Introduction

“[South Africa] makes a noise and stir in the world disproportionate to its small population.”

James Bryce¹

“Amerci leads to Africa; the nations of Europe and Asia meet in Australia; the margins of the nation displace the centre; the peoples of the periphery return to rewrite the history and fiction of the metropolis....”

Homi Bhabha²

An exceptional outburst of xenophobic violence in May 2008 displaced thousands of South African residents. Creating a national and international stir eerily reminiscent of township upheaval


² Homi Bhabha, “Introduction: Narrating the Nation,” in Nation and Nationalism, ed. Homi Bhabha (London: Routledge, 1990), p. 7. He finishes by specifically mentioning black South Africans as “not yet” having such a voice.
during the waning years of apartheid, putative foreigners faced brutal attacks. Those who survived witnessed family members killed, belongings looted, and homes burned. Angry neighbors did not stop to ask about citizenship or differentiate those with paperwork to confirm legal residence. They themselves claimed to be the victims of lost job opportunities, crime, inadequate housing, and a range of other ills. Media coverage with lurid pictures of burning bodies, “necklaced” by a flaming tire encircling the victim’s head, fueled the violence.

The scope of these attacks was unprecedented in the post-apartheid era, but for more than a decade, xenophobic violence had periodically broken out on commuter trains and in the townships. The media consistently reinforced the association of foreigners with a host of social problems, often without much evidence. For instance, as early as January 13, 1995, the New African characterized “refugees” from neighboring countries as “streaming” into the country, drawn by romanticized images of a new land of opportunity and welcoming employers keen to hire at lower wages – ignoring that most of them were arriving from long-standing sources of intraregional immigration. Relying on innuendo, furthermore, the paper accused these Africans of bringing problems of organized crime, drugs, and disease. Similar complaints and more, such as “stealing” women, recur as motives for contemporary attacks.

Such xenophobic imagery had already become so prevalent by the mid-1990s that Section 5 of the 1997 Green Paper on International Migration called for a national educational campaign to promote positive attitudes toward foreigners, a proposal that advocacy groups often reiterated. In response, the newly created South African Human Rights Commission, along with the National Consortium on Refugee Affairs and the United Nations High Commissioner for Refugees, did initiate a Roll Back Xenophobia campaign in 1998. Based on the presumption that the media fueled popular sentiments, they targeted journalists through educational seminars and developed materials to be distributed publicly through print, radio, television, and Internet. With immediate effects on newspaper coverage modest at best, the subsequent May 2008 attacks underscored the campaign’s inability to transform public attitudes.

Yet the media do not bear sole responsibility for the discourses that they filter. Critics have also accused politicians of willful ignorance or lack of concern. President Thabo Mbeki in particular faced intense scrutiny for framing the 2008 attacks as disgraceful but driven by “naked criminal activity,” not “mass and...
mindless hatred of foreigners”; he also expressed shame over the damage inflicted but failed to offer solutions beyond promises to prosecute perpetrators. Some commentators also drew on parallels to township turmoil prior to the first universal suffrage elections in 1994 to suggest that the violence, manifest in all major urban areas, might actually be coordinated, with some ulterior political motive behind it. Although eventually refuted, those accusations were reinforced by the slow and ineffectual official response to widespread rioting. Following two weeks of failed police efforts, the violence was finally quelled with help from the army.

After initial proclamations of surprise, most politicians did decry the violence, but few offered solutions. Most striking, Mbeki merely promised to create a committee to investigate, despite routine criticism that his “quiet diplomacy” policy toward neighboring Zimbabwe, and his unwillingness to admit its failure, was the underlying problem. Meanwhile, the police did arrest some perpetrators and provided limited protection at the municipal buildings or makeshift camps where victims had fled. Confronted with the reality of this massive displacement, municipalities set up temporary shelters under disaster management plans, but these local governments soon ran out of funds. Victims of the attacks then faced the dubious choice of

9 Mail and Guardian, May 25, 2008. The numbers of Zimbabweans fleeing political violence and economic collapse increased dramatically in the early 2000s, but Mbeki resisted calls for greater pressure on the Mugabe regime. For details on Zimbabweans entering South Africa, see Chapter 4. For an assessment of regional policy, see Chapter 5.
returning to their former neighborhoods in South Africa or repatriation, with United Nations assistance, to their countries of origin.\textsuperscript{10}

Such efforts by government departments and nongovernmental organizations have foundered for lack of understanding about the underlying politics of antiforeigner sentiment and xenophobic practices. For instance, if politicians in a truly democratic South Africa need to be responsive to previously marginalized voices, they have little reason to put resources into anti-xenophobia campaigns. In addition, if new channels of representation provide an avenue for certain groups to promote xenophobia, then both the design and implementation of policies will hinge on political bargains that, so far, remain opaque. Ironically, it appears that Nelson Mandela’s inclusive “rainbow nation” rewrote a century of racism into a new unifying economic nationalism that promotes the broad embrace of another type of intolerance.

Advocates of education campaigns also overlook the issue of institutional capacity, perhaps because the apartheid-era state was readily apparent in armed personnel carriers rolling through the townships and police forcibly removing people to far-flung locations. Now, there is an understandable presumption that the post-apartheid state can protect on the same scale. Setting aside decades of authoritarian rule, the new constitution underscores those expectations by enshrining economic and social rights alongside political ones.\textsuperscript{11} Yet, the role of “the state” is subtler since 1994. Contestation continues, certainly, but it also plays out in new venues. For instance, in a bizarre twist discussed in Chapter 4, the dispute between the president and minister of


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home affairs over implementing regulations for new immigration legislation landed in a constitutional court that previously did not even exist. Also, the South African Human Rights Commission, key in the Roll Back campaign, was established to foster understanding of the new constitution. However, the ineffectiveness of its attempts to combat xenophobia calls into question the capacity of the state to reconstruct social identities.\(^\text{12}\)

In the current policy debate, only one thing is undisputed: the results of numerous opinion polls and the patterns of violence confirm that xenophobia is commonplace in post-apartheid South Africa.\(^\text{13}\) This consensus is based on reasonable inferences from empirical evidence, but the nature of those data – \textit{new} attention to black attitudes and \textit{recent} attacks – implicitly suggests that xenophobia itself is novel. Beyond the headlines, hostility toward migrants is nothing new. As early as the 1890s, angry mobs periodically gathered at the port in Durban to protest the arrival of indentured Indian laborers. Most famously, attackers pelted Mohandas Gandhi as he sought to return from a trip abroad to galvanize opposition to colonial Natal’s discriminatory policies.\(^\text{14}\) And throughout the twentieth century, culminating in the creation of putatively independent ethnic homelands, national policy defined almost all Africans as migrants rather than citizens, often forcibly removing them from their homes or land.\(^\text{15}\)

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Introduction

Persistent prejudice against foreigners does not always turn violent, but when people are murdered on the basis of their presumed nationality, condemnation understandably ensues. Particularly in a new democracy with a long, infamous history of urban violence and police brutality, many people inside and outside South Africa expect an extra degree of diligence by the state in protecting its citizens and legal residents. That the constitution guarantees key rights to all people living in South Africa underscores those demands, as do international commitments to the rights of refugees, who were prominent among the victims. Still, ambiguities, dilemmas, and paradoxes blur the lines of even the most ethical aspirations, as the chapter titles in this book suggest.\(^\text{16}\) Regardless of whether South Africans accept or deny that theirs has always been a country of immigration, finding suitable governmental and societal responses hinges on understanding a complex mix of causes.

Since 1994, the South African state has implemented substantial reforms, notably robust rights for refugees. In essence, human rights advocates have effectively leveraged the new legal system. At the same time, however, the revived salience of electoral politics favors exclusionary immigration policies based on a commitment to ameliorate abiding inequalities among citizens. Xenophobia thrives in this climate of widely embraced economic nationalism. Any attempts to counter xenophobia, therefore, need to target this foundation. From a comparative perspective that replants South Africa among the former British Dominions, I argue that political dynamics involving courts and coalitions explain this contradictory mix of post-apartheid immigration policies.\(^\text{17}\) Consequently, any remedies also hinge on courts and coalitions, rather than public education campaigns.

\(^{16}\) I am grateful to Mervyn Frost for bringing these tensions to my attention.

These dynamics in South Africa are surprisingly similar to those in other countries of immigration, but the dominant forces are inverted. Elsewhere, liberal courts and pro-market coalitions have typically converged against exclusionary policies. In contrast, as far back as decades before the Union of South Africa formed in 1910, advocates for rights were weak as a result of a dearth of legal protections. In addition, they lacked allies in favor of open markets for labor, because key industrial conglomerates relied on monopoly (or monopsony) power. Subsequent institutionalization of exclusion – due to the absence of a liberalizing coalition – has allowed for the persistence of xenophobic attitudes and protectionist policies all the way into the post-apartheid era. Although refugee advocates in the past two decades have achieved compliance with most international standards and many constitutional protections, their efforts still do not fully counterbalance the prevailing protectionism. In the absence of electoral incentives to challenge xenophobia, I conclude, democratization in South Africa has primarily produced incremental policy reforms that, on balance, reaffirm exclusion.

Given this underlying political foundation, any major transformation is unlikely. Yet gradual amelioration of intolerance is still possible, if rights advocates pay greater attention to building grassroots allies. Although I highlight lessons from the mobilization among Canadian and Australian immigrant communities in overturning legacies of racism, I do not deny South Africa’s distinctiveness. Similarities with other countries of immigration certainly should not be overdrawn. Thus Chapter 1 defends my use
of the comparative literature on immigration in liberal democracies, which points to the significance of rights advocates, both on their own terms and in coalitions. I also stress that the alternative Marxist and postcolonial literatures have limited utility because they perpetuate a false dichotomy between white immigration and black migration. Unlike colonies that gained independence after World War II, the South African state did not emerge from the ashes of empire in 1994, and its constitution even provides some rights that go beyond prevailing practices among democracies.19

I start with the puzzle of why immigration policy took a contentious decade to reform, whereas most other legacies of apartheid were quickly overturned, or at least substantially reformed. Conventional wisdom relies on an array of explanations that fall into the general category of “path dependency,” a notion that stresses the difficulties of overturning institutionalized policies.20 Yet the easy invocation of path dependency, based on evidence of policy continuity, too often forecloses deeper analysis. Instead, we need to examine whether alternatives were seriously considered, and if so, why those options got rejected. In effect, deterministic explanations – be it path dependent or postcolonial – underplay the role of agency in replicating the status quo, as I argue has happened in South Africa. Taking snapshots of policies in 1994 and 2004, for instance, overlooks an array of actors involved in serious attempts at reform that mostly failed.

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To explain why so many politicians and policy makers accept the status quo, I examine how the South African state has enshrined specific exclusions in its “securitized” official discourse and institutional practices. This framework reveals key macro-historical shifts in the status of “foreign Africans” and their relationship to other targets of prejudice. The roots of contemporary xenophobia go back to the late 1800s. White settlers institutionalized a fear of Asians, turning British subjects into disenfranchised foreigners through clever procedures, including an innovative literacy test. By the mid-1900s, supplementary quotas also filtered out a range of undesirable whites. Tension between this long history of exclusionary control and a post-apartheid commitment to rights is hardly surprising, but abiding treatment of foreign Africans as a threat presents an anomaly. In 1986, at the height of domestic unrest, the apartheid government lifted restrictions on black migration, both internally and across borders, thus abandoning one of its core commitments. Only in 1994, however, did expansion of the franchise create meaningful differentiation based on citizenship, with foreign Africans subsequently derided for “stealing” the benefits of South African democracy. Ironically, overturning a century of racism reinforced xenophobia toward these neighbors.

Turning to the historical evidence for these claims, Chapter 2 begins with the colonial era to explore key turning points when the racism of whites trumped the imperial rights of immigrant Indians. During a time when all settler societies grappled with fluid social boundaries, adoption of a lightly veiled literacy test aimed to exclude Asians, with substantial success. Additional political debates and court battles determined the categorization of other liminal groups. Underscoring how contested these lines were, Jews and Syrians came to be counted as white in South Africa but not always in other countries. In contrast, Canada categorized Armenians as Asians; Freda Hawkins, Critical Years in Immigration: Canada and Australia Compared (Montreal/Kingston: McGill-Queen’s University Press, 1989), p. 21. Caught in between, the status of