

Barbarians and gatekeepers

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Media freedom, xenophobia and online commentary....

1. What was actually said...
2. Global law, local standards.
3. Policy violations and gatekeeper responses.
4. Arguments for and against.
5. Take away points...
 - (and thanks to Lwanga Mwilu, researcher)

Context: May-June 2008

- “SA insiders” versus “invading barbarians”
- *An estimated 62 people killed*
- *30 000 displaced (UN Report, 2008)*
- TV coverage of flames and fleeing people – could have encouraged copycat violence.
- *What other media responses were possible?*
- *What’s the responsibility of gatekeepers?*
- *Especially online?*









What citizens said on the web:

It's reached a point whereby we live amongst foreigners, and not them living amongst us.

The poorest of the poor are taking a stand against the influx of illegal foreigners...It is the right thing to do.

Listen to what we're telling you: get out, we don't need 15 million foreigners

The illegals must go, or they won't receive decent burials. I don't think RSA needs the presence of poor parasitic refugees roaming around.



More web views

“ All the **liberals** wailing and condemning the xenophobes do not face what they do. They **don't have to share** their living area, women, houses and water supply with them.

The xenophobes are doing what the government should be doing: evicting the illegals and making sure they don't come back. The means they choose to do this are unfortunate, but what else do they have? *It's a shame they must resort to violence and illegal means to meet a legal objective. A man fights for his rights with the weapons he has.*”

War in Alex

Two die as residents 'cleansing the country'

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Pictures: Neil McCartney



NOT WELCOME. Willex Katundu, above, was one of the foreigners assaulted when xenophobic violence erupted in Alexandra yesterday. On the right, a beaten man is further harassed.

Further online comments

As for the so-called Xenophobes , they are fine in my books as they are *merely doing in a more drastic and desperate manner* what government should have done long ago.

The foreigners that are here to cause trouble like the infamous Nigerians in Joburg. *They need to go, they should get beaten up.* Poor innocent refugees, people that are running from danger at home needn't be treated like this.

Stop the anarchy!

□ Call to govt □ Deaths rise □ Attacks spreading

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CLEARING OUT. A man of Pakistani descent who did not want to be named carries surviving stock out of a shop in Jeppestown, Johannesburg, belonging to relatives after the shop was burnt and looted earlier yesterday.
Picture: Michel Bega

Negative rhetorical phrases


‘Huge surge of border jumpers’, ‘flood of people’, ‘an unstoppable Tsunami, ‘influx of foreigners’, ‘flood of immigrants pouring into the country’, ‘foreigners in their hundreds and thousands flow in and out of communities’.

- *The rhetoric promotes panic and decisive action to stop the problem.*
- *It constructs foreign residents as a ‘problem’, thus justifying and even encouraging action against them as a solution.*

Further analysis

- *In other words, the real barbaric behaviour of violent coercion against foreigners is legitimised,*
- *and the victims are portrayed as deserving of their fate.*

Who were the gatekeepers who let these comments through?

- Mail & Guardian: leading investigative weekly
- Very liberal, human-rights oriented.
- Daily website and bloggers-by-invitation section - *Thoughtleader*
- Site practices moderation:  of both *blogs and comments*.
- The site's aim is to be a “*mature and thought-provoking environment*”.



General standards

- Freedom of expression is **primary**, but not absolute.
- Challenge is in the *balancing* of rights
- **ICCPR**: limits are legitimate if to protect the rights of others and necessary in a democracy
- **ACHPR**: obliges member states to outlaw expression that advocates (inter alia) national hatred that is incitement to discriminate, hostility or violence.

Hate speech limits

ICCPR (Article 20) explicitly outlaws:

Advocacy of **national**, racial, religious hatred

...

That constitutes **incitement** to:

discrimination, hostility or violence.

All this speech serves to violate rights to equality of treatment and to safety.

Xenophobic speech

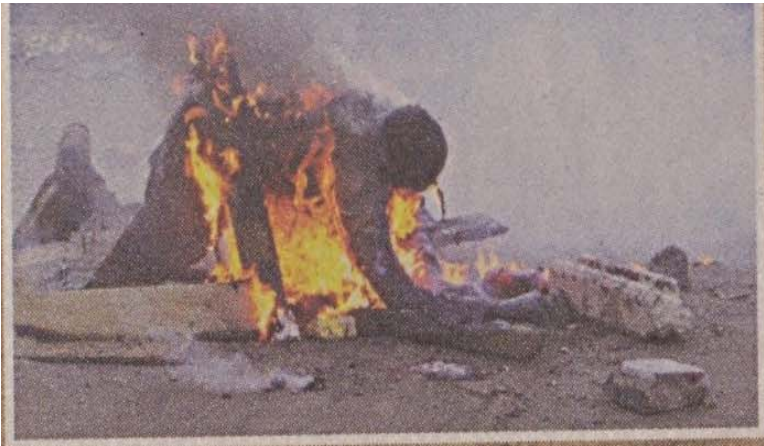
- Covers **all hate speech** based on **nationality** grounds: i.e. incitement to *discrimination, hostility and violence* against foreigners.
- Plus, some **anti-foreigner** speech which does **not** have the **incitement aspect of hate speech** can **still also** violate rights to equality (non-discrimination) ... and to dignity.
- i.e. *Xenophobic speech ranges wider* than hate speech in violating rights, and attracts limitation.

SA law

- SA Constitution provisions:
 1. Hate speech can be limited (incitement to **violence** against a group).
 2. Expression has to be balanced against rights to **dignity** and **equality**.
 3. Unfair **discrimination** prohibited – including on grounds of birth.
- Equality Act bans speech that is intentionally:
 - Hurtful, inciting harm, promoting hatred.

Thoughtleader's policy framework

- Readers' comment policy
- Acceptable use policy
- SA Press Code of Ethics
- Internet Service Providers' code of conduct
- SA Constitution
- SA Equality Act.
- ***Most of these stress free expression rights, but also responsibilities and limits on hate speech.***
- Tho, no explicit reference to xenophobic speech.



Prima facie violations of policy

- Constructions of foreigners as the “threatening other” made their expulsion seem necessary and **acceptable**.
- The comments advocated hatred, hostility, **incitement** to violence, and unfair discrimination against foreign residents.
- They also undermined the rights to **dignity** of foreign residents.
- ***i.e. the comments violated the site’s policy.***

Moderators' reflections:

Unfair stereotyping based on nationality should not have been allowed through.

I would not have allowed this comment through.

The comment should have been edited to remove some of the offensive content.

Moderation is done under serious time and personnel constraints.

More responses by moderators:

A particular comment may agree with the action taken by local South Africans during the xenophobia attacks, but **it falls short of advocating national hatred**.

In many cases, biased comments by “extremists” were **similarly tempered by reaction** from other commentators.

The moderator may have let this pass so as to see if **other commentators** would take him on, which they did.

Pro-restriction views

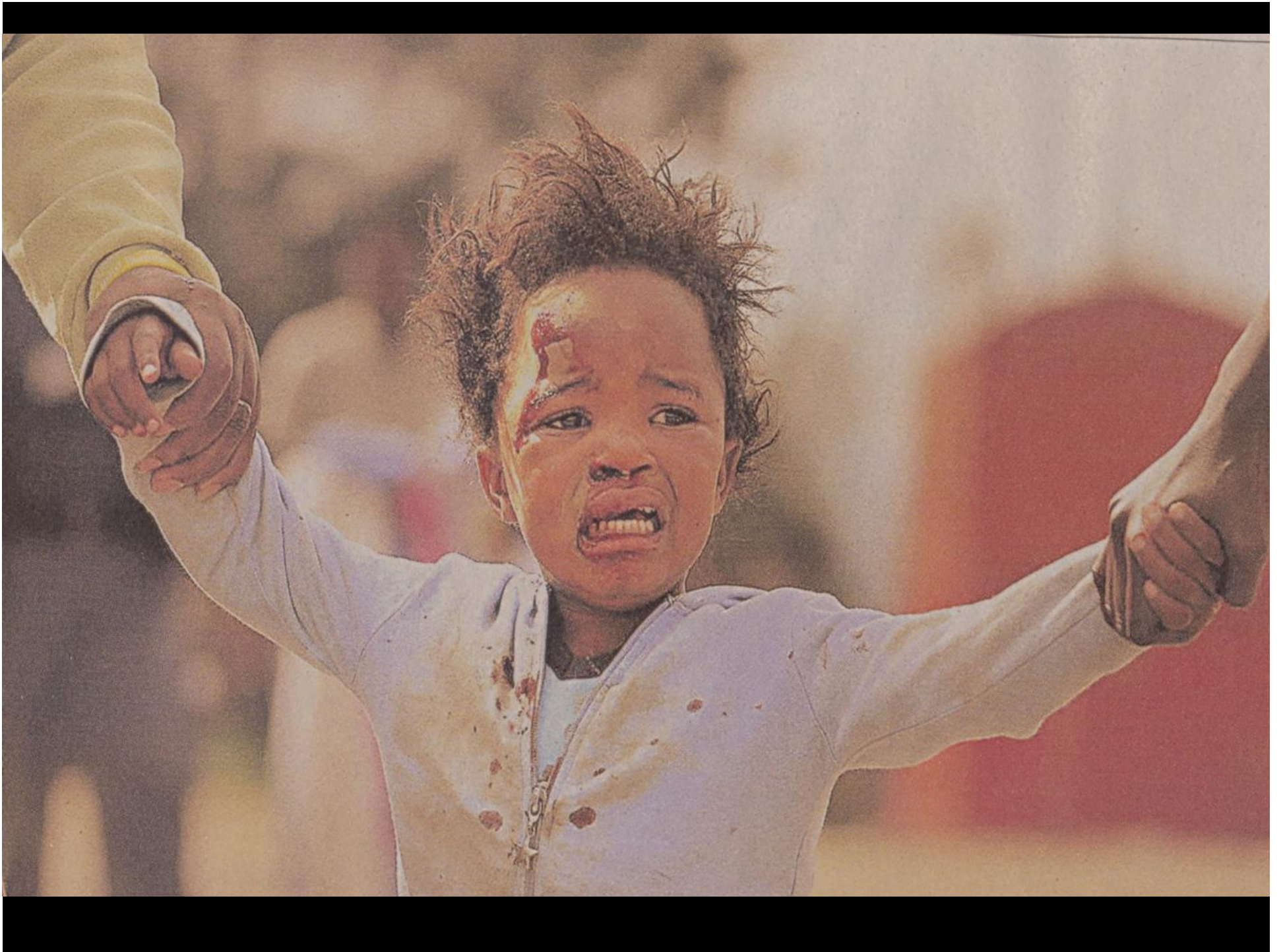
1. Context was one of **active violence**.
2. The comments could have **diminished** individual readers' concerns and action against the violence.
3. Suppressing the comments would **not** have caused serious harm to free speech.
4. Allowing the comments may have been good for public deliberation and rebuttal, but **it still does undermine rights**.
5. The individual items make a **mockery of the policy and the law**.

Views against restriction

1. Offending comments were only a **fraction** of the 682 comments over May 13- June 13, 2008.
2. Offending speech was **not a cause** of the violence and was unlikely to have inflamed the actual perpetrators who are **not online**...
3. No reader “**reported abuse**” as regards the comments, thereby letting them stand.
4. There was **counter** response from some, and so **ongoing debate** around the xenophobic speech.

A bigger issue:

- Was there a need to allow unfettered comments in **a common public sphere**, rather than drive them 'out of sight' into an echo-chamber?
- **OR**: Wasn't news reportage (and the actual events) **enough** to illustrate xenophobic views?
- Could there have been **a way to tone down** or edit overly problematic parts (eg. replace with asterisks), *without shielding* readers from such offensive opinion?



Take away point

- Xenophobic and other offensive speech can find many homes online, but should **media platforms** therefore provide a *relative free-for-all*?
- How can we reconcile media interests in serving as a **common** public sphere where people are exposed to, and comment upon, **different** views?
- AND: do online interactive media have **lesser ethical and legal responsibility** to limit speech than unidirectional-media?

Does the law need to change?

- Restrictions on hate speech date **from an era of traditional media**:
 - Where media had a monopoly on content and objectionable voices had nowhere else to go;
 - Where content could be nationally-policed;
 - Where comment did not come in a torrent;
 - Where content was a lecture, not a conversation...
- How does any law & policy get put into actual practice in regard to **online volume and velocity**?

Thank you.

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Presentation at:

- <http://mzan.si/2UnH>