flouting of laws and order if practical actions are not taken to restrain the repulsive development.<sup>60</sup>

### **Security and Xenophobia attacks**

Even though the police are charged with defending all residents of South Africa from physical impairment, they have habitually articulated ambivalence in the direction of the constitutional rights and welfare of “outsiders” or have been vigorously antagonistic and complicit with brutality against them.<sup>61</sup> To a certain extent than struggle with the problem as separate from high levels of “ordinary” offense, government and police officials have refuse to accept demands to advance xenophobic brutality as something entrenched in manners, political instrumentalism, or economic aspiration.

As an alternative, they squabble; the lingo of xenophobia is simply a cover for criminality or even a mindful attempt to bring South Africa’s repute into disregard. According to a police representative referenced in a May 2013 issue of *The Mail & Guardian*: “Holistically speaking, South Africans are not xenophobic and many cases are merely crime. [...] We cannot conflate this issue and we commonly see this as Afro phobia that is underpinned by criminality. When we see children looting shops and people robbing people of their goods it is to us a blatant sign of crime that is being excused as xenophobia’.<sup>62</sup>

The Consortium for Refugees and Migrants in South Africa quarrels that for the reason that the “police are very quick to dismiss attacks on foreign nationals as simply ‘criminal’ rather than xenophobic,” they have restricted capability to perceive chauvinism intentions in unlawful occurrence.<sup>63</sup> This has grave repercussions for their capability to oppose brutality: when the police take into custody or bring perpetrators to fairness, which they seldom do, the focal point is roughly completely on those caught in the act to a certain extent than on masterminds at the rear of the panoramas. Whilst the masterminds are frequently well known to the community, they have genuine impunity and might as they have in numerous cases act once more. Definitely, by getting rid of economic opposition, seizing housing, or winning political favour in the course of their actions, their encouragements are additional reinforced.<sup>64</sup>

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<sup>60</sup> Ibid.

<sup>61</sup> Amnesty International, ‘Investigate inadequate police response to xenophobic violence in South Africa’ (*Amnesty*, 2010), <http://www.amnesty.org/en/node/15653>, accessed 5 December 2021. Loren Landau & Hakima Haithar, ‘Somalis Are Easy Prey’ [*Mail and Guardian*, 2 March 2007] <https://pressreader.com/south-africa/mail-guardian/20070302/281706905220991> accessed 11 June 2021

<sup>62</sup> UNHCR, ‘Protection from xenophobia: An Evaluation of UNHCR’s Regional Office for Southern Africa’s Xenophobia Related Programmes’ [2015].

<sup>63</sup> Consortium for Refugees and Migrants in South Africa (CoRMSA), ‘Protecting refugees, asylum seekers and immigrants in South Africa during 2010’ [2011].

<sup>64</sup> Ibid.

In elucidating their inadequate reaction, the police over and over again point to lack of capability and fear of persecution at the hands of an aggressive community. This might be right in a lot of occasions; nevertheless one ought not to fail to notice their own anti-foreigner attitudes and support, or at least submissive condoning, of the brutality and their indisposition to draw consideration to a politically susceptible subject matter.<sup>65</sup>In the run up to the 2010 FIFA World Cup, the police minister tagged individuals raising apprehensions about unconcealed pressure of xenophobic brutality as “prophets of doom.” Television recording showed interviews with township inhabitants getting ready to “finish the war” they began in May 2008. Though the police authoritatively uphold that the persistent hostility should not be considered a ‘hate crime’, they are nonetheless collaborating with UNHCR, and its outreach teams in some occasions and have somewhere else worked to put off or stop the stretch of the brutality.<sup>66</sup>

The evacuation strategy has turned out to be a distinctive trait of police reaction to xenophobic brutality. In approximately all cases, the police have restricted their function to escorting victims to places of protection rather than defending them and their property in situ. Even where well-intentioned, such behavior might unconsciously encourage perpetrators trying to eradicate redundant foreigners from their domain. In some occasions in the past, the police have been blamed of enthusiastically working together with such crusades.<sup>67</sup>Whilst appreciating the police endeavors to protect their lives, a number of victims of the attacks suppose that attempt should also be made to safeguard their property. For them, saving source of revenue is as significant as saving lives. A Somali shop owner in Orange Farm positioned that:

“Well, the problem...helpers, the police, they are coming. And they come to save our life, but not our property. They say ‘leave the shop; let us take you to the police station’. And they take us to the police station. Tomorrow, how can we survive? Yes, okay...they save my life...tomorrow, what can I...I eat and drink? Yes, they have to protect us with our property. Even last time, they robbed our shops. Now even I don’t have a shop. I can show you my shop is closed”.<sup>68</sup>

### **Developmental consequences of rampant xenophobia for Nigerian migrant and host populations in South Africa**

The persistent xenophobic assaults in South Africa certainly have far getting repercussion for the socio-economic improvement and relations of both Nigeria and South Africa which calls

<sup>65</sup>Jean Pierre Misago, ‘Xenophobic Violence in South Africa: Reflections on Causal Factors and Implications’ [2009] (CPS 10), *Synopsis Policy Studies Bulletin*.

<sup>66</sup>Ibid

<sup>67</sup>Loren Landau & Hakima Haithar, ‘Somalis Are Easy Prey’ [Mail and Guardian, 2 March 2007] <https://pressreader.com/south-africa/mail-guardian/20070302/281706905220991>, accessed 11 June 2021.

<sup>68</sup> Consortium for Refugees and Migrants in South Africa (CoRMSA), ‘Protecting refugees, asylum seekers and immigrants in South Africa during 2010’[2011]

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for remedial. Foremost, there is no hesitation that South Africa still needs professionals and experienced manpower to oblige its economy. This, the country on its own, cannot apparently make available at the contemporary verge of her national expansion. According to the Nigerian Union, the awe-inspiring preponderance of Nigerians add value to the South African society through different significant fields like the academics, legal, business, medicine, engineering, and artisans among others<sup>69</sup>. If not healed, xenophobia can drive these professionals away from South Africa and deprive it of their precious assistance and in this manner slow down the velocity of South African expansion.

Subsequently, it is in addition competent of daunting associate Africans from moving to South Africa for the quest of higher education, an inclination which has presently been rising and which is competent of boosting South African economy and perception. In other words the occurrence might hamper students' mobility from other parts of Africa including Nigeria, to South Africa for higher education. In a field survey carried out amidst 100 parents in Ondo state, Nigeria, to know their view on whether they would like to support their children for higher education in South Africa or not, 80% point toward that they would desire to send their children somewhere else outside Nigeria instead of South Africa for the reason that of the mounting challenge of xenophobic assault.<sup>70</sup> The importance of this probable development is that, the prospect for exchange of thoughts and social-cultural values which cross border quest of higher education may afford, might decelerate if xenophobic attacks should persevere.<sup>71</sup>

Furthermore, rotting xenophobic attacks can aggravate castigatory measures by Nigerian citizens against South African investments in Nigeria. If this should come about, it will definitely demoralize the economic development of both countries as jobs, assets and financial resources will be lost. This is more so that, the majority of the prominent South African investments in Nigeria like the Protea Hotels, Multi-choice, MTN and Stanbic Merchant Bank of Nigeria among others are dual stock companies owned by Nigerians and South Africans. Apart from this, xenophobic attacks can also additional daunt foreign direct investment in South Africa. This is for the reason that the perception xenophobic attacks have by and large fashioned for South Africa is that of a state aggressive to foreigners and investment in hospitable. Before now, Oando, a Nigerian Oil multinational has been programmed on the Johannesburg Stock Exchange and Dangote group a different Nigerian company had invested about \$378 million in South Africa's cement industry. If these investments and other small scale ones are endangered by ceaseless xenophobic attacks, investors from Nigeria may possibly go somewhere else and which does not foretell well for the prompt revolution and job opportunities the South African and African economies in all-purpose need.<sup>72</sup>

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<sup>69</sup> IOM and United Nations, 'The Human Rights of Migrants' [2000], (38) (30), *Quarterly Review*

<sup>70</sup> Ademola Adebisi & Alaba Agagu, 'The Challenges of Xenophobia and Terrorism for the Development of Higher Education in Africa' In Felix Maringe & Emmanuel Ojo (ed), 'Sustainable Transformation in African Higher Education: Research, Governance, Gender, Funding, Teaching and Learning in the African University' [2017], *Rotterdam: Sense Publishers*.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

Moreover, decaying xenophobic attacks can also destabilize the objectives or purposes of incorporation of Africa being pursued by the African Union (AU). Component of the objectives of the AU are: endorsement of sustainable development at the social, economic and cultural levels as well as the incorporation of African economies; encouragement of collaboration in all fields of human doings to hoist the living values of African peoples and harmonization and synchronization of policies between existing and prospect Regional Economic Community for the steady accomplishment of the purposes of the union<sup>73</sup>. Perceptibly, the impression of uncertainty xenophobic attack frequently aggravates cannot help in promoting these supercilious unifying or incorporation goals.

Finally, in the route of xenophobic attacks, properties are shattered. As a means of appeasing the victims, the South African authority has given a suggestion of the likelihood of paying reimbursement to victims. In 2015, Nigerians in South Africa's evaluation of the worth of the goods and properties lost was put at 84 million naira which the South African government assured to look into. If paid, this of course amount to deplete on the South African resources, in an environment devoid of xenophobic attacks, such money should have been used for the advancement or growth of South Africa.<sup>74</sup>

### **Legal Protection of Migrants against Xenophobic Attacks**

Foreign nationals, including learners, residing in South Africa are protected in the South African constitution and by the United Nations Convention on Rights of Migrant Workers and their Families from xenophobic violence. Even the South African Human Rights Commission (SAHRC) has pointed out in its Braamfontein Statement that "No one, whether in this country legally or not, can be dispossessed of his or her basic or fundamental rights and cannot be treated as less than human supplementary reinforces protection of foreign learners".<sup>75</sup>

The South African Constitution seeks to assemble a society where 'human self-esteem, the achievement of fairness and the development of human rights and freedoms' are enduring values. The repercussion of this is clear; xenophobic attitudes and practices infringe the spirit and letter of the South African Constitution.<sup>76</sup>

The International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families<sup>77</sup> provide an inclusive official framework for safeguard of migrants in opposition to all forms of chauvinistic and xenophobic aggression. The Convention relates both to acknowledged (legal) and unacknowledged (unauthorized or crooked) migrant workers. It specifies that migrant workers should not be held in servitude and that enforced labor should not be demanded of them. States Parties must offer sanctions against persons or

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<sup>73</sup>Adebisi Adebisi, 'International Organization on the World Stage' [2007], *Akure: Adems Educational Services*.

<sup>74</sup> Ibid.

<sup>75</sup> South African Human Rights Commission, 'Xenophobia: Braamfontein Statement and National Plan of Action' [1998].

<sup>76</sup> Constitution of the Republic of South Africa, Act 108 of 1996", Sections 9, 10, 11, 12 and 13.

<sup>77</sup> Adopted by United Nations General Assembly resolution 45/158 of 18 December 1990.

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groups who use brutality against migrant workers, make use of them in irregular situation, terrorize or frighten them. The Convention provides thus;

“Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (order public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention. Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin”.<sup>78</sup>

### **The Convention further protects migrants by stating that;**

The right to life of migrant workers and members of their families shall be protected by law. No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.<sup>79</sup> No migrant worker or member of his or her family shall be held in slavery or servitude. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.<sup>80</sup>

Notwithstanding national and international legal protection for non-nationals, xenophobic attacks or xenophobia has a long history in South Africa. Improving the history of South Africa’s immigration policy proposes that the guiding principle is rooted in South Africa’s radicalized past and the political economy of the country. An author asserts that the culturally prejudiced nature of South Africa’s immigration policy, from as far back as 1913 through to the passing of the country’s Immigration Act in 2002. She argues that South Africa’s immigration policy has contributed in the direction of formations of South African national identity and the construction of ‘others’, comprising migrants who are non-South African, indirectly perpetuating racial exclusionary practices and adding fuel to xenophobic sentiments and violence against foreign nationals.<sup>81</sup>

### **Conclusion and Recommendations**

There is no gain saying that the storm of decaying xenophobic attacks blowing in South Africa poses grave danger to economic, social, educational, and cultural relations between it and Nigeria and as well with the rest of the world. If this mounting gesture of xenophobic attacks is not tartan, it might feat the course of sustainable development of both countries as the pair have a lot of prospects to proffer each other in an uninterrupted symbiotic associations. As xenophobia is for the most part attributable to comparative deprivation; tremendous nationalism, pervasiveness of paucity it is recommended that: first, the South African authority should go on board on gigantic re-orientation of its citizens on the need to be humid and open-

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<sup>78</sup>International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families, Art. 8. (1 and 2)

<sup>79</sup>Ibid, Art. 9 and 10.

<sup>80</sup>Ibid, Art. 11. (1 and 2)

<sup>81</sup>Maxine Reitzes, Centre for Policy Studies Report. Richards, (ed), Policy Studies Bulletin of CPS10 [2009].

mindful in their associations with their fellow African brothers and sisters. The African philosophy of being one's brother's keeper and the virtue of interdependency should principally govern the staffing of such orientation programme. Second, South Africa, although still needs manpower now, should in the outlook, also institute a swap programme under which some of its citizens will be made to dole out or work in other African countries for a short episode. This will not only project South Africa, nevertheless will also take away the pigeonholes or chauvinisms they have about the rest of Africans. Third, the South African political leaders should also endeavor for good supremacy so as to make possible superior job opportunities, social justice and fairness for the citizenry. The citizens should also require this from their leaders rather than holding foreigners accountable for their dilemma. In addition and as part of their claim for excellent governance, South Africans ought to maintain their conspicuous present complaint and fight against political dishonesty in the country so as to free additional resources to the state to pursue job conception and poverty mitigation programmes. Fourth, the South African government should also strengthen efforts to wrestle poverty in the country and advance its social security system with a view to alleviating poverty.

Further than this, the South African authority should also generate opportunities for South Africans and Nigerians to engage in economic corporations, relationship and networking. The continuation of chambers of commerce between the two countries is a good development in falsifying stronger economic relationship. To progress this, additional lawful framework should be put in place to encourage combined economic business enterprises between South Africans, Nigerians and other foreigners. Finally, it has been quarreled that some of the Nigerian victims of xenophobic assaults are unlawful candidates to South Africa who transaction in unlawful drugs among other international organized offenses. On the other hand, while this might be true or not, the internationally recognized reality is that, no government should permit its citizens to take law into their hands. The South African government should consequently take the following steps: one, it should enlighten its citizens on the need to tolerate by the rule of law by allowing their law enforcement agencies to handle cases of unlawful immigrants winning in crimes. Two, the reality that there are unlawful Nigerian immigrants in South Africa put forward a systemic breakdown or governance shortfall on the part of the Nigerian and South African governments committed by their immigration officials. If some Nigerians had illegitimately gains admission to South Africa in the presence of the South African immigration officials, subsequently, there is the necessity for the South African government to refurbish its immigration functioning.