

TAC Launches Litigation on Behalf of Persons Displaced by Xenophobic Violence in the Western Cape

By *Andrew Warlick*

Created 2008/08/05 - 12:10am

5 August, 2008 - 00:10 ? Andrew Warlick

TAC litigates on behalf of displaced people

TAC has launched a court action on behalf of people who have been displaced by xenophobic violence. Papers for *Hirsi and TAC v Provincial Government, City of Cape Town and Government of RSA* were filed on Tuesday, 29 July 2008 in the High Court of South Africa, Cape of Good Hope Provincial Division. The court case seeks to address conditions in camps and safety sites housing displaced people in the Western Cape. Government has stated that humanitarian aid will end on the 3rd September 2008. 5000 people remain displaced in consistently poor conditions.

- [The notice of motion is available by clicking here.](#)
- [You can download a copy of the founding affidavit \(Mahammud Hirsi\) here.](#)
- [TAC's affidavit can be downloaded here.](#)

Background to the case:

- When xenophobic violence occurred in SA a few weeks ago about 20 000 people were displaced in one weekend in the WC. Many left their homes and communities in fear, some at night, in winter, leaving their possessions behind or having their business destroyed and looted. They lost their dignity, livelihoods, possessions and business because they had to flee for their and their family's safety.
- Some people have since left SA to go back to their own country, some have reintegrated into their communities but some (about 5000 people) are still in camps and halls because they are scared of reintegration or have no where to go to or have no money for rent or have lost their businesses and possessions. Some still want to go back to their home countries, despite safety and security remaining a problem.
- We have been monitoring the situation closely. We have been checking if people are being fed, kept warm and are in conditions of shelter where there is at least some human dignity.

What is this case about?

- All of our reports and assessments (and that of the SAHRC and UN) show that conditions with respect to nutrition, sanitation, shelter, and health fall short of even the minimum set of norms and standards as determined by the United Nations and other international relief agencies. In particular, the situation is getting worse at the camps which were set by the City of Cape Town.

- [You can download a copy of the UN's assessment of camps for displaced people in the Western Cape here.](#)
- [TAC's latest report \(24 July\) on numbers and conditions at sites for displaced people in the Western Cape is available here.](#)
- [The South African Human Rights Commission's report on the treatment of non-South African nationals by the Department of Home Affairs can be accessed here.](#)
- The intolerable and worsening conditions violate the Constitution of the Republic of South Africa, especially the rights to dignity, shelter, freedom of movement, the best interests of children and other fundamental rights. It also violates our international obligations towards people who have sought refuge from persecution in their home countries.
- But, even though it is now more than two months since the xenophobic violence occurred, government has failed to remedy the situation and conditions of people at camps and in halls despite being fully aware of the worsening problem.
- What we have seen is wrong:
- Every day people still do not have enough food toilet paper, nappies or blankets. There not enough toilets and showers and in many places men and women have to use the same shower blocks and toilets.
- Babies and young children do not get the right amount of baby food or milk formula or even fruit and vegetables.
- Women and girls are scared because there is not enough security for them. Where there is no electricity and no lights- even a toilet becomes a scary place.
- Many children are still without education, there is no space for them to play, and they have no regular transport to schools.
- Many people cannot get or afford transport to health facilities to get medication or medical assistance.
- Many people are traumatized, anxious and depressed.
- Most displaced people are still very reliant on the efforts of volunteers who have been working day and night to make a difference. But still our government has no plan to improve the conditions in the camps and halls. Some are still waiting for the UNHCR to come and assist them with repatriation and resettlement advice.

Why is it necessary to go to court?

- Despite at least thirty official letters, six memoranda, many requests for information, over two hundred pleas for humanitarian and other assistance and extensive meetings with representatives of City and Provincial Government as well as many peaceful, non-violent protests and demonstrations, no meaningful change has taken place in the material conditions of people living in camps and other safety sites; indeed, conditions have become worse.
- While everything possible was done to avoid legal action, there now remains no choice but to ask for a court order for minimum international norms and standards on living conditions to be met at the camps and halls.

Who is involved in the court case? (Applicants)

- Muhammed Hirsi, who has worked as a liaison with the communities of displaced people since late May

2008, and the Treatment Action Campaign (TAC) are the formal applicants in the case. 20 other people (displaced people, volunteers and a mental health expert) have filed supporting affidavits.

- So the case is filed on behalf of all people in the Western Cape who were displaced by the xenophobic violence that erupted around 22 May 2008 and may not be able to act in their own name, as well as on behalf of individual TAC members and volunteers who have been assisting in the last two months with relief, humanitarian and advocacy work.

Who is it against? (Respondents)

- The case is against the Provincial Government of the Province of the Western Cape and the City of Cape Town as they are jointly responsible for the conditions of people in the camps and halls.

What will we ask the court for?

- To order government to immediately implement minimum norms and standards at every site where people are being sheltered including any new site/s that they may open.

- [Immigrants and Refugees](#)

- [Immigrants and Refugees](#)

Source URL (retrieved on 2018/04/25 - 6:20pm): <http://www.tac.org.za/community/node/2390>