Between a Rock and a hard Place

Exploring Xenophobia and Voluntary Refugee Repatriation in South Africa

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Compulsory Declaration

This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

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Dedication

I want to dedicate this work to the incredible community that is the Scalabrini Centre of Cape Town's Women's Platform. In particular the strong women that inspired and mentored me over the past three years: Amy Shackleford, Julia Oduol and Shingi West. Thank you for the hard work you continue to do against all odds.

And to all those migrant, refugee and asylum-seeker women who are building this community. Your resilience inspires me every day. May our journey become easier and until it does may you have strength!

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Abbreviations

ACMS	African Centre for Migration Studies
ANC	African National Congress
CoA	Country of Asylum
CoO	Country of Origin
CoRMSA	Consortium for Refugees and Migrants in South Africa
CRC	Counter Refugee Crisis
DHA	Department of Home Affairs
DRC	Democratic Republic of the Congo
GDP	Gross domestic product per capita
ICCPR	International Covenant on Civil and Political Rights
IDCPPA	Institute for Citizenship and Public Policy in Africa
IOM	International Organization of Labor
IDP	Internally Displaced Person
LHR	Lawyers for Human Rights
MRASA	Muslim Refugee Association of South Africa
OAU	Organization of the African Union
RRO	Refugee Reception Office
RRC	Refugee Reception Centre
RSA	Republic of South Africa
RSD	Refugee Status Determination
RSDO	Refugee Status Determination Officer
SACHR	South African Commission for Human Rights
SADC	Southern African Development Community
SAPS	South African Police Service
SCCT	Scalabrini Centre of Cape Town
StatsSA	Bureau of Statistics South Africa
UCT	University of Cape Town
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WP PD	Women's Platform Personal Development

Abstract

In October 2019, thousands of migrants, refugees and asylum-seekers took the streets in Cape Town and Pretoria to publicly express their dissatisfaction with their living and protection conditions in South Africa. The protests erupted one month after a series of xenophobic incidents in several urban areas. While Pretoria protests dissolved quickly, the Cape Town sit-in protests were only cleared in early 2020. In both cities, protesters claimed that poor living conditions, a lack of access to services and a constant fear of xenophobic violence and harassment had made it unbearable for them to sustain their lives in South Africa. Refugees and asylum-seekers therefore demanded improved protection and the resettlement to a safer third country. Third country resettlement forms one of the three durable solutions for refugee situation as defined by the UNHCR, besides local integration and voluntary repatriation. The South African government and the UNHCR, however, made it clear that third country resettlement could not be considered a solution for a majority of South Africa's refugees and asylum-seekers. With local integration equally failing the forced migrants in South Africa, voluntary repatriation may by default be their only option left.

This study aims to explore the relation between xenophobia and voluntary refugee repatriation in a South African context. The fear of xenophobic violence that was expressed by the 2019 protesters raises doubt about South Africa's ability to meet the UNHCR's standards of refugee protection. At the same time, it compromises the protection measure of temporary local integration as outlined in the South African 1998 Refugee Act. This study will therefore explore he connection between conditions of asylum in South Africa and the decision-making process on repatriation by refugees and asylum-seekers. This study aims to contribute to better the understanding of conditions and dynamics that lead to spontaneous voluntary repatriation in refugee situations.

Keywords: Forced Migration; Refugee Protection; Xenophobia; Durable Solutions; Voluntary Refugee Repatriation; South Africa

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Chapter 1 – Introduction

1.1 Background and Rationale

After the collapse of the Apartheid regime in 1994, South Africa's economic and political integration into the African continent brought about dramatic changes in human mobility within the country (Landau 2006, 311; Smit 2015, 39). Over the past decades, South Africa has not only witnessed a noticeable influx of regular migration, but also an increasing number of asylum applications. As the regional economic power, South Africa has naturally become a popular destination for economic migrants from around the African continent, looking for better opportunities and settling in the country's urban centres (Landau & Jacobsen 2004, 44; Isike & Isike 2012, 94). On the other hand, forced migrants such as refugees and asylum-seekers follow the country's reputation as a haven, which protects human rights and dignity to find shelter from violence and abuse (Landau 2006, 308). Since its transition to democracy, South Africa has transformed itself from a refugee-sending to a refugee-receiving country (Vigneswaran 2008, 42). Where apartheid-era South Africa was once the source of refugees exiling in other African countries, post-apartheid South Africa includes an ever-growing number of refugees and asylum-seekers from throughout the continent (Landau 2006, 312). According to the United Nations High Commissioner for Refugees (UNHCR), South Africa recorded 869,100 new asylum applications between 2008 and 2013 (UNHCR 2014, 41). With an estimated 70,000 asylum claims, South Africa was the world's third largest recipient of new asylum applications in 2013. This number, however, significantly decreased to 24,174 persons in 2017[1]. In 2018 South Africa hosted 89,285 recognised refugees (UNHCR 2019, 8). The first of the refugees and asylum-seekers coming to South Africa fled conflicts in neighboring Angola and Mozambique in the early 1990s. As conflict broke out in the Democratic Republic of Congo (DRC) in 1998, many Congolese decided to seek shelter in South Africa as well. Two years later, Zimbabwe's economy began its perilous descent, which led to a massive influx of Zimbabwean migrants. Since the early 2000's, South Africa has experienced a surge in refugees coming from the Horn of Africa and South Asia (Langalanga 2019, 8). According to Khan (2007, 3) "at a time when European asylum policies are becoming more and more restrictive, South Africa is viewed as the only answer".

[1] Department of Home Affairs (DHA) (2017): *Asylum Metrix Full Year Report,* 95, available at: http://www.dha.gov.za/files/Annual%20Reports/AnnualReport2017-18.pdf (20.07.2020)

Unlike other countries in the region, the Republic of South Africa (RSA) is in possession of a robust legal framework, setting progressive principles on refugee protection: The 1989 Refugee Act. This primary tool for refugee protection in South Africa has been praised as one of the most progressive protection policies in the world (Handmaker & Parsley 2001, 43). The act moves away from certain conservative benchmarks of asylum administration, such as encampment, group determination of asylum-seekers and the delegation of responsibilities to the UNHCR. It rather opts for a self-settlement model of protection accompanied by individualised status determination procedures carried out by South African government departments (Landau 2006, 309; Vigneswaran 2008, 42; Schockaert et al. 2020, 28). The South African Constitution additionally sets out a number of rights for everyone in the territory, regardless of their migration status. This includes unrestricted access to public healthcare and education. The act's urban refugee model invites asylum-seekers and refugees to live in areas alongside the host population. Observers and practitioners in the field of refugee protection, however, are concerned that this leads to significant protection issues which compromise the quality of asylum in South Africa (Landau 2006; Amit 2016; Kavuro 2017; Amnesty International 2019, Schockaert et al. 2020). Continuing failures to achieve adequate levels of social cohesion between refugees, asylum-seekers and local communities, as well as forced migrants' struggles to achieve socio-economic inclusion, form serious shortcomings within the South African refugee regime. These shortcomings expose refugees and asylum-seekers to significant risks and solidify their vulnerable position in the host society (Smit 2015, 48; UNHCR 2020; Masuku 2020, 86). At the same time, recurring xenophobic attacks threaten the lives and livelihoods of migrants in South Africa, while generating a persistent climate of fear and insecurity (Handmaker & Parsley 2001, 44; Misago et al. 2015, 13; UNHCR 2020).

In October 2019, thousands of migrants, refugees and asylum-seekers took the streets in Cape Town and Pretoria to publicly express their dissatisfaction with the state of refugee protection. These protests erupted a month after a series of xenophobic incidents in several urban areas, including violent riots in the Gauteng province. During these outbursts of violence against foreign nationals and other perceived outsiders, at least 12 people were killed, thousands were displaced and hundreds of foreign-owned businesses were destroyed[23]. While the Pretoria protests dissolved

[2] Al Jazeera (05.09.2019): Foreigners in South Africa fear for safety after attack; https://www.aljazeera.com/news/2019/09/foreigners-south-africa-fear-safety-attacks-190905045733281.html (20.07.2020)

[3] New York Times ((16.09.2019): What's Behind the deadly Violence in South Africa?; https://www.nytimes.com/2019/09/16/opinion/south-africa-xenophobia-attacks.html (20.07.2020)

quickly after protesters were forcibly prevented from storming the UNHCR offices, the Cape Town sit-in protests carried on for six months and attracted national and international attention[4][5]. After several weeks of occupying the entrance of the Cape Town UNHCR office in the *St Georges Mall*, the South African Police Service (SAPS) cleared the area and evicted the protesters. Footage of mothers with small children clashing with officers and heavily injured protesters caused public outcry and criticism over the measures taken by the city[6]. After eventually being removed from the *St Georges Mall*, the protesters occupied the nearby *Greenmarket Square* in Cape Town's Central Business District and found shelter in the *Central Methodist Church*. The extent of the *Greenmarket Square protests* became evident, when the UN High Commissioner for Refugees, Fillipo Grandi, flew in from Geneva to discuss and negotiate possible solutions. Despite Grandi urging the South African government and protest-leaders to find suitable solutions, no agreement could be made[7]. The *Greenmarket Square* was eventually cleared by the SAPS in early 2020 after almost six months of sit-in protest[8].

"Reintegrate or be repatriated"

The demands of the Greenmarket Square protesters were clear: Protection against xenophobic violence and assisted resettlement to a third country with guaranteed safety. Protesters claimed that their poor living conditions, lack of access to services and the constant fear of xenophobic violence and harassment, had made it unbearable to remain in South Africa.

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4 Deutsche Welle (04.11.2019): Refugee anger boiling over in South Africa; https://www.dw.com/en/refugee-anger-boiling-over-in-south-africa/a-51107678 (20.07.2020)

5 Daily Maverick (16.12.2019): City of Cape Town vs Refugees: A tussle between human rights and 'rule of law'; https://www.dailymaverick.co.za/article/2019-12-16-city-of-cape-town-vs-refugees-a-tussle-between-human-rights-and-rule-of-law/#gsc.tab=0 (20.07.2020)

6 eNCA (31.10.2019): Scenes of chaos between refugees and police in Cape Town; https://www.youtube.com/watch?v=WJ4BUG5Sp4g (20.07.2020)

7 Cape Argus (18.10.2019): Refugees in SA hoping to get solution from UNHCR soon; https://www.iol.co.za/capeargus/news/refugees-in-sa-hoping-to-get-solution-from-unhcr-soon-35275666 (20.07.2020)

8 Daily Maverick (01.03.2020): City of Cape Town acts against Greenmarket Square refugee protesters; https://www.dailymaverick.co.za/article/2020-03-01-city-of-cape-town-acts-against-greenmarket-square-protesters/#gsc.tab=0 (20.07.2020)

Leaders of the protest accused the South African government and the UNHCR of ignoring their demands and failing to provide adequate protection for them. Expressing their dissatisfaction with the conditions of safety for foreign nationals in South Africa, the leader of the Pretoria protests, Alice Bukuru, stated the following in an interview with the Japanese Times: "We have no choice because we have been the targets of xenophobic attacks. We have been warned that if we go home, we will be killed."[9] In an interview conducted by *Deutsche Welle* at the *Central Methodist Church* one protester answered to the question of where they want to be resettled: "Anywhere as long as we are out of this country. A place that where we gonna be safe and recognised as human beings and not cockroaches."[10] Protesters made it clear that they are not interested in being reintegrated into their communities, but saw no other solution than leaving South Africa. City of Cape Town's security councillor, JP Smith, stated in a press conference: "The majority [of the protesters] said they do not believe that they can stay in South Africa anymore. That South Africa is not a home for them, regardless of the accommodation scenarios."[11]

Refugee resettlement to a third country forms one of the three durable solutions for refugee protection as defined by the UNHCR. Resettlement to a country in the global north promises economic opportunities and increased protection for many refugees and asylum-seekers. Mass third country resettlement, however, could not be considered a sustainable solution for the *Greenmarket Square* protesters. It is only processed on a strict individual case-basis, coordinated by the UNHCR. Third country resettlement is dependent on quotas set by receiving countries (Thomson 2017; 1). In a press conference, South African Minister of Home Affairs, Dr Aaron Motsoaledi, publicly warned the *Greenmarket Square* protesters that if they would continue to refuse the government's offers for assisted reintegration into their communities, they must expect to be repatriated to their home countries[12]. Repatriation, meaning the return to one's home, forms the second of UNHCR's three durable solutions for refugee situations. The UNHCR only allows and

[9] Japan Times (15.11.2019): Hundreds of asylum-seekers storm U.N. office in Pretoria, demanding protection; https://www.japantimes.co.jp/news/2019/11/15/world/social-issues-world/hundreds-asylum-seekers-storm-u-n-refugee-office-pretoria-demanding-protection/#. (20.07.2020)

[10] Deutsche Welle (01.11.2020): Why migrants want to leave South Africa; https://www.youtube.com/watch?v=Yxd-ccJT_eg (20.07.2020); transcribed by the author

[11] Cape Argus (06.03.2020): SAPS shifting the goalposts when it comes to Cape refugees says JP Smith; https://www.iol.co.za/capeargus/news/saps-shifting-the-goalposts-when-it-comes-to-cape-refugees-says-jp-smith-44246476 (20.07.2020)

[12] Times (11.03.2020): Reintegrate or be repatriated home affairs warns refugees; https://www.timeslive.co.za/news/south-africa/2020-03-11-reintegrate-or-be-repatriated-home-affairs-warns-refugees/ (20.07.2020)

promotes refugee repatriation as it is conducted in a *voluntary* manner and under *conditions of safety and dignity* (UNHCR 1996; 10). A forceful repatriation, as indicated by Motsoaledi, must therefore be considered as a case of *refoulement*, a violation against international refugee protection law. As two of the three UNHCR durable solutions (third-country resettlement and local integration) have already failed refugees and asylum-seekers in South Africa, voluntary repatriation may, by default, be the only sustainable solution left.

1.2 Problem Statement and Aim

As mentioned above, the UNHCR defines three durable solutions to refugee situations: Third country resettlement, local integration and voluntary repatriation. The concept of durable solutions was initiated in 1945, in the aftermath of the second World War (Bidandi 2018, 2). In these early years of the international refugee regime, third country resettlement was considered the preferred solution for forced displacement (Chimni 1999, 2). This changed by the 1980s, as the number of global conflicts and forcefully displaced people grew rapidly. This resulted in a shift of focus within the UNHCR towards the promotion of voluntary repatriation as the most desirable solution to refugee situations (Harrell-Bond 1998, 42; Long & Crisp 2016, 144). Refugee repatriation is regulated under strict guidelines, which are defined by the 1996 UNHCR Handbook of Voluntary Repatriation (UNHCR 1996). The cornerstone of repatriation measures is the principle of *voluntariness*, while conditions of *safety and dignity* must be ensured at all times. The UNHCR defines voluntariness as an "informed and free choice" (UNHCR 1996, 11). This indicates that return-decisions cannot be externally pressured or forced in any way. Furthermore, the 1996 UNHCR Handbook on Voluntary Repatriation stresses the responsibility of the country of asylum (CoA) to "treat refugees according to internationally accepted standards as long as they are on its territory" (UNHCR 1996, 12).

The expression of fear about xenophobic threats and violence by the *Greenmarket Square* protesters raises doubts in South Africa's ability to meet the standards of refugee protection as laid out by the UNHCR. The African Centre for Migration and Society (ACMS) at the University of the Witwatersrand in Johannesburg has monitored incidents of xenophobia in South Africa since the end of Apartheid in 1994. The ACMS's *Xenowatch*[13] tracks media reports and collects data from activists and victims of xenophobic abuse nationwide. *Xenowatch* demonstrates how xenophobia

[13] Interactive data on Xenophobia in South Africa is available under: www.xenowatch.ac.za (20.07.2020)

has had a constant presence in South African society for the past 25 years, with regular waves of violence. Most notably in 2008, 2016 and 2019, where increased incidents of violent xenophobia were logged (Misago & Mlilo 2019, 2).

This study aims to explore the relationship between xenophobia and voluntary refugee repatriation in a South African context. Based on the scale of xenophobia in South Africa as outlined above, it is assumed that the increased risk of xenophobic assault is limiting refugees' and asylum-seekers' quality of protection. At the same time, this also compromises the protection measure of temporary local integration, outlined in the 1998 Refugee Act. This study will therefor explore the influence of the conditions of asylum on the repatriation decision-making process, focusing especially on the principle of *voluntariness*. It aims to obtain relevant information to better understand dynamics of voluntary repatriation as a durable solution for refugee situations.

1.3 Research Question

From the overview presented above, this study aims to explore what influences refugees' and asylum-seekers' individual decision-making processes on home return. In particular, the impact of xenophobia on the conditions and quality of asylum in South Africa will be investigated to eventually conclude how these conditions affect the principle of *voluntariness* of such decisions. It will therefore be examined if xenophobia can be considered a *push factor*, that motivates refugees and asylum-seekers to return to their country of origin (CoO). With that in mind, the following questions will be investigated:

- Is South Africa's atmosphere of xenophobia influencing refugees' and asylum-seekers' decision to repatriate to their home countries?

The study will be led by the following sub-questions:

- On what levels is xenophobia manifesting itself in South Africa?
- In what ways is xenophobia influencing refugees' and asylum-seekers' lives in South Africa?
- What factors influence refugees' and asylum-seekers' decision-making processes concerning repatriation?

- Does repatriation of refugees and asylum-seekers from South Africa comply with the protection standards as defined by the global refugee regime?
- Can repatriation be considered a durable solution for refugees and asylum-seekers in South Africa?

1.4 Anticipated Value

The purpose of academic research is to produce knowledge in order to inform action. Therefore, research should seek to contextualise its findings within the larger body of existing scholarship in order to contribute to the advancement of their specific discipline. At the same time, it must aspire to produce knowledge that can be applied outside the academic setting, for the study's findings to have positive effects for future development. This study aims to contribute to both the existing body of academic research in the field of forced migration and the future development of policy relating to refugee protection.

This study aims to provide further insight into a particular sub-field of forced migration which is currently lacking scholarship: Voluntary refugee repatriation. Advancements in this sub-field will contribute to further the understanding of the refugee experience. This study hopes to encourage further research and do its part to build a collective understanding of the various aspects that lead to decisions on repatriation and eventually inform policy and practice.

Even though this study aims to investigate possible shortcomings within the current framework surrounding refugee repatriations, it does not seek to minimize the importance of repatriation as a measure to provide protection and offer solutions to refugee situations. While possible miss-conceptualisations within the South African and international refugee regimes will be pointed out, this is not to call into question refugees' and asylum-seekers' legal right to return to their home countries with safety and dignity, their need for adequate protection, nor the fact that the primary responsibility for the protection of its citizen must eventually lie with the CoO.

1.5 Methodology

1.5.1 Methods

This study implements a qualitative, explorative approach as its guiding methodology which, based on extensive literature review and expert interviews, seeks to discuss the potential influence of xenophobia on refugees' and asylum-seekers' decisions to repatriate in the context of South Africa. This researcher comes from a professional background of refugee protection in a South African context and has been working with refugee communities in Cape Town for the past three years. During these years, she has encountered several incidents of refugees expressing their wish to repatriate. Sharing these sentiments, however, was often accompanied with a sense of resignation and hopelessness. Especially during the *Greenmarket Square* protests in late 2019, the researcher observed that these notions became increasingly evident within parts of the forced migrant communities in Cape Town. This sparked a growing desire to investigate all the complexities related to this issue and find out more about the root causes that would lead to giving up asylum in South Africa in order to return to one's home country.

As the relationship between xenophobia and repatriation has not yet been investigated in detail, especially not in a South African context, an explorative research approach is considered appropriate. To effectively *explore* an under-researched phenomenon, this research must incorporate both *flexibility* when collecting data and *open-mindedness* when analysing it (Stebbins 2011, 5). A broader field of inquiry is therefore first established (refugee repatriation in South Africa), instead of drafting a specific research question. Through the course of exploration and the use of tools, such as literature research and review, data collection, reflexion and analysis, an eventual understanding was reached. From there, the broader scope of inquiry is reformulated into a specific research question as presented above. The main goal of exploratory research is "the production of inductively derived generalisations about the group, process, activity, or situation under study" (Stebbins 2011, 5). The research question is thus formed by continuously re-working the scope of this study, influenced by trends and findings that emerge from the obtained data, as opposed to the researcher's preconceived ideas of how the findings should flow. It is for this reason that an explorative methodological approach was found appropriate, as it emphasizes the generation of theory from data as opposed to testing theory through the data generated.

Exploratory research goes hand-in-hand with qualitative data collection methods. This research applies qualitative expert interviews as its source of data collection. As Liebscher notes: "Qualitative methods are appropriate when the phenomena under study are complex, are social in nature, and do not lend themselves to quantification" (1999, 668). The qualitative method captures

the intricacies of social life and "treats actions as part of holistic social process and context, rather than as something that can be studied in isolation." (Payne & Payne 2004, 176). Complementing the overarching explorative research approach of this study, the qualitative methods lends itself to the investigation of complex social phenomena, without predetermining or limiting the paths that such investigations follow.

1.5.2 Data Collection

As already mentioned, the primary source of data collection for this study has been done through literature and policy review, as well as qualitative expert interviews. These expert interviews were carried out as semi-structured *active interviews*. The active interview is an approach which considers the interview as a conversational journey through which the interviewer and the interviewee dialogically interpret and produce meaning. Charmas speaks of intense, active interviewing as a form of "in-depth exploration of a particular topic or experience" (2006, 25), that paves the way for interpretive inquiry. Semi-structured interviews are preconditioned to a more open interview-outline, which is guided by the general research interest, in contrast to more standardized forms of data collection. The role of the interviewer is to encourage the telling of experiences and sharing of observations by creating an interview environment that enables the production of a range and complexity of meaning (Fedyuk & Zentai 2018, 46). This research applies the method of expert interviewing in order to explore claimed expertise and observations on information not easily accessible through written sources. Participants were given basic details about the nature and method of this research (pre-interview), as well as an *Informed Consent and Confidentiality* form (*enclosed herewith as Appendix A).* Following the principle of an active interview, respondents had the freedom and flexibility to dwell upon experiences, observations and concepts that were most relevant to them, led by the researcher using a lose semi-structured interview guide (*enclosed herewith as Appendix B).* A conscious effort is made to limit the use follow-up questions, only applying them to seek clarification or emphasize certain points in the respondents' narratives. To ensure security and hygiene standards in the context of the global COVID-19 pandemic during the time of data collection, all interviews were conducted and recorded through the video-call software *ZOOM* which, despite its novelty and unfamiliarity, proved to be a practical alternative to traditional face-to-face interviews.

In terms of secondary data, this study turned to relevant studies, reports and academic articles, as well as the analysis of relevant South African and international policy. Even though specific studies

on the relations between xenophobia, the conditions of asylum and repatriation in a South African context do not exist yet, context-related secondary literature was utilized to provide a background to complement the primary source.

1.5.3 Sampling

This research employs a non-probability sampling strategy, including purposive and convenience sampling, with the aim of creating a sample that allows investigation of the research subject in-depth. Considering the limitations of time and the fact that the chosen research approach required lengthy and detailed technical interviews, a sample size of 5-10 respondents is chosen. A smaller sample size allows the researcher to focus on the quality and content of data being generated, instead of the quantity of data. Given the limited scope of this research, it is intended to include a wide range of experiences and perspectives between all respondents.

A purposive sampling approach requires this researcher to decide on the sample using their sound judgement. By choosing expert interviews as the method of data collection, the aim is to gather respondents from different sectors within the field of refugee protection in South Africa. It further aims to include academic researchers, practitioners and community leaders, in order to create a multi-perspective sampling pool. As part of the convenience sampling method, respondents for this research are identified through previously established social and professional networks. This was done by reaching out to old colleagues from the *Scalabrini Centre of Cape Town* and acquaintances and asking for recommendations for potential interview partners. This method proved to be successful, as half of the respondents of this study were identified via snowball sampling and did not have a previous relationship with the researcher. This research includes interviews with practitioners from five different organisations working within the field of refugee protection in South Africa: *ALPS Resilience, The Scalabrini Centre of Cape Town (SCCT), KWESU,* and *the Muslim Refugee Association of South Africa (MRASA).* In addition to those working directly with refugee and asylum-seeker communities, two researchers connected with the University of Cape Town (UCT) with expertise on issues of xenophobia and migration in a South African context, placed the issue within the broader context of academic debate. Seven out of the eight participants of this study were migrants or refugees themselves and would sometimes speak from personal experience in addition to their professional observations. From the researcher's perspective, this is a true reflection of practitioners and researchers working in the field of refugee protection in South

Africa, as most of them have a personal connection to migration or are themselves part of migrant communities.

1.5.4 Research Participants

The primary research findings of this study draw on the observations and experience of experts, researchers, practitioners in the field of refugee protection in South Africa. Ultimately, eight participants were identified to share their insights to inform this research. Refugee protection is a field with various dimensions, which touch on almost every level of social and economic life. The participant pool was carefully selected to reflect these realities. Participants were chosen based on their exposure, reputation and expertise regarding different issues within the field of refugee protection. Together the respondents represented five different African countries: DRC, South Africa, Uganda, Zambia and Zimbabwe.

The identities of participating respondents have been removed for the publication of this study.

Respondent A is the founder and director of KWEU, a community center and training facility for migrant women in the Parow suburb of Cape Town[14]. Originally coming to South Africa as a refugee from the DRC, **Respondent A** is well-known also as a motivational speaker and advocate for refugees' rights. **Respondent B** is a post-doctoral fellow at the Institute for Citizenship and Public Policy in Africa (IDCPPA) at UCT. Their research area focuses on forced migrant groups' access to social protection and issues of integration. For their PHD studies at the University of KwaZulu Natal, they conducted research on the experiences of Congolese refugees and asylum-seekers in Pietermaritzburg, KwaZulu Natal. **Respondent C** is a PHD candidate at UCT and an independent consultant for the UCT Violence and Safety Initiative's Social Cohesion Project. They hold extensive research experience in the field of forced migration and xenophobia in South Africa. Respondent C has been an expert advisor on issues of xenophobia at the South African Commission for Human Rights (SACHR) in 2015. **Respondent D** is a program officer at ALPS resilience[15], a Cape Town based non-profit organization working with different migrant communities nationwide. They have also done extensive research on issues regarding deportation

[14] For more information on KWESU: http://www.kwesu.org/ (20.07.2020)
[15] For more information on ALPS Resilience: https://www.alpsresilience.com/ (20.07.2020)

at Stellenbosch University. **Respondent E** is the Deputy Director of MRASA[16]. Coming to South Africa as a refugee from Uganda, Respondent E is a vivid spokesperson and advocate for the rights of refugees and asylum-seekers. Under their guidance, MRASA recently launched an anti-xenophobia program, aimed to raise awareness and provide education around issues of xenophobia.

This study collaborated with three staff members of SCCT[17]. SCCT is a non-profit organization, which aims to support migrants', refugees' and asylum-seekers' integration into South African society through a holistic approach. This includes programs targeting employment, legal support, female empowerment, youth programs, English language, counseling and social work. This study identified staff members from different areas of expertise to share their observations. **Respondent F** is a Women's Platform Personal Development (WP PD) portfolio manager at SCCT. The program aims to foster integration of migrant women into South African society. In a collaboration with UCT's student organization SHWACO, the WP PD portfolio provides regular free healthcare services for female migrants, asylum-seekers and refugees. **Respondent G** is the Employment Access Program Manager at SCCT. The program supports migrants, refugees and asylum-seekers in finding employment. **Respondent H,** originally from Zambia, is SCCT's Welfare Program Manager. They work on many projects facilitating refugee repatriation in collaboration with the International Organization of Migration (IOM). Most recently, **Respondent H** has been involved in developing SCCT's own repatriation program.

1.5.5 Analysis Strategy

Data Analysis is the process of bringing structure and meaning to gathered data (McMillan & Schumacher 2008, 45). While content analysis is mainly a process of analysing material and sourcing information as it relates to the topic under research (Maree 2007, 83), qualitative data analysis describes the efficient process of organising data into categories and identifying patterns and trends. During the primary source analysis, audio notes from the interviews were transcribed. The initial analysis included identification of categories through coding. Interview findings were then compared to previous responses to track variation across the data for each category. The identified thematic categories were namely: Refugee protection in South Africa, xenophobia in

[16] For more information on MRASA: http://www.mrasa.org.za/ (20.07.2020)

[17] For more information on the Scalabrini Centre of Cape Town: http://scalabrini.org.za (20.07.2020)

South Africa and refugee repatriation. To conclude the interviews, participants were asked about possible recommendations and outlooks on how to overcome the previously identified obstacles of refugee protection in South Africa, which was then analysed through a separate category and eventually picked up in the concluding chapter of this study. After the primary data was analysed and placed within their respective categories, secondary crafted data was employed to complement those findings and to connect this study's data to the broader existing body of research.

1.5.6 Ethics, Challenges and Limitations

Despite their benefits, every aspect of a chosen research methodology comes with its own limitations, which eventually influence quality and utility of the final research findings. It is therefore important to thoroughly investigate possible limitations prior to data collection and analysis, as well as reflecting on encountered challenges during post-analysis.

Initially, this study planned to work directly with refugees and asylum-seekers to obtain an insider's view of decision-making processes concerning repatriation. If done properly, incorporating refugee and asylum-seeker voices in research on forced migration issues can be a powerful tool to ensure the study's relevance and meaning (Jones 2019, 3). The researcher shares the view of many scholars in the field (Malkki 1994; Rajaram 2002), that the exclusion of refugees' and asylum-seekers' voices in research, advocacy and policy analysis reproduces the stereotype of the forced migrant as an agency-less, mute and depoliticised victim. However, as already mentioned this study had to make fundamental changes in its initial methodology, due to the global COVID-19 pandemic and the resulting *lockdown* of South African public live[18]. It had to be avoided to place any of the participants in danger or to violate any laws and regulations. It was thereby decided to avoid the participation of vulnerable populations and rather focus on the insights and observations of those working directly with them. Experts and practitioners were widely available through video calls, which proved to be a surprisingly practical alternative to face-to-face interviews.

Secondly, it cannot be denied that in the specific context of refugee repatriation, it would have been valuable to hear from those who have already gone through the process of repatriation to

[18] Al Jazeera (24.03.2020): South Africa brace for 21-day lockdown as virus cases rise, https://www.aljazeera.com/news/2020/03/south-africans-brace-21-day-lockdown-virus-cases-rise-200324073801136.html (20.08.2020)

achieve a holistic picture of the process. As mentioned before, the issue of repatriation is widely under-researched within the field of forced migration studies and especially in a South African context. The researcher is not aware of any study carrying out follow-ups on refugees who repatriated to their CoO from South Africa. Conducting this research, however, would exceed the already limited resources and time available to this study, but should be considered as a call for research.

1.6 Outline of the Study

This thesis is divided into seven main chapters. **The first chapter** provides an introduction into the topic, lays out background information, as well as the research rationale, aim, objective and the research question under examination. It also introduces the employed method for this research, including research methodology, chosen form of data collection; as well as sampling and analysis strategy. It further discusses limitation of this study and touch on ethical considerations. **Chapter two** provides background information on the issue of migration, refugee flows and systems of refugee protection in South Africa. **Chapter three** presents the issue of xenophobia in a South African context and provides an overview of the scholarly debate regarding this topic. **Chapter four** further introduces voluntary refugee repatriation as a durable solution for refugee situations. It will further discuss potential issues and shortcomings of the concept as introduced by the global refugee regime. **Chapter five** presents and discusses the findings of this research, obtained through expert interviews with researcher, practitioners and community leaders. **Chapter six** provides a comprehensive analysis on the interviews' findings and the information obtained through secondary literature review, to eventually respond to the research's aim to explore how South Africa's xenophobic atmosphere is influencing refugees' decisions to repatriate to their home countries. Finally, **chapter seven** concludes with further recommendations as stated by the study's participants on how to strengthen the system of refugee protection in South Africa and to ensure the principles of voluntary refugee repatriation are being uphold and respected.

2. How to become a Refugee- Refugee Flows and Systems of Protection in South Africa

While South Africa has opened itself to the rest of the African continent, the issue of migration remains a rather complicated topic. This mainly stems from the strict migration policies implemented under the Apartheid regime, especially the 1931 Alien Control Act, that widely restricted black migrants from African countries to legally enter South Africa (Handmaker & Parsley 2001, 4). It is only after the collapse of Apartheid in 1994, that the new South Africa shifted from regional isolation to open to migration (Vigneswaran 2008, 42). Democratic South Africa's progressive policies on asylum and refugee protection are attracting those fleeing violent conflicts in search for safety and aspirations for a better future (Landau 2006, 312). There are, however, concerns about a tightening of South Africa's liberal refugee protection system (Landau 2008; Schokaert et al. 2020). Observers like Crush et al. see South Africa slowly moving "in line with the exclusionary policies towards asylum-seekers and refugees seen in many other parts of the world" (2017, 1). The following chapter will take a closer look at the foundations of the South African protection regime. Secondly, it will investigate how South Africa's refugee protection policy is being implemented.

2.1 The Refugee and the Migrant

There are many terms to describe people who have left their homes and have crossed regional or international borders. The terms *migrant, refugee* and *asylum-seeker* are often employed to describe people on the move. There are many misconceptions around this terminology, and often these terms are used interchangeably (Hatton 2020, 75). Any work conducted within the field of forced migration, however, requires precise and accurate conceptualizations, as it is key to effective protection, advocacy and analysis (Turton 2006, 9)[19]. The term migrant is not universally conceptualized under international law, but commonly understood as a person who moves away from their place of usual residence for a variety of reasons, whether within or across international borders, both temporarily and permanently (IOM 2019, 2). Unlike in conditions of forced migration, general or economic migrants do not face any impediments to safely return to their home.

[19] Amnesty International (2018). Refugees, Asylum-Seekers and Migrants. https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/ (10.08.2020)

In contrast, forced migration is understood as a term in social science that encapsulates any type of involuntary movement (Turton 2006, 12). As this includes a great spectrum of movement, Nicholas Van Hear (1998) offers a model to visualize the different conditions of migration through a matrix, with one axis running from *voluntary* (defined by free choice, availability of options) to *involuntary* (lack of choice and options) migration. Along the second axis, he places five kinds of movement – inward, outward, return, onward and remain. The very *involuntary* end of the first axis is reserved for refugees, people who do not have any choice but to leave their homes. Similarly, the 1951 UN Convention on the Status of the Refugee Article 1 (2) defines a refugee as a person who:

> "[…] owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular group or political opinion, is outside their country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside of the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it." (United Nations 1951)

The 1951 Convention's definition of the term *refugee* forms the universal legal definition and has been ratified by most nations around the world, including South Africa. Translating the 1951 Convention into national law, the South African Refugee Act of 1998 defines a refugee as one "residing outside of his or her country of nationality, unable or unwilling to return due to well-founded fear of persecution on account of race, religion and nationality […]" (RSA 1998, 20). Through both international and South African definitions, a refugee, unlike an internally displaced person (IDP), therefor has to cross an international border to seek asylum in another country. To seek asylum under international law, it is required to submit a refugee application, stating the reasons for seeking protection, and undergo a refugee status determination (RSD). As long as this application is pending, the applicant legally remains an asylum-seeker. While RSD processes in the 1951 Convention-signature-countries must follow certain guidelines, RSD procedures may vary from the country of asylum.

In South Africa, RSD procedures are being conducted under the authority of the Department of Home Affairs (DHA), following the guidelines provided by the UNHCR Handbook on Procedure and Criteria for Determining Refugee Status (UNHCR 2019). The 1988 Refugee Act requires this adjudication to be carried out in a Refugee Reception Centre (RRC) by a trained Refugee Status Determination Officer (RSDO) (RSA 1998, 10). These officials must formally interview applicants

and eventually determine whether to grant or reject refugee status (Vigneswaran 2008, 43). The DHA has been repeatedly criticized for its slow and poorly executed RSD processes. It's failure to fulfill its procedural obligations has been well documented in numerous scholarly publications and NGO reports (Handmaker & Parsley 2007; Landau 2008; CoRMSA 2009; Crush et al. 2017; Amnesty International 2018; Schokaert et al. 2020). The high volume of applications in combination with a weak administrative system has resulted in immense RSD backlogs. Consequently, South Africa finds itself in the unique situation where the vast majority of those who are colloquially referred to as refugees, are in fact asylum-seekers waiting for their status to be adjudicated. With more than 184,000 pending cases in 2018, South Africa has one of the highest numbers of open asylum cases globally (UNHCR 2019, 6; Schockaert et al. 2020, 28). Crush et al. (2017, 5) even claim that South Africa's RSD process can be considered as one of the lengthiest in the world.

2.2 From *undesirables* to *unwanted:* Foundations and Developments of Refugee Migration in South Africa

It has already been mentioned that South Africa's readmission into the regional and global economy has also marked a fundamental turning point in its migration policy. Under the Apartheid regime, migration was regulated through a highly restrictive racial system, which Segatti (2011, 35) describes as a *two-gate* policy. The front gate welcomed a certain group of *desirable* white migrants, who did not constitute a threat to *European culture* (Vandeyar 2013, 448). The back gate, meanwhile, tolerated those who Segatti (2011, 36) describes as the *undesirables* - a limited number of black African migrants, who were allowed to enter the country to take up temporary work in the agricultural or mining sectors. This kind of back gate- migration was strictly monitored and deeply rooted in racist and discriminatory ideology (Handmaker 2001, 41), which Crush (1999, 1) describes as "characterized by corruption, racial double-standards and special privileges."

Since stepping out of regional isolation in 1994, South Africa has become a popular destination for migrants from the African continent (Modi 2003, 1759; Segatti 2011, 9; Isike & Isike 2012, 93; Crush et al. 2017, 5; Misago 2017, 40). According to Ngwenya, the attraction that South Africa has on migrants from the African continent "may be attributed to South Africa's economic strength on the continent" (Ngwenya 2010, 11). Since the end of Apartheid, South Africa has become the leading economic power in the region and the second biggest economy on the continent by gross

domestic product per capita (GDP)[20]*:* In 2018, South Africa's GDP stood at 51% of the Southern African Development Community (SADC)[21], accounting for 49% of the region's exports[22]. While its urbanization levels stagnated during Apartheid, South Africa's cities have grown immensely since the 1990s (Landau 2006, 61). The total number of legal entrants[23] into South Africa increased from 1 million in 1990 to over 11 million in 2010 (Crush & Williams 2010, 6). The exact number of immigrants in the population is surprisingly hard to establish and sources disagree. The 2011 Census reported that 4.2% of the population was foreign-born (StatsSA 2012, 40), while the 2017 Community Survey reports 2.8% (StatsSA 2018, 4). While some of these discrepancies reflect methodological differences between the census and the community survey, Ruedin (2019, 1109) also argues that there is an increasing tendency to hide one's nationality in a context where hostility towards foreigners occurs frequently.

Besides the influx of labor migration into South Africa, the new republic also developed a reputation as a safe haven for people fleeing from human rights abuses and violence. The country is often seen as a role model in upholding human rights on the continent, stemming from the legacy of Nelson Mandela. South Africa's shift to democracy, its perceived economic prosperity, relative political stability and its affirmation to ensure human rights, coupled with economic distress, conflicts and instabilities in many other African counties, eventually led to its transformation into a regional hotspot for asylum-seekers (Segatti 2011, 9; Vandeyar 2013, 447). In 2017, the majority of asylum applications (20 405) were logged by Zimbabwean nationals, followed by applicants from Ethiopia (10 176) and the DRC (8 029) (DHA 2017). In 2018, there were just over 89,000 officially recognized refugees residing within the South African territory, but at the same time there were over 218,000 pending asylum-seeker cases, cumulating the total number of people of concern to 309,342 (DHA 2019). Amnesty International, however, has raised significant doubts about the reliability of the official numbers on migration provided by the DHA (Amnesty International 2019, 8). These discrepancies include large and sudden fluctuations in

[20] As of 2020, South Africa's GDP is only succeeded by Nigeria. Current Data on Sub-Saharan Africa, as provided by the World Bank, can be found here: https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=ZG (20.07.2020)

[21] SADC countries include: Angola, Botswana, Comoros, Democratic Republic of the Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, Zimbabwe; For more information about SADC member states: https://www.sadc.int/member-states/ (20.07.2020)

[22] All percentages calculated based on the data provided by the SADC Elected Economic and Social Indicator Report 2018: https://www.sadc.int/files/6215/6630/2592/SADC_Selected_Indicators_2018.pdf (20.07.2020)

[23] This includes, besides regular migration and asylum-seekers, entries for the purpose of business visits, tourism and study.

refugee numbers and asylum-claims between 2013 and 2016. The lack of credible data makes it difficult to determine the actual number of pending asylum-claims and estimates have ranged from between 130,000[24] to 400,000[25]. Nevertheless, the data available indicates a sharp drop in approval rates for asylum claims, from 15% in 2011 to 4% in 2015 (Amnesty International 2019, 8). In comparison, the average global refugee recognition rate lies at 37% (Landau & Amit 2013, 540). In 2017, a low number of 479 asylum-seekers without family already residing in South Africa were granted asylum-status, while over 25,000 were rejected (DHA 2017, 30).

South African officials often assert that the country is overrun by migrants[26][27][28], while most statistics, prove this to be inaccurate[29]. Scholars claim that there is a general unwelcoming atmosphere towards migrants embedded into the South African political landscape, as well as a tendency to criminalize migration into South Africa (Danso &McDonald 2001, 176; Modi 2003, 1760, Landau 2006, 61; Claassen 2017, 3). In 2012, the African National Congress (ANC) published a policy document that claimed that 95% of asylum-claims in South Africa were fraudulently made by economic migrants and that these migrants pose physical and economic security threats (ANC 2012, 5). DHA has repeatedly claimed that the asylum system is primarily an avenue for economic migrants to fraudulently enter the country (Mbiyozo 2018, 6). Mbiyozo (2018, 6) argues that, while it is uncontested that some economic migrants are abusing the asylum system to legalize their stay in South Africa, the DHA routinely overstates this issue. The annual total of asylum applications only makes up a fraction of the total migrant population. Landau and Amit (2012, 541) add that these claims fail to acknowledge the asylum system's administrative

[24] Scalabrini Centre of Cape Town (20.03.2018): The Cape Town Refugee Reception Office closure case explained; https://scalabrini.org.za/news/the-cape-town-refugee-reception-office-closure-case-explained/ (20.07.2020)

[25] Africa Check (08.02.2018): Is South Africa home to more than a million asylum seekers? The numbers don't add up; https://africacheck.org/reports/south-africa-home-million-refugees-numbers-dont-add/ (20.07.2020)

[26] Africa Check (07.09.2017): Mayor's claim – undocumented foreigners make up 80% of Joburg inner city – 'absurd'; https://africacheck.org/reports/mayors-claim-80-joburg-inner-city-residents-undocumented-foreigners-absurd/ (20.07.2020)

[27] News24 (11.06.2018): Refugees must live in refugee camps – Lekota, https://www.news24.com/news24/southafrica/news/refugees-must-live-in-refugee-camps-lekota-20180711 (20.07.2020)

[28] Mail & Guardian (03.09.2019): Xenophobia and party politics in South Africa; https://mg.co.za/article/2019-09-03-00-xenophobia-and-party-politics-in-south-africa/ (20.07.2020)

[29] According to the 2011 Census an estimated 2.2 million people (4.2%) said they were born outside of South Africa. The 2019 mid-year Population Estimates Report estimates that the population of South Africa stands at 58.7 million, with a migrant population of just over 1.64 million (2.8%): https://www.statssa.gov.za/publications/P0302/P03022019.pdf (20.07.2020)

shortcomings or South Africa's weak immigration framework that does not provide regularized options for lower-skilled migrants. Crush et al. agree that there is no evidential basis for this claim and suggest that the asylum system is rather "under-resourced, staffed by small numbers of poorly trained officers and rife with corruption" (2017, 5).

2.3 Refugee Protection and Policy in post-Apartheid South Africa

After the end of the Apartheid regime, the new Republic of South Africa made conscious efforts to craft it laws and policies based on democratic values to bring it in line with international standards and regulations. In terms of refugee protection, the 1998 Refugee Act has set the foundation for South Africa's progressive asylum policies. The 1998 act provides the principle legislation governing refugee and asylum-seeker rights. At the same time, it sets out the state's obligations in relation to these rights (Amnesty International 2019, 9). The act translates international principles of refugee protection into domestic law and in some regards even exceeds international standards (Crush et al. 2017, 4; Landau & Amit 2012, 539). The act is a progressive piece of legislation, providing a holistic protection framework to refugees and asylum-seekers and has been celebrated by the former UNHCR chief Antonio Guterres in 2007 as "one of the most advanced and progressive systems of protection in the world[30]."

The 1998 Refugee Act symbolizes a stark and purposeful blend of international and domestic law (Mireku 2002, 413; Landau & Amit 2013, 535). South Africa's protection regime is guided by the 1951 UN Refugee Convention, which South Africa ratified in 1995. It also draws on the 1969 African Union Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1966 International Covenant on Civil and Political Rights (ICCPR) (Handmaker et al. 2001, 14). The 1998 act introduces a refugee protection system that is deeply rooted in values, norms and standards that aim to protect refugees' and asylum-seekers' human rights and dignity. The act is also underscored by the entrenched Bill of Rights in Chapter 2 of the South African 1996 constitution, which pledges to provide for "all who live in the country, regardless of citizenship, nationality or country of birth" (Mireku 2002, 400; Rugunanan & Smit 2011, 708). It makes generous allowances for freedom of movement, access to services and gives both, refugees and asylum-seekers, the right to work. Most notably, the act embraces free settlement over

[30] UNHCR (24.08.2007): UNHCR Chief commends Pretoria's refugee policy, pledges cooperation; https://www.unhcr.org/news/latest/2007/8/46cf10634/unhcr-chief-commends-pretorias-refugee-policy-pledges-cooperation.html (20.07.2020)

encampment (Landau & Amit 2012, 539). The act entitles refugees to apply for permanent residency after an uninterrupted residence of five years (Mireku 2002, 410). Handmaker (2007, 4) notes that South Africa "offers an interesting case of refugee protection policy put into place by a government staffed in large part by former refugees." Indeed, many of the members of South Africa's new democratic government formerly sought refuge in the same countries many refugees and asylum-seekers are departing from. Handmaker (2007, 4) further notes that this factor, as well as the involvement of civil rights organizations in the draft of the act, has contributed to a new perspective on issues of refugee protection. These circumstances laid the foundation for refugee protection legislation in South Africa to progress from already established refugee regimes. The draft of the act stemmed from a political and ideological view that permitted, but also expected, refugees to temporarily integrate themselves into South African society. In return, refugees would benefit from all rights, protection mechanisms and services granted to South African citizens by the constitution (Rugunanan & Smit 2011, 708).

In the decades following the enactment of the Refugee Act in 2000, the South African refugee protection regime has witnessed an increasing deterioration from the initial rights-based protection approach (Crush et al. 2017, 5). Studies investigating the experiences of refugees and asylum-seekers demonstrate how the implementation realities seem to be removed from the original ideals of the Refugee Act (Kavuro 2017; Schockaert et al. 2020). According to Landau and Amit, this largely has to do with "the degree of bureaucratic autonomy exercised by the Department of Home Affairs." (Landau & Amit 2014, 539). As South Africa chose to self-administrate asylum-claims as opposed to delegate responsibilities to international organizations, like the UNHCR, the DHA was deployed as the administrative body of South Africa's refugee regime (Vigneswaran 2008, 42; Schockaert et al. 2020, 28). Landau and Amit claim that DHA acts with *de facto* bureaucratic autonomy and the department's policy goals have therefor "increasingly diverged from a progressive legislation" (2014, 540). Initially after the implementation of the Refugee Act, DHA worked towards the expenditure of service provision by opening additional Refugee Reception Offices (RROs) in South Africa's main urban areas: Johannesburg, Pretoria, Cape Town, Durban, and Port Elizabeth. RROs' responsibility is to manage and oversee the asylum process by receiving applications, providing documentation, and assessing asylum claims (Amit 2012, 16). As demand grew, due to the increase of asylum applications, the department opened two additional offices in Pretoria and Mussina between 2008 and 2009. By 2011, however, DHA began reversing the trend of expanding their administrative capacities by initiating a series of office closures. Within one year the DHA closed three of its RROs in Johannesburg, Port Elizabeth and Cape Town. Asylum-

seekers residing in those areas were required to regularly take on long journeys to renew their asylum-seeker permits at the remaining RROs, while often facing significant delays (Landau & Amit 2014, 541, Schockaert et al. 2020, 28). Despite court orders to reopen the closed offices, the DHA has since failed to comply[31]. Observers accuse Refugee Status Determination Officers mishandling of asylum claims within the RROs, which are crumbling under chronic processing delays, as well as poor and ill-informed adjudications (Rugunanan & Smit 2011, 709; Amit 2012, 16; Landau & Amit 2014, 541; Schockaert et a. 2020, 28). The RSD process, as outlined in the Refugee Act, is operating on the basis of individualized assessments. The system, however, does not have the capacity to deal with the number of logged asylum applications. An overwhelming demand has created immense backlogs. These conditions have allowed corruption to flourish within South Africa's asylum system (Rugunanan & Smit 2011, 709; Amit 2015, 3), which according to Crush et al. "has become epidemic to the asylum process" (2017, 5). Landau and Amit argue that the department's *autonomy* in neglecting the principles laid out in the Refugee Act, is being facilitated by "a supportive public, a weak judiciary, and a general lack of government accountability" (2012, 542).

Responding to the overwhelmed asylum system, DHA has introduced several amendments to the 1998 Refugee Act. Instead of implementing reforms to deal with the shortcomings that have led to these unmanageable backlogs or devoting greater resources to improve the system's abilities, DHA instead chose to focus on greater immigration enforcement (Kavuro 2017. 5). Through the proposed amendments the department issued a variety of legal interpretations aimed at limiting access to the asylum system, further narrowing who qualifies as an asylum-seeker, and increasing the barriers to maintaining documentation for both asylum-seeker and recognized refugees Amit 2015). The 2016 Refugee amendment act was passed to parliament in March 2017 and is awaiting cabinet approval. Observers like Hobden[32] and Crush et al. (2017, 6) fear that those amendments

[31] Cape Argus (21.05.2019): Home Affairs 'in breach of court order' over Cape refugee reception centre; https://www.iol.co.za/capeargus/news/home-affairs-in-breach-of-court-order-over-cape-refugee-reception-centre-27014077 (20.07.2020)

[32] The Conversation (05.02.2020): South Africa takes fresh steps to restrict rights of refugees; https://theconversation.com/south-africa-takes-fresh-steps-to-restrict-rights-of-refugees- (20.07.2020)

will further limit refugees' and asylum-seekers' access to rights and services and decrease the quality of asylum in South Africa[33][34].

2.4 Theorizing the Urban Refugees of South Africa

Most countries on the African continent require refugees to live in designated camps or settlements, only allowing those with special permits to reside within urban areas alongside the local population (Jacobsen 2006, 274; Crush et al. 2017, 29). South Africa on the other hand, has opted not to restrict refugees' and asylum-seekers' right of movement and allow self-reliant settlement. The South African asylum system expects refugees and asylum-seekers to self-sufficiently integrate themselves into local communities, with little assistance by the government (Landau 2006, 308; Crush et al. 2017, 7; Schockaert et el. 2020, 28). As refugees and asylum-seekers in South Africa are not physically separated from citizens, they have direct interactions with locals, which holds the potential for integration, but also the risk for conflict (Crush et al. 2017, 8; Buscher 2018, 263).

In 2015, an estimated two-thirds of South Africa's total population lived in urban areas, making it one of the most urbanized countries on the African continent (Bakker et al. 2016, 6). Its process of urbanization, however, differs from other African countries. Since 1994, South Africa has experienced dramatic changes in human mobility, not only at their borders but also within the country (Landau 2006, 311). Under Apartheid's Group Areas Act (Act No 41 of 1950), the black South African population, as well as migrants, were severely restricted in its mobility and forbidden to settle within certain central areas (Landau 2006, 311; Bakker et al. 2016, 3). After apartheid-era laws were revoked and economic activity became increasingly concentrated within the country's larger cities, many South Africans left smaller secondary cities and moved to the country's urban centers. In 2018, the South African Department of Statistics (StatsSA) published a report recording an in-migration to urban Gauteng province of 1,4 million people between 2011 and 2016 and estimates another 1,5 million between 2016 and 2021. At the same time, the more rural Eastern

[33] Times (17.01.2020): SA's new refugee regulations could have been drafted by trump, says activist; https://www.timeslive.co.za/news/south-africa/2020-01-17-sas-new-refugee-regulations-could-have-been-drafted-by-trump-says-activist/ (20.07.2020)

[34] The Conversationist (15.12.2020): How South Africa has squeezed options for migrants over 25 years; https://theconversation.com/how-south-africa-has-squeezed-options-for-migrants-over-25-years-128257 (20.07.2020)

Cape recorded an out-migration of 490,000 people between 2011 and 2016. The report estimates the number of inhabitants in Gauteng to increase to 18 million by 2030 from 15 million in 2018 (StatsSA 2018, 16-17).

As elsewhere in the world, South Africa's migration patterns are characterized by distinct spatial dynamics. According to Hovhannisyan et al. (2018, 21), the Gauteng and Western Cape provinces have the greatest proportion of their population born outside of South Africa[35]. Both migration and displacement in South Africa have distinct urban dimensions. Many *newcomers* to South Africa, choose to settle within the country's urban areas (Hovhannisyan et al. 2018, 22). Balbo and Marconi (2005, 3) find that refugees and asylum-seekers prefer urban over rural areas, as they benefit from already existing social, ethnic or family networks, which often function as a form of support and protection when integrating themselves into their new environment.

Hovhannisyan et al. (2018, 22) suggest that those migrating to urban spaces were amongst the most *vulnerable* groups in South Africa. One common characteristic of larger cities in South Africa is "the degree of informality of shelter, services and economic livelihoods*"* (Crush et al. 2017, 28). Refugees and asylum-seekers settling in urban areas face hardships alongside local residents, including high rates of unemployment, poor service delivery, poverty, overcrowding, high crime rates, and drug and alcohol abuse (Hovhannisyan et al. 2018, 22). While these hardships are experienced by all South African urban residents, refugees and asylum-seekers often face additional barriers, as they are excluded from social and economic networks due to lingual and cultural barriers and exclusionary attitudes towards outsiders within South African society. Refugees and asylum-seekers therefore often find themselves in situations of competition over scarce resources with the local population (Landau 2006, 313; Buscher 2013, 21).

The term *vulnerability* is often employed without any conceptualization within the field of forced migration. Jacobsen (2006, 275) argues that to fully grasp the context of urban refugeehood, *vulnerability* must be further examined how it relates to the concept of *livelihoods*. Buscher states that vulnerability cannot be equaled with other forms of disadvantage like poverty but involves "a predictive quality […] a way of conceptualizing what may happen to an identifiable population under conditions of particular risks and hazards" (2013, 21). Jacobsen therefor observes, that refugees and asylum-seekers residing in urban areas must be considered as especially exposed to

[35] These numbers are based on the 2011 South African census which did not distinguish between people born outside of South Africa based on their migration status.

vulnerabilities, predominantly "determined by the laws and policies of host governments and by the way these policies are implemented; the public and private institutions devoted to supporting and managing refugees, and the dominant public ethos towards refugees" (2006, 278). Jacobsen further suggests integrating the concept of vulnerability within the greater framework of sustaining *livelihoods*. Chambers and Conway define livelihoods as "the capabilities and activities required for a means of living" (1992, 1). Collinson argues that there is a distinct relation between one's ability to self-sustain their livelihoods and the issue of vulnerability: "Different social groups within a community population typically experience differing risk factors in their livelihoods, and people's ability to exercise choices may be constrained by social and governance factors that are not immediate obvious" (2003, 12). To fully examine any kind of vulnerability that might be influencing the self-provision of livelihoods, Collinson (2003, 12) suggests that any case must be investigated through a micro-level (meaning the *on-the-ground* experience) and then brought to the macro-level (relevant policies), historical context or societal conditions. Buscher (2013, 22) argues that urban refugees' and asylum-seekers' exposure to vulnerabilities have significant consequences on their self-reliance.

3. The Rise of Xenophobia – A Selection of Issues of South Africa's Present and Past

This study has touched on some of the barriers that refugees and asylum-seekers are facing when settling in South Africa. This next chapter will specifically discuss the most prominent of these challenges. South Africa has the unfortunate reputation as one of the more hostile destinations in the world for African migrants (Moagi et al. 2018, 196; Masikane et al. 2020, 5). Xenophobic attacks took place in May 2008, killing 62 and making international headlines[36]. Another wave of attacks occurred in April 2015, leading to an outcry across Africa, and the recall of the Nigerian ambassador[37]. The latest incidents of widespread xenophobic violence ended with a six-month sit-in protest of refugees and asylum-seekers in Cape Town, as outlined in the introduction of this study. For Francis Nyamnjoh, this recurring xenophobic violence is "at odds with South Africa's rhetoric of inclusivity and human rights"[38]. While the root causes of xenophobia in South Africa are complex, multi-layered and not the primary object of this study, it is essential to understand the meaning and dimensions of xenophobia in South Africa, to fully grasp its influence of the quality of asylum in the country. This chapter will present xenophobia in a South African context as a multi-faceted phenomenon that may surface in both episodic violence and covert, institutional manifestations. Firstly, this chapter will provide an overview of the current scholarly debate around xenophobia and xenophobic violence in South Africa. Secondly, it will present a contextual background and brief account of the dimensions of xenophobia in post-apartheid South Africa. This background is essential to adequately evaluate the current state of asylum in South Africa. It must be noted, however, that this work does not seek to find or further investigate the root causes of persistent xenophobic sentiments in South African society, as this has been done in great detail elsewhere[39].

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36 New York Times (20.05.2008): South African take out Rage on Immigrants; https://www.nytimes.com/2008/05/20/world/africa/20safrica.html (20.07.2020)

37 Times (25.04.2015): Xenophobia: Nigeria recalls envoys to South Africa; https://www.premiumtimesng.com/news/top-news/182083-xenophobia-nigeria-recalls-envoys-to-south-africa.html (20.07.2020)

38 University of Cape Town Newsroom (17.04.2015): *Xenophobia at odds with 'rhetoric of inclusivity and human rights'*; https://www.news.uct.ac.za/article/-2015-04-17-xenophobia-at-odds-with-sa-rhetoric-of-inclusivity-and-human-rights (20.07.2020)

39 For an extensive analysis on this issue see for example: Nyamnjoh, F. (2006): *Insiders and Outsiders: Citizenship and Xenophobia in Contemporary South Africa,* New York: Zed Books; or Landau, L. (ed.) (2012): *Exorcising the Demons Within: Xenophobia, Violence and Statecraft in Contemporary South Africa*, New York: United Press.

3.1 What is Xenophobia?

Despite its frequent usage, xenophobia is actually a quite ambiguous term in academic debates. The interchangeable or complementary usage of related terms such as nativism, racism, immigrant-phobia or ethno-exclusion further demonstrates this conceptual vagueness (Misago et al. 2015, 16; Crush & Ramachandran 2009, 5). Simply put, Xenophobia is defined as the fear, dislike or hatred of foreigners or outsiders (Crush & Ramachandran 2009, 5). It is encompassed by ethno-linguistic and cultural identifiers that form the basis of distrust and suspicion of *the other* (Nyamnjoh 2006, 5). Berezin describes xenophobia as the "fear of difference embodied in persons or groups" (2006, 274). For Nyamnjoh xenophobia begins with the "intense dislike, hatred or fear of others" (2006, 5). Others such as Stolcke (1999) disagree with this definition and only recognize xenophobia as it manifests itself as the visibly physical hostility towards foreigners or outsiders. Misago et al. connect these approaches when they state that xenophobia is "inevitable one of the determinations of xenophobic violence" (2015, 17). Harris argues similarly, stating that "xenophobia is a term that cannot be separated from violence and physical abuse since it is not only an attitude, but also an activity. It is not just a dislike of foreigners, but an attitude that extends to violent practices that may result in bodily harm and damage" (2002, 2). Misago et al. (2015, 18), however, comment that it is essential to differentiate between xenophobia and xenophobic violence. Drawing from the example of South Africa, they argue that while many foreigners have not (and might never) experience physical xenophobic violence directed towards them, structural and institutional xenophobia, as well as incidents of stereotyping and every-day discriminations are still felt by a great number of foreigners in South Africa. Besides the varying conceptualizations, different approaches towards xenophobia are unified by the general recognition that the core aspect of xenophobia is defined through attitudes, prejudices and behaviors that reject, exclude and demean a person or group based on their perceived outsider status to a certain community (Adjail & Lazaridis 2013; Sundstrom & Kim 2014; Moagi et al. 2018). The UN 2001 Durban Declaration recognizes xenophobia, as well as racism, racial discrimination and other related acts of intolerance as a violation of human dignity (UNOC 2009).

Xenophobia involves essentialized stereotypes about in- and out-groups, which consequences are reflective in daily interactions (Baker et al. 2018). Sebola (2017, 90) observes that xenophobia has its roots in racial, ethnic, gender or geographical affiliations in contexts of real or imaginary scarcity of resources or insecurities over safety. Any human social attribute can become a factor to be grouped as an *insider* or *outsider*. Hostility and violence toward out-groups can be triggered by economic deprivation or poverty (Claasen 2017, 8). Poverty and competition over resources are

often linked to aggression towards outgroups using the mechanism of scapegoating. This framework argues that poverty produces frustration and consequently aggression, with this aggression then directed towards some innocent and vulnerable out-group. In the face of competition over resources and real or perceived danger, xenophobia can result in hate and physical violence by *in-group* members against *out-group*s (Sundstrom & Kim 2014; Claasen 2017, 8; Moagi et al. 2018, 196).

3.2 Scholarly Debates around Xenophobia in South Africa

Xenophobia is a global phenomenon which can be found in the global north just as in the global south. It has, however, taken on a unique form in the South African context (Harris 2002, 15). As elsewhere, xenophobia in South Africa manifests itself through a spectrum of behaviors: Stereotyping, discriminatory remarks, exclusion from public services, selective enforcement of by-laws by local authorities, as well as assault and harassment by migration officials. What is unique to the South African context is the extent of xenophobic threats and violence, that at times, results in loss of lives and livelihoods of *outsiders* of society (Misago et al. 2015, 17). There is an extensive body of literature and research reports that explain the causal factors of xenophobia in South Africa and propose measures to prevent its occurrence or at least mitigate its effects[40]. This sub-chapter will briefly introduce the most popular hypotheses on the issue.

Crush claims that there is a "distinct aversion to Africans from elsewhere on the continent" (Crush 2000, 112) embedded into South African society and its political landscape. Indeed, observers claim that since 1994, migrants from the African continent have received a hostile reception by South African citizens, the media and public officials, while tens of thousands have been harassed, attacked, killed or displaced in xenophobic riots all over South Africa (Nyamnjoh 2010, 66; Misago 2016, 444; Misago & Mlilo 2019, 2).

Arguably the most remarkable feature of xenophobia in South Africa is that it appears to have taken on a primarily racial form (Matshine 2011, 295; Umezurike &Isike 2013, 53; Ruedin 2020,

[40] See for example a comparative study on the issue, including the case of South Africa: Farmbry, K (2019): *Migration and Xenophobia: A Three Country Exploration*. Lexington Books; or for policy recommendations: Misago, J.; Freemantle, I. and Landau, L. (2015). *Protection from Xenophobia. An Evaluation of UNHCR's Regional Office for Southern Africa's Xenophobia Related Programmes*. Johannesburg: The African Centre for Migration and Society University of Witwatersrand.

1111). Isike and Isike (2012, 95) utilize what they call *the ideology of Makwerekwere*[41] as a theoretical framework for explaining *being, belonging,* and *non-belonging* in South Africa. They argue that white foreigners are perceived and accepted as tourists or *investors* who have everything positive to offer to South Africa, while black African migrants are perceived and rejected as *Makwerekweres* who are accompanied by insecurities, crime and diseases. Stereotypes of the *uncultured* migrant from *poor* Africa who *floods* into the country *to steal jobs* are persistent within large parts of South African society (Neocosmos 2009, 590; Isike & Isike 2012, 96). Umezurike & Isike argue that violent attacks on African foreigners are not rare in South Africa's society, because in the eyes of the locals "African foreigners are jobseekers, women takers, diseases, and a threat to their livelihoods" (2013, 55). This stereotype informs the local behaviors towards African migrants, refugees, asylum-seekers and other perceived *outsiders*. Nyamnjoh (2010, 66) further notes that the narrative of the *Makwerekwere* establishes boundaries between South Africans as *deserving citizens* and African migrants as *undeserving outsiders*.

a. The Scapegoat Theory

The scapegoat theory is a popular hypothesis that has largely emerged from sociological theory. Scapegoating is generally defined as attributing blame for a negative outcome to a target individual or group (Rothschild et al. 2012, 1150). In the context of xenophobia, the scapegoat theory explains hostility towards outsiders in relation to limited resources, coupled with high expectations during transitional times (Harris 2002, 3). While scapegoating can be witnessed in many parts of the world, Tshitereke (1994, 4) argues it is especially relevant in the context of post-apartheid South Africa:

> "In the post-apartheid epoch, while people's expectations have been heightened, a realization that delivery is not immediate has meant that discontent and indignation are at their peak. People are more conscious of their deprivation than ever before […]. This is the ideal situation for a phenomenon like xenophobia to take root and flourish. South Africa's political transition to democracy has exposed the unequal distribution of resources and wealth in the country."

[41] *Makwerekwere* is a derogative neologism for foreigners from the African continent used by South Africans to ridicule other African languages. The word is supposedly onomatopoeic, claiming to only hear *kwere kwere* when African migrants speak their native language. Nyamnjoh defines *makwerekwere* as "*those incapables of articulating local languages that epitomes economic success and power"* (2010, 65).

Tshitereke further notes that "people often create a 'frustration-scapegoat'" (1994, 4). With discontent present within large parts of the society, outsiders are likely to become such scapegoats and be blamed for ongoing deprivation and poverty (Harris 2002, 4). Morris adds that "if a majority group is in a perilous economic position, they are most likely to feel threatened by minorities, especially if they are foreign" (1998, 1125). De la Rey (1994, 41) further introduces a psychological perspective to supplement these sociological interpretations:

> "[…] a key psychological factor in generating social unrest is a sense of relative deprivation. This arises from a subjective feeling of discontent based on the belief that one is getting less than one feels entitled to. When there is a gap between aspiration and reality, social discontent is likely to result."

Valji (2003, 15) observes that after the collapse of the apartheid regime, there were hopeful expectations of the *new South Africa*. It was further widely expected that previously marginalized communities would experience a general increase in their quality of life. However, even decades into the new democratic society, basic resources and services were still lacking for a grand part of South African society (Farmbry 2019, 20). Harris therefore argues that "the minority group of foreigners and refugees has become the scapegoat, blamed for social ills and frustrations from those who perceive the 'invasion' as limiting their gain" (2002, 3). The increased perception that migrants are responsible for a variety of social ills has led to them becoming the target of abuse by South African citizens, government officials and the local media (Nyamnjoh 2010, 67). It has become a frequent occurrence in South Africa's political landscape to scapegoat migrants in order to detract attention from government's responsibility regarding institutional and structural problems, such as income inequality, corruption, crime and poverty (Hiropoulos 2020, 107). For Neocosmos "xenophobia in South Africa is a direct effect of a particular kind of politics" (2006, 4). Nyamnjoh (2006, 17) argues that xenophobia in South Africa develops from an *obsession of belonging*, incited by national politics.

b. <u>The Isolation Theory</u>

While the scapegoat theory explains how outsiders of the mainstream society are being transformed into *frustration-scapegoats,* the theory does not examine why foreigners in particular are being chosen to be blamed for social ills. Xenophobia in South Africa and elsewhere cannot be seen as sudden eruptions committed by singular criminals, but rather because of a persistent mindset in the midst of society (Harris 2002, 5). The isolation theory argues that South Africa's

history of self-isolation from the African continent has contributed to widespread hostilities towards *outsiders*, in particular migrants, refugees and asylum-seekers. Harris therefor describes xenophobia in South Africa "as a consequence of South Africa's seclusion from the international community during Apartheid" (2002, 4). Landau agrees that "South Africa's long history of racial politics and stratification has had an important, yet difficult to quantify, effect on how citizens perceive non-nationals" (2005, 8). Isolated from the rest of the continent, many South Africans turned inwards, and parts of society developed inabilities to tolerate or accept difference (Valji 2003, 17), as Morris states: "There is little doubt that the brutal environment created by apartheid, with its enormous emphasis on boundary maintenance, has also impacted people's inability to be tolerant to difference" (1998, 1130). The isolation theory argues, that the interface between the previously isolated and the unknown *outsiders* eventually created room for hostilities to grow (Morris 1998; Harris 2002).

c. The Bio-Cultural Theory

In combination, isolation- and scapegoat theory form a general explanation on how xenophobia was able to widely manifest itself in South African society. Foreigners are being *othered* and used as scapegoats for social ills, which contributes to an atmosphere of hostility and in some cases, incites physical violence. In both theories the *outsiders* are being treated as a homogeneous category. The bio-cultural theory, however, argues that not all migrants in South Africa experience xenophobia equally. It has already been mentioned that xenophobia is mostly directed towards black migrants from the African continent. Nyamnjoh (2010, 66) argues that even within *outsider* groups, there are further distinctions. Some nationalities or ethnic groups seem to be more vulnerable than others. The Bio-Cultural theory locates xenophobia at the level of physical, lingual or cultural visible difference (Vandeyar 2013, 449). According to this theory, some groups are easier to be identified as *outsiders*, "because of their physical features, their clothing style, accents and the inability to speak any of the indigenous languages" (Morris 1998, 1125).

Nyamnjoh (2010, 68) observes that much of South Africa's post-apartheid transformation was also based upon appearances. For him, xenophobia in South Africa is "racist and ethnic in its application. Victims are predominantly black, and they are targeted for their very blackness by a society where skin color has always served as an excuse for whole catalogues of discriminatory policies and practices" (2010, 67). Dark-skinned refugees and asylum-seekers with distinctive features, indicating they come from *far away countries* are especially targeted by exclusionary behaviors (Buillon 2001, 35; Nyamnjoh 2010, 67). Individuals are often assumed to be outsiders

on the basis that they *look foreign* or are *too dark* to belong to South Africa (Nyamnjoh 2010, 67). "Police are supposedly able to identify foreign Africans by their accents, hairstyles or dressing styles or, in the case of Mozambicans, vaccination scars on the left front arm" (Bouillon 2001, 38). In addition, Boullion observes that for francophone African migrants, language seems to be a particular stressor. "They feel hostility in the way people react when their inability to speak any South African African language becomes obvious." (Boullion 2001, 10).

3.3 Dimensions of Xenophobia in post-apartheid South Africa

Since the 1990s, studies have given evidence of strong negative sentiments and hostility towards foreigners amongst the South African public and government officials. After examining various statistics on a national and international level, Misago et al. conclude that "there is strong evidence that South Africans are generally uncomfortable with the presence of Black and Asian non-national in the country" (2015, 18). It is fair to say that "anti-immigrant sentiment is not only strong; it is extremely widespread and cuts across virtually every socio-economic and demographic group" (Danso & McDonald 2006, 38). The *Afrobarometer*[42] has been tracking public attitudes towards foreigners residing in South Africa since 2008. In 2020, the *Afrobarometer* released a survey stating that 29% of South Africans said they would dislike having immigrants as neighbors, which according to *Afrobarometer,* is one of the highest levels of intolerance towards foreigners among the 34 African countries they have surveyed. Close to half (48%) of South Africans disagree with the idea that the country should allow people who are persecuted for political reasons to seek asylum in South Africa. Similarly, almost half (48%) of South Africans agree that placing refugees in camps is a good way for managing the influx of people in the country. The majority of respondents (62%) were under the impression that the South African government is managing immigration badly (Dryding 2020, 2). Nyamnjoh similarly observes, that there is a number of South Africans who feel strongly that refugees and asylum-seekers "should remain in their own countries and try to sort out the problems of these respective countries rather than fleeing them" (2010, 66).

[42] *Afrobarometer* is a non-partisan, pan-African research institution conducting public attitude surveys on democracy, governance, the economy and society in more than 30 countries on the African continent. For more information visit www.afrobarometer.org (20.07.2020)

As mentioned above, in the South African context these kinds of rejecting attitudes can at times translate into physical violence. Xenophobia in South Africa manifests itself in various forms, ranging from everyday street-level abuse to discriminatory behaviors by authorities, to spells of violence in varying intensity and scale (Crush 2008; Landau et al. 2004; Dodson 2010, 15). The first violent outbreaks of xenophobia can be traced back to as early as a few months after South Africa's first democratic elections in 1994 (Duponchel 2009, 4). Since then, waves of xenophobic violence have regularly reoccurred every few years.

The climax of xenophobic violence in South Africa could be witnessed in a series of riots in 2008, which are widely referred to as the *2008 attacks* in literature. These attacks started in Alexandra, Gauteng on the night of 11 May and lasted four more nights before SAPS managed to contain it. It then spread to other townships and informal settlement, mainly in Gauteng, but also in Mpumalanga, KwaZulu Natal and the Eastern- and Western Cape[43]. By 30 May, when attacks finally ceased, 62 people had been killed, hundreds had been injured, and tens of thousands had been displaced (Hayem 2013, 78). Many migrants, especially from regional and neighboring countries, such as Malawi and Mozambique, fled the country[44]. But most asylum-seekers and refugees were not in a position to easily return to their home countries (Hayem 2013, 79). Even though the scope of the 2008 riots has never been repeated, violence against foreigners was not put to an end in June 2008. More than 10 years later, violent hostilities towards outsiders remain a serious risk for migrants, refugees and asylum-seekers in South Africa. From 1994 to 2018, *Xenowatch* recorded 529 acts of xenophobic violence, that lead to 309 deaths, 901 physical assaults, lootings of 2193 foreign-owned businesses and over 100 000 displaced persons (Misago & Silindile 2019, 2).

Gordon (2016, 499) accuses the South African government of *denialism* when approaching the issue of xenophobia. Flockerman et al. suggest that the tragic element of the "ordinariness of the everyday experience of xenophobia" is that it "also suggests complicity, involving both those who are subjected to the situation and those who do nothing to change it" (2010, 247). Former South

[43] For a detailed account of the riots and their geography see: Bekker, S. (2010): Explaining Violence against Foreigners and Strangers in Urban South Africa: Outbursts during May and June 2008; in Yusus, A. (ed), *African Yearbook of International Law*, pp. 125-49; and: Momson, T. & Arian, R. (2012): A Critical Reconstruction of the May 2008 Violence; in: Landau l. (ed.), *Exorcising the Demons within: Xenophobia, Violence and Statecraft in Contemporary South Africa*; Johannesburg: Wits University Press, pp. 26-55.

[44] New York Times (25.03.2008): Immigrants fleeing Fury of South African Mobs; https://www.nytimes.com/2008/05/23/world/africa/23safrica.html (20.07.2020)

African president, Thabo Mbeki, refused to acknowledge the 2008 attacks as a reflection of wider xenophobic tensions in the country, but rather an issue of community-based violence stemming from frustration due to economic uncertainty (Farmby 2019, 58). The passivity of South African authorities in combatting xenophobia further extends to the government's lack of efforts to punish perpetrators of anti-immigrant violence. Landau (2010) argues that an atmosphere of impunity prevails regarding the issue of xenophobic violence. Indeed, under the influence of public leaders, many of those who were arrested for their participation in the 2008 xenophobic riots were later released without charges (Hayem 2013, 89).

In the context of refugee protection, Misago et al. (2015, 14) argue that the multi-dimensionality of xenophobia in South Africa affects the quality of asylum and diminishes the government's protection mandate under the 1998 Refugee Act. The embedded hostility and dislike towards African migrants, refugees and asylum-seekers within South African society actively works against temporary local integration, as well as the South African refugee regime's aspired form of protection for refugees and asylum-seekers.

4. The Solution of Repatriation

So far, this work has highlighted the complexities and multi-dimensionality of refugee protection. The case study of South Africa demonstrates how well-meant policies, implemented to protect refugees and asylum-seekers, can reveal severe protection issues through inadequate implementation, even if they are modelled by international refugee protection standards. Such international norms and standards are set by the international refugee regimes. The international refugee regime is the collection of conventions, treaties, inter-governmental and non-governmental agencies, which the international community has adopted to protect and assist those forcefully displaced from their CoO. National governments are expected to converge to the standards of the regime and certain international agencies, like the UNHCR, are mandated to align with host governments to realize these norms (Betts & Milner 2019, 1). On the one hand, the regime includes international documents defining the principles of refugee protection, such as the 1951 Refugee Convention or the Conclusions on International Protection from the UNHCR Executive Committee (better known as ExCom Conclusions). There are also regional instruments, such as the 1969 OAU Refugee Convention. Although not formally binding, these policies and conventions are relevant to the interpretation of the principles guiding the international protection regime and forming its character (Crisp 2019, 20). The regime envisions to provide a framework to provide temporary protection to those who were forced to flee violence, abuse or persecution, until they can return to their CoO; gain permanent residency in the CoA; or be resettled to a third country. Over the past decades, refugee repatriation, meaning the voluntary return to refugees' CoO., has become the regimes' most desired solution for refugee situations. The UNHCR even declared the 1990s the *decade of voluntary repatriation*[45]. This chapter will present principles and concepts relating to voluntary repatriation as a durable solution for refugee situations. It will further investigate the underlying assumptions these concepts developed from and provide an overview on scholarly debates regarding key principles of the international refugee regime's repatriation framework.

[45] This statement was made by then-United Nations High Commissioner for Refugees Sadako Ogata in 1992. Find the full speech at the International Management Symposium in St. Gallen, Switzerland here: https://www.unhcr.org/admin/hcspeeches/3ae68faec/statement-mrs-sadako-ogata-united-nations-high-commissioner-refugees-international.html (10.08.2020)

4.1 The International Refugee Regime's Framework for Durable Solutions

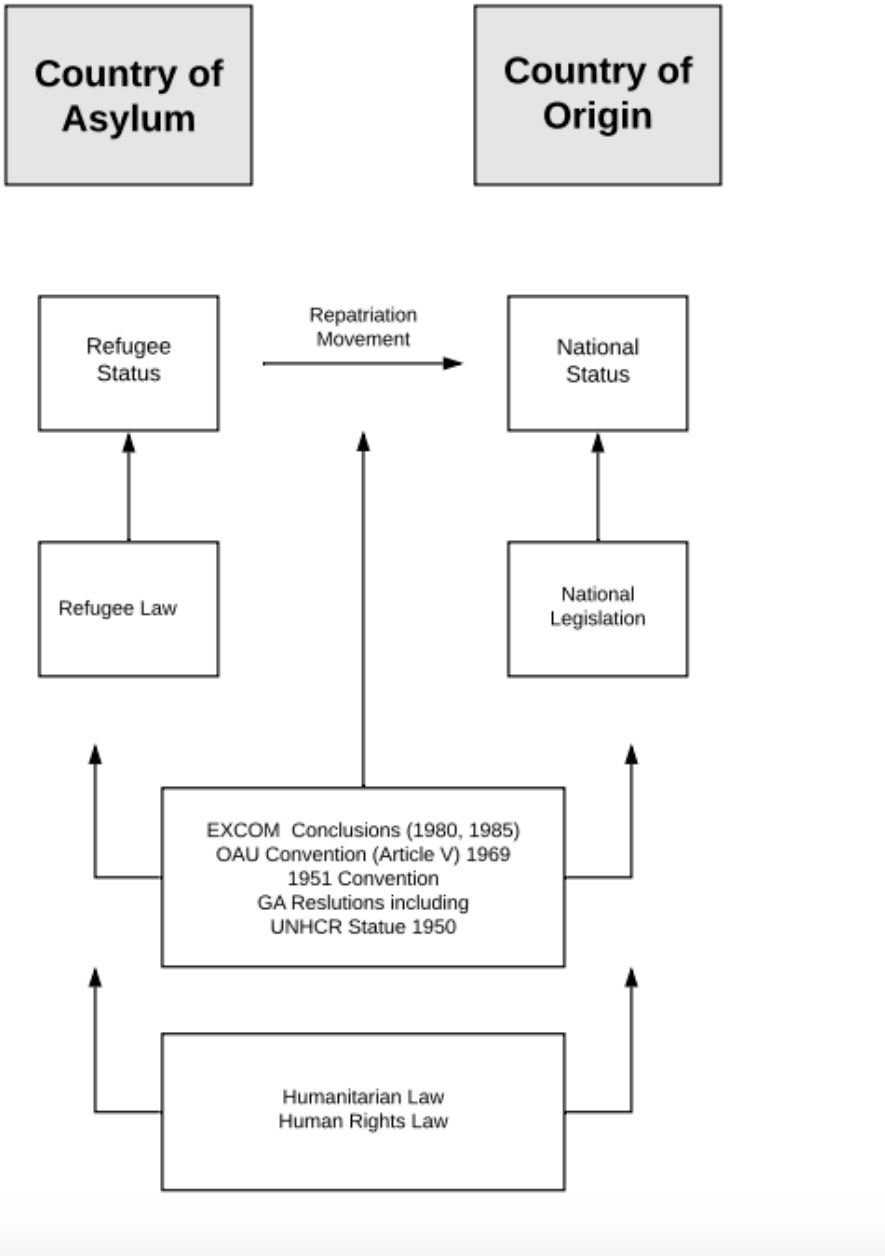
As already mentioned, the international refugee regime names three durable solutions to address refugee situations: Local integration into the CoA; Resettlement to a third country; and voluntary repatriation to the CoO. These durable solutions are a key component of the refugee regime. They are instrumental for assisting refugees and asylum-seekers in accessing their rights to protection and are considered as the only options available for the permanent resolution of the *refugee cycle* (Long 2004, 129). The relative priority awarded to each of the three durable solutions, however, has changed over time. Takahashi (1997, 594) argues that the international refugee regime's preference towards a certain durable solution can in no way be describes as static and external influences often lead to paradigm shifts. During the Cold War and the national liberation struggles of the 1960s and 1970s, those who fled communist regimes were granted refugee status in western nations under the assumption that repatriation was not an option (Long 2004, 129). Resettlement and local integration were thereby regarded as the most viable and strategically desirable durable solutions. With the decrease of communist regimes and colonialism, repatriation became a more attractive option. Furthermore, the increase in migration from poor to rich countries since the 1980s and the frowning association of refugees with economic migrants escaping poverty, have contributed to the reluctance of wealthy nations to offer resettlement or local integration as a solution for forcibly displaced populations. Governments of the global north have implemented increasingly restrictive asylum-policies to ensure that "the growing global refugee population did not flood their borders" (Chimni 1999, 52). McDonald argues that this shift away from promoting third country resettlement as a preferred durable solution "was largely based on the grounds that African refugees were at present migrating to the Western world in huge numbers, while simultaneously, Western societies were unwilling to accommodate different ethno-racial and socio-cultural traditions of refugees" (2002, 51). As for states in the global south, in the context of economic adjustment and advancing democratization, many have been less willing to support local integration of refugees (Long 2004, 139). By the end of 2018, 70.8 million people were forcibly displaced on a global scale as a result of persecution, conflict or human rights violations. 25.9 Million of those were refugees, as IDPs make up the most of displaced populations. 81 300 refugees were resettled to a third country in 2018. That is 0.3% of the global refugee population. At the same time, only 11% repatriated to their home country (UNHCR 2019, 3). These number raise questions about the general sustainability of durable solutions, as most of refugee populations are left without any option to escape their situation.

Since the 1990s, repatriation is regarded as the most desirable durable solution for refugee situations by the international refugee regime (Crisp 2002, 3; McDonald 2002, 50; Dryden-Peterson & Hovil 2004, 27). As envisioned by the UNHCR, the 1990s became the decade of repatriation: between 1990 and 2000 more than 10 million refugees returned to their homes (Long & Crisp 2016, 144). At the same time, returns under pressure from host governments, particularly the 1996 return of Rwandan refugees hosted by Zaire (now the DRC) and Tanzania[46], have raised question about the degree of voluntariness and the role of compulsion in *imposed return* (Long 2004, 130). The question remains how the principle of *voluntariness* can be upheld as the international refugee regime shifts their CRC policy from case-to-case to generally applied solutions (Toft 2007, 147).

[46] For a full investigation of the events in 1996 please see: Boutrue, J. (1998): *Missed Opportunities: The Role of the International Community in the Return of the Rwandan Refugee from Eastern Zaire, July 1994 – December 1996*. Rosemarie Rogers Working Paper Series 1, Inter-University Committee on International Migration.

4.2 Structure of the Legal Refugee Repatriation Framework

Simply put, refugee repatriation is defined as the return of refugee to their CoO from the state where they have been seeking asylum (Bakewell 1996, 43). Under the international refugee protection framework, refugee repatriation amounts to a movement from refugee status in the CoA to national / citizenship status in the CoO. Both refugee status and national status, as well as the movement from one to the other are conditioned by a number of specific legal directives, defined by different international and regional policies and legislations as illustrated below[47]:



[47] Diagram created by the author

4.3 The Concept of Voluntary Repatriation and the Conditions of Just Return

As presented above, refugee repatriation defines the process of forcibly displaced people returning to their CoO from a CoA. Policies and guidelines of the international refugee regime often equate repatriation with the notion of *going home*. This concept derives from the idea of the *patria*, meaning a home or primary identity (Hammond 1999, 230; Long 2013, 28). The concept of repatriation therefore encapsulates *home* as the known: Language, culture and, to a certain extent, the right to citizenship and land (Bradley 2013, 22). Once refugees have crossed the international boarder to their CoO, the repatriation process is considered completed and the refugee legally transforms into a returnee. The refugee status, however, only comes to an end if the return amounts to re-establishment in the CoO. Simply put, the refugee only loses its status once a durable, ongoing presence in their home country can be established. Up to that point, the refugee is legally entitled to return to the CoA and again request protection (Hathaway 2004, 5).

While the global refugee regime allows refugees to return to their CoO at any time, multiple policies also define under what conditions repatriation operations have to be conducted, in order for the repatriation to be considered *voluntary* and *just*. First of all, the regime emphasizes the importance of the principle of *voluntariness*. Article 5 of the 1969 OAU Refugee Convention for example states that "the essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will"; in other words: refugees cannot be forced to return to their CoO and any decision about repatriation must be made freely. The 1996 UNHCR Voluntary Refugee Repatriation Handbook similarly emphasizes the principle of *voluntariness*, defining it as "the absence of psychological or material pressure […] which push the refugee to repatriate". Secondly, the UNHCR Discussion Note on Protection Aspects of Voluntary Repatriation states that repatriations must be "carried out under conditions of safety and dignity". This means refugees must be able to return at their own pace, without being separated from family members and, as the handbook further states, be "treated with respect and full acceptance by the national authorities". Lastly, the international refugee regime agreed that UNHCR, as the acting body of the regime, must only actively promote and encourage return in situation where the situation in the CoO has fundamentally changed. This would normally be signified by, for example, a change in government, the presence of a UN peacebuilding operation or the restoration of the rule of law (Long & Crisp 2016, 143).

There is a general lack of theoretical instruments on how to evaluate if a repatriation can be classified as *voluntary* and *just* under the conditions described above. Toft (2007, 147) offers a comprehensive two-axis model to determine the character of repatriation movements. Firstly, the level of *voluntariness* needs to be assessed. Secondly, it needs to be investigated whether the repatriation movement was officially organized or happen spontaneously on individual's account. When visualizing those two axes, four types of repatriation can be defined. When investigating on the repatriation's level of *voluntariness*, the first axes is the crucial one. A refugee may not be returned to a situation where the likelihood of persecution or unsafe conditions, like the lack of food, shelter of water, remains. In situation where either or both conditions hold, the repatriation of refugees is likely to be forced and therefore a case of *refoulement*. Forced repatriations are forbidden under Article 33 of the UN Convention Relating the Status of Refugees. The ideal condition would be a spontaneous voluntary repatriation. This appears, however, to be a rare occurrence (Toft 2007, 147). Even though forced organized repatriations are prohibited under Article 33 of the UN Convention Relating to the Status of the Refugees, such repatriations do occur and can be justified if the CoA views refugees as a danger to the security of their country[48]. The international refugee regime's preferred CRC policy is organized voluntary repatriation, as this indicates that the refugee wishes to return home and at the same time, the international community can facilitate the return and ensure all principles are upheld (Long & Crips 2016, 144).

For any form of repatriation movement, either spontaneous or officially organized, the principle of *voluntariness* must be ensured and protected. Despite its frequent employment as a cornerstone of refugee protection, *voluntariness* is not clearly defined, and its definition remains rather flexible. At its bare minimum *voluntariness* signifies some kind of consent, but also implies a degree of autonomy in the decision-making process. It allows for the refugee to freely decide when and in what way to return to their CoO, while this decision cannot be forced or pressured in any way (Bradley 2013, 65)

[48] This has, for example, been continuously claimed by the Tanzanian government relating the forceful repatriation of Burundian refugees and the Kenyan government relating Somali refugees. For an analysis on the relation between refugee rights and state security in these contexts see: Mogire, E. (2009): *Refugee Realities: Refugee Rights versus State Security in Kenya and Tanzania*; Transformation, 26 (1), pp. 15-29.

4.4 Scholarly Debates regarding Refugee Repatriation

It has been mentioned in the beginning of this chapter, that the growing popularity of refugee repatriation as the most desired CRC policy within the international refugee regime, has caused an influx in academic research. There is therefore an extensive body of literature from the 1990s and early 2000s dealing with issues of refugee repatriation. Most of this work, however, focuses on singular case studies. The development of theoretical frameworks and relevant conceptualization is still lacking and requires further research. At the same time, there is only limited understanding on the factors that influence refugees' decisions to repatriate - a critical aspect of this study.

In the context of forced displacement during conflict on the African continent, Masuku and Nkala (2017, 98) argue that voluntary repatriation must be considered as one of the most important measures to end protracted refugee situations, as other solutions can often not be realized. They therefore argue that voluntary repatriation must be seen as a "pivotal milestone on the journey towards sustainable peace for refugees" (Masuku & Nkala 2017, 100). Others are more critical with the perception of voluntary repatriation as the most desirable solution for refugee situations. Bradley (2004, 32) for example problematizes the general assumption that refugeehood must always be inferior to life *home* in the CoO, as well as the assumption of return as a *natural* response to forced displacement. Such assumptions might be too simplistic to satisfactory deal with all complexities of transnational conflict. In the early 1990s, Marlkki sparked a key debate in the field with her research on repatriated Burundian refugees from Tanzania. Her work is challenging the popular assumption on repatriation as the most *natural* of all durable solutions, arguing that this concept blindly assumes that identities are territorially rooted (Marlkki 1992, 45).

Theorists of return movements are usually drawn to explore the multiple and contradictory meanings of *home* and *homecoming*. "At its simplest", Koser and Black argue, "home can represent a return to the refugee's country of origin, perhaps the refugee's own house or land that was abandoned at the time of flight" (1999, 7). Indeed, the territory of origin can be connected to spiritual, cultural or social value. Repatriation, however, cannot automatically be equaled to a return to something familiar (Hammod 1999, 230). Koser and Black (1999, 8) therefore argue for the usage of the two related but distinct terms of *home* and *homeland*. In a later publication, Black (2002, 131) estimated that over half of all returnees do not return to their homes but are rather *relocated* to unfamiliar regions within their *homelands*, which ultimately questions the equalization of *return* with *going home*. Newbury (2005, 253) argues that the concept of *going home* in the context of forced

displacement, presumes a return to the past, to a *home* that has not changed This often proves to be an unrealistic aspiration. Similarly, Jansen (2010,48) challenges the assumption that refugees hold static relationships with their CoO, which remain unchanged even after years in exile. It is therefore argued that, even if the refugee expects to end up *home* by the end of a repatriation process, they will often find themselves in unfamiliar regions within the *homeland's* territory or in former places of residence, which have been transformed significantly during the returnee's absence. Often there is no *home* to return to, but simply unfamiliar social landscapes, even when a person returns to the same town, same street or the same house (Newbury 2005, 253).

This brief dive into critical academic discourse regarding the issue of refugee repatriation, already exposes some significant shortcoming of an overly simplistic concept on voluntary refugee repatriation, as employed by most policies and legal frameworks of the international refugee regime. There is a clear need for deeper theorizations and reconceptualization that go beyond singular case study, but rather take into account all the complexities regarding home return.

4.5 How voluntary is a Decision to Repatriate?

As presented above, the discussion around the conceptualization of *home* take up a lot of space in the academic discourse regarding refugee repatriation. At the same time, other aspects such as factors that lead to return-decisions do not even receive hardly as much scholarly attention. This could be explained by the general assumption, employed in many policy documents by the international refugee regime, that it is *natural* for a refugee to want to return to their CoO, and that a refugee will almost always chose to return, spontaneously or in an organized manner, once the issue precipitating their flight has been resolved (Harild et al. 2015, 12). If decision-making processes are being investigated, studies often only focus on how the situation in the CoO attracts refugees to return, instead of looking further into the issues that drive them out of the CoA (Stein & Cuny 1998, 81). It would, however, be naïve to assume that decisions relating to repatriation are being made in a vacuum. Indeed, a small group of scholars is approaching the issue of repatriation from a different perspective, arguing that *why* refugees might want to return home is as important, as *how* they return (Bakewell 1998; Crush & Williams 2002). Still, theoretical frameworks including all potential factors that influence refugees' decision to repatriate are not available. Some studies in the field of forced migration make therefor use of the popular migration theory of *push* and *pull*. This theory was originally developed in the context of economic migration, suggesting that there

are certain *push* factors that cause people to leave their home, while at the same time *pull* factors attract migrants to certain countries or regions. Together these *pushes* and *pull* factors form the motivation that underlies migration (Thielemann 2012, 20; Van Hear et al. 2018, 928). Even though this model surely has its own limitation and has been criticized as too simplistic (Skeldon 1990; Haas 2011), some see it as a possible tool to help understand motivations regarding voluntary refugee repatriation. Gmelch (1980) was one of the first scholars to adapt the theory of *push* and *pull* to the field of refugee repatriation. He argues that there are certain *push* factors that motivate refugee to leave their CoA, such as lacking economic and social conditions, limited access to livelihoods and social services, as well as an overall poor state of protection. Stein and Cuny (1998, 181) add that refugees are often being *pushed* into repatriation by a sense of hopelessness and overall feeling of insecurity in the CoA. At the same time, many host governments clearly communicate that the permanent integration of refugees is not desired and therefore confine refugees to conditions of *human deterrence*. On the other hand, there are distinct *pull* factors, such as perceived economic opportunity, increased stability and safety, as well as *soft pull factors,* such as family ties and commitments or feeling of allegiance to the home society (Gmelch 1980, 138-140).

In a transnational study conducted for the World Bank, Harild et al. (2015) investigated conditions influencing decisions on repatriation in protracted situations of displacement. They especially examined how conditions of life in the CoA are affecting such decisions. The study concludes that repatriation can be induced by "a general deterioration of living conditions in countries of asylum, resulting from increased insecurity, reductions in the level of international assistance, and declining economic opportunities" (Harild et al. 2015, 16). The study further proofs that despite the universal recognition that all refugee repatriations must follow the principle of voluntariness, the reality often gives cause for concern. For many refugees the decision to return is dictated by a combination of external pressures and in some cases the decision is even made in the absence of valuable alternatives.

Chapter 5 – Presentation of Findings

In its previous chapters, this works has explored the theoretical discourse and the international and South African policy framework regarding refugee protection. It has also investigated the conditions of asylum and xenophobia in South Africa based on secondary literature. The legal and theoretical framework, as well as the academic discourse, regarding refugee repatriation was also introduced. The following chapter presents findings, that were obtained through semi-structured interviews with experts, researchers, practitioners and community leaders in the field of refugee protection in South Africa. These findings will support, review and complete the findings retrieved through literature and policy review.

5.1 Refugee Protection – *We want to be legal*

To start off the conversation, participants were asked to share their general observations on the state of refugee protection in South Africa. They were encouraged to share what kind of barriers refugees and asylum-seekers were facing when entering the South African asylum system. Interestingly, many respondents addressed similar issues. All participants pointed out refugees' and asylum-seekers' difficulties to integrate themselves into local communities, which often leads to social and economic exclusion of refugees and asylum-seekers. Secondly, respondents were concerned about a widespread lack of awareness and understanding regarding issues of refugee protection within South African society. This often causes misunderstandings even on official levels. They reported on cases where refugees an asylum-seekers were denied services, which they were legally entitled to, because of misinformed officials. On the other hand, the respondents unveiled the connection between the lack of knowledge regarding asylum processes in South Africa and the creation of stereotypes and negative narratives. The weak administration of the South African asylum system was another point of concern for many participants, including under-resourced DHA offices, the closure of RROs and exorbitantly long adjudication processes of asylum claims. Some respondents shared their observations on refugees and asylum-seekers navigating themselves through the South African asylum process were met with suspicion by. Many respondents concluded that these barriers, including ongoing stigmatizations and obstacles in sustaining their livelihoods, would lead to a state of hopelessness, resignation or even trauma withing some refugee and asylum-seeker communities.

a. Integration

All participants considered the lack of social cohesion between migrants and locals as one of the most severe barriers for refugees and asylum-seekers in South Africa. Many respondents were concerned, that there is no communication between those two communities. The South African free-settlement model expects refugees and asylum-seekers to live within local communities and to self-reliantly integrate themselves. The lack of social cohesion, however, often unveils distrust and provokes conflict. Respondent B and Respondent C see a connection between the absence of any official integration plan or assistance program and the isolation of *outsiders* on the merge of society:

> "You know, South Africa is a free-settlement system, it doesn't have camp-settlement system. A free-settlement system is well and good, but it has its own limitations. And one of these limitations is that it expects a lot from refugees […]. The biggest challenge that comes with that is refugees are expected to participate in merging themselves into the lives and socio-economic aspects." – Respondent B

> "The one big missing part is that there is no proper integration plan. So, you have an urban refugee model, but you don't have a plan on how this integration is going to happen or guided or assisted. So that it completely absent." – Respondent C

Many refugees' and asylum-seekers' inability to speak any official South African language also decreases their potential to integrate themselves into South African society. The lack of English language proficiency in particular, hinders refugees and asylum-seekers from accessing resources, expressing their needs or finding formal employment:

> "Language barriers […] most of the refugees coming into South Africa, English is not their first language, which is something that brings fear to them as they don't know how they will communicate […]? – Respondent E

> "English is usually the first one [barrier]. Because most people coming to us, English is not their first language. So, they come to us speaking French or Somali or Swahili. So English is, English is not always there." – Respondent G

> "Most of the ladies they come, and their English is quite low. […] So, their proficiency is not exactly the best. So now, when they go with that and try to communicate their needs to the South African government or people that are supposed to help them, sometimes it

is difficult to understand each other and sometimes this can create conflict." -Respondent F

"Working with Congolese immigrants, one thing that I have noticed, […] other countries what they do, because they have these integration programs where language really can't be overlooked. You know, it is so important, and you can't talk about inclusion without communication. […] A lot of immigrants that I worked with, their work is mostly in the informal sector and sometimes they actually lose clients, because, you know, people much rather buy from a local person who understands the language that they are speaking. So that really seems to be a barrier, because the Congolese migrants that I have worked with, they are French speaking. South Africa is not a French speaking country." – Respondent B

b. Employment

The South African asylum system expects refugees and asylum-seekers to self-reliantly provide their livelihoods. Many of the participants, however, were concerned that above mentioned barriers to integration and the absence of social support systems, hinder refugees and asylum-seekers to access the formal labor market. Many refugees and asylum-seekers are therefore forced to take up irregular employment, short-term engagement or informal trading and are therefore often not protected by South African labor laws:

"Employers also hire foreigners because it is cheap labor, which we are trying to overcome. But we do know a lot of this is actually in the driving industry, the transportation industry, the construction industry; where foreign nationals are being hired but not necessarily being protected by the labor laws, even though they should be." – Respondent G

Some participants claimed, that there is a severe lack of knowledge and awareness regarding the legal rights of refugee and asylum-seekers within parts of South African society. Practitioners observed confusion by potential employers about the legal process of hiring a refugee or asylum-seeker. Especially the section-22 asylum-seeker permit appears to be a barrier for many asylum-seekers when trying to access the formal labor market. Under the South African asylum system, asylum-seekers are required to renew their section-22 asylum-seeker permit every 3 -6 months. While this renewal is almost always ensured, employers see this process as a cause for uncertainty and are therefore discouraged to hire asylum-seekers in the first place. Even though, asylum-seekers are legally allowed to take up employment under the 1998 Refugee Act, many potential employers do not seem to be aware of that:

"People [employers] don't understand the asylum and refugee permit. Because sometimes the permit is only valid for three months and so they think, a lot of people think, they need to leave immediately after three months. So, they don't see the point of hiring somebody with that permit, because they tend to be leaving. But this is obviously not the case but there is no knowledge around this." – Respondent G

"[…] In South Africa usually if you got your ID, you got better chances of processing like with finding employment, or finding good employment, let me put it that way. So now, if you have an asylum-seekers […] some of the employers they don't recognize it. They want refugee status or an ID book or a refugee ID book or some kind of longer permit, and if you only have an asylum-seeker permit, it doesn't mean anything, or it doesn't mean anything to them." – Respondent F

c. Asylum Administration

Besides barriers regarding integration and the self-reliant provision of livelihoods, all participants pointed out bureaucracy, inefficient and under-resourced facilities and the severe administrative backlog within the asylum system, as the most significant issues harming the South African refugee regime. It has already been mentioned, that the short-term validity of section-22 asylum-seeker permits poses a serious barrier for many asylum-seekers to access services or to find formal employment. At the same time, a widespread lack of knowledge about the asylum system within South African society creates many more difficulties, for example when opening bank accounts or finding accommodation:

"[…] they [asylum-seekers] are in the constant process of renewing and some would only get a renewal for like up to two months, which really doesn't work, because now when they want to do things like opening bank accounts there is so much difficulty. As soon as they get it and two months have passed, they need to get their papers renewed. After the renewal they need to contact their banks and they also need to get their paper renewed. So, it is this constant up and down kind of bureaucratic movement, which is really unfair, because someone who actually declared they need help from a country and how they are being made to go through all these loops again and again"
– Respondent F

"Without proper documentation it is […] a big, big barrier on accessing services in South Africa and also, for the dignity of our clients […]. Without documents it's so difficult. Even finding accommodation now. […] I cannot go and get a flat without them asking for bank statements. I cannot open an account, because I have an asylum-seeker [permit], which is only valid for six months and the bank is asking me for a document which is valid for one year and over." – Respondent H

Some practitioners shared that they had received concerning reports by refugees and asylum-seekers on mistreatment and mishandling of asylum claims by DHA officials. Under-staffed DHA facilities often result in long waiting times; and refugees and asylum-seekers are sometimes asked to come in on another day despite having appointments. Many refugees and asylum-seekers, however, only have very limited financial resources. Taking off time from work and paying for transportation to DHA facilities poses a considerable strain on many. Some community leaders reported discriminatory behaviors and incidents of corruption by DHA staff. The closure of RROs forces asylum-seekers to regularly travel long distances to renew their section-22 permits:

> "The closure of the offices [PROs] presents a huge problem. So, for example, we have a Somali national who has to […] he lives in Bellville [northern suburb in Cape Town with big Somali community] but has to travel to Pretoria every six months to renew a section-22 permit and these are often costly journeys." – Respondent D

> "Long distance is another obstacle […] a refugee who is in Cape Town and is supposed to travel to Musina for the asylum paper […] it becomes very difficult as most of them are not financially stable." – Respondent H

The Refugee Act demands asylum-adjudications to be carried out within one year from initial application. Most of the respondents, however, reported that the actual processing time is usually much longer. Asylum-seekers are significantly limited in their rights and their access to services, which ultimately affects their quality of asylum in South Africa. At the same time, continuous uncertainty about their legal status puts them under immense pressure:

> "In South Africa, one can be on an asylum-seeker permit for so many years. I have seen people on an asylum-seeker permit for 21 years. […] There are always chances that you might be rejected. You might be sent back to your country." – Respondent H

> "Someone [an asylum-seeker] had a section-22 permit asylum-seeker document for 19 years and still they do not graduate to section-24 refugee status. In the meantime, they cannot access work, they cannot access many things." – Respondent B

d. Criminalization

Practitioners and community leaders shared their impressions that refugees and asylum-seekers were often met with suspicion by locals, both in their everyday life, but also by officials administering their asylum. Participants reported that when asylum-seekers entered the asylum system, they would often be accused of fraudulently claiming asylum and were therefore treated as potential criminals:

> "We want to be in order, we want to be legal. But the system does not allow us to be legal. So, it is South African Home Affairs that is putting us in this situation. And by the end of the day, they consider all of us criminals. But we are not. Those women, they are walking around with four kinds or five kids, she is pregnant, she is going to Home Affairs, she is not a criminal" – Respondent A

> "In general, I think there is a criminalization of the immigrants. Especially the black poor immigrant." – Respondent D

At the same time, participants agreed that there is a persistent anti-foreigner rhetoric within South African media and parts of society, which generally assumes every migrant to be in the country illegally. Locals sometimes assume refugees and asylum-seekers would come to South Africa to *take things away* from them. Many local South Africans are not able to differentiate between undocumented migrants, labor migrants or forced migrants, which creates room for stigmatization and hostility:

> "When you walk into a township and ask somebody what the difference between an asylum-seeker and a refugee is, they absolutely cannot tell you. […] You know, Africa as a continent has had a great history of having educational programs on that kind of thing, but South Africa simply does not have it." – Respondent C

e. Trauma

When discussing issues of refugee protection with practitioners and community leaders who within forced migrant communities in South Africa, it becomes evident that the bureaucracy of legitimizing their stay, takes up a large portion of refugees' and asylum-seekers' lives. The process of claiming asylum in South Africa is often tedious, requires a lot of resources and was even described as traumatic by some participants. Especially section-22 asylum-seekers, who are often left stuck in legal limbos for many years without the outlook to receive refugee or permanent resident status, battle severe stresses and uncertainties. At the same time, the mistreatment

exercised by some DHA officials, as well as the perception of being under constant suspicion by local society, places an enormous mental burden on refugees and asylum-seekers. Some respondents therefore observe sentiments of resignation and an increasing internalization within refugee and asylum-seeker communities. Some participants even spoke of a collective traumatization, that further hinders refugees' and asylum-seekers' integration into South African society. As a result, the participants were concerned about an evident divide between forced migrant and local communities:

> "Whenever you speak to an asylum-seeker or refugee about permits, it is painful. It is actually a traumatic experience and I think it is a kind of violence perpetrated by state institutions that traumatizes people around a simple thing. It is just a piece of paper, that legitimizes and regularizes their stay in South Africa […]. Permits are a particular painful issue." – Respondent D

> "Because for most of the ladies that I have spoken to, they will say that they don't know how to continue with their livelihoods, because they feel stuck in the middle. So, they don't get as much support as refugees, because they are considered to be in a process of application. So that becomes very difficult for them and for us. We see that they struggle to progress and to integrate in South Africa" – Respondent F

5.3 Xenophobia – *Everything causes a spark*

The second section of the interviews focused on issues regarding xenophobia in South Africa. Interestingly, most participants already mentioned xenophobia as one of the biggest obstacles for refugees and asylum-seekers in the first section of the interview. This acknowledgement of the severity of xenophobia as a barrier for integration and sustaining one's livelihoods, already confirmed its ubiquitous presence in many refugees' and asylum-seekers' lives. The legacies of the Apartheid regime, anti-foreigner rhetoric employed by media and prominent political ladies, as well as an overall lack of resource availability in the country were named as causes for South Africa's high levels of xenophobia. Respondents also contributed to the discussion about the character of xenophobic manifestations in the South African context. They clearly distinguished between xenophobia as physical violence, such as looting or rioting, and xenophobia as an atmosphere of constant discrimination, stereotyping and othering. Some respondents described xenophobia as an *atmosphere of fear*, which increases levels of internalization and isolation within forced migrant communities. According to the participants, xenophobia in South Africa has clear spatial elements, with informal settlements and townships being more affected than middle-class

suburbs. Additionally, practitioners working with refugee and asylum-seeker communities emphasized that certain nationalities and ethnic groups are more effected by xenophobic hostility than others.

a. Limitation of Resources

Throughout all the respondents, there was a shared understanding that hostility towards *outsiders* in South Africa is closely connected to a general lack of resources and economic opportunities for all residents of South Africa. According to the participants, these circumstances lead to generalizations of outsiders being stigmatized as threats to employment, social services and other resources:

> "There will be just a spark and people think that resources are being taken away from them and that they are being given to foreigners and migrants. Which, it isn't true, but of course it is a reality that these resources are limited" – Respondent F

> "I struggle to say it is purely about discrimination, because it is not. It is also about personal circumstances. So those individuals [South Africans committing xenophobic violence], they don't have jobs, they don't have opportunities. So yes, there is a modicum of discrimination in there, but it is also wrapped up in kind of socio-economic difficulties that individuals are facing." – Respondent C

Some practitioners shared stories of discriminatory behaviors towards foreigners in situations of perceived shortage of resources. These stories illustrate how engraved the spirit of competition over resources is within certain parts of South African society and how *outsiders* are being seen as *undeserving*:

> "In the health care area, we find that some of the migrants or the foreigners, they arrive very early at the hospitals and that is a resource that is needed by everyone. So, they arrive early, so they are first in line, so they are served first and then at 10 o'clock or 9 o'clock somebody comes in who is South African and just this, this can instantly start a fight. So, in the hospital they had to put up a lot of cards and signs saying: 'The earlier you arrive, the earlier you are being served'. But then it is things like that, anything can just make it spark, because everyone is already ready to fight over the little resources that are available in the country" – Respondent F

> "During the pandemic [Covid-19 pandemic] […], we can see with grants being given out and foreigners being especially affected now. So, they are giving out grants but if our people, our foreign nationals, went and they were on the queue, you know the South Africans, they were queuing with their IDs. Already in the queue they were attacking them, and they were all like: 'Why, why are you here? This is for us, for us South African. You cannot access these grants; you cannot get it.' So already, they were pushed, they were pushed out of the queue before even meeting the officials." – Respondent H

b. Spatial and Ethnic Dynamics

All participants emphasized that xenophobia in South Africa must be seen as multi-dimensional and situational. It was agreed upon, that the majority of violent xenophobia takes place in townships and informal settlements, while middle-class suburbs are widely unaffected:

> "[…] Xenophobia is mostly understood as the violence, the attacking, the burning down people's homes and what not. So that has painted xenophobia as a unipolar phenomenon. […] the experience of skilled migrant workers […] you actually see that, because they are domiciled, because they are mostly middle to upper-middle class, they are mostly not domiciled in the migrant spaces. You actually see their experience and their conceptualization of xenophobia is different." – Respondent B

> "Now most of the people who live in the suburbs, like in Parow or Brackenfell [Middle-class suburbs in northern Cape Town with large migrant communities]. Those suburbs are not attacked by xenophobia […]" – Respondent A

> "[…] it has to do with the places that some of them [refugees and asylum-seekers] are staying in, like Khayelitsha or Delft [townships in Cape Town]. These are areas where there is high density and that's where actually refugees and other migrants are also able to afford accommodation. So, as they move there and because of their language and mannerism, they are immediately identified as, you know people immediately know: 'In this house, somebody foreign stays here'". – Respondent F

Townships and informal settlement in South Africa are plagued with above-average crime rates and are also perceived as *dangerous* by locals[49]. Practitioners working with forced migrant

[49] The Times (18.04.2018): *South Africa's crime epidemic: How townships descent into vigilant violence.* https://www.thetimes.co.uk/article/south-africa-s-crime-epidemic-how-townships-descend-into-vigilante-violence-pqkrgql7m (20.07.2020)

communities reported that even though refugees and asylum-seekers are aware of these realities, they often do not have any other option but to settle in these areas, due to their limited resources:

> "I mean, looking at the financial status of our clients, they don't […] have good financial capacities. So, what normally happens is that they go and find a place where it is cheap and because the place where it's cheap here in South Africa is the informal settlements. But in the informal settlement, that's where it's rough. That's where they experience most xenophobic attacks and hate crimes." – Respondent H

Some respondents shared a concerning trend, where groups of refugees and asylum-seekers are driven out of informal settlements and townships and resettling in lower-middle class suburbs. Due to their lack of financial resources, however, this often leads to many families cramping together in small spaces:

> "We will find that people are being scared in the location where they stay and then they will seek to go and settle […] in the suburbs it is very expensive for them and you find them cluster themselves in this one house and there will be so many people and they are sharing their living spaces." – Respondent H

> "Some of them, they are just sleeping in one room. Those are the realities that we don't talk about much. They don't have spaces. And if you have four kids and you only have one small room, where are the kids going to play?" – Respondent A

In addition to those spatial dynamics, participants also pointed out that there are certain target groups to xenophobic hostility. It was agreed that especially Somali nationals had a higher risk of falling victim to xenophobia, because of their distinct traditional clothing, accents and physical traits. On the other hand, many small businesses in township areas are operated by Somalis, which makes them susceptible for burglaries, looting and robberies:

> "It has mostly affected people from Somalia, who are having shops in townships and then people go and loot them […] there are many people who live in townships who don't have anything, so they go and attack and they loot like a shop." – Respondent A

c. Structural Xenophobia – Accessing Services

All participants shared the observation that xenophobia in South Africa does not manifest itself in a singular way. One of the many dimensions of xenophobic discrimination is blocking refugees, and asylum-seekers from accessing services, they are legally entitled to. Respondents shared many stories of refugees and asylum-seekers being denied services due to not being in possession of a South African ID book. These incidents do not only include governmental and social services, but also occur when trying to find formal employment, accommodation or accessing health care:

> "But there is this type of xenophobia that a lot of people do not talk about. It is when you are looking for a job and they will write down 'South African only, 'Green ID only'. This is actually xenophobic. If you are looking for a house, they will say: 'Only for South African', 'Only Green ID'. This is xenophobia and this type of xenophobia people don't talk about. We just know the xenophobia that is on the street." – Respondent A

> "I literally had a story of a guy who got stabbed and then went home to get his ID book before he went to the hospital. So, I mean don't get me wrong, there are barriers for South Africans. The system if overly bureaucratic for everyone. But then if you don't have that […] 12, 13-digit code your life is […] very, very difficult." – Respondent C

Some participants observed that many refugees and asylum-seekers do not feel comfortable to even try to access services, as they already expect not to be served. Refugees and asylum-seekers are therefore accessing their social-networks to seek assistance from South Africans. Due to the increasing isolation of forced migrant communities, however, many do not have access to this kind of assistance:

> "Foreign nationals that I have interviewed have said: 'We can't tell the police to report a case. They don't answer, we have to call a South African colleague or friend to call for us […]." – Respondent C

d. Direct Xenophobic Violence

In addition to the indirect manifestations of xenophobia discussed so far, respondents also reported cases of physical xenophobic violence. While acts of violent aggression towards *outsiders* occur less frequently, the consequences remain severe and weigh heavily on forced migrant communities. Practitioners working with those communities shared insights about incidents of violent xenophobia:

> "Somalis are really disproportional affected by xenophobia because they are visible as a community and as a group. And this one shop owner [a client], his car was full of bullet holes from when he brings stock to his shops and how he gets shot at whenever he brings stock to his shops." – Respondent D

> "So, we have got a lady and it is a sad story. A lady from Rwanda, who her husband has not been working because he was partially blind […] they lived in poverty. And what she does, she makes those baskets and they [South African neighbors] destroyed everything. Well, she didn't have any money with her, but they destroyed her livelihoods as she was trying to sell her baskets. […] I think they even needed to leave because everything was burnt down." -Respondent F

At first glance, these cases seem to be purely motivated by xenophobia. Some participants, however, noted that there were often additional underlying causes in connection to such incidents. Respondent E recapitulated an incident of xenophobic outbursts in the city of Hermanus, which actually followed a dispute over landownership:

> "In Hermanus, about two years ago. Local South Africans plotted to occupy public land in the municipality, because according to them the government had delayed providing them with land and houses. The police came and sealed off the place to prevent them from occupying the land. The situation became chaotic and these [South African] citizens ended up attacking Somali and other small business owned by African migrants." – Respondent E

Respondent C referred to an incident in the Eastern Cape which was reported to be based on xenophobia. Under closer investigation, however, it was revealed that it was actually a case of opportunism by local taxi drivers to eliminate competition:

> "In Grahamstown […] I think it was 2016 or 2015, they had an attack of foreign national shop owners that were all thrown out of what was then Grahamstown and what is now Makhanda in Joza and the surrounding townships and what started up was this myth of this bearded Muslim man, who was killing women basically. So, this was a thing and it was going around for weeks and weeks. And then there was a taxi protest, and this is what let to it. What we found out when we were researching there was that one of the Muslim men was actually a prominent business man and he had just started operating his own taxi company […] there were a few murders that have happened there […] where people have been found a few days later in the hills around the area […]. So, the South African taxi drivers have started this story where they have combined that with the bearded man and created a myth that was actually to wipe out their competitor in the taxi industry. So, you

know, the fact that these kinds of myths are allowed to be created and built upon show the underlying discriminations, but also show that it is used very instrumental to actually lead to behavior of violence." – Respondent C

e. Atmosphere of Xenophobia

Respondents shared their perception that xenophobia in its different dimensions has become an every-day occurrence for refugees and asylum-seekers in South Africa. Some participants described it as a persistent atmosphere of fear lingering over forced migrant communities:

> "People's understanding of xenophobia is that it is just something that happens when buildings are burned, and people are being killed. Every once in a while, when we see it on TV. That is actually wrong. Xenophobia is happening every day." – Respondent B

> "[…] Once when I was in a taxi and a woman who sat close to the driver was supposed to receive the passengers' fare and give back the change. Unfortunately, this woman was still new to Cape Town, so she didn't know about South African money. So, the time she said she cannot do it, the other passengers and the driver made lots of noises. They said: 'Why are you sitting in the front? Why are you in South Africa? Go back home.' And other unpleasant words. The driver stopped the car harshly, took her out of the car and replaced her with somebody else and they kept on talking badly about her until the end of the journey." – Respondent E

This fear is aggravated by stories of xenophobic violence being widely shared within forced migrant communities and through social media. Refugees and asylum-seekers who might have never experienced or witnessed physical xenophobic violence therefore develop great fear of what *could* happen:

> "Even though they have never been attacked, but they are living now with fear […]. Because they have this fear of 'those people are attacking foreigners', now we have to be cautious and move ourselves in safe spaces before they come and attack us." – Respondent A

> "Most foreign nationals, because they know that there is unrest in the country […]. They are fearful, you know, they are scared. We have parents, they don't even want to take their children to school" – Respondent H

> "[…] here in Cape Town, in a place called Philippi [one of the biggest townships in Cape Town], where the indigenous people [South Africans] mock the refugees by calling them fun names like 'Kwerekwere', something that creates an uncomfortable environment for the refugees […]." – Respondent E

f. Isolation

There was a shared concern between all participants, that forced migrant communities in South Africa tend to isolate themselves from the local population. It has been mentioned, that South Africa does not provide official integration assistance for forced migrants. Additionally, fear of becoming targets of xenophobic violence often causes refugees and asylum-seekers to settle within areas with high migrant population. Being surrounded by others from the same national, linguistic or ethnic groups, creates a form of protection:

> "I remember I was having an interview with migrants at one point and they mentioned they prefer to live in certain dwellings, you know, where they are mostly either just foreigners or people from specific countries, because that protects them from xenophobia". – Respondent B

> "They [refugees] become internalized as a form of protection and it is not just protection. It is culture, it is social networks and how they work, so it is a complex thing. But we tend to see a lot of asylum groups, less with migrants, being insular as opposed to integrated." – Respondent C

Participants were concerned that refugees' and asylum-seekers' progressing self-isolation would only increase their outsider-status on the merge of society. Additionally, respondents observed that while many locals hold negative stereotypes about foreigners, forced migrant groups held on to similar grudges against local South Africans:

> "People [foreign nationals in South Africa] kind of stick to their own. I think it has to do with the language, but they tend not to talk to people, with their colleagues and stuff like that. So many are seen as being stand-offish. So often they won't get access to promotions because they are not speaking." – Respondent G

"So, what we find in the discussion that we have regularly is that there are people who have been living in the country for a long time, but they never set foot to try to know who their neighbor is. And actually, that can be something that can be dangerous in the areas where they are living in, because you need to know what your surroundings are and you need to communicate and only then that hopefully reduces some of the sparks that are currently flying around." – Respondent F

"Foreign nationals have it more about South Africans as well. Which is really a problem, because it means there is no willingness to kind of meet and integrate and kind of cross paths." – Respondent C

5.3 Repatriation – *Between a rock and a hard place*

To conclude the in-depth discussion of the conversation, participants were asked to share their experiences and observations regarding refugee repatriation in the South African context. While respondents had been very confident to identify issues of concern regarding refugee protection and xenophobia, repatriation did not seem to be an area of expertise for many. All participants confirmed, however, that they have encountered refugees and asylum-seekers that have expressed their intentions about leaving South Africa on multiple occasions. Practitioners and community leaders confirmed that a large part of refugees and asylum-seekers do not consider South Africa their home but would rather prefer to be resettled to a third country, preferably in the global north. Even though refugees and asylum-seekers regard their living conditions in South Africa as unbearable, they often do not consider repatriation.

a. Sentiments about leaving South Africa

Practitioners reported that they often encounter sentiments about leaving South Africa within forced migrant communities. They observed, that many refugees and asylum-seekers share the impression, that they are not progressing economically and therefore struggle to sustain their livelihoods. Even though many refugees and asylum-seekers would prefer to be resettled to a third country, some are coming to terms that the possibility for resettlement is very low:

"Actually, most of them [refugees and asylum-seekers] they want to be resettled. All of them, I can say that, if there was an option to be resettled to another country, they will take it. Because that is what they want. But now, most of them they can see now that it is not working." – Respondent H

Overall, respondents found that the reasons for refugees' and asylum-seekers' desire to leave South Africa were influenced by the poor living and protection conditions, as described earlier in this chapter:

> "I believe there are a lot of people who have these sentiments, these feelings like 'I am not safe here', 'I don't feel comfortable here', 'I don't want to be here'". – Respondent C

Participants observed that some forced migrants feel like their pre-flight expectations about live in South Africa were not being met in reality. Living and safety conditions were unbearable for many refugees and asylum-seekers and some are losing hope for any improvements in the future. The respondents reported a shared sense of *being stuck* and not progressing in a way that is desired:

> "They [refugees and asylum-seekers who consider return] are not progressing. […] They are still having the same feelings. So, the communities in which they live in, that is something which is still exactly the same as they moved here." – Respondent F

> "I met a lady at the centre [KWESU centre in Cape Town], and this is what she said to me, she said she wanted to go home. She felt she is not reaching what she wanted to reach in her life, and she felt like if she goes back home, she will reach that level. And this is not because of xenophobia or anything, she just realized that what she was thinking, what she will get in South Africa, is not what she is getting." – Respondent A

At the same time, respondent H, who has been involved in repatriation operations for many years, noted that a number of requests for repatriations come from thermally ill or elderly people, who are expected to die in the near future. This proofs the strong connection refugees and asylum-seekers hold to their homelands, even after decades in exile:

> "There are some people, especially like older people or the chronically ill. They opt to be repatriated back to their home country. Because here they cannot do much, right?" – Respondent H

Some respondents directly linked xenophobic violence with refuges' and asylum-seekers' decision to repatriate. The trauma that resulted from experiencing or witnessing physical xenophobic violence was therefore stated as the reason for leaving South Africa:

> "Life in South Africa is very hard for migrants from African countries and many hussle to make ends meet. Raising a family becomes expensive and they decide to go. As well as the issue of security. A lot of people are robbed and killed. It has forced many migrants to choose going back to their countries as the only option." – Respondent E

> "They leave South Africa because of xenophobia […]. They saw things that have traumatized them, and they couldn't cope with what was happening around them and they just decided to leave." – Respondent A

b. Returning Home

Many of the participants, despite being familiar with issues of refugee protection in South Africa, were not aware of the official protocol for refugee repatriation. Respondent H sees the reasons for this in the fact, that UNHCR is not promoting repatriation operations in South Africa. The IOM, previously responsible for repatriation operations in South Africa, has dramatically reduced their funding. The demand, however, still remains high. To respond to this gap, the SCCT has set up their own repatriation program, were return operations are carried out on an individual basis. Individual repatriation operations, however, prove to be very complicated, lengthy and costly projects, especially if minors are involved:

> "Initially when we started on the repatriation cases at Scalabrini, we used to work with the International Organization of Migration. So, these were the ones that were in charge. They organized bringing people back home. But then, since 2017, they ran out of funding because we actually repatriated a lot of people." – Respondent H

> "It's a very long process. It takes a lot of resources. Sometimes these cases don't work. […] If a client is alone, the process is much easier, but if the client has children, it takes so much time." – Respondent H

c. Obstacles to leaving South Africa

All practitioners and community leaders confirmed that they have come across refugees and asylum-seekers, who have expressed their wish to leave South Africa. Many of those, however, have to face various barriers that hinder their repatriation. As return travels are often expensive and complicated operations, many refugees and asylum-seekers lack the opportunity and resources to repatriate:

> "I know of a case of a lady who wanted to go back home to her country. But then she got, I think four children or five children plus herself and that actually was a bit difficult for repatriation and support." – Respondent F

> "We know many migrants […] who are just looking for money to go back home." – Respondent E

> "There is a real lack of opportunities to actually leave a lot of the time, […] I haven't experienced that I know of many asylum-seekers and refugees that have voiced these concerns, which are extremely valid and then actually found an alternative that would be better, whether that would be voluntary repatriation, or, you know seeking asylum in a different country […]. I think there is a lack of alternatives on that people can act on how they are feeling unsafe and unwelcomed here." – Respondent C

At the same time, many refugees and asylum-seekers do not want to return to their home countries, without something to facilitate their reintegration into their home societies:

> "[Some of] the ladies that come in, they do want to go back to their countries. The things that are making them stay at the moment is, that they don't have enough to take them home. So, they would like to go home with something to start their lives with."
> – Respondent F

6. Analysis and Discussion of Findings

The following chapter forms the analysis of the findings of this study and aims to answer the research question, stated in the beginning of this work. The overall objective of this study was to explore how South Africa's atmosphere of xenophobia is influencing refugees' and asylum-seekers' decision to repatriate. This study assumed that xenophobia can be considered a compromising factor to the quality of asylum in South Africa. This research therefore aimed to characterize the atmosphere of xenophobia in South Africa, in order to unveil in what ways this atmosphere is influencing the conditions of refugee protection. Ultimately, this study aimed to explore how xenophobia can be considered a *push* factor in refugees' and asylum-seekers' decision-making process regarding repatriation and how this can be evaluated in regard to the international refugee regime's principle of *voluntariness*.

To answer these questions, this chapter will place the findings of the conducted expert interviews in the context of the concepts and theoretical frameworks previously introduced through secondary literature. Following the structure of the previous chapter, this analysis is divided into three categories: Refugee protection, xenophobia and repatriation. The process of the analysis of this study has, however, proven that findings cannot be explored in the isolation of these categories, but must be examined in relation to each other. The fourth sub-chapter therefore presents the relations between South Africa's system of refugee protection, xenophobia and repatriation, to consequently answer the question how South Africa's atmosphere of xenophobia is influencing refugees' decision to repatriate.

6.1 Refugee Protection: A collective Non-Belonging

The observations shared by the participants of this study comprehensively illustrate the state and conditions of refugee protection in South Africa. Even though, each respondent was specifically chosen to represent an area of expertise, many participants identified the same barriers forced migrants are facing when accessing the asylum system in South Africa. One of the most significant issue for many respondents was the lack of socio-economic integration of refugees and asylum-seekers into local communities, which ultimately solidified their vulnerable status as *outsiders*:

> "You know, spontaneous integration is the biggest challenge that comes with refugees […] Social exclusion the way we see it either happen systematically or just organically, because you know, nobody is really targeting them to exclude them, but because they lack capital then they find themselves on the merge of society." - Respondent B

The findings of the conducted interviews support Hovhannisyan et al.'s (2018, 22) research on the vulnerable status of urban forced migrant communities. All respondents confirmed the poor conditions of South Africa's informal settlements and townships as described in the Hovhannisyan et al.'s research report, such as the high rates of unemployment, poor service delivery, poverty, overcrowding and high crime rates. While these conditions are equally experienced by South African citizens, the findings of this study support Buscher's (2013, 21) assessment of the increased vulnerability of refugees in South African urban areas. Buscher (2013, 21) differentiates between forms of disadvantage, such as poverty or marginalization which are measures of current status, and vulnerability, which involves a predictive quality. He thereby argues that vulnerability is not necessarily defined by what actually happens to a specific group, but by the potential what *could* happen. Refugees' and asylum-seekers' outsider-status puts them at risk of failing to self-sufficiently sustain their livelihoods, to access opportunities and to become victims of violence directed towards them:

> "They [refugees and asylum-seekers] become internalized as a form of protection and it is not just protection it is culture, it is also social networks and how they work, so it is a complex thing. But we tend to see a lot of asylum groups […] being insular as opposed to integrated." – Respondent C

Collinson (2003, 12) argues that to evaluate the extent of vulnerabilities in relation to the provision of livelihoods, the issue has to be investigated through a micro- and macro-lens. Similarly, Jacobsen argues that the context by which refugees and asylum-seekers are exposed to vulnerabilities is predominantly "determined by laws and policies of host governments and by the way these policies are implemented […] and the dominant public ethos towards refugees" (2006, 273). This study's analysis of the South African refugee regime has found its national asylum policy, in particular the 1998 Refugee Act, to be a progressive piece of protection legislation, that grants refugees and asylum-seekers great freedoms. According to the accounts given by participants of this study, however, the practical implementation of the act gives room for concern:

> "[…] the groundwork or the areas where they [refugees and asylum-seekers] are supposed to be supported, when it comes to being protected or supported by the South African government, is not fully set up. So, this is something that everybody knows about, but the people who are supposed to put it into place or implement it don't know how to go about it." – Respondent F

The conducted interviews reveal, that many of the micro-level barriers for refugees and asylum-seekers, such as not being able to access social services or being denied by the formal labor market, actually stem from macro-level shortcomings within the implementation of the South African refugee regime. Many participants shared their concerns that the long adjudication times for section-22 asylum-seeker permit holders keep asylum-seekers in legal limbos for many years. While asylum-seekers are expected to self-reliantly provide their livelihoods, their status prevents them from accessing services or finding formal employment. At the same time, the closure of RROs forces many refugees and asylum-seekers to regularly undergo long journeys to remain legally documented in the country. In addition to the immense financial pressures these administrative shortcomings put on refugees and asylum-seekers with limited resources, participants reported, that forced migrants are regularly met with suspicion when dealing with DHA officials. These stressors contribute to immense mental distress and even traumatization within forced migrant communities, which again contributes to their isolated and vulnerable outsider status on the verge of society:

> "I will not say that these people [DHA officials] are not competent, but it is the willingness. The willingness to make things work. […] Now the problem is: Because they are not fixing the problems of people immediately, the number of people is just increasing and increasing. You didn't fix 100 yesterday; another 100 people will be there today, and it becomes something that will never be fixed." – Respondent A

The findings of the conducted expert interviews therefore support Buscher's (2013, 22) argument, that connects refugees' and asylum-seekers' exposure to vulnerabilities with their potential to self-provide their livelihoods. It has been shown how these vulnerabilities contribute to the isolation of forced migrant communities, which often denies them socio-economic opportunities.

6.2 Xenophobia: Sparks lighting a fire

The second factor that increases refugees' and asylum-seekers' vulnerability, is their potential risk of becoming victims of xenophobic hostilities and violence. The way xenophobia's character in South Africa was described by the participants of this study supports Buscher's (2013, 21) definition of vulnerabilities as the potential of *what could happen.* This study has presented in great detail, how persistent negative sentiments towards *outsiders* and recurring waves of xenophobic violence have created an *atmosphere of fear* among forced migrant communities in South Africa. The participants of this study have confirmed the existence of this atmosphere, agreeing that xenophobia is a multifaceted phenomenon that occurs in every-day life, just as in violent attacks:

> "People's understanding of xenophobia is that it is just something that happens when buildings are being burned and people are being killed. Every once in a while, when we see it on TV. That is actually wrong, xenophobia is happening every day." – Respondent B

Throughout her interview, SCCT's WP Portfolio manager Participant F employed a comprehensive visualization of the indirect form of xenophobia, which she describes as *sparks* flying around creating an *atmosphere of fear* of igniting a *fire,* a metaphor for physical violence. *Sparks* can be caused by any kind of refugees' and asylum-seekers' behavior that is perceived as provocative or threatening by the locals. This can include a wide range of actions and various factors determine the *sparks'* intensity. The accounts given by the participants of this study demonstrate that *sparks* can be caused by being unfamiliar with South African customs or official languages or by trying to access essential services, like healthcare or social grants. A *spark* can be caused by trying to self-provide livelihoods, for example by accessing the formal labor market or operating a small business in an impoverished area:

> "There is still a lot of disgruntlement and now and again there will be just one spark and people think that resources are being taken away from them and they are being given to foreigners and migrants." – Respondent F

Sparks are likely to start a fire when they fall onto *dry grounds*. Such *dry grounds* can be found in urban, poor areas of high density and limited service delivery, such as townships or informal settlements. The participants of this study reported that refugees and asylum-seekers would often settle in such areas, due to their limited financial resources or they want to access an already existing social network of people from the same national or linguistic group.

The narratives shared by the respondents of the expert interviews, supported the observations on social exclusion and insider- and out-sider dynamics by Isike and Isike (2012, 95) and Nyamnjoh (2010, 66). There are distinct perceptions in parts of South African society between *deserving citizens* and *undeserving outsiders,* when it comes to the distribution of resources. The findings of this study have confirmed that the stigmatization of refugees and asylum-seekers as *outsiders* and the therefore exclusion from the societal mainstreams, stem from xenophobic ideologies embedded within parts of South African society. Respondents of this study confirmed the strong spatial character of xenophobia in South Africa, indicating that these sentiments appear to be stronger in environments battling scarcity of resources:

> "[…] and these are often communities [where xenophobic violence breaks out] where a lot of South Africans have recently moved to, as well as foreign nationals, and there are urban constitutions around scarce resources and that is what is happening. And so you know, in those communities where there is already a great deal of pressure, the idea that, they are supposed to welcome and integrate foreign nationals, may not be refugees, asylum-seekers or migrants, whatever, is just, it is just a pie in the sky." -Respondent C

6.3 Repatriation: Feeling stuck in the in-Between

This works aims to explore how South Africa's atmosphere of xenophobia is influencing refugees' and asylum-seekers' decision to repatriate. To accurately assess all factors that contribute to refugees' and asylum-seekers' decision-making process regarding repatriation, a potential model needs to take into consideration all factors that move the refugee and asylum-seeker out of the CoA and all the factors that attract them to return to the CoO. Analyzing repatriations in the South African context, employing Toft's (2007) two-axis model, it must definitely be located on the very far end of the spontaneous side of its first axis. There are no formally organized repatriation operations happening in South Africa. The executive body of the international refugee regime, the UNHCR, does not have a strong presence in the country. The IOM, which has facilitated case-by-case repatriations in the past, has reduced its funding. This leaves behind a vacuum for refugees and asylum-seekers not being able to access support when deciding to return to their CoO. Many of the participants of the conducted expert-interviews reported that even when refugees and asylum-seekers expressed their wishes to return to their home country, they would often lack the resources to realize these wishes:

> "the people [refugees and asylum-seekers that come in, they do want to go back home to their countries. The things that are making them stay at the moment is, that they don't have enough to take them home." – Respondent F

Return movements in the South African context must therefore be classified as individual and spontaneous. Non-profit organizations like the SCCT are trying to respond to the need of assisted return, but SCCT Welfare manager Participant H comments that repatriation operations are costly, lengthy and often difficult to realize. Refugees and asylum-seekers are expected to self-reliantly organize their repatriation. This excludes many, who feel uncomfortable or unsafe in South Africa, but lack the resources to return to their home countries. The lack of viable options for refugees and asylum-seekers to leave South Africa, ultimately leads to them feeling *stuck* in protracted situations:

> "[…] there are some who want to leave but they need a place to start, they need a start-up. They haven't been to their home in what? 20 years. And now they suddenly drop there with what? So, it is very difficult because they are somewhere between a hard place and a rock, because there is nothing that is looking favorable for them right now. They have been in this country for such long times with their families and still they are facing the same problems." – Respondent F

Repatriation in a South African context's position within Tofts (2007) two-axis model is more difficult to determine. Many complexities have to be taken into consideration when assessing the level of voluntariness of repatriation movements from South Africa. Toft argues that the degree of voluntariness of a repatriation movement is defined by the potential harm refugees and asylum-seekers might find in their CoO. Repatriation to a place where refugees and asylum-seekers are likely to face persecution, physical harm or generally unsafe conditions are therefore considered as *refoulement*. Toft's model does not consider harms or unsafe conditions in the CoA as a limiting factor to repatriation operations. Bradley (2013) argues that for a repatriation decision to be considered voluntary, it must signify some kind of consent. Consent implies a degree of autonomy and that decisions cannot be pressured in any way. The most desired situation that would ensure the principle of voluntariness, would therefore be for the refugee or asylum-seeker to make a conscious decision without any external influences. Unfortunately, return decisions cannot be made in a vacuum. Still, the degree on how the conditions of asylum in the CoA are *pushing* the refugee to decisions of repatriation, should be implemented in any theoretical framework determining the degree of voluntariness of such operations.

Gmelch's (1980) variation of the traditional theory of *push* and *pull* considers lacking socio-economic conditions, as well as limited access to livelihoods and social services in the CoA as relevant *hard push* factors that can drive refugees' and asylum-seekers' decision to repatriate. The participants of the conducted expert interviews revealed that many refugees and asylum-seekers struggle to self-sustain their livelihoods and how access to social services is often being denied. In addition, this study has revealed certain *soft push* factors, which have been abstracted and described as an *atmosphere of fear* throughout this work. Statements given by the participants of this study support Stein and Cuny's (1998) argumentation, that refugees and asylum-seekers feel *pushed* into repatriation by a sense of hopelessness or feeling of insecurity in their CoA:

> "They [people who consider return] are not progressing. […] they are still having the same feelings. So, the communities in which they live in, that is something which is still exactly the same as they moved there." – Respondent F

This study has shown that sentiments of *feeling stuck* root from shortcomings and flaws within the South African asylum system, in which refugees and asylum-seekers are often denied permanent documentation and service delivery. At the same time, the various barriers coupled with frequent incidents of xenophobic hostility has led to a state of shared resignation within forced migrant communities in South Africa. The conducted interviews have also revealed the presence of the second category of Stein's and Cuny's (1998) *soft push factors*: The feeling of insecurity. This study has explored through secondary literature analysis how and why periodic outbursts of xenophobic violence have become embedded within South African society. Participants of this research have described how an *atmosphere of fear* remains within forced migrant communities, even after violent outbreaks have subsided. Some respondents have identified this *atmosphere of fear* as a trigger to collective traumatization of forced migrant communities. These conditions are not only pushing refugees and asylum-seekers further to the verge of South African society, they also pressure them into leaving the country for good:

> "They leave South Africa because of xenophobia. […] They saw things that have traumatized them, and they couldn't cope with what was happening around them and they just decided to leave." – Respondent A

6.4 How is South Africa's atmosphere of Xenophobia influencing refugees' and asylum-seekers' decision to repatriate?

The findings of this research have confirmed that there are certain *soft* and *hard* push-factors that influence refugees' and asylum-seekers' decision to leave South Africa. While every repatriation decision is influenced by *push* and *pull* factors, in the South African context the *push* factors can, to some degree, already be considered as pressuring. These factors include the socio-economic exclusion of refugees and asylum-seekers, the lack of opportunities to self-sufficiently provide livelihoods and the recurring hostility and violence towards *outsiders*. This research specifically aimed to explore the relation of repatriation decisions and South Africa's atmosphere of xenophobia.

This study has unveiled how recurring acts of violent xenophobia have created an embedded *atmosphere of fear* within forced migrant communities in South Africa. This work therefore moves beyond definitions that only recognize xenophobia in its physical violent form (Stolcke 1999). The observations shared by this research's interview participants displayed how xenophobia in South Africa is manifesting itself in various, subtle ways and creates in – and out-groups. Many of those exclusions, like refugees' and asylum-seekers' difficulties to access the formal labor market or social services, are caused by the poor administrative implementation of the 1998 Refugee Act. These shortcomings, such as long RSD processes or the closure of RROs, fosters vulnerabilities within forced migrant communities in South Africa. At the same time, this study has shown how high levels of hostilities against *outsiders* are evident within large parts of South African society. The findings of the conducted expert interviews have shown that the consequences of xenophobic outbursts go well beyond the violent act itself. This research found evidence of an embedded *atmosphere of fear* within forced migrant communities, that negatively influences their quality of asylum. This study therefore supports Stein's and Cuny's (1998) argumentation that perceptions of hopelessness and insecurity can be considered *push* factors for repatriation movements. The findings of this research recommend that a holistic framework, which aims to assess the degree of voluntariness of return movements, must take such notions into consideration.

Overall, the findings of this study unveil how an omni-present *atmosphere of fear,* caused by direct and indirect xenophobia, is increasing vulnerabilities within forced migrant communities in South Africa and ultimately limiting refugees' and asylum-seekers' quality of asylum. Experiences of discrimination and exclusion, as well as the fear of falling victim to xenophobic violence, contributes to the internalization of asylum-seeker and refugee communities. The findings suggest

that many refugees and asylum-seekers find themselves on the verge of society. Even after decades in exile, many refugees and asylum-seekers do not feel a sense of *belonging* in South Africa. As a result, the notion of leaving South Africa is widespread throughout forced migrant communities. Even though, many refugees and asylum-seekers consider third-country resettlement as the preferred solution to their situation, the likelihood for this to materialize remains slim. The option to repatriate is therefore commonly considered as a *last resort*. With a weak presence of organizations of the international refugee regime and the lack of resources many refugees and asylum-seekers are facing, unassisted repatriations also often remain out of reach. Refugees and asylum-seekers in South Africa find themselves in a dilemma, having to choose between remaining under poor conditions of uncertainty and danger or returning to countries with unresolved conflict and economic distress, without any form of assistance. Participant F therefore strikingly describes the situation of refugees and asylum-seekers as "*between a rock and a hard place*".

Chapter 7 – Recommendations and Conclusions

This research sought to explore the relationship between xenophobia and refugee repatriation in the context of South Africa. It has investigated the conditions of asylum, introduced the asylum legislation's historic and legal context and presented barriers and shortcomings within its administrative system. It has explored the character and scope of xenophobia in South African society and introduced multiple hypothesis to investigate the root-causes of these sentiments. This study has presented the international refugee regime's concept regarding refugee repatriation, including all its underlying principles and assumptions. It has introduced scholarly debates around these principles and highlighted conceptual shortcomings. These findings have been accompanied by first-hand experiences and on-the-ground reports by experts, practitioners and community leaders in the field of refugee protection. Those interviews' findings confirmed many of the information obtained through secondary literature analysis but have also unveiled further issues and areas of concern.

This concluding chapter again presents the most significant findings of this research. It further introduces a number of recommendations that were made by the participants of this research. Lastly, it elaborates how the findings of this study relate within the broader context of research in the field of forced migration studies, to unveil areas where additional research is still necessary.

7.1 Conclusions

Since the end of apartheid, South Africa has transformed itself from a refugee-sending to a refugee-receiving country (Landau 2006, 311). While migration policies under the apartheid regime were mainly centered around the exclusion of regional African migrants and the preservation of *European culture* (Vandeyar 2013, 448), the post-1994 South Africa was eager to step out of its regional isolation (Misago 2017, 40). Democratic South Africa's reputation as an upholder for human rights, its liberal asylum legislation and regional economic strength, all contributed to its transformation to a hotspot for asylum-seekers from all around the African continent (Vandeyar 2013, 447). South Africa's primary refugee protection tool, the 1998 Refugee Act, is deeply rooted in values, norms and standards that aim to protect refugees' and asylum-seekers' human rights and dignity (Landau & Amit 2013, 535). The act makes generous allowances for freedom of movement, access to services and the right to work. At the same time, the act expects refugees and asylum-seekers to self-sufficiently provide their livelihoods and self-reliantly integrate themselves into

South African society (Crush et al. 2017, 7). As a consequence, refugees and asylum-seekers are not physically separated from citizens, which holds both, potential for integration and the risk for conflict (Buscher 2018, 263).

Most *newcomers* into South Africa settle within urban areas of the country, where they compete over scarce resources and inadequate services along the local population (Hovhannisyan et al. 2018, 22). Interview participants like Participant B or Participant G observed that refugees and asylum-seekers face additional barriers when attempting to sustain their livelihoods or accessing services, as they are often excluded from social and economic networks due to lingual and cultural barriers, as well as exclusionary attitudes towards *outsiders* displayed by locals. These findings indicate that refugees and asylum-seekers are often pushed into positions on the merge of society, as opposed to being given the chance to fully integrate into the host society. This positioning exposes them to vulnerabilities, such as discrimination, xenophobic hostilities and even physical abuse. At the same time, the accounts given by multiple participants of this research, such as Participant A or Participant D, have indicated that there is a disconnect between the principles and values that undermined the draft of the 1998 Refugee Act and its practical implementation. South African RROs are under-staffed and under-resourced, while their RSD processes are complicated, impractical and plagued by misinformed decisions and corruption.

In early 2020, the *Greenmarket square protesters* publicly claimed they have "nowhere to go"[50] and urged the South African government and the international community to find solutions for them to either provide adequate protection or assist them in exiting the country. The findings of this study confirm, that a number of refugees and asylum-seekers finds themselves in protracted situations, caught in legal limbos over their documentation status, unable to self-sustain their livelihoods and exposed to xenophobic discrimination and permanent fear of becoming victims of violent abuse. The 1998 Refugee Act proposes temporary local integration as the desired durable solution for refugee protection in South Africa, but the findings of this study unveil how this proposed solution is, in praxis, continuously failing forced migrant communities. At the same time, decreasing quotas set by receiving third countries continue to diminish refugees' and asylum-seekers' chances to be resettled to a third country. Many consequently find themselves *between a*

[50] Daily Maverick (18.02.2020). 'We have nowhere to go': Cape Town refugees fear the worst after court grants interdict. https://www.dailymaverick.co.za/article/2020-02-18-we-have-nowhere-to-go-cape-town-refugees-fear-the-worst-after-court-grants-interdict/ (20.08.2020)

rock and a hard place, forced to make a decision between remaining in uncertain living conditions, and an *atmosphere of fear* or returning to the unknown without any assistance.

This study has shown how repatriation is, somewhat by default, being regarded as the most desirable solution for refugee situations by the international refugee regime (Crisp 2002, 3). Refugee repatriation is based on the principles of *voluntariness* under *safe* and *just* conditions (Long 2004, 130). At its bare minimum, voluntariness signifies some kind of consent, but at the same time implies a degree of autonomy in the decision-making process (Bradley 2013, 65). While a forceful repatriation is relatively easy to identify, the case study of South Africa proofs, that assessing the level of *voluntariness* of a repatriation decision is much more nuanced. The participants of this study, such as Participant E, Participant F or Participant H, have graphically described how indirect and direct xenophobic hostilities have created an uncomfortable, fearful atmosphere for forced migrant communities in the country. In some cases even leading to trauma. The findings of this study propose that these *push* factors must definitely be taken into consideration when assessing the character of repatriation movements from South Africa. This study has therefore unveiled the relation between xenophobia, its resulting *atmosphere of fear* and repatriation movements in the South African context.

7.1 Recommendations

To conclude their interviews, participants of this study were encouraged to share their recommendations on how to enhance refugee protection in South Africa and how to approach significant barriers refugees and asylum-seekers have to face when accessing the asylum system. All respondents regarded the low levels of social cohesion between forced migrant and local communities as one of the most severe issues of refugee protection in South Africa. Many participants therefore advocated for the implementation of official measures to facilitate the integration of refugees and asylum-seekers into South African society. At the same time, some respondents expressed the need for more educational programs, for both forced migrants and locals, to foster mutual understanding between the two groups. On the other hand, participants made suggestions on how to reform the overburdened, malfunctioning administrative asylum system. Overall, the respondents advocated for civil society and community organizations to be included into the process of reforming the South African asylum system.

a. Integration Plan

This study has discussed the dynamics and tensions between locals and *outsiders* within South African society in great detail. Even though various historical and socio-economic factors influence refugees' and asylum-seekers' increasing self-isolation, participants also see the absence of any governmental integration assistance programs as a significant factor that has led to these circumstances. Some of the respondents therefore advocated for an integration plan to ease societal tensions and further the social cohesion between local and forced migrant communities:

> "I think also you need to have a proper integration plan and program. […]. There are urban constitutions around scarce resources and that is what is happening. And so, you know, in those communities where there are already a great deal of pressures, the idea that they are supposed to welcome and integrate foreign nationals, may it be refugee, asylum-seekers or migrants, whatever […] it's just a pie in the sky. You don't have a policy for that and an actual integration plan. And this is the third pillar of refugee protection, right? – Participant C

The implementation of a comprehensive integration plan was regarded as absolutely necessary for many participants. Some respondents even demanded a mandatory training for *newcomers*, which could include information on the asylum process, South African culture and languages or trainings on refugees' and asylum-seekers' rights and responsibilities. It was argued, that such trainings would assist refugees and asylum-seekers to find their place within South African society and help to avoid misunderstanding and miscommunication, which potentially could reduce conflict:

> "Having like mandatory training, like an ease into society of some sorts. So that people actually understand what South Africa is all about. That people actually understand what their rights are, because I feel so many refugees and asylum-seekers, they got these papers, but they don't fully understand how best to use what they have and also how to stand up for themselves." – Participant F

Some participants suggested another approach: The identification of certain *xenophobia hotspots*, meaning areas with high conflict potential, such as townships or informal settlements with high migrant populations. Through the implementation of specific programs in these areas, the social cohesion between the locals and the *others* could be furthered:

> "I think in communities where xenophobia is, well, where hotspots are, where it is easily inflamed, we probably need to look at service delivery and building social cohesion, building structures within communities that bring […] different groups together and this could be LGTBQI+ communities […]. It would be refugee leaders, religious leaders [….] and I think a mutual understanding would definitely help. – Participant D

b. Educational Programs

Similar to the provision of integration programs for forced migrants coming into South Africa, some participants suggested educational programs for locals to learn more about different forms of migrations. This study has shown, that many South Africans do not have extensive knowledge regarding migration. This lack of information often leads to misunderstandings, negative stereotyping and hostilities. Especially considering South Africa's historical isolation from the African continent, educational programs could assist local communities to build more tolerance towards *outsiders*:

> "I really think the government needs to reorient its approach when it comes to refugees and integration […], you know it is a complex issue, but it starts with a mindset shift and change. Sensation! People need to understand, they need to know. What is a refugee? What is an immigrant? And all of that. As long as we are conflating the two, refugees will still be treated, you know, as invaders and they will not be welcomed when in actual fact, they are a humanitarian case that needs assistance of the government." -Participant B

> "They need to have training and educational programs for government staff and pupils in schools. […] So, that their understanding of xenophobia and discrimination develops." – Participant C

Related to the call for more educational programs around issues of migration targeting locals, Participant G pleaded for an end of xenophobic rhetoric by government officials and South African media. This study has explored how political and community leaders, as well as the local media is exploiting anti-migration sentiments within the South African public to scapegoat *outsiders*:

> "Stop this rhetoric around foreign nationals being different or […] stealing jobs. Because that is what they are saying […] I just don't like the fact that even with Cyril Ramaphosa [president of South Africa], in his announcement and his speeches, he is always speaking about South African citizens […] you know, that kind of nationalist rhetoric. But there are many other kinds of people who do have the right to be here. So, that kind of rhetoric, it needs to be looked at." – Participant G

c. Reforms in the Asylum System

All participants agreed that there is an urgent need for reforms within the South African administrative asylum system, as it is carried out by the DHA. This study has previously explored how shortcoming within the administrative system negatively affect the quality of asylum in South Africa and how there is a need for improvements within the systems of the DHA:

> "Home Affairs' systems, they really, you know, they have to try how they can fast track these applications […]. If Home Affairs don't change their systems, it is going to continue, it will be a continuous cycle for the refugees, migrants, asylum-seekers." – Participant H

> "First the system has to be improved. The system of getting your papers right. The process on how to do applications. […] Because that is the first step to become part of the society is knowing that you actually belong in the society and knowing that from being an asylum-seeker, you actually can move on to become a refugee." – Participant F

In the context of reforms within the DHA, community leader Participant A suggested for civil society and community organizations to support the DHA in the process of restructuring their systems. Participant A argued this could lead to increased inclusion and empowerment of forced migrant communities, while at the same time helping to make DHA's process more client-orientated:

> "Let the organizations work together with Home Affairs to fix what needs to be fixed. We are available to work with Home Affairs. Any organization that I know wants to work with home affairs." – Participant A

7.2 Call for Research

This study aimed to explore the relationship between xenophobia and voluntary refugee repatriation in the context of South Africa. It investigated the assumption that a prevalent atmosphere of xenophobia in South African society negatively affects refugees' and asylum-seekers' quality of asylum, which consequently could be considered a *push* factor for them to return to their home countries. This study therefore explored how xenophobia manifests itself in South Africa and in what ways these manifestations affect the protection of refugees and asylum-seekers. It was discussed how limitations in the implementation of the South African refugee regime relate to the conditions of *voluntary* return in conditions of *safety* and *dignity* and the host country's

responsibility to provide adequate conditions of refugee protection, as lied out by the international refugee regime.

Through extensive literature and policy research, this study has presented the history, guiding principles and the implementation-limitations of the South African asylum system. It has highlighted the history and scope of xenophobic manifestations in South Africa and it has presented on the legal and conceptual framework of voluntary refugee repatriation. The theoretical component of this study was then further supported by the findings of conducted interviews with experts, practitioners and community leaders in the field of refugee protection in South Africa. Together, these two components formed a comprehensive illustration of the plight of refugees and asylum-seekers in South Africa and how the societal embedment of xenophobia is aggravating their vulnerable status on the merge of society. This study's findings have demonstrated how xenophobic sentiments have developed into violent responses towards outsiders and how a resulting *atmosphere of fear* forms a relevant *push* factor that indisputably influences refugees' and asylum-seekers' decision to repatriate.

This research understands itself as a step towards gaining a better understanding of the dynamics that lead refugees and asylum-seekers to make decisions to return to their home countries, a sub-field of forced migration studies which is generally lacking scholarship. This study has to some extent struggled to employ existing tools to assess the character of refugees' and asylum-seekers' return movement from South Africa, as there is a lack of theoretical frameworks assessing the degree of *voluntariness* of such movements. In consequence, this study has employed the migration theory of *push* and *pull,* which proofed to have its limitations in the context of repatriation, as it, even by Gmelch's adaptation, does not fully take into consideration conditions of asylum and perceptions on safety in the host country as a significant *push* factor. At the same time, available frameworks assessing the degree of *voluntariness* of a repatriation movement, such as Toft's four-axis model, mainly focus on the conditions in the CoO. This study therefore wants to encourage further research on the development of theoretical tools, to include all dimensions influencing refugees' and asylum-seekers' decision-making processes. This study's findings proof that there is a definite need for some sort of guideline for practitioners, researchers and policy makers to accompany the assessment of conditions of repatriation movements, that takes into account conditions of asylum and perceptions on safety in the host society.

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Appendix A

Participant Information Sheet

Minor Dissertation – Mphil Justice & Transformation
Working Title: "Influence of Xenophobia on Voluntary Refugee Repatriation Decisions"

Thank you for considering taking part in this research project. The findings of this study will help to investigate how conditions and quality of Asylum in South Africa influence refugees' decision to repatriate to their home country. In particular, it will be investigated how Xenophobia is affecting Asylum in South Africa and what impact it has on decision-making processes concerning voluntary repatriation.

Researcher: Anne Juliane Ulrike Görgmeier, Department of Politics, University of Cape Town.

I am a Master student in "Justice and Transformation" at the University of Cape Town. As part of this degree I am undertaking a research project leading to a minor dissertation. The project I am undertaking is examining the influence of Xenophobia in South Africa on refugees' decision to repatriate to their home country.

I am inviting field experts, refugee protection professionals and community leaders active in the field of refugee repatriation in South Africa to participate in this study. Participants will be asked to engage in a semi-structured interview to present their views and experiences on (1) refugee protection in South Africa and (2) the influence of Xenophobia on refugees' repatriation decisions. The duration of the interview will be 30 – 45 minutes.

Should any participant feel the need to withdraw from the project, they may do so without question at any time before the data is analyzed.

Interview content will form the basis of my research and will be put into a written report. All material collected will be kept confidential and identity can be erased if the participant wishes. No other person besides me and my supervisor, Dr Helen Scanlon, will have access to recordings and written transcripts. This minor dissertation will be submitted for marking to the Department of Politics at the University of Cape Town. Recordings will be destroyed after receiving the final outcomes of this dissertation and transcripts will be destroyed two years after the end of this project.

If you have any questions or would like to receive further information about the project, please contact me at:

Anne Juliane Ulrike Görgmeier
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Consent to take part in research concerning a Master Thesis Minor Dissertation
"Influence of Xenophobia on Refugee Repatriation in South Africa"
University of Cape Town

- I …….. voluntarily agree to participate in this research study.
- I understand that even if I agree to participate now, I can withdraw at any time or refuse to answer any question without any consequences of any kind.
- I understand that I can withdraw permission to use data from my interview within two weeks after the interview, in which case the material will be deleted.
- I have had the purpose and nature of the study explained to me in writing and I have had the opportunity to ask questions about the study.
- I understand that I will not benefit directly from participating in this research.
- I agree to my interview being audio-recorded
- I understand that all information I provide for this study will be treated confidentially.
- I understand that disguised extracts from my interview may be quoted in the researcher's dissertation.
- I understand that signed consent forms and original audio recordings will be retained in the possession of the researcher until the results of the dissertation have been confirmed.
- I understand that a transcript of my interview will be retained for two years after the results of the dissertation have been confirmed.
- I understand that I am free to contact any of the people involved in this research to seek further clarification and information.

Signature of research participant

…….. ……
(Signature of participant) *(Date)*

Signature of researcher

…….. ……
(Signature of reseacrher) *(Date)*

Appendix B

Semi-Structured Interview Guide

Expert – Participants

Leading Research Question:	How does the atmosphere of Xenophobia in South Africa influence Refugee Repatriation?
Sub-Questions:	Is Xenophobia apparent South African Asylum system? How is Xenophobia affecting refugees' live in South Africa? What are the trends concerning refugee repatriation in South Africa? What is influencing refugees to repatriate in South Africa? (push-factors) How is assisted refugee repatriation organized in South Africa?
Pre-Interview:	• Assurance of confidentially – Informed Consent forms • Purpose of digital recorder – ask permission to use it • Introduction of the researcher • Purpose of the interview / aim of the research • Clarification of topic under discussion

1. Introduction Section

Length: 10 – 15 minutes

Primary Goals: Setting theme for the interview, Confirming expertise of the participant

- Can you introduce yourself?
- What is your occupation / area of expertise?
- How long have you been involved in the refugee community in Cape Town?
- Are you directly working with the refugee community in Cape Town?
- Are you familiar with the process of refugee repatriation in South Africa?

2. In-depth Section

Length: 25 – 30 minutes

Primary Goals:

- Collection of information about Xenophobia in South Africa
- Observations on obstacles faced by refugees in South Africa
- Observations and experiences with the South African Asylum system
- Observations on refugees' perception on possible repatriation
- Observations and experiences with refugee repatriation in South Africa

Observations on Refugee Protection in South Africa / Cape Town

- How would you evaluate the current state of refugee protection in South Africa?
- What would you consider to be the biggest threat to refugee protection in South Africa?
- How would you evaluate the South African Asylum system?
- How would you evaluate the current situation of refugees and asylum seekers in South Africa?
- Where do the biggest threats and obstacles lie for refugees and asylum seekers in South Africa?

Observations on Xenophobia in South Africa / Cape Town

- How does Xenophobia manifest itself in South Africa / Cape Town?
- How does Xenophobia manifest itself in the South African Asylum system?
- Did you observe and increase / decrease in Xenophobic incidents?
- How is Xenophobia influencing refugees' wellbeing / livelihoods in Cape Town?

Observations on Refugee Repatriation in South Africa / Cape Town

- Would you consider repatriation a durable solution for refugees in South Africa / Cape Town?
- How is refugee repatriation organized / promotedin South Africa?
- Do you see an increase / decrease of refugee repatriation in South Africa?
- What do you observe are the reasons for refugees to repatriate?
- Does Xenophobia in particular influence refugee repatriation in South Africa?

3. Conclusion Section

Length: 10 – 15 minutes

Primary Goals:
- Possible outlooks / solutions proposed for this situation
- Recommendations

- How could the situation for refugees be made easier in South Africa?
- How could the South African government help to better the situation for refugees?