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# The two faces of South Africa: policy and state practice

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**2012-08-24**
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# The Two Faces of South Africa: Policy & State Practice

Research Report submitted in fulfilment of MA by Research and Coursework

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**6/14/2012**

The gap between policy and practice is of great importance as it often reveals the contradictions that cause policy to be ineffective and misunderstood. This is the case when looking at South Africa and its representations of itself and the accompanying policies. On one hand, South Africa has a very Africanist agenda and an ideology of inclusivity that is articulated in its relations with Africa. The foreign policy of the country is guided by these ideals, however in practice it seems that the opposite occurs. The treatment of African migrants through the use of certain language and actions by state institutions inadvertently leads to perpetuating negative stereotypes about foreigners and goes against the very policies that are meant to guide them. This study aims to understand the gap between policy and state practice through the use of discourse analysis and policy analysis in order to gain further understanding.

# Acknowledgements

This research report would not have come to fruition had it not been for some very important people who have guided me along this path, provided much needed support, help and information.

Foremost, I must thank my supervisor, Dr Vishwas Satgar. His guidance and patience have been immeasurable, while being able to keep one calm and focused, he still had the ability to inspire a person to work harder and bring the best work possible.

Thank you to *Sipho and all the various representatives of organisations who took the time out to speak to me and provide greater clarity on the themes that I was trying to bring through in this work. Special mention must go to Wits University, The Consortium for Migrants and Refugees in South Africa, The Refugees Ministries Centre, The Integration and Repatriation Unit and Abahlali Basemjondolo.

Finally, thank you to my family and friends for the support and confidence.

Boitumelo Sethlatswe

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# Acronyms

| | |
|---|---|
| ANC | African National Congress |
| APRM | African Peer Review Mechanism |
| AU | African Union |
| BRICSA | Brazil, Russia, India, China, South Africa |
| CDA | Critical Discourse Analysis |
| CoRMSA | Consortium for Migrants and Refugees in South Africa |
| DCS | Department of Correctional Services |
| DFA | Department of Foreign Affairs |
| DHA | Department of Home Affairs |
| DIRCO | Department of International Relations and Co-operation |
| EU | European Union |
| IFP | Inkatha Freedom Party |
| LHR | Lawyers for Human Rights |
| MDG | Millennium Development Goals |
| NEPAD | New Partnership for Africa's Development |
| OAU | Organisation of African Union |
| RDP | Reconstruction and Development Project |
| RMC | Refugees Ministries Centre |
| SABC | South African Broadcasting Corporation |
| SACU | Southern African Customs Union |
| SADC | Southern African Development Community |
| SAHRC | South African Human Rights Commission |
| SAPS | South African Police Service |

# Chapter One
# INTRODUCTION

> I can't even say, some of them are saying they are taking our jobs and some say they are taking our wives. Xenophobia is just a name. The other person is just a human being like you, why are you attacking him? I mean a lot of people they lost their stuff. Some were being raped and people say people must go back to their country but I must say, there is no country without a foreigner. There is no country without a foreigner and so those people [South Africans], they must know that. You can go overseas, you can go anywhere. And find there are different people. There is no place without foreigners," (*Sipho, 2012).

The intolerance of South Africans towards African foreigners has been widely documented lately especially due to the May 2008 attacks that erupted around many communities across Gauteng and then extended across the nation. Of course these xenophobic attacks were not the first of their kind, nor will they be the last but the manner in which they happened was astounding. People who had lived in relative harmony or at least in tolerance and acceptance had changed their opinions on their neighbours over night. Although the government stepped into assist, the response seemed inadequate and the reaction thereafter lacked substance and direction.

When looking at the discourse available on xenophobia, much of the focus is paid attention on South Africans being unremorseful perpetrators of this violence, violence that is driven by scape-goating, exceptionalism and a lack of compassion for foreigners in the country. The discussions on xenophobia are often about the depravation of South Africans who see the foreigners in the country, no matter their status, as posing a threat to their livelihood and further putting pressure on the South African social system thus decreasing their access to jobs, shelter, medical care and other basic necessities.

However upon further thinking about the issue, one could say that state practice and structures stand as the example of how foreigners should be treated in the country. This is not at all to take blame away from, or trivialise the atrocious actions of some South Africans but it is to provide another manner in which to look at the issue of xenophobia, which is to say that the South Africa state practice constitutes a xenophobic discourse. The treatment of foreigners by officials, the media representation of foreign people and general fear that has long been disseminated into the public goes a long way in perpetuating negative stereotypes and entrenching beliefs and behaviours. Furthermore, classifying people as being illegal and detaining them for months at a time does little in fostering social cohesion and acceptance. In addition an immigration policy that centres on detention and deportation can only produce the results that are currently being seen in South Africa.

This research is rooted in contemporary South African foreign policy and seeks to understand the contradiction between policy and practices in the area of immigration. The research aims to emphasise the two faces of South Africa, between what has been articulated in foreign and immigration policy and what takes place in actual practice. This will be achieved through looking specifically at the South Africa/ African relations and the treatment of African migrants in South Africa.

The articulation of a post-apartheid immigration policy proved to be difficult with the government attempting to change the global image of South Africa while also wanting to build a strong foundation within the continent as a non-threatening and peaceful neighbour. Coupled with transition politics and finding a narrative for a new nationalism and conceptions of an identity for a 'new' South Africa, the state had to also find how to best cope with high volumes of migration to the country. In addition to this, South Africa has ascended to a position where it is seen to be the fundamental link between the African continent and the rest of the world, particularly the west. This brings the relationship between South Africa and the continent to the fore.

This research attempts to show how in doing so, the state articulated a certain representation of itself within the continent but through its sometimes contradictory practices and policies, it has contributed to the already negative view and fear that most South Africans view

foreigners, ultimately undermining its relationship with the rest of the continent. The South African representation of self will be looked at from an African, international and South African perspective.

The overall guiding research question is:

*To what extent are the two faces of South Africa in foreign and immigration policy contributing to contradicting practices towards African migrants?*

The study aims to provide another way of looking at xenophobia that is not merely focused on the socio-economics of the country, which of course are a definite contributing factor. The aim is to forge another way of thinking and to begin to quiz structures that are still in place today that continue to segregate and alienate different parts of society from each other. The aim is in no way to be prescriptive or give recommendations.

This research will be conducted by through three main ways; firstly through the conducting of interviews as to get hear the voices of those working directly of being affected by South African immigration policy; secondly discourse analysis and language will be used to see how we classify and give names to these issues. This will include analyses of two pieces of legislation being the Immigration Act No. 13 of 2002 and the Aliens Control Act no. 95 of 1991. Lastly the Lindela Repatriation facility will be used as a case study to show how South African officials perpetuate the ill treatment of foreigners, especially those in detention.

The content of this paper will be laid out in the following manner, making it easy to follow the general progression of the argument. Chapter Two: Theoretical Framework and Literature Review which will look at the theoretical concepts of Constructivism and its application in the research as well as the main themes of the paper being, South African foreign policy, xenophobia and South African immigration policy. Chapter Three: Methodology will look at how interviews were conducted and how information was gathered and will include limitations and challenges encountered. Chapter Four: South Africa an African Country will look at South Africa's position on the continent and internationally and what image of itself the country chooses to project. Chapter Five: State Discursive Practice I – Legislation &

Xenophobia will look at the analysis of the aforementioned pieces of legislation and look at how they impact and/or engender xenophobia in society. Chapter Six: State Discursive Practice II – Lindela & Xenophobia deals with the Lindela Repatriation facility as a case study and how the treatment of detainees is out of step with policy.

At the end in chapter Seven, which is the concluding chapter, the content will be reflected upon and the contradictions of policy and implications of the study will be discussed to see whether indeed South African foreign policy and immigration policy are contradictory to the point that they engender a kind of xenophobia in society.

# Chapter Two
# THEORETICAL FRAMEWORK & LITERATURE REVIEW

## Theoretical Framework

"Constructivists argue that agents do not exist independently from their social environment. Thus, state interests emerge from an environment in which states operate and are endogenous to states' interaction with their environment. Social world involves thoughts, beliefs, ideas, concepts, languages, discourses, signs and signals. People make the social world, which is meaningful in the minds of people. In other words, at the heart of constructivist work is that social environment defines who we are, our identities as social beings," (Karacasulu and Uzgoren, 2007: 32).

- **Constructivism**

There has and still is a preoccupation in the field of international relations with the importance of power and national interests in determining the manner in which states interact with each other in the global arena. These material forces as they are known are prioritised by scholars within the realist and neo-realist traditions of scholarship. Neo-realist international relations theory in particular focuses on how the distribution of material power such as military capabilities and economics might define the balances of power between different states and thus explaining their behaviour.

Constructivism was introduced into international relations by Nicholas Onuf, who coined the term and it then picked up momentum and popularity through the writings of scholars such as Alexander Wendt, in opposition to this one-dimensional, materialist perspective. Constructivists reject that view and believe that the most important aspect of international relations is social and not in fact material.

- Assumptions of Constructivism

Since the late 1980s and early 1990s, constructivism has become one of the major fields within international relations. It came about in retaliation to what other theorists felt was the preoccupation with materialism, that was so evident in realist and neo-realist schools of thought. The constructivism approach seeks to demonstrate how many core aspects of international relations are, socially constructed and thus actually derived from ongoing social practices and interaction, (Wendt, 1999).

There are two main tenets, namely that shared ideas as opposed to material forces, determine human associations and; interests and identities of different actors are a product of these shared ideas rather than nature. Social constructivism concerns itself with asking the how and why questions above anything else and is based on specific assumptions about reality, knowledge, and learning, (Wendt, 1999).Therefore it is understood that members of a society create the properties of the world and create meaning for themselves through their interactions. In order to understand and apply models of instruction that are rooted in the perspectives of social constructivists, it is important to know the premises that underlie them.

As neo-realism was the main form of discourse during the birth of Constructivism, most of Constructivism's initial theoretical work is in challenging certain basic neo-realist assumptions, (Wendt, 1999). As Constructivists reject Neo-realism's conclusions about the determining effect of disorder an on the behaviour of international actors, and move away from Neo-realism's underlying materialism and pursuit of the interests of a nation above all else, they create a very crucial space for the identities and interests of international actors to take a central place in determining the discourse of international relations and thus because international actors are not simply governed by the imperatives of a self-interest and ‘greed’ their identities and interests become important in analysing how they behave.

- Components

Constructivism can be divided into two parts, namely Social and substantiative theory. Social theory is a general theory of the social world, social actions and the relationship between structures of the state and its actors (Jackson & Sorensen, 1999: 164). The main components of social theory are intellectual and physical components. The intellectual component has a

philosophical idealist element in which the main emphasis is on the social construction of reality. The social world is made up of human consciousness of:

a) Thoughts and beliefs

b) Ideas and concepts

c) Language and discourse

d) Signs

e) Signals and understanding among human beings especially groups of human beings

(Jackson & Sorensen, 1999: 165).

The social world is therefore meaningful to people who live in it and understand it, simply because they created it.

The physical component is secondary to the intellectual component as it is the intellectual component which applies meaning, plans and organizes the physical. substantiative theory is by definition a theory on some aspect of international relations (Jackson & Sorensen, 1999: 166). It provides a link between explaining international events in relation to shared norms and beliefs. It is on this topic that many constructivists disagree. These explanations can either be in the form of the norms of international society or by the domestic environment. State behaviour is defined by constructivists through identity and interest. International society is accompanied by international norms which affect state identities and interests. These norms are transferred to states through international organisations and groupings which have the ability of shaping national policies.

Domestic environment implies that domestic formation of identity explains how national interests are formed, which in turn would lead to the formation of policies. In the case of this study and looking at immigration and xenophobia particularly, it can be said that due to a particular expression of identity in South Africa's foreign policy (diversity, the African Renaissance, champions of Africa), the domestic position is therefore projected as one of being welcoming, accepting and appreciating and treasuring diversity.

- The Gaps Constructivism Fills

Social Constructivism aims to bridge realism and liberalism by challenging neo-realism theories and developing them in a manner that takes a more liberal outlook on international matters with a centrality on ideas. Realism has traditionally been the most prominent IR theory in analyzing state interaction and has taken a very dim view of Africa. It focuses on the state as the primary actor, which is motivated by self interest and thus all actions by the state are guided by their interests and never by altruistic motives. Realists see the anarchy of the international system as a setting prone for war and are thus sceptical of the intentions of states cooperating. Liberalism encourages the notion of pluralism with non-state actors getting involved in the international society. This includes NGOs and market driven organizations. They believe free trade is essential to the international system and that it builds trust and fosters peace in the system.

Constructivism bridges the two above mentioned theories by taking into account the social aspects of international life, thus this ontology seeks to understand the conditions that exist to drive state action such as the ideas of actors, their identity and the context in which they exist. Wendt held that 'Anarchy is what states make of it', thus the power and interest that are at the centre of realism have the role they do in international relations due to the ideas the actors hold. In order for states to involve themselves in alliances they must have common interest, values and goals as their prospective allies. All of which are birthed from their ideology. Commonly for states to engage in free trade associations the ideas of those involved must be similar. Their identity also has a part to play, which is evident in the economic associations that have developed, such as the EU, SACU, SADC and so on, who have much the same identities as they share similar pasts and face the same social challenges.

Realists put forward that identities and interest come from human nature, and use this to underpin their explanation of norms, rules and institutions. Constructivists claim that these identities and interest are not just a result of human nature but are socially constructed by actors using norms, rules and institutions as tools to fuel this process.

IR theories can be roughly divided into camps "positivist/ explaining" and "post-positivist/ understanding". Positivist theories aim to replicate the methods of the natural sciences by analysing the impact of material forces. They typically focus on features of international relations such as state interactions, size of military forces, and balance of powers. This way of looking at international relations is the “explaining” perspective.

A key difference between the two positions is that while positivist theories, such as neo-realism, offer causal explanations (such as why and how power is exercised), post-positivist theories focus instead on constitutive questions, for instance what is meant by 'power'; what makes it up, how it is experienced and how it is reproduced. Often, post-positivist theories explicitly promote a normative approach to IR, by considering ethics. From this perspective, IR theory is told from an insider’s view point and is done so to ensure that people understand why and how and what it means when certain events occur.

For the purpose of this research we focus our attention to post-positivism. It is clear that it would it be difficult to try and construct causal explanations for why xenophobia happens in society. This research using constructivism and a post-positivist perspective asks rather, what is xenophobia, how is it understood, how is it experienced in society and what are the underlying factors for its continued performance in society.

When looking at IR theory it is clear that we could classify realism under “explaining” and constructivism under “understanding.” This is clear because realism has always been concerned with justifying and explaining the way states interact using rules. Thus, the promotion of power and anarchy, remain as the main principles of this school of thought. This allows state interactions to be predicted rather than understood. Constructivism, on the other hand can fall under “understanding.” This is because this theory of international relations concerns itself with how social interactions, facts and behaviours can be used to understand how nations interact with another. “Ulusoy states that constructivism is critical in the sense that it aims to recover the individual and shared meaning that motivate actors to do what they do. Furthermore, while the mainstream IR theories are concerned with explaining why particular decisions resulting in specific courses of actions are made”, the critical

constructivists focus "on how threat perceptions, the object of security, are socially constructed". Thus, the mainstream IR theories are concerned with 'why' questions and are considered as 'explanatory', while critical constructivist approach is concerned with 'how' questions and is considered as 'understanding. Critical constructivism emphasizes discourse and linguistic methods, use of language in social construction of world politics," (Karacasulu and Uzgoren, 2007: 31).

This study chooses to employ constructivism for its capacity to accept that norms, identities and ideas that constitute the societies we live, go on to influence the norms, identities and ideas of our nation which translates into policy as one of the projections of the interests of that particular nation. Ideas can be said to be the bearers and carriers of interest, which is then defined in the social realm. "According to constructivism, norms and shared beliefs constitute actor's identities and interests, e.g. the way people conceive themselves in their relation with others. Constructivists concentrate on the social identities and interests of actors. Social identities and interests are not fixed but relative and relational. Interests are based on the social identities of actors. Constructivist analysis redefines the concepts of roles, rules, identity and ideas considerably departing from the rational choice conceptualizations," (Karacasulu and Uzgoren, 2007: 32).

# LITERATURE REVIEW

- **South African Foreign Policy**

When studying South African foreign policy, theorists and scholars tend to look at the foreign policy decisions that are made from either a historical perspective, where different eras in South Africa's history are compared. This usually results in the obvious split of comparing apartheid and post apartheid era foreign policy choices. What tends to also happen with a historical perspective is that it gets clouded in issues of race, which agreeably have had a huge impact on not only foreign policy but have gone to dictate almost everything in South African society.

South African foreign policy is also often studied from a very realist perspective. This comes with the territory considering how the country stands in comparison to the rest of Africa and how it is perceived by the rest of the world. Due to these reasons, South Africa is often perceived to be very realist in nature, which this research argues against and posits South Africa as not being realist in its agenda or pursuit of its national interest. This paper argues for South Africa being a middle power, multilaterist country with an Africanist approach at the top of its agenda. South Africa has concerned itself with being a champion for Africa, a role that has come with its own challenges due to both external and internal pressures and expectations.

Another perspective in analysing South African foreign policy is periodically, that is by looking at decisions made under the different presidents that South Africa has had. One criticism of South African policy is that it is heavily personality driven. This is an issue as it often makes policy inconsistent because certain policy aims and ideals propagated by one administration can be abandoned and replaced by others favoured by the incumbent administration. To show how personality driven foreign policy is, at one mention of a South African president with the exception of the current president, Jacob Zuma, foreign policy stances and agenda already come to one's mind. Under Nelson Mandela, the agenda was the protection and promotion of human rights. This was on the back of the amazing story of the country's liberation with a peaceful transition of power and the "Rainbow Nation" narrative which earned South Africa a lot of currency out in the international world. Under Thabo Mbeki, South Africa adopted a very Africanist agenda. This saw the call for an African Renaissance and new Pan-Africanism that urged Africans to reclaim their position in the

world and begin to carve their own identities. This included coming up with African solutions to African problems, less reliance on the international community and when the international community was called upon it was for them to become African partners rather than to be the facilitators/drivers of change, which was always the case in the past.

This research looks at South African policy, analysing how the state chooses to represent itself to the continent and the rest of the world. That is being a benign, good neighbour that identifies with Africa and looks to make other African countries as partners, rather than being a hegemon on the continent. The research engages differently with South African policy as it aims to look at the manner in which the state interacts with immigration policy.

A constructivist approach will be taken, as constructivism best explains this relationship between state and immigration policy. This is to say the ideas of how South Africa would like to portray itself, coupled with the internal expectations, determine the interests of the nation. These interests are born as ideas which then inform policies, attitudes and norms in society.

- **Xenophobia**

According to the Oxford Dictionary and Thesaurus, xenophobia can be defined as "a strong dislike or fear of people from other countries," (2001: 1062). This definition in itself is somewhat insufficient as it does not account for the violent act of xenophobia when it moves away from just being an attitude but becomes an actual practice, (Harris, 2002: 170).

The most widespread recent account of xenophobia occurred in South Africa in May 2008 but is not the first instance of these acts as they are perpetrated continuously by citizens, officials and law enforcement. Immigration polices impact the perpetuation of these attacks as it is through policy and practice that society sees what is acceptable or not in relating to foreign people in the country. Bribery, corruption, mistreatment and disrespect for the human rights of migrant workers, refugees and asylum seekers are common and influence the already negative attitudes that South Africans have towards foreign people in the country. This can be linked to a lack of education and the lack of understanding, as many people are not aware of the difference between the different status of people entering the country, whether it is for seeking asylum, economic reasons and so forth.

The contradiction between policy in practice and the Africanist stance of South African foreign policy does a lot to undermine the objectives of policy in its relations with Africa and how it seeks to represent itself. A nation driven by a strong link to the African Renaissance, and human rights based framework cannot have such a draconian approach to African migration and be slow to react when the citizens of the country perpetuate such violence towards foreigners.

What however, is lacking in the xenophobia discourse is further explanations as to why these acts occur and why they seem to be only targeted at a particular kind of foreigner. The reality is that in South Africa, the foreigner has a particular face and that person is then to suffer abuse at the hands of South African citizens. The socio-economic reason as to why crimes are perpetuated on foreign people in the country does have its place but it cannot be the only reason that is used to justify these actions. There are other factors at play that relate to how people view the "foreigner" as well as treatment these foreign people receive from authorities which is then mirrored by the rest of society.

The first step in unpacking xenophobia and attempting to change the conversation is to rework the definition of the term. As is evident, xenophobia is more than just a feeling or a point of view of a closed mind-set; it is much more than that. It is an actual practice that moves beyond verbal abuse to an actual violent act. This reworking of the definition is best explained by Harris (2002: 170):

> "Kollapan (1999) warns that xenophobia cannot be separated from violence and physical abuse. In this sense, a rewriting of the dictionary definition of xenophobia is necessary. 'Xenophobia' as term must be reframed to incorporate practice. It is not just an attitude; it is an activity. It is not just a dislike or fear of foreigners; it is a violent practice that results in bodily harm and damage. More particularly, the violent practice that comprises xenophobia must be refined to further include its specific target, because in South Africa, not all foreigners are uniformly victimised. Rather, black foreigners, particularly those from Africa, comprise the majority of victims. It is also important to explore why 'the unknown' represented by (largely black) foreigners should necessarily invite repugnance, fear or aggression. [These questions]

must inform an explanation for the phenomenon and must underpin issues regarding why, how, and whom xenophobia targets."

- Xenophobia Hypotheses

There are various explanations that have been put out to attempt to justify the occurrence of xenophobia but none is yet to explain at which point the xenophobia changes from a feeling, fear or mind-set to a practice or action. Harris (2002: 170) identifies three hypotheses, namely, the hypothesis of scapegoating, the isolation hypothesis and the biocultural hypothesis.

Scapegoating – this hypothesis posits the foreigner as the cause for social ills in the country. Its uses the foreigner to explain high levels of crime, inequality and the reason for them to not be able to access certain goods of services due to the presence of the foreigner in the country. This hypothesis is located within the socio-economic conditions that have been brought about through the transition, which has not been able to solve them at the pace that was expected by South Africans. The main issue here is that the South African government has to a great degree, not been able to manage the expectations of its citizens, given the wonderful "rainbow nation" discourse and peaceful transition and the hope that was instilled by a new democracy and a liberation struggle that had been powerful enough to overcome the tyranny of apartheid. South Africa faces many internal challenges and the failure to effectively deal with these challenges causes frustration and tension among its citizens, which is then projected outwards to the foreigner. "It is easier for the masses to believe that immigrants are depriving them of jobs, than to acknowledge that their liberators have not fulfilled the social contract that they had pledged to fulfil after emancipation. Immigrants are therefore used as scapegoats for people disgruntled by the slow pace of service delivery from the government," (Hlela, 2002: 170).

Our research respondent *Sipho explains what he and other foreigners perceive to be the 'threat' they possess and what creates this animosity in many communities across the country: "Foreigner people, they are here to work and if they have got money, they put it

aside because they are saying [to themselves], "I have family from where I am coming from." Then they get money and say they buy a car, others are saying, "look he has a car but he is from Zimbabwe and I have nothing. See, that is where the jealousy starts and then they say they are going to show him," (*Sipho, 2012).

Another major bone of contention amongst South African citizens is how the South African government chooses to use resources on intervention outside the country, where some feel these resources would be better utilised to help curb internal issues of scarcity. Many feel that the government is being wasteful and should rather subscribe to the old adage "charity begins at home." South Africa in particular, has the task of balancing external expectations with internal demands in its pursuit of its foreign policy. "The constraints imposed on the government's ability to provide for its people include slow economic growth (which constricts its ability to expand the budget), limited margins for tax increases, and increases in social spending and rapid population growth. These exacerbate income disparities and serve only to add further restrictions to Pretoria's ability to effectively engage the sub-region. Due to these restrictions Pretoria should not be expected to play a leadership role when her tax payers want cutbacks in what they perceive as being wasteful foreign intervention," (Hlela, 2002: 172).

However what is important to note is that this does not explain the violent aspect of xenophobia. Seegers (1999: 4) recognises how the foreigner is scape-goated due to the deprivation created by socio-economic conditions and what is perceived to be the threat posed by the foreigner. An angry person is not automatically wired to commit violence, if anything, given the circumstances, a person in this position could as easily turn the violence inwards toward themselves.

Isolation – this hypothesis suggests that xenophobia is a by-product of apartheid South Africa due to the country's exclusion from the rest of the world and isolation that was created by the government from the rest of the continent. Furthermore, it can also be attributed to internal isolation, where South Africans, due to segregation and then apartheid, which cultivated a culture of mistrust and suspicion. Morris (1998: 1125) suggests that given South Africa's past, foreigners represent the unknown and it not surprising for a society that has been so

closed off as South Africa to be intolerant of those that are different to them. The brutal manner and violence that ensued in the country, during the path to liberation is also a major contributor.

Another by-product of this isolation can be said to be South African exceptionalism. South Africans do not seem to identify with the rest of Africa. They see themselves as superior and far removed from the continent and it realities. This is surprising as many African countries showed considerable support to South African liberation groups, providing them with refuge during exile as well as hidden camps to allow for the continuance of the struggle.

Bio-cultural – this hypothesis attempts to explain how come xenophobia in South Africa is targeted at a specific foreigner, who happens to be black and African. In South Africa is it common practice for foreigners to be identified through their ability or inability to speak English and South African vernacular languages as well as the accent they have, the complexion of their skin and manner in which they dress. This method of identification is not only employed by average citizens but also used by law enforcement officials to single out so-called foreigners. Below is an example of methods of identification used by the South African Police Serve:

> "In trying to establish whether a suspect is illegal or not, member of the internal tracing units focus on a number of aspects. One of these is language: accent, the pronouncement of certain words (such as Zulu for 'elbow', or 'buttonhole' or the name of a meerkat). Some are asked what nationality they are and if they reply 'Sud' African this is a dead giveaway for a Mozambican, while Malawians tend to pronounce the letter 'r' as 'errow'... Appearance is another factor in trying to establish whether a suspect is illegal – hairstyle, type of clothing worn as well as actual physical appearance. In the case of Mozambicans a dead giveaway is the vaccination mark on the lower, left forearm...[while] those from Lesotho tend to wear gumboots, carry walking sticks or wear blankets (in the traditional manner), and also speak slightly different Sesotho," (Minaar and Hough, 1996: 166).

South African have taken it upon themselves to continue with the differentiation tactics that were previously employed by the apartheid government to distinguish between the different races in order to classify and allocate them to a specific group. "In post-apartheid South Africa, black South Africans have adopted the discourse of the oppressor and are exploiting those they perceive as undesirable and uncivilised. This perception of viewing the African continent and its people as barbaric and backward can be traced back to colonial times. As the apartheid regime began to use colour to determine who was 'white' enough, so black South Africans are identifying people as 'foreigners' based on the pigmentation of their skin and inoculation marks on their arms," (Hlela, 2002: 170). This type of behaviour is being mirrored throughout society.

All of the above hypotheses play a role in the action of xenophobia, however they are insufficient as stand-alone explanations. What about the structures which are in place that further engender these negative stereotypes? There is little attention paid to that.

- **Immigration policy**

The Xenophobic attacks that took place in 2008 highlighted the contempt that seems to exist between South Africans and their foreign counterparts in various communities across the country. The xenophobic attacks of May 2008 were shocking to witness but cannot definitely said to be unexpected or the first of their kind. More often than not, the xenophobic attacks have been blamed solely on socio-economic factors and how these create an atmosphere of desperation and deprivation that drives members of these communities to behave in this manner. The high unemployment rate, lack of services, such as sanitation, healthcare and education are said to be exacerbated by the fact that there is a supposed influx of non-nationals who then overtake South Africans in receiving these services. This research seeks to look beyond that and suggest that xenophobia in South Africa can be attributed to the way in which South Africa has adopted a very restrictionist immigration policy following the democratic dispensation. It can be said that the government struggled to resolve the tensions between formulating a relationship between migration and development, resulting n the current situation.

This research is rooted in the legacy that has been left by apartheid immigration policies which centred on containment, racial bias and the supply of a cheap African migrant labour force for the use of South African mines and farms. The apartheid regime used immigration policies to not only keep out unskilled African workers but also to control the movements of black people within the country. Under apartheid, the system favoured white skilled workers with the exception of Jewish people and Catholics at the start, (Siddique, 2004: 5). Black workers were tolerated only temporarily and worked under very poor conditions. Only jobs that the government deemed to be of a very low status and paying very low wages were allowed to be occupied by African migrant workers and these were considered to be primarily in the mining and agricultural sectors, (Adepoju, 1988: 59).

With the fall of apartheid, the government instituted a number of reforms and even granted three amnesties between October 1995 and December 1996, in attempt to regularise the stay of African migrants in South Africa and to start off on a 'clean slate.'

The main issue is to explore how much reform there actually has been within the immigration practices of the government. The treatment of non-nationals in the country by the legislation and law enforcement bodies can be said to contribute to the attitudes that South Africans have towards non-nationals. In conducting this research it will be imperative to unpack the myths that often contribute to the negative light in which non-nationals are painted in the country. Perbedy and Talibe (1997; 1), point us to a few of these myths especially those relating to how non-nationals in actual fact contribute to the South African economy not only through creating informal sector jobs where they often hire South Africans; but that most of the income made by non-nationals is invested back into South Africa through paying for daily living expenses. So therefore, the myth that migrants take South African jobs can be said to be untrue. Other myths surrounding non-nationals are that they come to South Africa looking to settle permanently. Siddique (2004: 26), points to how this is untrue and in actual fact most migrants are not looking to settle in South Africa on a permanent basis. Another negative myth is that non-nationals are perpetrators of crime and they bring down the moral fibre of society by bringing drugs, prostitution and other criminal dealings into communities. As Fluckiger (2006: 5), points out this can be due to media stereotyping. The media has both the power to paint non-nationals in a negative light by stereotyping them and only ever reporting on them when they may have be implicated in crime etc. furthermore, the connotations of

calling non-nationals words such as aliens and illegals, goes a long way in influencing and informing the general public on how non-nationals are to be treated. On the flip side of the coin, the media also has the power to teach the nation on the cultures of non-nationals and create dialogue that will contribute to acceptance and understanding within society.

Furthermore, the treatment of non-nationals by the police, the manner in which the deportation process is handled as well as the Community Policing programmes, in which South Africans are encouraged to keep an eye out for 'illegal aliens' within their communities and report to the police, all point to a different side of the story. There seems to be a lack of compassion, in the manner in which the official structures deal with non-nationals. This in turn can be posited to in fact exacerbate the negative attitudes that South Africans have towards non-nationals and thus fuelling the problem of violent xenophobia.

# Chapter Three
# METHODOLOGY

The main form of research that is employed is discourse analysis. It is important to note that there are limitations in attempting to use discourse analysis to explain why a certain phenomenon occurred but it can be useful in highlighting trends and perceptions. More often than not the power and effects of language are left unattended which is an oversight. Language plays an important role in how people identify and create the realities around them. In this context, the research seeks to use discourse analysis to bring out the language and themes that surround the issues of xenophobia, within the context of immigration policy and legislation in particular. This has been done by asking how xenophobia goes from being a feeling of dislike to an actual violent practice. Further the research quizzes the relationship between the attitudes of those in positions of power and the structure of immigration policy.

## Language and International Relations

Introducing the approach of Discourse Analysis that has been chosen to look at the construction and understanding of policy and discursive practices it is important to first discuss the importance of language in its relation to how certain ideals are projected, perceived and expected to be understood. Language is deliberate in its work and use. Language is in no way arbitrary and isolate, every choice has a direct consequence and purpose for its reader and intended work to do unto the audience at which it is targeted. It is important to note that with every selection there is a rejection of other linguistic choices, this in itself draws our attention away from choices that the writer/speaker chose to suppress and leave out of their consideration.“When people use language, they make lexical, grammatical and sequencing choices in order to say what they want to say,” (Janks, 2005: 97). As expressed by Janks, through the work of Halliday (1985), language has meaning potential, in that all options are chosen which realise the potential of language and thus give it meaning in whatever context it has been selected to be used in. It would be naive and a huge oversight to ignore the power and effect of words.

As Janks (2005: 97) explains, the work of texts is to both position and be positioning. “All these selections are to motivate; they are designed to convey particular meanings in particular ways and to have particular effects. Moreover they are designed to be believed.” Every text seeks to identify and draw in an ‘ideal reader’ that is one who will buy into the ideals and message of the text, on who believes in and agrees with the perspective of the writer. “We can play with the word “design”, by saying that texts have designs on us as readers, listeners or viewers. They entice us into their way of seeing and understanding the world – into their version of reality. Every text is just one set of perspectives on the world, a representation of it; language, together with other signs, works to construct reality,” (Janks, 2005: 97).

- **Discourse Analysis**

The use of Discourse Analysis within the social sciences has gained momentum over time and has been customised by social sciences and adopted to bring about an explicit view and understanding of the particular relation to language, signification and representation.

In looking at discourse and analysis and language and signification Bowan and van Zyl (2011: 1) point out indicators that one should look for and be aware of:

- It is a human action, work that people do with words with an end objective in mind and it can be in visual, written or spoken forms.
- All actions produced using words are meant to be interactional. That is to say that they are produced with a specific audience in mind, whether real or imagined, with the expectation of a response from said audience.
- The social practices are not merely reflections or representations of the social world but rather, social practice constructs the social world as we know it.
- Language signification has power over more than just what it produces, it affects and is affected by our actions and experiences.

Furthermore, Bowan and van Zyl (2011: 1), provide guidelines with which to approach language/signification. These include carefully examining the language and ensuring to

respect the integrity of its structure and linguistic choices; attention must be paid to how it is interpreted and it must be treated with a degree of suspicion. This is because language does more than it appears to, through systems of inclusion, individual prejudices and certain ideologies much can be concealed.

The purpose of CDA is to analyse "opaque as well as transparent structural relationships of dominance, discrimination, power and control as manifested in language," (Wodak 1995:204). More specifically, "[CDA] studies real, and often extended, instances of social interaction which take (partially) linguistic form. The critical approach is distinctive in its view of (a) the relationship between language and society, and (b) the relationship between analysis and the practices analysed," (Wodak 1995:173) in Blommaert and Bulcaen (2000:448).

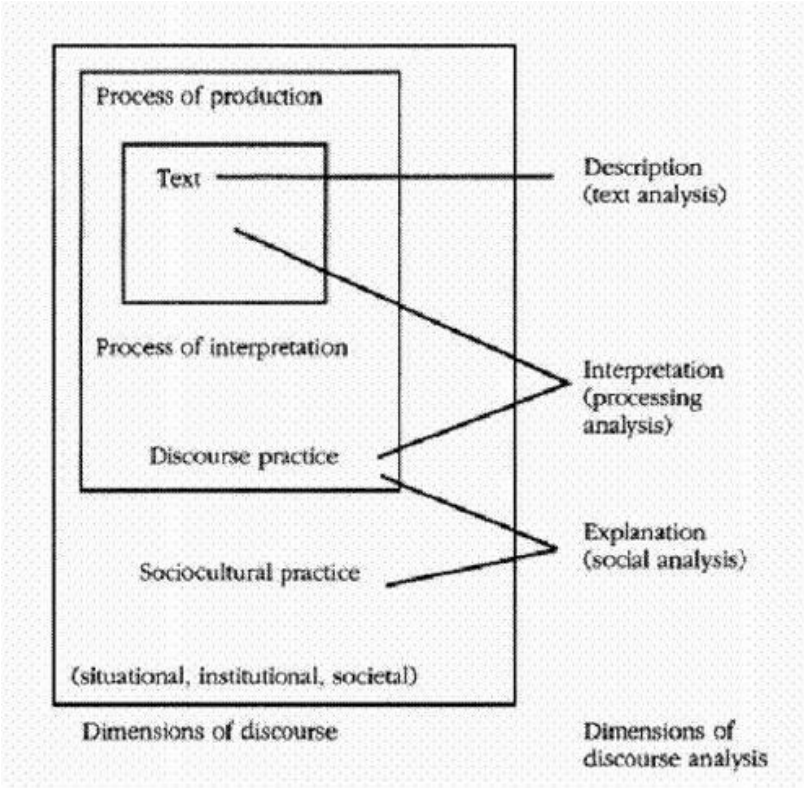
Critical Discourse Analysis (CDA) states that discourse is socially constitutive as well as socially conditioned. Furthermore, discourse is an opaque power object in modern societies and CDA aims to make it more visible and transparent. It is an important characteristic of the economic, social and cultural changes of late modernity that they exist as discourses as well as processes that are taking place outside discourse, and that the processes that are taking place outside discourse are substantively shaped by these discourses. Chouliaraki & Fairclough (1999:4) in Blommaert and Bulcaen (2000; 448).

For the purposes of this paper, much focus will be given to Fairclough's approach of conducting discourse analysis. This decision has been motivated by how this approach integrates the 'what', 'how' and 'when,' when looking at analysing texts. That it is to say that this approach asks three major questions and works along three dimensions in conducting discourse analysis. It asks:

1. What is the text, the object of the analysis; be it visual or verbal?
2. How is the text conveyed to its audience, what are the processes by which the text is both produced and received?
3. What is the context, what socio-historical and socio-economic is this text produced and how do those condition influence and dictate this production?

In addition to this, Fairclough maps out an approach to analysing the three dimensions in which text analysis (description), processing analysis (interpretation) and social analysis

(explanation) are the components. These are to be carried out simultaneously and there is a connectedness between all three. What is especially useful about this approach is that unlike other models of text analysis is that it takes into cognisance of the historical and social conditions that are left out, thus making the analysis limited and shallow in its approach.




Fairclough (1992) in Janks (2005: 11) sketches a three-dimensional framework (above) for conceiving of and analysing discourse. The first dimension is discourse-as-text, i.e. the linguistic features and organisation of concrete instances of discourse. Choices and patterns in vocabulary (e.g. wording, metaphor), grammar (e.g. transitivity, modality), cohesion (e.g. conjunction, schemata), and text structure (e.g. episoding, turn-taking system) should be systematically analysed. The use of passive verb forms in news reporting, for instance, can have the effect of obscuring the agent of political processes. This attention to concrete textual features distinguishes CDA from germane approaches such as Michel Foucault's, according to Fairclough (1992) in Janks (2005: 101).

The second dimension is discourse-as-discursive-practice, i.e. discourse as something that is produced, circulated, distributed, consumed in society. Fairclough sees these processes largely in terms of the circulation of concrete linguistic objects (specific texts or text-types that are produced, circulated, consumed, and so forth), but keeping Foucault in mind,

remarkably little time is spent on resources and other "macro" conditions on the production and distribution of discourse.

Approaching discourse as discursive practice means that in analysing vocabulary, grammar, cohesion, and text structure, attention should be given to speech acts, coherence, and intertextuality—three aspects that link a text to its context. Fairclough distinguishes between "manifest intertextuality" - overtly drawing upon other texts and "constitutive intertextuality" or "interdiscursivity" - texts are made up of heterogeneous elements: generic conventions, discourse types, register, style. One important aspect of the first form is discourse representation: how quoted utterances are selected, changed,

The third dimension is discourse-as-social-practice, which are the ideological effects and hegemonic processes in which discourse is a feature. Hegemony concerns power that is achieved through constructing alliances and integrating classes and groups through consent, so that "the articulation and rearticulation of orders of discourse is correspondingly one stake in hegemonic struggle" (Fairclough 1992: 93). It is from this third dimension that Fairclough constructs his approach to change: Hegemonies change, and this can be witnessed in discursive change, when the latter is viewed from the angle of intertextuality. The way in which discourse is being represented, respoken, or rewritten sheds light on the emergence of new orders of discourse, struggles

- **Criticisms**

Critical reactions to CDA centre on issues of interpretation and context. One such critic, Widdowson (1995, 1996, 1998) in Blommaert and Bulcaen (2000; 458). has criticised CDA for its blurring of important distinctions between concepts, disciplines, and methodologies. Widdowson notes the vagueness of many concepts, asking what is precisely meant by discourse, text, structure, practice, and mode;  and models as to how many functions and levels, and how can these be proven. This general fuzziness is not helped by the rhetorical use of concepts from social theory. Second, Widdowson argues that, in its actual analyses, and despite its theoretical claims to the opposite, CDA interprets discourse under the guise of critical analysis. CDA does not analyse how a text can be read in many ways, or under what social circumstances it is produced and consumed. This can be rebutted by using Fairclough's model that takes into account the socio-historic contexts in which a text is produced.

The predominance of interpretation begs questions about representation. Can analysts truly speak for the average consumer of texts? How far is their interpretation a true reflection of the perspective of viewers of texts without the influence of selectivity, partiality, and prejudice? The most fundamental problem to Widdowson is that CDA collapses together signification and significance, and ultimately semantics and pragmatics. Texts are found to have a certain ideological meaning that is forced upon the reader. This is a rather deterministic view of human agency which speaks directly to the work of this paper.

Analysts project their own political biases and prejudices onto their data and analyze them accordingly. However this is not a problem only relevant to the discourse analysis approach. Stable patterns of power relations are sketchy, often based on little more than social and political common sense, and then projected onto (and into) discourse.

## Thompson's Model

"The analysis of ideology, according to the conception which I will propose, is primarily concerned with the ways in which symbolic forms intersect with relations of power. It is concerned with the ways in which meaning is mobilised in the social world and serves thereby to bolster up individuals or groups who occupy positions of power," (Thompson, 1990: 56).

Thompson's focus is on the symbolic forms such as language which work with social theories in producing ideologies. Thompson terms this as 'critical conception of ideology Thompson realises that there are many forms of domination that can occur in society, between the sexes, ethnic groups, individuals, nation states and blocks of nation states and these relations of power are systematically asymmetrical.

In Thompson's *Studies in the Theory of Ideology* (1984) and *Ideology and Modern Culture* (1990), he identifies five forms along which ideology can be viewed, namely: legitimation, dissimulation, unification, fragmentation and reification. "In addition he identifies different kinds of symbolic construction which are typically associated with each of these modes [forms as referred to above]. In fact what he is doing is identifying the linguistic and non-linguistic symbols which are regularly used to obtain ideological effects. He is careful to

limit his claims: these symbols are not only or always used for these purposes, nor are these modes of ideology only realised in these ways, nevertheless he gives us a useful way of thinking about the relation between symbolic forms, including those that are linguistic, and social effect," (Janks: 1998: 198).

Using both Thompson (1984 and 1990) as well as Janks (1998), these modes of ideology will be expanded on to highlight how they do they work in reproducing and disseminating ideologies.

- "Legitimation is the process by which relations of domination may be established and maintained by being represented as legitimate, that is just and worthy of support," (Janks, 1998: 199). This achieved through three processes, namely: rationalisation, universalisation and narrativisation. Rationalisation gives reasoning and allows for one to justify that particular way of thinking; Universalisation presents a perspective where the interests of a particular group are adopted to then make it appear as if these interests represent all others, while only privileging one; Narritavisation works by creating stories which when told over time are taken to embody a certain truth, (Janks, 1998:199).
- "Dissumulation is the process by which relations of domination are concealed or obscured," (Janks, 1998: 199). In order to achieve this, displacement and euphemism are used to transfer the negative or positive attributes from one thing to another.
- Unification and Fragmentation- "Unification establishes a collective identity which unites individuals despite their differences. Fragmentation is a process of splitting people off despite their similarities," (Janks, 1998: 199). These processes construct the "us and them" that we find is often used in language to separate people for whatever agenda. The "othering" of the person that is different for which ever reason that has been chosen and creates a distance which then allows the group that is doing this to create a false sense of unity amongst them. One that is based on isolating that which is different or misunderstood. One such manner in which to do this is with language standardisation and symbols of unity which invariably isolate those who are not from the dominant group. The manner in which the dominant group speaks and the symbols they subscribe to, are used as standard accepted norms.
- "Reification: relations of domination and subordination may be established and sustained by representing a transitory, historical state of affairs as if it were

> permanent, natural outside of time," (Thompson,1990: 65). This effect is brought about when the context of a particular process is ignored and can be brought about through passivisation and nominalisation. "Nominalisation is the linguistic process of turning a verb into a noun. Here an action is turned into a thing or a state. Passivisation, also a linguistic process, is used to convert active voice to passive voice. Both these processes delete actors and agency and change what is thematised in the syntax," (Janks, 1998: 199).

It is through these five modes that we can begin to see how ideology is able to depict and convey its message covertly or otherwise. By being aware of this we are in a better position and are more equipped to know better than to take ideas at their simple face-value. We need to be aware that ideas have power and breed words which gain more power as they become part of our daily vocabulary and acceptable terms of reference. These words in themselves have power because coupled with ideas, they do have the potential to turn into action, whether it be good or bad, harmful or not.

**Limitations and Strengths**

Although Thompson's model does good work in helping to unpack the relationship between symbolic forms we find in society and the ideological forms that this relationship produces, it is problematic as it does not provide a manner in which subordinated groups may be able to regain their agency and harness their power. There is no accompanying model that provides a blueprint for these subordinated groups to harness the same language that is a source of their insubordination to contest the existing dominant practices.

As Janks (2000: 210) expresses, "They do not include the analysis of oppositional discursive strategies such as renaming, the promotion of multi-lingualism and language varieties, oppositional reading, satirisation, hypothetical play with the reversal of discursive norms, disidentification, searching for and exploiting contradictions and breaks within discourse, de-naturalisation and de-construction, to name just a few."

Janks (2000: 210) picks up on how political changes leave us with a gap in understanding. The example used is that of the African National Congress which was considered as a disempowered group during the time of their banning and thus not considered have ideological significance but is now ideologically appropriate since they are now in power. That in itself is problematic. It shows a political game that indicates that power is then the

most influential component of determining what ideologies are to be disseminated into society. It begs the question as to what determines whether certain ideologies are considered to be ideological and others not, is it just a question of who is the most dominant at that particular period? This then brings to fruition what was said by Foucalt (1970: 110) that "discourse is the power which is to be seized." The model then leaves us with no way in which to engineer productive power.

**Language in International Relations**

As touched on briefly in the beginning, there is use and need for the use of discourse analysis in the humanities. Unlike those subjects with are purely quantitatively based, the humanities requires a different set of tools for analysis and language and its use is exactly one of these. "The current silence about the role of language in international relations reveals an abyss separating two distinct approaches. One purpose of this analysis is to construct a connecting link across this abyss in the hope of demonstrating that language is necessarily a part of any kind of analysis," (Fierke, 2002: 333).

It is important to note that by using discourse analysis we are not necessarily expecting it to provide great explanatory value but rather can help us understand why and how certain events occur. Furthermore discourse analysis is helpful in that it provides us with the context, giving greater meaning to its occurrence.

What is particularly important is the need to recognise the power and influence of words. Seeing as how the choices we make in syntax are deliberate, we should then be more mindful of the consequences that could follow from using particular naming words in our societies. Fierke (2002: 347) illustrates this by looking at what she terms 'acts of speech' and uses the example of the word "genocide" in particular.

"A further speech act of particular relevance over the last decade regards use of the word "genocide." In so far as this represents an act of naming, it is not the same type of speech act as promising or threatening (identified as other forms of speech acts). Nonetheless, use of the word is an act rather than the mere application of a label in so far as it calls up a range of further acts that should follow," (Fierke, 2002: 347).

If words lead to acts then it should not be surprising that when a negative connotation is placed upon a naming word, which is then used to describe a group of people, that the actions perpetuated against those people would be negative.

"Language use is bound up with many of our activities in the world, from scholarly work to political practice, and therefore needs to be taken seriously. It needs to be taken seriously because the "rules of the game" provide first and foremost a structure by which physical objects or acts are invested with meaning," (Fierke, 2002:350). This is also to play up the fact that words are used covertly in order to propagate certain agendas and points of views. If one does not scrutinise texts and situations with a keen eye, it is likely that these messages that are out in the text can merely be overlooked and taken at their face-value when in fact they are intentionally placing themselves in a position to mislead the audience.

"The danger of hypothesis testing lies in the assumption that scientific propositions are capable of capturing a sense of logic "out there," independent of meaning. Given the subjects of analysis are actors who generate meaning that is constitutive of action and interaction, it is essential that the analyst brings some self-consciousness about the relationship between scientific language and that of the world of analysis. Logic is bound up in our grammar for different types of context, (Fierke, 2002:351).

## METHODOLOGY

The starting point was to do as much research as possible on South African foreign policy and then immigration policy from both a current and historical point of view. With foreign policy, mostly secondary sources were used to determine how South Africa viewed itself in as compared to the rest of Africa and also how it viewed its position internationally. From that starting point, different themes were drawn out to illustrate how South Africa views itself as an African Country first and foremost, as well as an African partner and as an African link to the rest of the world. It was then important to draw out the constraints and contradictions that stand between South African foreign policy on paper and in practice.

This was done by looking specifically immigration policy and xenophobia and detention and repatriation.

An analysis was done on Aliens Control Act No. 95 of 1991 as well as of the Immigration Act No.13 of 2002 in order to fully grasp what the objectives were and methods of

implementation were put in place in order to make the act effective. The analysis was done through reading the acts, picking out what their respective preambles and objectives stated, the language that the act used and analysis also looked out for any problematic or ambiguous areas. The aim was to draw out how the acts constructed a discourse that contributes to contradictory practices that are out of line with how immigration policy should be practiced. Poor implementation of immigration legislation does contribute to xenophobic violence (in particular the Lindela Holding Facility Case study). The overall effect is that this undermines South African international relations with Africa and harms its international standing as well.

The Lindela Repatriation Centre was to be at the core of this research bringing together South African foreign policy, immigration policy and legislation; to show the effects of relying on detention and repatriation as a means to deal with immigration. Ideally, a site visit was intended which proved to be a huge challenge. Using the Lindela Holding Facility as a case study for field research would have provided a direct opportunity on which to draw information on the treatment of detainees and the attitudes of officials who work there and their perceptions. This would have been done through conducting interviews by of a small number of detainees past or present, whose consent would have been asked, as well as looking at reports conducted on the conditions at the holding facility for further insight.

Failing to secure a site visit, much of the research relied on work that had been done by the South African Human Rights Commission (SAHRC). The SAHRC which investigated the Lindela facility in 1997, only a year after the detention facility began operations. From the investigation, the SAHRC released two reports and this research pays much its focus to the report released in 2000. The report titled "Lindela - At the Crossroads for Detention and Repatriation was very useful in that it highlighted problem areas and gave recommendations to the Department of Home Affairs. The main reason for using this report was to compare the conditions that existed at the facility then, plus recommendations that had been given in 2000 with what is currently going on at the facility now, twelve years after the report was issued. After consulting sources as recent as December 2011, it is clear that not much has changed at the Lindela Repatriation Centre.

Much of the research relied on interviews to draw out more information to provide a more balanced approach to what the research was trying to achieve. Interviews were conducted in an unstructured format but with a few some guiding questions. This was done in order to allow for the voice of the interviewee to come through and also to allow them to speak more freely and hopefully offer more information. In each case, the interviews were conducted as an informal conversation in order to bring out the personal perspective and ideas of the interviewee. The interviews were recorded using an audio recorder and then transferred for safekeeping on to a laptop device that is password protected. Interviewees were fully aware of that there responses would be used for research purposes only and that their anonymity would be guaranteed if they so wished. This was all conducted within accordance of the university's ethics protocol.

Interviews were conducted with representatives from civil society, namely the Refugees Ministries Society, *Gugu from the Consortium for Refugees and Migrants in South Africa (CoRMSA) and Sbu Zikode from Abahlali BaseMjondolo. A series of interviews was conducted with a Zimbabwean man, *Sipho who works as a private gardener and also at a Johannesburg school and has been in the country for twenty two years. Sipho works in the country legally and uses a work permit that needs to be constantly renewed. It must also be noted that the experience of one man cannot stand alone as representation of all the experiences of foreign people in the country. However, *Sipho's experience does give some insight into the realities faced by foreign people on a daily basis. An interview was conducted with a representative, *Thandiwe, from the government's Integration and Repatriation Unit, as well as a brief interview with Head of Lindela, Makgabo Kekana.

- **Challenges and Limitations**

Many of the challenges faced when conducting this research were that of access. Lindela for one posed the biggest obstacle. Due to the nature of the facility and obviously the manner in which it is being managed, it proved to be very difficult to get information about the facility. Much of the information that could be obtained was from secondary sources, news clips and the like. As stated above, not for the South African Human Rights Commission report, it would have been very difficult to go forward.

Due to the facility being a detention centre, direct permission was needed from the Department of Home Affairs and Department of Correctional Services. This permission can only be granted through submitting a proposal to the Research committee that sits quarterly. After gaining such permission, the completed research report would then have to be submitted to the departments for perusal prior to it being submitted for marking. This was a rather long winded process that could not be pursued given the time limitation.

Attempts were then made to get hold of someone to speak to directly at the centre, this also proved to be difficult with there not being any correct contact details available. After much time, direct contact was made to speak to the Head of Lindela who then commented that he could not provide us with any information if we had not gone through the research committee route.

The failure to secure a site visit to Lindela stands as a limitation in the research as the researcher was then unable to get firsthand experience of the going-ons at the facility. Had there been more time, and not for the evident bureaucracy the case study could have been strengthened from a set of direct observation accounts. Another limitation is that due to the nature of what we were trying find out about the centre, people were often reluctant to speak even if their anonymity was guaranteed. This was a huge challenge as it also takes away credibility of your sources if they are from a government institution and do not want their name mentioned.

Other challenges that presented themselves, were that encountered with interviewees with constant rescheduling and discovering after one interview, that one interview would not be sufficient in order to obtain the information and level of insight one might be seeking.

# Chapter Four
# SOUTH AFRICA – AN "AFRICAN COUNTRY"

- **South African Foreign Policy**

With the new democratic dispensation in the country, South Africa had many facets of its identity that it had to tend to, one of those being its foreign policy. Coming from a position of being isolated, having sanctions imposed upon it due to its Apartheid policies and being the pariah of the global community, South Africa had a heavy task of building up its credibility as a powerful player both regionally and globally. Under the leadership of Nelson Mandela, the new government articulated their foreign policy agenda which would mirror its domestic and continental aspirations. The ANC was adamant to state that their main concern centred on human rights and this would be pursued to cover social, economic, environmental and political rights. Through this expression, the new government was asserting that only through the promotion of democracy, could long lasting solutions to international problems be found.

South Africa's foreign policy is underpinned by the following main policy points as highlighted by Nathan (2005: 362). These include the promotion of human rights and democracy; justice and adherence to international law standards; peace and conflict resolution methods that have been reached through mutual international agreement and the promotion of African interests in the world arena. In the promotion of African interests, the Department of Foreign Affairs (now Department of International relations and Co-operation) is committed to realising the African Renaissance through co-operation with the African Union and the South African Development Community; endorsing and implementing the New Path for Africa's Development in which social and economic development will be realised, Nathan (2005).

The mandate of the then African National Congress had the following objectives which appear above but are now in greater detail below. These mandated objectives would allow them to judge their successes or failures in achieving their objectives accordingly:

1. The first and most important pillar was the protection and promotion of human rights, which were central to the understanding and development of international relations. Furthermore it was important that, issues involving international relations had to be looked at from a holistic view which meant not only focusing on the political aspect but the social, economic and environmental aspects as well. This was an obvious conviction for the new south African leadership as they were expected, in this post-apartheid era, "to build a nation in which all people can fully assert their human worth…as they deserve nothing less than the right to life, liberty and the pursuit of happiness," (Mandela: 1993).

2. The only way in which to truly ensure lasting and just solutions to issues of human conflict was through forms of democracy. This was also something that South Africa had been denied for many years and the new leadership sought to promote democracy in all forms to the world at large.

3. The foreign policy also recognised that international law should be respected and used as a means to guide the relations between countries and help in situations of conflict.

4. Another important concern was of course for peace and the new South African leadership recognised peace as the one goal that all nations should strive to achieve. In the absence of peace, non-violent methods should first be exhausted. Furthermore there should be effective disarmament and other arms control should be in place.

5. South Africa recognised that it had first obligation to Africa as a continent and therefore, the interests of the continent would so be reflected in its foreign policy. With this in mind, South Africa would act as a partner in the regional community and would not dominate the region, as was entrenched by colonialism. Another important issue would be to promote unity among African countries, which will strengthen the continent.

6. Lastly, South Africa would work towards rapid economic development which would depend largely on developing education and other training programmes, to attract foreign investment, to encourage healthy growth and competition within the domestic sector and bridge the gap between the huge wealth disparities within the country.

These were goals set out by the ANC and they were to be carried out in four settings, (Barber, 2005: 1080). Firstly there was the division between the first and third worlds, in which South Africa identified with the third world and sought to rectify the unjust global system. Secondly there was the issue of international organisations; these included the United Nations, the Organisation for African Unity, which were key in the plight of human rights. Third, there was disarmament; this was to ensure that the South African army would only be called upon in instances of peace-keeping and peace-making. Lastly, there was South Africa's obligation to the African continent largely due to their continued support during the liberation struggle.

This will be achieved through greater regional co-operation and integration in order to ensure the advancement of the continent where it will gain credibility in the global arena. From this standpoint, South Africa comes across as a benign and non-threatening power that is concerned with an Africanist agenda in which it plays the role of the 'good neighbour.' "Critics who view South Africa's foreign policy as essentially realist and as limited to the advancement of national interests are mistaken. While the policy is necessarily intended to further domestic interests, it also embraces an ambitious continental and global agenda that has idealist, internationalist and emancipatory tendencies," (Nathan, 2005: 362).

With a peaceful transition made from an apartheid past to a democratic and integrated future, through a negotiated settlement in 1994, South Africa has continued to display its pluralist nature. In order to continue, it is important to define what it is that we mean by pluralism in this case. According to Bischoff (2003: 183), South Africa can be classified as a middle power. From a realist perspective, South Africa would be deemed to be a regional middle power based on its capabilities which are measured according to military strength, demographic size, economic production, resource bases and geographic position, (Bischoff, 2003:183).

This middle power status affords South Africa a lot of influence in the region and that in itself comes with responsibilities and expectations. Due its apartheid history and what seen to be a very smooth transition to democracy, South Africa has been seen as the poster child for multilateralism and inclusion by western powers. This eagerness to work with South Africa was further spurred on by how it was determined to pursue development and enshrine human rights, as remembrance to the past. "This afforded it the opportunity to project itself as a country that stood for inclusivity and that could function as an honest broker, a diplomatic niche player, and projecting southern concerns toward an evolving (neo-liberal) world order. Hence, the concern for the promotion of coalition governments and respect for human rights in areas of conflict as well as the resort to macro-projects and multilateral coalition building at international, transnational and continental levels," (Bischoff, 2003:184).

In trying to achieve this South Africa employs four main discursive strategies that provide the themes of and underpin the foreign policy and its objectives. In doing so, the country can mould the image it wishes to project and continue to represent itself in that way. The four discursive strategies which will be discussed are The African Renaissance; South Africa as being a partner to the rest of the continent and engaging the continent as an equal; South Africa as the African link to the rest of the world, the gateway so to speak and South Africa as the Democratic miracle due its liberation narrative.

### 1. The African Renaissance – A New Pan Africanism

On the 8th of May 1996, at the Constitutional assembly, the then deputy president of South Africa, Thabo Mbeki captured the hearts of South Africans and in the international community with the words, "I am an African." These words would not only define his presidency, but would go on to give impetus to the South African foreign policy. "In an inclusionary speech, symptomatic of post-apartheid South Africa, Mbeki drew strands of the country's many histories together. His words evoked great emotion within the assembly chamber, and later throughout the country: across the political spectrum, South Africans strongly associated themselves with the spirit of reconciliation and outreach caught in his words," (Vale and Maseko, 1998: 271). This was the beginning of the articulation of the

African Renaissance, a rebirth and awakening of the mother continent, to bring it back from its many decades of humiliation, darkness and doom.

It is important to note that although very bold, this was not the first conception of an African Renaissance. The African Renaissance in itself has had three waves and this was the third of its kind. In the first instance, an African rebirth was first discussed in various forms at the time of the colonisation of the African continent and the slave trade. Michael Muendane, a former Secretary-General of the Pan-Africanist Congress of Azania (South Africa) suggested in 1998 that indeed the concept of an African Renaissance began with the founding of the first Pan-African congress in London in 1900, (Ajulu, 2001: 31). The idea of African Renaissance was borne from the Pan-Africanist movement that sought to restore and reassert African dignity and humanity. According to Ajulu (2001; 31), the movement finally gained support and momentum on the African continent in the post-war period and "assumed a political dimension and served as a battle cry for political freedom" with supporters such as Kwame Nkhrumah whose 1963 autobiography was aptly titled Africa Must Unite.

The second wave of African Renaissance came with the liberation of African countries starting with Ghana in 1957 and throughout the 1960s. The notion of an African renewal had many different interpretations across the various newly independent African states. "For instance, economic nationalism became one of the defining characteristics of the period, and among the emerging African ruling elites it became fashionable to denounce imperialism and rail against multinational corporations," (Ajulu, 2001: 31). This brought about the idea of an African socialism which was to be brought forward as being particular to Africa but also having many interpretations and being distinctly different from the western types of socialisms. This is evident by looking at the policies of Ujamaa in Tanzania and the recours a l'authenticite (recourse to authenticity) in the Democratic Republic of the Congo.

The Thabo Mbeki African Renaissance marks its third wave and came about in a period of change and a balance of forces as prompted by the end of the Cold War as well as a wave of re-democratisation across the continent of Africa. From the South African perspective, the renaissance provides an ideal unto which the country can define and reshape its policy with regard to the rest of the continent. Having come from a position of being isolated by the world and continent, South Africa aims to reclaim its position of belonging in and to Africa. This is important as it ensures to deliberately not align itself with the developed countries of the west.

From a South Africa perspective, African renaissance can be seen to also take from the unexplored links that are evident in culture, literature and folklore across the continent, (Vale and Maseko, 1998: 281). Furthermore, a 'South African' African renaissance can be said to pick up from where the inspirational Black consciousness Movement inspired and led by Steve Biko left off. The black Consciousness Movement was able to, "expose the rich undergrowth of relationships – personal, social and political – that lie within the Africanist framing," (Vale and Maseko, 1998: 281). The African Renaissance on the other hand, through NEPAD and other continental processes of co-operation has been able to turn this sentiment of brotherhood into policy. This being an achievement that was unattained by the Black Consciousness Movement due to the political climate as well as the tragic and premature death of its main proponent, the late Steve Bantu Biko.

South Africa's use of the term "African Renaissance" is not merely a popular concept but is a fundamental pillar in the policy outlook of the African National Congress (ANC). "Mbeki, then the Deputy President, later made the first official pronouncement on this when he addressed a group of business leaders in April 1997 in Virginia, USA. He used the occasion to unveil what were later to be known as key elements of his conception of the African Renaissance: social, political (democratization), economic regeneration and the improvement of Africa's geo-political standing world affairs," (Maloka, 2001: 2). Having first entered into public discourse in 1996, following Mbeki's "I am an African" speech, the concept of an African Renaissance had now officially been written into the ideology of the African National Congress.

Thabo Mbeki's African Renaissance was underscored by five suggested areas of engagement: as outlined in the document entitled 'The African renaissance: a workable dream,' (Vale and Maseko, 1998:274).

1) Engagement
2) The encouragement of cultural exchange
3) The emancipation of African women from patriarchy
4) The mobilisation of the youth
5) The broadening and deepening and sustenance of democracy
6) The initiation of sustainable economic development

This is to say that the African Renaissance is a call for Africa's people to mobilise and take the lead in determining their own destiny and be the creators of their own representations to the rest of the world. Africans are to look for solutions to their own problems and rightfully claim their position in the world, not as victims but rather as self-sufficient victors. This however, can only be achieved through the regeneration of the continent. African people should stand up against unjust rulers and dictators and leaders who see it fit to pillage their respective countries and benefit from the suffering of others. The key to achieving this regeneration will be through the strengthening of democracies through respecting human rights and instilling practices of good governance. Critical to this, economic democracy and mobilisation are key. Africa must rejoin the global market and focus on economic development programmes that help countries out of economic disaster.

The African Renaissance discourse also provides an understanding into the South African/African Agenda. As has been stated in the previous sections, South Africa is committed to the African continent and is determined to bring about measurable development on the continent in partnership with other countries on the continent. For the Presidency's Fifteen Year Review Project, Chris Landsberg (2009: 1) highlights South Africa's African agenda goals –

- Strengthening the African Union and its structures
- Contribute towards the SADC common agenda
- Strengthening the governance and technical decision- making capacities of SADC
- Contribute to Post-conflict Reconstruction and Development (PCRD)
- Contribute towards peace, security and stability in Africa

South Africa has been very particular in the manner that it has set out the agenda and objectives of its African agenda. Careful consideration has been paid to ensure that the goals are achievable and that there is greater emphasis placed on political and economic integration, with development goals being set and South Africa pursuing these at both a regional and continental level, (Landsberg, 2009: 2). "The problem with the African Agenda over the past fifteen years has not been in the area of policy - policy has been clear, measurable, noble and achievable. The problem has instead been in the realm of

implementation of policy, and in this regard government has faced challenges located in the political and strategic environment, as well as with the macro and micro institutional challenges at home," (Landsberg, 2009: 2).

## 2. South Africa – The "Partner"

The identity of South Africa's foreign policy can thus be summed up in the following quote by Bischoff (2003:187), "in being selective and predominantly issue based, South Africa is a middle power intent on generating policy initiatives to help bring about conditions of security and wealth creation. But given a history of regional dominance under Apartheid and a relative lack in resources, it is reluctant to become progenitor of regional order."

"The counter hegemonic expression of NEPAD articulated through African pan-nationalism was premised on a continental transformation in the 1990s that occurred as a result of the end of apartheid and the ushering in of the African Renaissance. To Africans, the African Renaissance referred to an appreciation of values that were considered genuinely African and human and rooted in its ideology in Pan Africanism, Negritude, and Black Consciousness," (Edozie, 2004:152).

A dominant mode of South Africa's African agenda strategy has been to push for negotiated solutions and inclusive governments. So, South Africa's African agenda is heavily influenced by the experience of its transition from apartheid to a democratic and inclusive dispensation.

From this we gather that South Africa has grounded its foreign policy and its representation as that of being a benign, non-threatening and non-imperialist power that has no ambitions of being the regional hegemon. In doing so, South Africa portrays itself as the good neighbour to have but as we look deeper into their practices, when it comes to interacting with those from African nations, there seems to be a huge contradiction. The good neighbour seems to be not as welcoming as would be expected from the rhetoric and representations.

It is also important to note that although there are a lot of domestic tensions in African countries, the relations amongst African nations themselves tend to be very civil and co-operative, this is indeed an indication of somewhat of a good level of foreign policy that exists in the continent which could be exported to the rest of the globe. What we must also be mindful of is the isolation of other less developed African countries. Some of the less developed countries in Africa are seldom involved in any kind of decision-making. If only upper-income level developing countries and middle powers, such as South Africa are paid attention to, we stand to perpetuate the same exclusivity and isolation that the inception of the likes of South Africa was meant to curb.

"An arrogant, hegemonic posture would make South Africa vulnerable to charges of pursuing a conceited posture reminiscent of the apartheid state's destabilisation attitude in the southern region," (Landsberg, 2005: 733). An arrogant South Africa would not only alienate fellow African countries but would further feed into insecurities faced by other powerful African states who may be uneasy with the international attention and admiration received by the country in the post 1994 era. "Since 1994 many African governments have openly displayed irritation with South Africa's international attention and views harboured in some western and local quarters that it is indeed Africa's "indispensable" nation," (Landsberg, 2005: 733). The official response from government regarding this has always been that they are aware of these tensions and that they are taken into account and that any interactions with fellow African states will always be on a partnership basis and never from a position of superiority.

Even looking at South Africa today, the priorities of foreign policy seem to still be the same as those articulated at the advent of democracy. According to the Department of International Relations and Co-operation's (DIRCO) Strategic Plan 2010-2013. There are six priorities which highlight South Africa's multilateralist approach to international relations. These are- Continued prioritisation of the African continent; the Southern African Development Community; strengthening South-South relations; to strengthen relations with strategic formations of the North; strengthening political and economic relations to participate in the global system of governance.

South Africa's commitment to Africa is illustrated by its membership to the African Union, SADC and spearheading the implementation of NEPAD (New Path for Africa's Development). South Africa looks to increasing and consolidating bilateral relations on the

continent as well as continuing to support and aid various reconstruction, peace-keeping and stabilising mission on the continent. South Africa also fully puts its weight behind the African Peer Review Mechanism (APRM) in an effort to encourage and improve accountability amongst leaders and governments on the continent.

## 3. South Africa – The "Bridge with Africa"

"While many commentators have raised their voices for South Africa to pursue a more assertive and hegemonic posture, especially in Africa, South Africa's leaders have resisted this to date," (Adebajo and Landsberg, 2003) in Landsberg (2005: 733). The reason for this resistance is that South Africa is far more concerned with pursuing a development agenda on the continent that is powered by African partnerships that will work towards a common goal, as opposed to a hegemonic expression of its will. This drives South Africa to be very deliberate in the choices it makes in order to project an image that is not threatening to other countries on the continent.

This pluralist and multilaterist position has shaped South Africa's foreign policy and its outlook on how it chooses to deal with conflicts in the region. This is to say that due to not pursuing its own interests alone, South Africa's foreign policy would not fit in the typical realist mode that is often used to characterise politics in Africa. This position that South Africa has taken on speaks to its attempt to not assert itself as a regional hegemon, which in turn would be somewhat in direct conflict with its efforts for attempts for an African revival. If it was to institute itself as an African hegemon, although this of course would not go challenged by other powerful states such as Nigeria, would that not be following in the footsteps of the same imperialist, unilaterist western regimes that are criticised by Africans? South Africa does not actively seek to gain the reigns of control or leadership although it has been afforded greater international recognition through its appointment as non-permanent member on the UN Security Council as well as being invited to join the group of other emerging economies in the form of BRIC(SA). South Africa looks to be the link that connects Africa to the rest of the world and vice versa. This point is further highlighted by how South Africa often represents itself as being constituted of the continent. An example of this would be how in 2010, the country celebrated a World Cup hosted in South Africa but as an 'African World Cup.' This inclusiveness of the continent is critical in the African/South African relationship.

South Africa is committed to being involved in global governance and shows commitment to the achieving the Millennium Development Goals (MDGs) by 2015, as set out by the United Nations. As having been endorsed as a United Nation Security Council non-permanent member for 2011-2012, South Africa is further showing its ascendance to influence in the world. Another important grouping that South Africa has recently joined is that of the emerging countries Brazil, Russia, India and China. The BRIC(SA) grouping is very important in that not only does it represent the fastest growing economies around the world but it stands in a good position to not only strengthen south-south relations , but also to create another manner in which to view the world and another voice on the global stage that can act as a champion for the marginalised South and help to put the issues of poverty, inequality and stability back as important talking points on the world agenda. In these international groupings, South Africa will not only be representing itself but will have to be an African ambassador as well. A label, that it always employs eagerly.

## 4. The "Democratic Miracle"

South Africa has established itself as the poster child of reconciliation, justice democracy and appreciation of diversity through embracing the rainbow nation. This was especially special since the country was expected to erupt into a period of civil war which is consistent of newly found democracies on the African continent. However South Africa became the exception to the rule. Through the establishment of a world leading constitution and the images of new leaders standing hand in hand with those who had oppressed them, the South African tale was different. This "rainbow nation" currency has been fully appropriated by the South African government and has formed as a guiding principle in the creation of South African identity and representations of self. The manner in which South Africa emerged from apartheid into a free and democratic country speaks volumes in the international community and places it in a very strategic position where it allows those outside and within the continent, to see that an African "success story" is possible and that gives South Africa leverage and considerable inherent strength in the international arena, "and it has been able for more than a decade now to punch above its weight, suggesting that it has been able to influence world affairs in a way few countries with its relative strength and size have been able to," (Landsberg, 2005: 723).

"South Africa's reunification with the rest of the continent had been a significant sub-narrative within the processes which led to negotiation over the ending of apartheid," (Vale and Maseko, 1998: 271). South Africa's reintegration within the continent was an obvious objective, the question was as how this was to be achieved. It was crucial for policy makers to ensure that coming out of its isolated past, South Africa had to be very careful as to how it would not only define itself to the rest of the world but more specifically on the continent. It was up to foreign policy practitioners to ensure that South Africa would unequivocally show itself to be aligned with Africa and not with Europe and that was to reinforce South Africa's unambiguous commitment to the continent.

Further pressure was also exerted by the international community. As Thabo Mbeki stated at the 'Attracting capital to Africa' Summit in 1197, "Five years ago, many in this room would not have agreed that the people of Africa would have found it within themselves to end the system of apartheid peacefully, to queue one after the other, black and white mixed together, for hours on end, under the African sun, to decide on a government of their choice. Many would have thought it insane that the thought would occur to these Africans, both black and white, that they should initiate and sustain a multiplicity of efforts to create a new South Africa, based on forgiveness, national reconciliation, non-racialism and national unity." This was a profound statement and showed how far the country had come and gave hope for what was achievable on the continent given the commitment, impetus and political will to do so.

This tale of South Africa's peaceful transition held a lot of currency and came with expectations and responsibilities that were to be assumed on the continent. Not only was the international community expecting South Africa to initiate a new wave of renaissance on the continent, there was also an expectation for South Africa to stand as a liaison between the west and the continent. "The major western states were eager for Pretoria to adopt a continental leadership role. Frustrated by their failures to resolve Africa's problems of poverty and political instability, they saw South Africa as the best internal hope of stimulating economic growth and bringing order to the troubled continent. As a result, a burden of expectation fell on the new government, based on the hope and assumption that it would be able to achieve the goals that had eluded others," (Barber, 2005: 1081).

This in itself presented South Africa with a conundrum of sorts. Although possessing a very strong economy and presenting itself as a politically nation, the new government had to be very careful as to not alienate their African counterparts and emerge as a regional powerhouse and continental hegemon. This would not be accepted by the likes of Zimbabwe and Nigeria who saw themselves as leaders within the continent. As Nathan (2005: 365) pointed out, "South Africa was [is] acutely sensitive to be perceived by other African countries as a bully. Mbeki was [is] determined to build effective multilateral institutions on the continent in collaboration with strategic partners such as Nigeria."

From the incidents in the 1990s including Nigeria and Lesotho, South Africa was determined to be the good neighbour rather than an interventionist 'big brother' in the region and on the continent. This outlook however did have some consequences as it forced South Africa to prioritise certain foreign policy objectives over others, which did cause a disconnect between its policy and practice. Given the toss- up between protecting human rights and democracy and respecting the African brotherhood, the latter always seems to come in last as has been seen of the case of Zimbabwe. "The most prominent inconsistency between South Africa's actions and its declared commitment to democracy and respect for human rights has been its policy of 'quiet diplomacy' in response to state repression and abrogation of the rule of law in Zimbabwe... Mbeki's position flows [flowed] in part from the constraints of regional politics. SADC generally refrains from critical comment and diplomatic engagement in intrastate conflict, treating violence and crises in governance as purely domestic affairs," (Nathan, 2005: 367). The manner in which the South African government has chosen to interact with Zimbabwe is a clear illustration of the tensions between expectations and African realities. While many expected a more hard-line approach to human rights abuses occurring just over our borders, the government has been mum on most of the issues, choosing instead to be a partner in resolving matters in Zimbabwe.

- **Contradictions & Criticisms**

"While it may claim some successes, gains have been far less visible than we might expect from a country whose economy dwarfs that of all others on the continent and whose political capital as the product of Africa's successful fight against apartheid should give it moral as well as material weight," (Freidman, 2006:1). South Africa has been under heavy criticism for what is believed to be their failure to truly exert the influence that they have, in some

cases they have done nothing to meet the expectation that were set out by their earlier foreign policy.

The new regime was eager to get involved in the world politics that South Africa had been excluded from for so long. One of the first undertakings was to increase the number of representations. “At the beginning of the 1990s, white South Africa had 30 diplomatic missions abroad, by 1996, Mandela’s government had 124 and it had a membership of 45 international organisations, where as the white regime has been excluded from most of them, “(Barber, 2005: 1082). The government also gained prominence by chairing bodies such as the World Trade Organisation and the United Nations Conference on Trade and Development. In Africa, it became members of the Southern African Development Community (SADC) and the OAU.

“South Africa’s involvement in peacekeeping could also be assessed in terms of South Africa’s international political profile, a leadership role in Africa, as well as its newly found status as a contributor to international peace-keeping,”(Neethling, 2003:9). South African troops have been deployed mainly to Burundi and the Democratic Republic of Congo as part of UN peace missions. This is seen to be way for South Africa to increase its prestige and hopefully secure a permanent seat on the UN Security Council, (Barber, 2005). This interest is also spurred on by Thabo Mbeki’s detailed work in international politics and conflict negotiations. The manner in which South Africa has always chosen to deal with conflicts on the continent is to mimic its template of South Africa’s transition. Having been so successful in that it was peaceful, the South African liberation story stands as template that the nation uses a template that can be exported to the rest of the world, one that does not always have the desired effect in a different context.

With human rights being the central concern of the new ANC government, they somewhat committed themselves to promoting democracy. However the new South African government was, “accused of feting dictators who were economically useful…and of co-operating with African autocrats because of a misplaced sense of solidarity,” (Friedman, 2006:2). The

government's defence was that they dealt withal countries irrespective of their domestic situations. This was seen as endorsement of the undemocratic ways of those countries.

With regards to the commitment to the continent and promotion of Africa and African ways, South Africa received criticism from the rest of the continent when Mandela called for sanctions on Nigeria. This was after the execution of Nigerian activist and author in 1995. The OAU dubbed this reaction as not being part of the 'African way' of solving the issue, (Friedman, 2006). "This response was unprecedented in post-independence Africa where heads of government tended to rally together, "(Friedman, 2006:3)

Later in 1998, along with Botswana, South Africa despatched troops to Lesotho to protect the elected prime minister from a suspected coup. This mission was seen as being rather disastrous. This brought up issues of when to promote democracy and when to respect the borders of another state. "South Africa is energetically pursuing democracy, even if this means clashing with autocrats," (Friedman, 2006:4).

However in the same breath, one must look at the case of Zimbabwe. The democracy in Zimbabwe has been slowly declining for many years now and at no point has the South African government taken an active stance. The government has adopted the method of quiet diplomacy along with the rest of the continent. This has very negative implications on South Africa. The failure to respond the Zimbabwe crisis…."has been a conspicuous failure which has also tarnished its moral lustre and reduced its credibility," (Friedman, 2006:1). The issue of Zimbabwe is difficult as any inaction on their part has been labelled as this "quiet diplomacy" while not taking into account what maybe a pragmatic approach being taken by the government. In any case, however, the inaction on the Zimbabwe issue is directly in conflict with one of the main pillars of South Africa's foreign policy which is the protection of human rights. The instability in Zimbabwe has caused somewhat of a humanitarian crisis in the country and has also seen thousands of Zimbabweans seeking refuge and reprieve in South Africa, bring about another set of issues relating to immigration and deportation.

From this we gather that South Africa has grounded its foreign policy and its representation as that of being a benign, non-threatening and non-imperialist power that has no ambitions of being the regional hegemon. In doing so, South Africa portrays itself as the good neighbour to have but as we look deeper into their practices when it comes to interacting with those from African nations, there seems to be a huge contradiction the good neighbour seems to be not as welcoming as would be expected from the rhetoric and representations.

The inconsistency in South Africa foreign policy occurs at the domestic level, where the Africanist approach is heavily damaged by the rampant xenophobia that goes on in the country. "Its migrant laws are very tough and they are stacked against Africans rather than job-seekers from the North," (Nathan, 2005:370). The treatment is further entrenched by the constant humiliation at detention centres and general poor treatment of refugees and other asylum seekers by law enforcement officials. The government has not taken a harder hand at dealing with the problem of xenophobia in the country; their inaction is in itself a stance.

This disconnect shows the contradiction between policy outlook and actual practices at home and thus shows that South Africa is not entirely the 'good neighbour' it attempts to represent itself as. Where Mandela's focus was around the promotion of human rights, Mbeki was the champion and pioneer of the 'Renewal of Africa.' "President Mbeki's role in continental processes such as the African Union (AU) and the New Partnership for Africa's Development (NEPAD) seem to be that of a lone crusader devoid of participation and interest from the majority of South Africans. Indeed, the continued reference to other countries in the continent as 'Africa' by South Africans in general is interpreted as an example of South Africans not identifying with other Africans," (Mbuyisa, 2004). This also refers to a South African exceptionalism, where its people look to distance themselves from the rest of the continent, creating an 'us and them' manner of description. It is no good for the official structures to be attempting to relate and identify with Africa when the citizens do not.

At the heart of the disconnect is the fact that South African foreign policy sometimes seems to be vey personality driven, further creating the impasse between policy formulation and practice/ implementation. Personality politics are not necessarily effective as means to effecting policy and ensuring that that policy gets carried through. When the presidency of that particular personality comes to an end, the policies that were driven by him lose momentum if they are not completely abandoned, if not in line with those of his successor.

"There is danger that this discussion of the African Renaissance has relied too much on the perspectives offered by one politician, Thabo Mbeki. There is a long and unsatisfactory history of foreign policy scholarship in South Africa which has rested on the role of personality in constructing interpretations of policy. And yet, the distinguishing feature of South Africa's post-apartheid foreign policy is how obviously policy has moved from the ministry of foreign affairs into the president's office," (Vale and Maseko, 1998: 284).

Presidential personalities aside, it is important for policy to move in the same direction and not be projecting one image while doing something completely different in practice and implementation. The contradictions that hamper South African policy are very evident in the immigration policy which is to follow. An image, without the de facto actions to substantiate it, becomes worthless and somewhat of a farce.

# Chapter Five
# STATE DISCURSIVE PRACTICE I – LEGISLATION & XENOPHOBIA

- **Aliens Control Act, No. 95 of 1991**

"South Africa has struggled in its efforts to redefine its immigration policy, which under apartheid rule "was a naked instrument of racial domination" and "the official definition of an immigrant was that he or she had to be able to assimilate into the white population" (Crush 2008). Prior to 1991, there was no proper definition for an immigrant and clearly Africans weren't recognised as immigrants but rather as a source of cheap migrant labour. This was the legacy that the port-apartheid had to build a new immigration policy upon, a rather challenging task.

As has been observed on many occasions, legislation that deals with issues of migration in South Africa founded on notions of exclusion and control and is on the assumption that people wish to abuse the system and come to South Africa to take and not provide anything in return. Those entering the country are perceived to not be willing to contribute to economic growth and the prosperity of the nation, (Crush, 1999). The idea behind the legislation is to defend 'Fortress South Africa' against 'hordes of immigrants'. To do this, police officers and officials from the Department of Home Affairs are given such excessive powers over extremely vulnerable people that the bribery, extortion and corruption become not only possible but regular practices," (Neocosmos, 2008: 589).

What comes through from an assessment of pre and post-apartheid legislation is the restrictionist method of managing migrants that enter South Africa. The Aliens Control Act, No. 95of 1991 and the Immigration Act, No. 13 of 2002 although having been drafted at very different times in South Africa's history both posses a very exclusionary voice , with the Aliens Act (1991) of course being seen as more exclusionary. The struggles in drafting the more recent policy have been apparent with the Immigration Act, 2002 only being taken into

proper effect in 2005. What at odds were South Africa's projection of being diverse and inclusive but also needing to balance the expectations of it population a draft polices that would fit in between the two.
This section attempts to look at the relationship between legislation and xenophobia by looking at the two aforementioned pieces of immigration legislation.

The Aliens Control Act, No. 95 of 1991 was first drafted in 1963 and was amended twice in post –apartheid era in 1995 and 1996. The act was in itself very exclusionary and employed draconian measures in which to deal with migrants. Through the act, many border to entry were created and migrants were segregated according to skill levels and restrictions went as far as targeting specific nationalities, thus showing obvious racist undertones.
"The Aliens Control Act No 96 of 1991 provides the legal ground for the arrest and detention of undocumented migrants in South Africa. The Act is mostly concerned with control of immigration and provides controversial selection processes for who is allowed into the country. In particular, the Act does not set out any specific regulations on the conditions of detention of undocumented migrants," (SAHRC, 2000: 8).

The act is comprised of nine chapters and 61 sections-
Chapter one: Administration section 2 to section 4, dealing with the appointment of immigration officers and the delegation of powers and generally with the application of the act;
Chapter two: Admission to the republic, this is from section 5 through to section 21. This chapter looks at the ports of entry where a person may enter the republic. It explains the duties of the immigration officers and sets out the criteria for the attainment of transit visas and permits. This chapter also details the obligations and duties conferred up masters of ships;
Chapter three: Residence in republic and domicile, section 22 to section 34, detailing the duties of the Immigrants selection Board, restrictions to entry for 'aliens' into the country and the criteria for permanent and temporary residence permits. The subsequent sections go into further detail about the exception and exemptions of applying for permits and criteria for their invalidity. There is also focus on the rights and obligations of South African employers, institutions of learning having 'aliens' in their employ or as students;
Chapter four: departure from the republic, section 35 to section 39, detailing that no person may leave the republic without a permit, passport or express permission from an authority;

Chapter five: prohibited persons, section 39 to section 43, deals with the conditions under which a person is declared a prohibited person and special conditions under which such prohibited person could be given temporary permission to be in the republic;
Chapter six: Removal of person from republic, section 44 to section 51, all the conditions under which a person may be removed;
Chapter seven: Supplementary and general provisions, section 52 to section 5. This details further powers that are conferred unto immigration officers, the jurisdictions of courts and more restrictions and regulations;
Chapter eight: Offences, penalties and evidence, section 57 to section 59, outlines the offences of which if an 'alien' is found guilty of, may carry a sentence of no more than five years imprisonment or a fine;
Chapter nine: Repeal of acts, savings, short title and commencement, section 60 to section 61.

In order to continue it is important to pick up on the problematic use of the word 'alien' in this act. The dictionary definition of 'alien' is 1. Foreigner; 2. A being from another world, (Oxford, 2001; 21). The Aliens Control Act, 19991 defines 'alien' in section 1, as a person who is not a South African citizen. However when one thinks of the connotations of the word 'alien' images of an extra-terrestrial are conjured and that image is of a creature and not a human being. This creature that we imagine, is unfamiliar, is a source of fear and stands as a direct threat to the existence of human beings. The alien's main goal is to take over the earth and ensure that no humans remain. The use of the word alien goes beyond just creating an 'us' and 'them' binary because not only does it remove the 'alien' from its humanness but it creates an unjustified fear for this 'alien' and that further alienates the alien and the human. This is an obvious example of the fragmentation spoken about in the methodology chapter. The alien and the South African are split off despite their similarities.

Perbedy (2001:24) articulates two other implications that the use of this kind of language has. One such implication is that conflation of the alien to encompass all foreign people within South African borders. There is no distinction made between foreign people in the country, when in actual fact foreign people in the country have many different classification dependent on their reason for being here. "More often than not, the state fails to distinguish between immigrants [a person looking to live permanently in the country] and migrants [a person moving from one place to another seeking work] and refugees [people forced to leave their home countries on account of war or personal persecution]. The conflation assumes that

all “aliens” are “immigrants” planning to spend the rest of their lives in South Africa,” (Peberdy, 2001: 24).

Another implication of the language used is the criminality label that is attached to migrants and immigrants and most specifically black African migrants. In the post-apartheid era, the state seemed to be painting all foreign people with the same brush to therefore ensure that they would receive the same treatment but we know this not to be the case. “In practice, “illegal immigrants” are usually seen as African, undocumented migrants from elsewhere are largely ignored. Matching this rhetoric the state has taken a draconian approach to policing focusing on the arrest and repatriation of Africans, particularly those from the region,” (Peberdy, 2001: 19). The term “illegal” paints these migrants and immigrants as being criminals and speaks back to the construction of the ‘problematic, threatening alien.’

- **Immigration Act, No. 13 of 2002**

Having taken eleven years to come into effect since the first democratic election, the new immigration policy was meant to come across as being less draconian and more inclusive than the previous policies dealing with immigration. However it seems that the new policy continues with much of the same ideals of control and exclusion. “Numerous human right groups, have noted serious deficiencies in both the act itself and its implementation, including the act’s focus on preventing unauthorized immigration and the failure of appropriate authorities to follow through with provisions regarding deportation and detention, “Global Detention Project, 2009).

The new immigration act was to be aimed at decreasing levels of xenophobia in society, be more immigration friendly in general and have a strong focus on attracting skilled foreign labour into the country. The act took eight years of negotiation for the following reasons as outlined by the Migration Information Source (2008): “First, the new nation-building project after 1994 did not see immigration as positive or desirable. After the isolation of the apartheid years, the arrival of migrants and refugees from elsewhere in Africa caused widespread panic among South Africans. As both cause and consequence, South Africans are generally extremely intolerant of foreigners in the country;

Second, the government framed immigration policy reform primarily as an issue of control and exclusion, rather than as a management and development opportunity, hampering its efforts to move beyond the structure inherited from the apartheid era;

Finally, progress on immigration reform was slowed by a bitter partisan row within the Cabinet and Parliament between the Inkatha Freedom Party (IFP), which held the immigration portfolio, and the ruling African National Congress (ANC)."

South Africa has always been a desirable destination for migrant workers in the past and continues to be so for many people seeking greater opportunities on the continent. While, there has been a clear departure from the exploitative series of past acts, namely Immigrants Regulation Act 1913; The Immigration Quota Act 1930; The Aliens Act of 1937 and its subsequent amendments in 1963, 1897 and 1991; The Aliens Control Act of 1963.

Currently The Immigration Act No.13 (2002) provides the legal framework for the entry and departure of foreign people into South Africa. The act came into full effect only in 2005, after many years of negotiations. Although aiming to try and restructure the inherited legacy of apartheid immigration, The Immigration Act No.13 (2002), has fallen under heavy criticism as it does in fact reproduce and employ some of the draconian methods that in the past had been used to apprehend and control black South Africans, in order to control the movement of foreign people in the country, (Crush, 2008).

As per the Immigration Act No. 13 (2002), consists of eleven subtitles which are comprised of 55 sections which outline how the act should be carried out. These are placed in the following categories:

1. Objectives and structures of immigration, section 2 to section 8; dealing with the objectives of immigration control, immigration board and its functions and how department within need to co-operate to enact the legislation;
2. Admission and departure, section 9; conditions for where and how a person may enter the country;

3. Temporary residence, sections 10 to section 24, criteria for all fifteen of the different permits one may apply for;
4. Permanent residence, section 25 to section 28, which details the criteria for the four different kinds of permits and their criteria;
5. Exclusions and exemptions, section 29 to section 32, relating to those prohibited and undesirable people not barred from entering South Africa;
6. Enforcement and monitoring, section 32 to section 36, dealing with the detention and deportation of illegal foreigners and monitoring points of entry into the country;
7. Immigration court, section 37, defining the jurisdiction of magistrate courts which act as immigration courts;
8. Duties and obligations, section 38 to section 45,both foreigners and citizens are conferred with rights and obligations;
9. Miscellaneous, section 46 to section 48, duties of immigration practitioners and internal methods of monitoring and control;
10. Offences, section 49 to section 50, list of offences that constitute contravention of the act by both foreigners and South African citizens;
11. Transitional provisions, section 51 to section 55.

The preamble of the act clearly states that it is to serve as a new system of immigration control and this already speaks to the manner in which, although there has been a significant departure from the apartheid legacy, the government still sees immigration as not being desirable and beneficial for that reason, the system is pre-occupied with control and detention and neglects to see the economic benefit and other positive aspects of this cross-border migration, (Crush, 2008).

As per the Department of Home affairs site, the objectives of the Immigration Act, 2002 (Act No 13 of 2002), which was implemented on 7 April 2003, include:

The facilitation and simplification in the issuance of permits to curb the backlogs that occur in the system. Another objective is to regulate the influx of foreigners by facilitating foreign investment and attracting skilled and qualified foreigners to South Africa who can fill any skills shortage gaps, all the while attempting to promote tourism to South Africa.

Under the Act No.13 (2002), the admission of foreigners entering or leaving the country and looking for either permanent or temporary residence permits falls under the jurisdiction of the Department Home affairs, which is the designated state department that administers the processes of issuing of and granting permits and is tasked to do this swiftly. This is to be done with placing reasonable requirement on the applicants, while not using too much of the available state resources. However, first and foremost the most significant objective of the act is to engender a human-rights-based culture in dealing with immigration control. This is to say that government and, other state organs, civil society and the like are to observe this.

The Department of Home affairs employs the use of immigration officers who are obligated to conduct inspections and may at any time request a person to identify themselves, if suspected of being an illegal foreigner. This is problematic as it tends to be very subjective and is open to abuse. The Immigration Act No.13 (2002), also details the composition and duties of an Immigration Advisory Board. The board is comprised of representatives from various government departments and their duties are to advise the Minister on the regulations of the act and to ensure that the regulations are then implemented at a departmental level. The act clearly articulates the criteria for all of the various permits and also clearly states the criteria of prohibited people who would be excluded.

For the purposes of monitoring and implementation, an inspectorate is appointed by the minister who has the duty to investigate matters that fall within the scope of the act. Section 34 of the act details the detention and deportation of illegal foreigners. As it stands, there are a number of ad hoc facilities that are used to house illegal migrants, which include prisons, border posts and police stations. There is one dedicated detention centre, The Lindela Holding Facility, which holds thousands of detainees annually. According to Human Rights Watch and other human right watch dog bodies, there are major issues at these detention centres around corruption, bribery poor implementation and general abuse of rights of the detainees.

"Although detention is governed by a legal framework provided in the Immigration Act, key provisions of the act have yet to be fully implemented. In addition, "As the South African Human Rights Commission and several human rights organisations have noted, arbitrary and unlawful detentions of illegal foreigners happen with regularity and in contravention of international and domestic human rights guarantees. These abuses are exacerbated by the difficulties involved with monitoring the various locations where foreigners are detained, including prisons, airports, police stations, an old dilapidated sports hall on a military base … and the infamous Lindela Holding Facility" (LHR , 2008).

- **Points of concern**

From the reading the Aliens Control Act, no. 95 of 1991 and the Immigration Act No.13 of 2002, there are some areas of concern –

At least in the 2002 act, there is a departure from using the word 'alien' to 'foreigner' to describe those people not from South Africa, that is a positive move but the use of the word 'foreigner' is still doing some work in pursuing an agenda. What is also progressive in the Immigration Act is that both 'foreigner' and 'citizen' are defined as according to the South African Citizenship Act, No. 88 of 1995. The Citizenship Act, section 2 to section 4 in chapter 1 declares that one may acquire South African citizenship through birth, descendency or naturalisation.

The Immigration Act, 1995, section 1(1) recognises this and defines both terms of *foreigner*, "an individual who is neither a citizen nor a resident, but is not an illegal foreigner;" and *illegal foreigner*, "a foreigner who is in the republic in contravention of this Act and includes a prohibited person." This is an important distinction as it moves away from the use of aliens and doesn't paint all foreigners as being illegal and therefore criminal. The departure from the use of the word 'alien' is good. The debate between foreigner and citizen is one at the centre of the identity politics that are present within creating immigration policy. The term *foreigner* is a loaded notion as explained before and when constantly being used in what one could call to be a reckless fashion, it has far more serious implications. "As foreigners are portrayed as threats to security and welfare, migration serves as a touchstone for redefining

community boundaries. At the heart of these global and domestic pressures lies anti-immigrant xenophobia which questions political identity. Who warrants the legal protection and redistributive benefits of the state? Who is a South African? Policy responses to migration, therefore, function as more than legal measures to control the physical flow of bodies across borders. Symbolic labelling processes identify which specific categories of outsiders are 'illegal aliens', simultaneously defining 'insiders', that is, legitimate South Africans," (Klotz, 2000;4).

The Immigration Act, 2002 states one of its objectives as being to expedite and simplify the process of attaining permanent and temporary residence for those who apply for it. According to the Act, section 26, direct permanent residence can be granted to a foreigner who -

a) has had a work permit for five years and is offered permanent employment;
b) is the spouse of a citizen;
c) is a child of a citizen or resident under the age of 21 years of age;
d) is the child of a citizen.

The onus is upon the foreigner to prove all of this information but upon doing so, a foreigner may attain permanent resident which entitles them to all the rights, duties and obligations which are enjoyed by citizens. In the case of the one respondent to this study, *Sipho, who has been in the country for longer than 22 years, all his attempts at getting permanent residency have been unsuccessful.

"I have never been a border jumper- I always use my passport when I enter the border but I haven't been lucky to get the ID (identity document), that is something I can say South Africans on that side the government they are lacking. I mean, I have been here for such a long time, but I cannot even get a citizenship [permanent residence]," (*Sipho, 2012).

From looking at the above criteria for permanent residency, *Sipho falls into the first one of having had a work permit for 5 years. He has been gainfully and permanently employed by the same employer for over 20 years but still struggles to get permanent residency even after observing all the necessary rules. This in fact shows, and *Sipho's case is by no means isolated, that there are still major barriers to entry when looking at immigration in the country. Apart from the barriers to entry, many people face a lot of problems from racism to inefficiency when they approach the Department of Home Affairs, be it for information, assistance or renewal of permits. This treatment that is laced with racist undertones is not only seen at home affairs and relates back to general perception of migrants being seen to be

African, black, illegal and with criminal intentions. “There is lack of knowledge. I can give you for example right now. I am from Zimbabwe, if Jill or Kim [employers] take me to the bank or take me to home affairs, they will serve them first you see. If I can go by myself, they can tell me, “no go back or come another day.” But if I can I can go with a white someone they will do my thing right there and in a proper way,” (*Sipho, 2012).

Furthermore within both of these acts, foreigners are not given any positive rights, only obligations, which are expressed in the Immigration Act, 2002 section 43. This is also points to how foreigners are not given any sense of agency and do not have a voice in the South African public realm. Foreigners are thus to be acted upon –reported, observed, detained and deported. In no place in the act does it fully state the positive rights that a foreigner living in South Africa possess. There is no legislation that foreigners could appeal to, to use in their defence.

This begs the question of what is happening in practice as opposed to what has been legislated and shows the contradiction that is present between states practices and rhetoric on this important issue. The major concern of the Immigration act, 2002 is that it still uses detention as major tool in immigration; this can still be considered to be draconian in its application of the law. One of the objectives and functions of immigration control stated in section 2(1)(c) is that the department shall detect and deport illegal foreigners. Although this is a reasonable objective that it could be seen the immigration policies of many other countries, it does not speak to a more immigrant friendly and less draconian approach.

What is important to note about the Immigration Act no.13 (2002) is that although it does mention xenophobia, it does not in any way articulate substantial methods to curb this in communities. The Act states in section 2(1)(e) that one of its objectives is “preventing and deterring xenophobia within the department, any sphere of government or organ of state and at community level.” “If anything, it is merely mentioned in passing. This is highly problematic because it then leaves a huge gap where a narrative should have been formulated to forge greater understanding and tolerance in South African communities.

Section 2(2)(e) “educate communities and organs of civil society on the rights of foreigners, illegal foreigners and refugees, and conduct other activities to prevent xenophobia,” (Immigration Act, 2002). There is little here in the way of how exactly these communities and other stakeholders will be educated. It is very vague. Displaying a clear approach to this education that is mentioned and highlighting a few points of action that the Department of Home Affairs, in partnership with other government departments, intend to take would show a more serious response to the issue of xenophobia.

In actual practice, the involvement of communities is encouraged by what is termed as “community policing” where citizens provide surveillance of any suspicious people and report these people to the police.“Moreover, there is evidence (though less documented) that on several occasions police and employees of various departments have encouraged members of communities to ‘uproot’ or ‘round up’ ‘illegal immigrants’, leading to systematic xenophobic violence,” (Neocosmos, 2008: 588).
There is definitely a lack of engagement with communities on issues of diversity and acceptance of different people, the message of the African renaissance and African unity seems to only be believed and adhered to within the upper structures of our country.

One of the ways the government has attempted to engage communities and foster social cohesion in an effort to minimise the presence of xenophobia in communities, has been by instituting the Counter-Xenophobia Unit, which was renamed the integration and Repatriation Unit in 2010. The Counter-Xenophobia Unit was initially under the mandate of the Department of Home Affairs but after instituting the name change, the unit is now under the direction of the Department of Arts and Culture which has a mandate to drive a programme of social cohesion of the part of government.
“The purpose of the name change is that we restructuring the way in which immigration is being conducted and overhauling the entire immigration system. We found that the Counter-Xenophobic unit was too narrow, and they changed the name to look after the vulnerable groups being the asylum seekers and refugees” (*Thandiwe, 2012).

This seems to be just another way of speaking around the issue and was hanging on semantics. Although sounding rather politically correct, the Integration and Repatriation Unit, the name in itself suggests the manner in which immigration will be handled is through repatriation as opposed to deportation. Is this truly the case in practice? A further implication

of this name change can be said to project the denialism that the government continues to have when it comes to issues of xenophobia in the country. A unit named the Counter-Xenophobic clearly does not sit well and could not continue to be called as such given the reluctance by the government to institute programmes that would tackle the problem of xenophobia directly. In addition what was seen as now broadening the mandate of the unit by change its name from the so-called narrow Counter-xenophobic unit is not seen the same by advocacy groups. "Sicel'mpilo Shange-Buthane, director of the Consortium for Refugees and Migrants in South Africa (CoRMSA), told IRIN that after doing some initial awareness-raising, the group had been renamed the Integration and Repatriation Unit, but under new leadership in the Home Affairs Department it had been reluctant to implement xenophobia-related programmes. Polzer Ngwato (African Centre for Migration and Society) commented that the Unit was severely understaffed, and the new name had narrowed its mandate to dealing only with refugees and asylum seekers," (IRIN, 2011: 2).

Furthermore, the work of the unit remains unclear, when asked about the work of the unit the representative from the Integration and Repatriation unit, *Thandiwe (2012), gave rather vague responses. "The unit is more focused on developing policy on refugee protection. The mandate now is for more durable solutions on implementation and refugee protection and repatriation. You can not apply immigration in isolation; you have to look at other avenues such as the constitution which must guide us in implementing immigration while pursuing the goals of economic growth and development, regulating migration to the country and attracting scarce skills (which are the goals of immigration policy)"

It would be naive to not take into account the various challenges that a government such as South Africa's faces when it comes to immigration issues. Possessing the might it does within the continent and being and economic powerhouse, it still stands to be a desirable location symbolising economic prosperity and refuge. The government official from the Integration and Repatriation unit highlighted the main challenge involved to be that of limited resources and that the issue did not lie with legislation. "There is nothing wrong with the legislation, the legislation is fine. The issue comes in with the capacity and implementation. The problem experienced by the unit, is of capacity; capacity referring to not having enough people to run around and do the implementation," (*Thandiwe, 2012).
This issue of implementation failure is not a problem specific to South Africa or immigration policy. Policies do usually fail at the implementation phase no matter wonderfully strategised

or well-intentioned they may be. In any case, legislation is only as effective as its implementation and interpretation and whether or not those who it affects are knowledgeable enough about said legislation. When this fails to occur, the legislation can be said to fail as it is not fulfilling its main purpose.

In order to see whether the understanding of legislation has indeed reached the people who it affects, it was important to speak to people who actually work with people on the ground. One such person is Sbu Zikode of the well known movement Abahlali baseMjondolo. The settlements linked to the advocacy group stood firm as a community in the face of the xenophobic attacks that had erupted in 2008.
When it comes to legislation, it seems that there is little done in the way of making people are of what said legislation states. "When one speaks about legislation and national policy, I must be honest and say that those are very far from ordinary people. In the spaces in which we operate, I, personally cannot single out a piece of legislation that specifically deals with these issues [of xenophobia] and if it is there, it is not promoted," (Zikode, 2012).
What seems to be coming through here is that legislation is not only not promoted in its current form but in reality, dealing with real communities that are facing many other issues, legislation is in actual fact a peripheral issue. That is not to say that people in these communities do not care about the laws but the laws and judicial system are structured in such a way that these communities have very little contact with them.

An important issue to pick up on made by Zikode (2012) is that of unsustainability in the manner in which xenophobia is being handled. "There is no long term strategy in sustaining that [community based xenophobia interventions]. All the state did was declare that this is unacceptable but not much more has been done apart from that," (Zikode, 2012).
Furthermore there is little in the way to monitor the occurrences of xenophobic instances. Perpetrators also seem to be of the mind that there is impunity for such crimes.
"There is no centralised system for monitoring and recording xenophobic violence, but in the first quarter of 2011 the Human Sciences Research Council tracked 20 deaths, 40 injuries, 200 foreign-owned shops looted and thousands displaced," (IRIN, 2011: 2).

When asked about whether the government engenders xenophobia in society, the representative from the Integration and Repatriation Unit stated that there is a new movement in that direction that is taken as a joint project across various government department in an

attempt to counter these acts of xenophobia. There is a comprehensive strategy for the country. However once again, there are strategies which are being spoken about but it is unclear as to what their finer points are and whether they will be any different from other 'strategies' that have been drawn up in the past. Will these new holistic, comprehensive strategies make a tangible difference in our communities and society as whole to engender social cohesion that goes beyond nationality? It seems that although there are efforts made by the government in terms of social cohesion and integration, these efforts are conducted by various departments and not co-ordinated in such a way that would make them effective.

This view that South Africa is not performing well when it comes to the issues of xenophobia is documented in the 2011 African Peer Review Mechanism (APRM) Monitoring Project report. The monitoring group is made up various South African activists and civil society researchers, who were to grade the South Africa on its National Programme of Action initiatives. With red being bad and green being good, South Africa scored a red for its management of xenophobia.

"South Africa's NPoA did not mention xenophobia, but a section in an official review of APRM implementation released in January 2011 covered government actions to address the issue, including setting up a unit to counter xenophobia and a communications programme to promote greater harmony between citizens and foreign nationals. However, the Monitoring Project report described the section as poorly written with inadvertent repetition and clearly assembled in a hurry," (IRIN, 2011: 1).

This truly is the case, having consulted The Second Report on the Implementation of South Africa's Programme of Action 2011, which is a 58 page document highlighting key weaknesses in the country. The report looks at the period between January 20009 and September 2010. Key areas that are highlighted include democracy and political governance; economic governance and management; corporate governance; socio-economic development and cross-cutting sections. Xenophobia falls under the category of cross-cutting sections which also includes issues such as racism, crime and land reform, to mention a few. The portion of xenophobia is very brief taking up almost a page from pages 53 to 54. This is quite surprising considering the increased number of xenophobic attacks in the country. The language of the section is indeed very vague and does not give any clear indication of what exactly the government intends to do in order to address the issue. Here is such an example –

"Government has also rolled out a communication strategy designed to encourage mutual respect between foreign nationals and citizens. Government is also piloting a project on xenophobia in secondary schools around the Gauteng province to promote understanding of co-existence and the need for unity and cohesion. A strategy for local integration of refugees and asylum seekers has also been developed. This strategy is aimed, *inter alia,* at promoting and facilitating the full integration of refugees into the local communities, education institutions and the labour market. The strategy also seeks to establish multi-stakeholder partnerships to promote the integration of foreign nationals into South African communities," (APRM 2011).

However in the same breath, it seems that the government is just paying lip service when it speaks of establishing a multi-stakeholder approach to xenophobia and forging social cohesion, that is the impression that was given by the representative from CoRMSA. "Recently there has been a lot of reviewing of the current legislation and there have been a lot of challenges when trying to engage the department until last year when they started being more co-operative; until that point they have been avoiding and not engaging broader civil society on the changes that are proposed," (*Gugu, 2012). This is surprising because organisations such as CoRMSA and many others like them could be great tools to the government and provide a greater understanding surrounding the issues.

Furthermore, what does it mean to be illegal? How can a human being be considered to be illegal? The South African Constitution (1996: 1), clearly states in its preamble: "South Africa belongs to all who live in it, united in our diversity." That is to say that we welcome all who are within the borders to share in what the country has to offer. Classifying people as being illegal is contrary to the ideals of the constitution and that of the African Renaissance.

South African legislation on immigration can be argued to unwittingly encourage a negative sentiment towards foreigners. Through the use of words such as *illegal* and *alien,* an image of a threatening, unwanted criminal is created. This image is then further cemented by the physical treatment of foreigners, where it seems the only manner to deal with them is through detention and deportation. There is little done in the way of attempting to improve education in communities to fester the projection of a harmonious and diverse society. Xenophobia, which is a very real challenge in our society and is an often fatal threat to foreigners within South African borders is dealt with little urgency and receives very little mention or concrete solutions within the act. "Xenophobia appears in the certain sections of the Immigration Act

(2002) and that is the only legislation that touches on xenophobia. There is a disjuncture between what is happening with legislation and what is happening about xenophobia across the different government departments," (*Gugu, 2012).

South African structures of policy and legislation can be somewhat fingered in the persistent production of ideas that reproduce racist and xenophobic actions within South African society through their inaction and lack of a sustainable response to the crisis.

# Chapter Six.
# STATE DISCURSIVE PRACTICE II – LINDELA & XENOPHOBIA

Located in Krugersdorp, Johannesburg, the Lindela Repatriation Centre is a detention facility that stands as the midway point between arrest and deportation for many undocumented foreigners. The facility was established in 1996 by the Department of Home Affairs and is the biggest and only one of its kind in the country that is dedicated to this work and is used to accommodate foreigners while their status in the country is determined. Other facilities around the country include the SMG Detention centre, run by the South African Police Service, close to Limpopo border, as well as the Westville and Pollsmoor prisons in Durban and Cape Town respectively that are run by the Department of Correctional Services. Police Stations, borders and other points of entry in the country also act as 'make-shift' detention facilities around the country, (Global Detention Project, 2009).

The Lindela Repatriation Centre is however with great controversy. Starting from an investigation commissioned by the South African Human Rights Commission in 1997, only a year after having opened its facility, there are many allegations made against towards the centre. This did not bode well for the centre or the Department of Home Affairs. From the findings and recommendations made then by the South African Human Rights Council in 2000 to the present, the centre continues to have many human rights blemishes and there does not seem to be any improvement in the treatment of the undocumented foreigners that are detained at the facility.

In order to assess conditions at the centre, the report issued by the South African Human Rights Commission (2000) as it provided a detailed and comprehensive account of the conditions at Lindela and the manner in which detention and apprehension was performed. What will also be interesting is to contrast the Lindela Repatriation Centre of 2000 with present day Lindela. It was hoped that much of the recommendations given by the South

African Human Rights Commission (SAHRC) have been instituted but that does not seem to be the case, as much of what was occurring at Lindela during the SAHRC observations in the four month period between September and December 1999, and continues until today.

The information was gathered mostly through direct observations by the researchers and accounts from participants and the selection of interviewees was random and therefore does not stand to fully represent all detainees at the facility.

This section will assess the Lindela facility based on the following - detention and registration; application and adherence to fundamental rights of detainees; basic living conditions; conduct of Dyambu and Department of Home Affairs (DHA) staff, using the SAHRC report – Lindela at the Crossroads for Dentention and Repatriation (2000).

- Detention and Registration

Most detainees who eventually make it to Lindela have already been detained at police stations and sometimes even prisons across the country before being transported to the facility in Gauteng, which produces many issues. In accordance to statutory requirements, a person cannot be detained for a period longer than 48 hours without being charged, this ever more so complicated in the case of those who have been detained for purposes of being documented because there they have not effectively committed any sort of crime. There are also no clear guidelines and consensus between arresting officers and the Department of Home Affairs and the Immigration officers at Lindela. This causes many issues with apprehension and sees many detainees being held for periods longer than 48 hours at police stations. This is of great concern because police stations are not equipped to hold people for a prolonged time. Upon arriving at Lindela, persons should be have already been declared a prohibited person or not under s(7) of the Aliens Control Act 1991 with supporting documentation detailing when the initial arrest was made, the country of origin as well as the and the outcome of the immigration investigation that was conducted (SAHRC, 2000: 37).

Furthermore it wasn't clear on how arrests were made. Many detainees complained of not even being given the opportunity to produce their appropriate documentation.

"Arrested persons were deliberately prevented from providing accurate documents, valid identity documents were destroyed, bribes were taken for avoiding arrest or for release without documentation and processes were delayed by inefficient investigation methods and insufficient communication between the different departments," (SAHRC, 2000: 36).

Detainees also complained of being forced to pay bribes to police officers to avoid detention. In some cases, officials and or police would expect somewhat of a weekly payment to 'guarantee' that people would not be arrested. This is grave exploitation by those in power against a very vulnerable group of people. It did not only end there, police were often very brutal and used and unnecessary force in the apprehension of suspected undocumented migrants. Detainees were also sometimes held in maximum security prisons with and not kept separate from hardened criminals which resulted in them being further victimised and robbed by inmates.

With regard to the apprehension and detention procedures, the SAHRC (2000: 40) made the following recommendations:

- There should be a standardised procedure for arrest that the Department of Home Affairs should make available to all arresting officers; including a form detailing the date of arrest, country of origin, and the outcome of the immigration investigation;
- Persons detained at any detention facility should be declared a prohibited person or not by an immigration officer within 48hrs;
- Time spent in holding cells shall be kept to a minimum and the detained person shall be kept separate from other criminals;

- Application and adherence to fundamental rights of detainees

The fundamental rights and basic procedures are not followed at Lindela. Detainees are often denied their basic right of a phone call in order to contact their spouse or next-of-kin when they arrive at the centre to notify them of their arrest. In some case, detainees need to bargain and bribe official at the centre in order for them to be able to do something as simple as make

a phone call, which they are entitled to. Lindela staff has also been known to make detainees to pay for their own processing and to have access to their families. Furthermore even the use of public phones is restricted and their use is at the discretion of the staff. There is also widespread abuse and detainees are assaulted and punished using degrading methods at the whim of security guards at the centre.

"At this centre, people's rights are systematically denied and they seem to be regularly coerced through the use of physical violence for the simple reasons of maintaining control. People are denied a free phone call as required by law, they are not informed of their rights, and they are regularly detained for longer than the stipulated maximum of 30 days. Another victim stated: 'the security staff here at Lindela randomly abuse us. They assault us. They leave us alone in the Wall and we are not allowed to go to the loo unless given permission," (Neocosmos, 2008: 590).

Upon entering Lindela, detainees are supposed to be informed of their rights and obligations. This should be done in a language that they understand to ensure that they are fully aware of their rights. In addition, detainees are to have access to immigration officers who are to assist them and see to the processing of their deportation if that is indeed the outcome of their immigration investigation. However, this does not happen. It seems that upon arrival there is only a board showing numbers of different non-government organisations, this is not effective in any way due to the large volumes of people who are often in that area, making the information board 'a non- feature' in the room; also with the restrictions to the use of the public phones on the facility, a detainee has very limited means to get external help. This leave the immigration officers who are very difficult to track at the facility, more so because detainees are not fully aware of who are the Dyambu staff and who are Department of Home affairs officials. It has been reported that detainees have been at Lindela for weeks without seeing an immigration officer and never having been told about the nature of their arrest or even if they will be deported or not, (SAHRC, 2000: 47).

This is treatment far worse than prison for people whose crime has not even been proven in most cases. Another set of observation if great abuse of power.

The SAHRC (2000) made the following recommendations:

- Detainees should be permitted at least on free phone call and should have unrestricted use of the public phones;
- Rights and obligations should be explained in a language understood by the detainee;
- Detainees should have access to immigration officers irrespective of their status (undocumented or otherwise) and this Dyambu staff should have no involvement in the investigation process.

- Basic living conditions

The physical conditions at Lindela are of the main source of complaints at the centre. From the SAHRC (2000: 56) observations, Lindela is not of an adequate living standard.- most complaints are about poor nutrition, poor medical care and forced interrupted sleep. The main reason for these inadequate conditions is because each detainee is budgeted for a tariff of R 24, 95, which Dyambu Trust receives. Although never having been detained at Lindela, respondent became restless when asked about the centre and his response was the following: "I can't lie about that one my friend, I have never been caught. Their experience there is so tough. I have my neighbour there who was taken there [Lindela] and who was deported to Mozambique. Firstly they are complaining about accommodation and the food...those are the two main things. I don't know but maybe they are putting something on the food so that you don't feel hungry. It's bad there," (*Sipho, 2012).

The facility itself consists of two separate areas for men and women, with a courtyard each to separate the two. There is also an admissions room that is usually crowded meaning that registering at Lindela can take up to the whole day. There is no television and no reading materials for detainees and not much else to keep them entertained or to stimulate their minds. Some of the facilities such as the toilets, are reported to not always be available for use. Toiletries are not readily available and detainees are even urged to save the likes of toilet paper. There are not enough beds for detainees with some claiming that they have to sleep two or three to a bed. There are also issues with sanitation. From the SAHRC report (2000: 61), there are fleas at the centre and dishes are not washed properly. Detainees complain that

dishes and cups are washed using only cold water, which obviously does wash them adequately.

Diet and nutrition as mentioned before bring forward many complaints. The Dyambu staff do not adhere to the standard of three meals a day nor to the diet set out in their contract with the Department of Home Affairs. The first meal is between 5 and 7am and the second between 4 and 6pm, which is not a reasonable time period between meals." The food consists, according to both detainees and Dyambu staff, of 4-6 slices of white bread and porridge in the morning and pap (maize meal porridge) and some kind of soup in the afternoon. Only once has a detainee said that they had been served meat. This is contrary to the menu in the tender agreement between DHA and Dyambu," (SAHRC, 2000: 62). Lindela does not cater meals that are in accordance with detainees' religious requirements either.
Medical care is limited and detainees complain of being refused medical care by the staff who do not allow them to go see the doctor, who only comes to the facility for a few hours a day.

Recommendations made by the SAHRC (2000: 62-64):

- Detainees should be provided with three adequate meals a day, separate beds, cleaning bedding and toiletries;
- The centre must make it possible for detainees to practice their religion and follow their religious diets;
- Men and women should be kept completely separate by ensuring that women have their own phones and other recreation facilities
- There should be free access to a qualified doctor on the premises.

- Conduct of Dyambu and DHA staff

The conduct of staff at the centre can be described to be deplorable. As they are in a position of considerable power, there i plenty room for abuse of that power. Security guards in particular are fingered in acts that strip detainees of their dignity. The abuse goes on mostly at night. One incident was retold to a researcher –"The problem started when a man reported to the guards that someone had stolen R80 from him. Four guards came in and searched

everybody in the room for the money. When they did not find any money they beat everybody up one by one. In total eleven persons were assaulted. They were told to bend over and hold on to their toes while they were beaten on their backs and behinds with batons," (SAHRC, 2000: 65).
An incident will get reported and internal processes take place to investigate these incidents but detainees do not have any recourse in a case such as there is no systematic complaint system.

Under the Dyambu Trust, Lindela stands as an isolated and centralised institution. Due to its isolation, much of the decisions made at the facility are directly up to the discretion of the staff working there. Due to it being under the umbrella of the Department of Home Affairs and also just by virtue of being on South African land, the facility is subject to the South African Constitution and legislation governing immigration, prisons and general human rights practices. For this to happen, a great sense of democratic accountability needs to be achieved as to ensure that the facility does not get completely cut off from society and that injustices do not go on behind the Lindela walls without recourse or consequences. This is to say that whatever means employed at the facility by the Dyambu staff should be consistent with the law that governs all other prisons and holding facilities.

SAHRC recommendation was the following;

- A systematic complaint system should be instituted and should include witnesses and Department of Home Affairs officials;
- Detainees should have the opportunity to report the matter to the South African Police Service.

Looking on almost a decade later, not much has changed at Lindela. As recently as 23 December 2011, reports of abuse and torture were reported by the national broadcaster, the SABC during a primetime news bulletin and put on the website. "On Monday a sick Congolese detainee died. Allegations surfaced that he died at the repatriation centre after officials refused him treatment and he was later taken to Leratong Hospital. But Home Affairs dispute this, saying the man died at the hospital," (SABC, 2011).

Detainees continue to complain about being assaulted and abused by guards at the centre and in some cases have visible marks on their bodies, a fact which is disputed by the staff at Lindela as well as the Department of Home Affairs. Head of Lindela, Makgabo Kekana remarked that the marks were present but the source could not be proven and was quoted as saying that, "You have seen people with (injury) marks, yes, because they will be trying to attack us. We do not assault people, because at time when we cannot control situations we invite our colleagues at the south African police service tome and assist us," (SABC, 2011). In addition when asked about Lindela, the respondent from CoRMSA, which works closely as a partner with Lawyers for Human Rights and the South African Human Rights Commission who monitor the centre, *Gugu (2012) just further reiterated how indeed conditions have not changed over the past years at the facility, "With regards to the challenges that people have raised at the centre is with regard to the length of stay at Lindela when they are being detained for long periods and others complaining of being denied the right to legal representation and issues around food and basic needs," (*Gugu, 2012). These are the exact same issues that had been raised by the SAHRC and that had been accompanied with recommendations, yet still the situation remains the same.

As stated previously in the report, there was no success in getting comment from Lindela on these allegations of abuse. Upon contacting Mr Kekana telephonically he stated that he could not comment on the going-ons at Lindela and if we wanted to get any information for research purposes we should get into contact with the communications department of the department of Home Affairs. Therefore there is no official comment from the centre regarding anything that goes on there.

Detainees still complain of being held longer than the 30day period, with some having been there for as long as five months, (SABC, 2011).

The Lindela Repatriation centre falls under the jurisdiction of the Department of Home Affairs, which has contracted the day-to-day management of the facility to a private company named Bosasa, that is part of the Dyambu Trust which receives R40 million per annum (2005 figures) for its services, (Anti Privatisation forum, 2008: 1). This management in itself has been one of the major points of contention as senior government officials have close links to the trust, which brings into question how this particular company has successfully managed

to secure the contract for the management of this facility for such a long period of time. Furthermore, the centre is housed in an old mining hostel which is owned by the Women's League of the African National Congress. The Anti Privatisation Forum (2008: 1) questions the relationship between top government officials, the African National Congress' Women's League and the Dyambu Trust because top ANC Women's League members own shares in the trust thus making this an unsavoury business contract, (Anti Privatisation Forum, 2008: 1).

The Department of Home Affairs itself concedes that there are many problems at Lindela but continues to renew this contract with the Dyambu Trust year after year.

"Lindela is a deportation centre (euphemistically renamed a 'repatriation centre') at the bottom end of a system primed to filter out poor Zimbabweans and Mozambicans as well as all other 'illegal' immigrants (mostly all from the African continent)," (Anti Privatisation Forum,2008; 1). This is an interesting point picked up on by the Anti Privatisation forum as the use of words is very important. Euphemism is a tool of dissimulation, in which relations of domination are concealed. By calling Lindela a "repatriation" and not a "deportation" centre, which it actually is, is a means of concealing what is deemed to be an unpleasant action. By renaming this unpleasant act, which is not acceptable to some, make s it seem more pleasant and disguises what is really going on and the agenda being pursued.

"The continued operation of Lindela is an affront to human dignity, solidarity and equality and to the professed ideals/principles of South Africans own struggle for liberation as well the South African Constitution. As long as it continues to operate, Lindela will stand out as the main symbol of South Africa's denial of its own struggle heritage and an arrogant and misplaced nationalism that divides African people and feeds an underlying xenophobia amongst 'superior' South Africans," (Anti-Privatisation Forum, 2008; 1). The Coalition Against Xenophobia and the Anti Privatisation Forum conducted a protest outside the facility in 2008, demanding its closure and this is a view that is shared by many non-government organisations around the country.

The point to make is that the Lindela Repatriation centre with its ill treatment of those that are detained there directly goes against all that South Africa stands for and has chosen to

represent itself to be. Firstly it clear indicates that not all human life is equal, which rubbishes one South Africa's main tenets guiding its foreign policy and code of behaviour, that being the protection and promotion of human rights. There is very little attention paid to protecting the dignity of the people detained at the Lindela centre. From being 'punished' by guards and being assaulted and abused, to restricting use of facilities such as toilets and limited access to medical care.

What is also important to note is the dynamic of the relationship between those who have been placed in a position of authority (being the guards and other officials) and the detainees. The relationship is already unequal as one would expect. However, due to the nature in which South Africans already view themselves as being superior to foreign people who are in the country, the relationship is further complicated. Where at any other detention facility, people are being held for different crimes, at Lindela all the detainees are being held there for being undocumented, whether it be proven to be so or not. The fragmentation i.e. the "us and them" is much more complicated because the 'other' is not just a perceived criminal but is also considered to be foreign, alien and illegal.

Furthermore, South Africa, being the African champion that it claims to be is not doing the best job in maintaining that representation at home and following it through with the manner in which it manages African migrants.

"Government departments, parliamentarians, the police, the Lindela detention centre, and the law itself have all been reinforcing a one-way message since the 1990s: we are being invaded by illegal immigrants who are a threat to national stability, the RDP, development, our social services, and the very fabric of our society," (Neocosmos, 2008: 588). This with the message of inclusivity that is being portrayed creates a mixed message. On the one hand it is said that South Africa is an open, democratic, equal and inclusive society but in reality the opposite is occurring. The fact is that those looking for refuge in this country are not really welcome at all and are actually viewed as a nuisance and a burden on society, all of which are in contrast with South African projections of self.

- **The Role of Ideology, Language & Discourse**

From looking at chapter five on legislation and xenophobia and this current chapter on Lindela and xenophobia, a few deductions can be made regarding the use of language. In order to do so we shall apply the five general modes being legitimation, dissimulation, unification, fragmentation and reification as distinguished by Thompson (1990).

Legitimation works though the use of narrativisation, universalisation and rationalisation, all used to justify an ideology and garner support for its cause. This is very evident when looking at these two previous chapters. A narrative has been created around who or what the foreigner is. The foreigner is painted in such a manner that it garners a negative feeling among people in the society. Having had this fear disseminated into the society of the "illegal, criminal, alien" it becomes acceptable to treat this foreign person in a different way than to other people. The narrative created around the foreigner becomes the "truth" that is attributed to them as a group of people and then justifies subsequent behaviour. This gives justification to foreigners being held at places such Lindela, as means to control this threat among us. The continued ill-treatment of these foreigners legitimates the violence perpetrated against them, which is further legitimised by the government's slow reaction and denialism when dealing with xenophobia.

Dissimulation is achieved through disguising negative actions by describing them positively through euphemism or through displacement where something is referred to using a different term than what it is usually referred to. Displacement can transfer negative or positive attributes. What we find in this case is that euphemism is used to disguise the negative action of deportation. As discussed in previous chapters, the main tools used by South African immigration policy are detention and repatriation. By calling Lindela a 'repatriation" centre and calling the newly named government initiative, the "Repatriation and Integration" unit, the true action of deportation is being sweetened thus hiding this unpleasant action to make it less negative. This is done because conducting deportation in this manner is in actual fact not seen as the most effective tool when dealing with undocumented foreigners. Furthermore, this use of euphemism further highlights how the methods that are currently in use would not be socially acceptable if society knew the full extent of what was going on. Displacement is used to attribute negative values to the word foreigner, attaching it to other negative words such as alien, criminal and illegal.

Unification and fragmentation are used to unite and split people despite the similarities that they share. One such way of achieving this is through language. If one group of people can create a standardised language that the other group does not have equal access to and this will create fragmentation in society. This is evident in the manner in which police and other officials use language as a determinant of whether someone is South African or not. Foreign people don't always have the same access to standard linguistic practices that are used in the country and this leaves them vulnerable to being victimised all because they do not know a phrase or body part in a certain vernacular.
Furthermore there is an obvious "othering" of the foreigner. There is a clear divide- South African vs. Foreigner; us vs. them; illegal vs. legal; belonging vs. outcast/outlaw; honest vs. criminal and deceitful, there are many other labels and variations. The purpose of this fragmentation is that it unifies South Africans against foreign people which results in collective violence brought on by this "us vs. them" way of thinking.

Reification can be achieved by naturalisation which is a process of turning ideas that created in the social realm into a fixed fact of nature. That is what has happened in South Africa society. Myths about why people come to South Africa, the duration of stay, how they look and dress and speak; all these myths have now become fixed as reality and therefore continue to reproduce themselves over time.

The last and final question to ask is whose interests are being served. This is an important question and is not easy to answer. All texts, actions or lack thereof stand to serve their own agenda and propagate a certain ideology. Obviously we can easily say that the interests of South Africans are being served and safe-guarded by the government to ensure that South African borders are secure and those entering the country come with good intentions and reason. One thing for certain, it is clear whose interests are not being served and that would be the foreigner. Although there are initiatives in place, foreigners have little or no agency when it comes to exercising their rights and reporting crimes against them. Their voice is not heard. They are either being spoken to, about or on behalf of. However, it is important to note how serving the interests of South Africans in this way will have negative implications in the future. If the image of poster-child South Africa is tarnished, the ramifications however minute at the start, will be felt by South Africans and the situation will continue to escalate.

# Chapter Seven
# CONCLUSION

This research has aimed to show how there is a disjuncture between articulated policy and its practices. Through South Africa's foreign policy identity, a certain representation of self has been created which does not translate into its implementation of immigration policy. The study has attempted to illustrate this by showing how potent language and ideas can be if left to become the norms in society. The beliefs we have in society, turn into norms which in turn will provide a basis for how we develop our interests as a society and as a nation, which manifests itself in the forms of policy and other forms of legislation. Legislation if not thoughtfully produced, can reproduce negative elements within society. The research started off with a very narrow definition of xenophobia but it is clear that xenophobia cannot be defined in such a narrow manner to just encompass a feeling or fear; because as it has been witnessed, it becomes and is an actual practice.

Upon discovering the various explanations for why xenophobia occurs such as scape-goating, the bio-cultural difference and South African exceptionalism, it became clear that another angle would have to be explored, that of structures and practice.

In its foreign policy South Africa posits itself as being a benign, non-threatening neighbour. From the discourse, South African foreign policy is human-rights-based and there is a great emphasis placed on creating a nation that is inclusive and accepting of diversity. Furthermore, the Africanist agenda stands as a very high priority for the country. South Africa identifies as an African nation foremost and looks to be an equal partner on the continent and encourage regional and continental co-operation. The nation sets itself as being an African ambassador and a proud one at that.

However in the same token, one looks at South African immigration policy. The immigration policy is seen to be still restrictionist and in some cases even compared to maintain apartheid style methods of enforcement. Moving from the very draconian Aliens Act No. 95 of 1991 to

the Immigration Act No. 13 of 2002, it seems as not much has changed. The immigration policy still relies on the use of detention and deportation. Immigration officers and law enforcement officers still wield a lot of power over foreigners and there is very little recourse in the event that something happens against foreigners in the country. There is no systematic process in which to document or report injustice and crime and therefore crimes often go unpunished. The law does not equip a foreign person with any positive rights, only with obligations and there isn't enough done to ensure that people are aware of their rights and how to exercise them in the public domain. Efforts to engage communities on issues of social cohesion and integration seem to be scattered and unsustainable and much of the decision – making is made from a place far removed from reality.

In addition to legislation perpetuating a negative stereotype of the foreigner in South Africa, the actual physical treatment is worse. The dedicated deportation centre, Lindela, stands accused of many human rights violations but continues to operate until today. Having been operational since 1996, the facility was investigated in 1997 by the South African Human Rights Commission (SAHRC). The main problem areas were around detainees being detained for long periods at a time with no explanation; not being granted access to basic rights such as phone call to a family member; being detained in conditions of poor sanitation and very low nutrition and being denied medical care; abuse and degrading treatment by staff and guards. Fifteen years later, the facility continues to operate amid allegations of corruption and bribery. None of the recommendations were instituted and there is very little available in the way of information about the centre.

When one then compares South Africa's projected image of being Africanist and appreciating diversity and inclusivity with what happens in practice, the contradictions are clear. There is an obvious disjuncture. In its own detention facilities, basic human rights are not respected and the human dignity of detainees is trampled upon. Black, African migrants are targeted specifically and criminalised in a nation that is not only meant to uphold values of 'ubuntu' but espouses to promote human rights and harmony in line with its liberation and transition narrative.

Communities are actively encouraged to spy on their illegal neighbours and report them to local authorities. This does not promote social cohesion it alienates certain sects of the society from the rest and pushes them to the periphery where they land up being more vulnerable to the wrath of mob violence and the like.

Government officials perpetuate the idea of the "threatening" foreigner and use of words such as 'influx' all feed into the fear that public has of this foreigner. The evidence seems to suggest that through practices and policy, South Africa engenders xenophobia in society.

The implications of such, if the government continues to treat foreigners in this manner will be increased violence from the South African people. Failure to build understanding and tolerance can only see the situation escalate. If the situation escalates it will alienate South Africa from the rest of the continent, who will be questioning the country's management of migrants and its commitment to the continent. More will have to be done.

No one is illegal.

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# Interview List

All the interviewees requested that their identities remain anonymous with the exception of one. The * is to indicate where an alias is being used.

Interviewees

- *Sipho
  17 January 2012

- *Gugu
  Consortium for Refugees and Migrants in South Africa
  10 February 2012

- *Desiree
  Refugees Ministries Centre
  10 February 2012

- *Thandiwe
  Repatriation and Integration Unit
  13 February 2012

- Sbu Zikode
  Abahlali baseMjondolo
  13 February 2012