Combating Xenophobic Violence

Violence targeting refugees, migrants and others viewed as ‘foreign’ has been recorded around the world. Like other forms of bias-motivated violence, xenophobic violence violates fundamental rights to non-discrimination and security, undermines social cohesion, undermines access to basic services and rights for vulnerable groups and spreads fear through refugee and migrant communities as other refugees and migrants see themselves as potential future victims. Xenophobic violence occurs in all regions of the world and governments have a duty to take steps to address its causes and consequences. Human Rights First has been working with States and international organizations to improve responses to xenophobic and other bias-motivated violence since 2005. This background paper outlines the context of xenophobic violence and recommends practical steps that States can take to address its effects.

Manifestations and Impact of Xenophobic Violence

Violence that specifically targets people in whole or part because of their actual or perceived ‘foreign-ness’ is commonly referred to as xenophobic violence. Although xenophobic violence most commonly targets refugees, stateless persons and migrants, it can also target citizens who are seen as being ‘foreign’ to the area or are perceived to be from another country. Xenophobic violence may be motivated in part by ‘hatred’ of or resentment toward foreigners but also could specifically target foreign nationals on the basis of their vulnerability – for example, due to the perception that state authorities will not protect them. Because xenophobic violence deliberately targets people on the basis of their actual or perceived ‘foreign-ness’, it can be seen as a form of discrimination.

Xenophobic violence is one common form of bias-motivated violence (also known as ‘hate crime’) that can be difficult to distinguish from, and sometimes overlaps with, other forms. For example, some cases of xenophobic violence may also be related to other forms of prejudice such as racism, religious intolerance or persecution on the basis of sexual orientation or gender identity. Because of this, xenophobic violence is often best addressed alongside other forms of bias-motivated violence that occur within a particular State to avoid the perception that some forms of prejudice are being prioritized over others.

Xenophobic violence, like other forms of bias-motivated violence, can often serve as a ‘message crime’, in that an act of violence can be intended to send a signal to other refugees or migrants that they are not welcome in an area or a particular country. Some perpetrators of violence may believe that they have the support of political leaders in their actions and this perception is affirmed if government leaders fail to speak out after major incidents of xenophobic violence or the police fail to act decisively and arrest perpetrators. Likewise, perpetrators of xenophobic violence may feel vindicated if their actions result in a government’s primary response being to conduct increased immigration raids or deport undocumented victims of the violence.

Xenophobic violence can take on different forms in different regions of the world. In some States, individual attacks on foreign nationals by extremist groups may be the norm. In other States, xenophobic violence may be perpetrated by mobs that go door to door within their own neighborhood in search of foreign nationals. Xenophobic violence may also have an economic dimension in cases where foreign-owned businesses are specifically targeted for violence and robbery. There is also a gender dimension to xenophobic violence when foreign nationals are targeted for sexual and gender-based violence.
The causes of xenophobic violence can be complex in that they can often be closely related to other social, economic and political challenges within a country. For example, xenophobic violence is likely to take place in a context where there is a generally negative public attitude towards foreign nationals. But negative attitudes towards foreign nationals do not always result in violence. Instead, other factors such as local patterns of violence, vigilantism, the absence of conflict resolution mechanisms, and the lack of successful prosecution of previous offenders all contribute to negative attitudes resulting in xenophobic violence.

As with other forms of conflict, xenophobic violence can also be agitated by people with specific interests. In some places, violence has been agitated by local business owners to chase away foreign business owners who provide competition. Xenophobic violence can also be triggered by false perceptions of foreign nationals, including where political or community leaders suggest that the presence of foreign nationals poses a physical, security, or economic risk to citizens’ welfare.

Xenophobic violence targeting one or some foreign nationals can cause fear in refugee and migrant communities as members of the communities believe that they too could be victims of future attacks – given that the victim or victims were attacked because of being foreign. This fear undermines social cohesion and in some cases can result in an escalation of violence or heightened social instability as communities fear that the government will not adequately protect them or does not adequately prioritize addressing xenophobic violence. The United Nations High Commissioner for Refugees has also noted that xenophobic attitudes and intolerance undermines the protection environment for people of concern to the agency.

The fear of being victims of xenophobic violence can contribute to refugees or migrants not coming forward to seek essential services such as health care from public institutions. As a result, this violence contributes to the further marginalization of groups that are often already marginalized and vulnerable, and thus to further social fragmentation.

**International Obligations to Address Xenophobic Violence**

States have existing obligations under international human rights law to protect individuals from discrimination, including its most violent forms. The International Covenant on Civil and Political Rights provides for the rights to life (article 6) and security of person (article 9) – and States have an obligation to ensure these “without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (article 2). The International Convention on the Elimination of All Forms of Racial Discrimination obliges States to condemn and eliminate racial discrimination by public institutions, officials and private individuals, guaranteeing to everyone – without distinction as to race, color or national origin, “the right to security of person and protection by the State against violence or bodily harm”.

The Durban Declaration and Program of Action called on States to conduct thorough investigations and combat impunity in cases of racist or xenophobic violence. The Durban Review Outcome Document also reaffirmed the

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responsibility of States to address racist and xenophobic crimes and called on States to collect reliable information on these and other forms of hate crimes. In addition, a number of regional human rights instruments include prohibitions on discrimination, which are also relevant to efforts to address xenophobic violence.  

Shortcomings in State Responses

Internationally, xenophobic violence, like other forms of bias-motivated violence, tends to be under-reported. Victims of violence are often afraid or unwilling to approach police or other government officials for help – especially if they do not have legal status in the country. Others may believe that state authorities may be unwilling or unable to protect them due to negative experiences in their own countries, or the perception that government officials may share the same prejudice as their attackers. In other cases, a victim may not approach a police station if this requires a long or costly journey or simply if the victim does not expect that reporting the crime will lead to action by police or prosecutors. As a result of this underreporting, perpetrators develop a sense of impunity for their actions. Perpetrators of xenophobic violence may also target citizens in other criminal activities and therefore addressing xenophobic violence is also important for improving general safety for all within a country.

Most States have yet to develop monitoring mechanisms that specifically record incidents of xenophobic violence (or other forms of bias-motivated violence). Although general crime statistics may be recorded and general trends monitored, incidents of xenophobic violence are not distinguished making it difficult to track:

- Where patterns of xenophobic violence are frequently occurring;
- Increased levels of xenophobic violence nationally or in a particular location;
- Whether perpetrators are frequently arrested in connection with xenophobic violence; and
- Whether these alleged perpetrators are successfully charged and sentenced.

Although some States have specifically developed legislation on bias-motivated violence, which can assist in monitoring incidents of xenophobic violence, monitoring can still be developed in the absence of such legislation. For example, police and prosecutors can agree on a working definition for the types of cases they consider ‘xenophobia-related’ and use this to guide the collection of data on xenophobic violence. Non-governmental organizations and national human rights institutions can also play an important role in collecting data, especially where victims of xenophobic violence may feel more comfortable approaching them to report incidents rather than approaching the police.

Recommended Steps for States

Although holistic efforts are necessary to address xenophobia more broadly, there are a number of specific steps that States can take to tackle xenophobic violence.

1. Senior leaders speak out against xenophobic violence

Senior government leaders should speak out against intolerance, including xenophobic violence, and should condemn xenophobic attacks when they occur. This sends a clear public message that such attacks will not be tolerated and will be dealt with effectively by law enforcement agencies. Law enforcement agencies also

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receive a clear message that their efforts in holding perpetrators of xenophobic violence accountable have political support – which is especially important when police may be reluctant to intervene.

2. **Develop domestic laws that address xenophobic violence alongside other forms of bias-motivated violence**

Governments should consider developing laws that either establish specific offences or provide enhanced penalties for xenophobic and other forms of bias-motivated crimes. Developing a legal framework to address xenophobic violence and other forms of bias-motivated violence can serve as a foundation for efforts to address various challenges associated with xenophobic violence, including strengthening police and justice responses; improving monitoring and reporting on xenophobic violence; enhancing services for victims – including measures to address secondary victimization; and promoting general awareness around bias-motivated violence – including available assistance for victims.

3. **Strengthen police and justice responses to xenophobic violence**

Governments should strengthen measures to improve police and justice responses to xenophobic violence to address impunity for perpetrators, regardless of whether the States has introduced specific legislation on bias-motivated violence or not. Useful measures may include providing specific training for police officers on how to collect evidence of bias in order to ensure successful prosecutions for bias-motivated crimes; developing strategies to contain and respond to mob violence; building relationships between refugee and migrant community leaders and local police; and training prosecutors and magistrates on bias-motivated violence.

4. **Develop mechanisms to monitor and report on xenophobic violence**

Governments should strengthen their ability to monitor and record cases of xenophobic and other bias-motivated violence and use this monitoring to inform new interventions. For example, increased numbers of cases of xenophobic violence occurring within a particular area may require a targeted intervention of senior government leaders to meet with local community leadership. Monitoring can also assist in identifying challenges in successfully holding perpetrators accountable if statistics show that high numbers of people are being arrested in connection with xenophobic violence but few are being successfully prosecuted. This may point to the need to improve police ability to collect evidence of the bias motive, improve outreach to potential witnesses, or work with prosecutors to develop clear strategies on prosecuting xenophobic and other bias-motivated violence.

5. **Reach out and build links with communities affected by xenophobic violence**

Governments can play an important role by developing strong links with community leaders of refugee and migrant communities and encouraging their participation in local participatory government forums such as community policing forums and other such structures. Building local linkages is an important way to include refugee and migrant communities in local government activities, address marginalization and strengthen access to police and other assistance where incidents or threats of xenophobic violence occur. As part of efforts to build trust, States should also investigate and hold accountable state officials such as police officers where allegations emerge of police harassment or abuse of refugees, migrants and other perceived as ‘foreign’.
These and other steps are outlined in Human Rights First’s *Ten-Point Plan for Combating Hate Crime*\(^5\) and *Combating Xenophobic Violence: A Framework for Action*.\(^6\)
