AfriForum

VICTIMS OF FARM ATTACKS IN SOUTH AFRICA: DOES THE CRIMINAL JUSTICE SYSTEM FAIL THESE VICTIMS?

Report to the United Nations Forum for Minority Issues



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Report drafted by Lorraine Claassen
Introduction by Ernst Roets

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1. Introduction

This report is prepared by AfriForum, for presentation at the United Nations' Forum on Minority Issues on 24 and 25 November 2015. AfriForum is a civil rights organisation that operates in South Africa with a particular emphasis on the protection of the rights of minority communities. AfriForum's philosophy is based on the principle that the test for a healthy democracy is whether or not minority communities with little or no political power feel that their interests are protected and that they are included in political matters that affect their rights.

Since its inception in 2006, AfriForum has been growing at a rapid pace. At the time of the writing of this report, the organisations presided over more than 150 000 individual members and experienced a growth rate of approximately 400 new members per day. Each member is required to make a monthly donation of their choice to help fund the organisation's activities.

Although AfriForum is involved in a wide variety of campaigns – including issues such as race discrimination, the promotion of mother tongue education, accountability in local municipalities (city councils) and environmental issues – one of the campaigns that AfriForum and its members feel most strongly about is the phenomenon of farm murders in South Africa.

Farm murders have become a very unique phenomenon in South Africa, not only in terms of the extremely high frequency at which South African farmers (of which the vast majority are from minority communities) are murdered, but also the extreme levels of brutality and torture that characterise these crimes. Unfortunately, this is also a phenomenon that the South African government mostly chooses to ignore. In fact, there are reported cases of senior government officials who have publically mocked and ridiculed victims of farm attacks.

This report therefore aims to bring farm murders in South Africa to international attention in a bid to compel the South African government to acknowledge and react to this disturbing phenomenon in a responsible, active and efficient manner.

2. An overview of farm attacks in South Africa

Although it had been presented to the UN on a previous occasion, AfriForum would like to use this opportunity to once again emphasise the fact that farm attacks are extremely complex criminal phenomena. The impact of these attacks is not only far-reaching and severe, but should also be seen in the context of South Africa's past and present. As you may very well know, our country has had its share of difficulties to face and work through. It currently faces high levels of frustration and aggression, as is evident from the high levels of violence that characterise some of the crimes that are committed. Because of the volatile political climate and increasing racial tension in our country, the solutions to these crimes that authorities implement on ground level seem like wishful thinking. Moreover, politicians who sing "Kill the boer, kill the farmer!" certainly do not help, as their actions promote an ill-willed and dangerous ideology that farmers have to face on a daily basis.

The Rural Protection Plan (RPP) that was developed in 2007 defines a farm attack as follows:

> *Attacks on farms and smallholdings refer to acts aimed at the person of residents, workers and visitors to farms and smallholdings, whether with the intent to murder, rape, rob or inflict bodily harm. In addition, all actions aimed at disrupting farming activities as a commercial concern, whether for motives related to ideology, labour disputes, land issues, revenge, grievances, racist concerns or intimidation, should be included.*
>
> *Cases related to domestic violence, drunkenness, or resulting from commonplace social interaction between people – often where victims and offenders are known to one another – are excluded from this definition. Specific crimes that are included in the definition are murder, attempted murder, rape, assault with the intent to do grievous bodily harm, robbery, vehicle hijacking, malicious damage to property where the damage exceeds R10 000, and arson.*

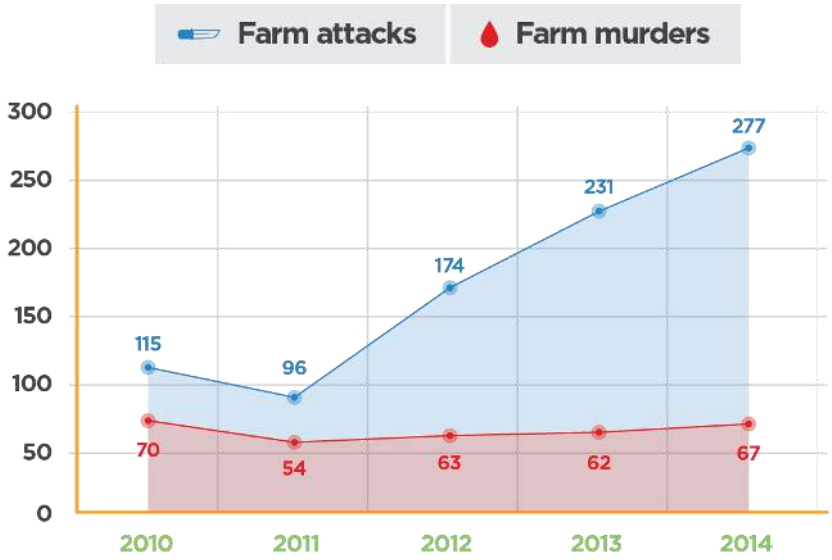
It is important to note that the South African Police Service (SAPS) does not specify farm attacks as a specific crime category, despite the RPP's definition and recognition

thereof. The RPP was phased out by the South African government in 2003 and was to be replaced by a combination of approaches by the SAPS. The National Rural Safety Strategy was approved in 2011 and focused on the safety of rural communities in general. However, the lack of efficient implementation of the recommended and proposed alternatives to the disbanded commando system resulted in the corrosion of rural safety and an increase in violent crimes in these areas. Moreover, the South African government still argues that the victimisation risk of farmers are no greater than that of the average South African citizen. Government also seems to be indifferent towards the impact that farm attacks may have on the victims of farm employees, who may lose their income if the farm is sold or if production ceases, which in turn may eventually be detrimental to the economy and food security.

Since 2007, the SAPS has stopped publishing farm attack statistics in their annual release of crime statistics. Instead, farm attacks have been reported as murder, armed robbery or whatever the specific case may be. It is important to note that, although the SAPS do indeed have these statistics available for the years since 2007, they simply choose not to release these specifically or make the information public.

The Transvaal Agricultural Union (TAU) and AfriForum have since taken it upon themselves to record and verify statistics on farm attacks and farm murders. AfriForum also requested a hearing by the South African Human Rights Commission (SAHRC) in 2015, during which the SAPS was asked to present information about farm attacks, and where statistics were indeed provided. However, these figures did not agree with figures for the same time period that were presented by the SAPS's National Commissioner earlier the year at a different event. These conflicting figures are questionable, to say the least, and in light of the seriousness of these attacks it is also a cause for concern that statistics are altered and tampered with. These concerns were further exacerbated when the SAPS presented a report with figures for the 2014/2015 financial year, in which the previously-released figures for past years were adapted to indicate fewer recorded crime incidences.

In the next graph, the drastic increase in farm attacks is evident and explains the serious cause for concern.



The next graph depicts the national murder and the farm murder rate, both in ratios per 100 000 people (calculations by ISS Africa). The 2013 murder rate of farmers calculates to 132,8 murders per 100 000. This is four times higher than the national average of 32,2 murders per 100 000 in South Africa for the 2012/2013 period, and 19 times the global average of 6,9 murders per 100 000 for the same time period.



Farmers in South Africa are also more than twice as likely to be murdered compared to police officials, who show a recorded ratio of 54 murders per 100 000 for the same time period. These numbers are calculated on the direct farmer/owner of the property

and do not include other family members, guests or farm workers who were murdered during farm attacks.

3. Characteristics of a farm attack

Although farm attacks share several similar characteristics, each attack displays a unique combination of different dynamics, variables, circumstances, contexts and reactions or behaviours of the individual perpetrators as well as the victims. For example, the attackers cannot predict in which way victims will react upon the initial realisation that they are in danger. The possibility of victims retaliating and fighting back in self-defence should be a discouragement in itself, but this does not seem to be the case.

The following factors and characteristics are predominant in farm attacks:

- Some attacks are more **organised** and planned than others – as is the case with any other crime. Fire arms, tools to break into a house, wire or cables used to restrain victims or escape vehicles that are taken with the perpetrators to the targeted properties indicate the offenders' **intent** in premeditating and planning the attack in advance.
- Perpetrators who have already selected their target often keep the property under surveillance for weeks in advance, sometimes attempting to **gather information** from farm labourers about the movements of the residents or the general layout of the farm and house.
- There is usually **more than one attacker** who commits these crimes. Accomplices who can restrain victims, collect bait or keep watch allow for the attack to be completed in a shorter period of time.
- There are cases where at least one of the attackers was **known to the victim**; in other cases the attackers were complete **strangers**.
- The initial contact with the victim can happen in various ways. Some attackers **ambush** their victims by either waiting at the farm gates or in the house when the unsuspecting victims arrive home. Others **surprise** their victims inside their homes by gaining access to the home through windows and doors. Attackers may also **lure their victims from their house** by pretending to want to buy cattle or products or look for jobs, or even setting fire to the vegetation outside

the home. This allows the attackers to overpower their victims, leaving them powerless and with phones or fire arms out of reach.

- The **victims of the attacks** are not limited to farmers and their spouses or families, but may also include domestic workers and farm labourers.
- Upon initial contact with the attackers, most victims are **overpowered**, **assaulted** and **restrained**. There are cases where the victims fought back in self-defence, often shooting the perpetrators and causing them to flee.
- Victims are mostly **restrained** with shoe laces, telephone wires or electric cables that are tied around their hands and legs.
- Victims may be harmed with several objects during attacks. Attackers **assault** victims with **steel pipes**, **pangas (long, broad knives like machetes)**, **axes**, **sticks**, **shovels**, **pitch forks**, **broomsticks** and **knives** or by kicking, beating, slapping or hitting them.
- Victims are often **threatened** in order to **gather information** about the whereabouts of the safes, the keys to these safes, money, fire arms and other valuables. Threatening to kill them or their spouses, to cause them serious physical harm or by pouring methylated spirits over the victims may force them to provide the information that the attackers demand.
- Some victims are horrifically **tortured** by pulling out their nails, pouring **boiling water** over their bodies, **burning** them with electric irons, **breaking** their fingers, **pulling them behind moving vehicles** or repeatedly hitting them with objects before they are ultimately murdered.
- The attackers **ransack** the premises while looking for valuables and bait.
- Female victims are sometimes **raped** during the attack.
- Victims are shot, in some cases **fatally**, when they try to resist the attacks or to **defend their families**, while they shoot at the attackers and – much too often – for **no apparent reason** at all.
- The attacker's **bait**, **if any**, may include fire arms, money, vehicles, jewellery, electronic devices, clothes, shoes or farming equipment.
- Attackers either **flee the scene** on foot, in ready escape vehicles or in the farmers' own vehicles. It is worrying that stolen vehicles are in most cases left **abandoned** a short distance from the farm or property where the attack occurred.

4. The attackers

On average, there are four attackers who commit the farm attack. Perpetrators come from the outside and forcibly gain access to the property. The majority of these attacks are organised and planned in detail. The property is spied on and monitored for days, weeks and often months before the actual attack takes place. The routines and habits of farmers and other residents are carefully observed and noted. Attackers then gain the advantage as victims are caught off-guard or when they are at their most vulnerable – this element of surprise places the attackers in immediate control.

Farms and smallholdings are mostly situated in rural, isolated and sometimes hard-to-reach areas. This causes significantly long response times from the SAPS of the closest town and can, of course, only happen once the victims are able to call for help or when they are found by visitors, neighbours or farm workers. There are areas with hardly any cell phone reception, landlines or electricity. Farmers mostly make use of radios that are connected to their community safety network, which they can then use to call neighbours for help. In some areas, these systems are also used to confirm their safety by roll-calls once or twice daily. The isolation of farms also provides the perpetrators with enough time to commit their crimes and flee the scene without haste and with nominal chances of being caught at the crime scene. Often, the geographical characteristics of the area make it very difficult for the SAPS or community safety networks to track the direction or route of the fleeing attackers.

The level of violence and brutality that is employed in farm attack is a separate and unique element which must be viewed in addition to the modus operandi of the perpetrators, also when investigating and determining the motives for committing these crimes. The reason for this is that the level of force and violence that the perpetrators employ are in many cases not necessary to allow them to complete their criminal acts successfully. Could it perhaps be that the intent to harm is greater than the actual value of the bait?

If the motive for the majority of farm attacks was theft or obtaining desirable objects, money or fire-arms, the question can be asked why most attacks occur while people are present at the homestead. Although their presence should be a deterrent to

anyone trying to get access to the house, this is seldom the case: victims are often killed without a word from the perpetrators.

5. The victims

It cannot be assumed that all victims of violent crimes such as farm attacks will react in the same way during and after these attacks. The decisions that victims have to make and the dynamics of the different attacks may vary in intensity and may cause a range of different outcomes. A person's background, personality and situational characteristics all influence their behaviour during and after an attack. Their reactions are therefore individual and unpredictable, and their sense of privacy, security and control in the place where they are supposed to feel safe – i.e. their homes – are completely shattered.

Consequences of farm attacks may range from basic needs, such as repairing damages to the property, to more emotional needs such as making funeral arrangements for those who lost their lives during an attack. Immediate needs may include, as mentioned, repairing structures, assisting with police and insurance reports, replacing stolen goods and helping with the continuation of the farm's operations (if needed). It is also important to remember the families who are left behind and provide them with the required help and support; extremely important for the recovery process is supporting the families and friends of victims who survived the attack, or the immediate family of people who lost their lives during the attack. Victims may still suffer emotionally in various ways for weeks, months and even years after an attack. Challenges may include struggling with basic everyday tasks such as eating and sleeping, and victims may feel too ashamed to discuss these problems with their family, friends and peers. Trying to cope alone will prolong the suffering and trauma further. On the other hand, accepting and relying on help from wherever it may come may increase a sense of community, belonging and self-worth.

Victims may also act proactively regarding security measures or they may feel unable to cope with the stress following the attack. Some victims may deny the magnitude of the events or withdraw completely. Victims may become physically ill and present with symptoms such as heart palpitations, shortness of breath when reliving the event, headaches, as well as lack of or increased appetite, lack of concentration, difficulty sleeping or increased startle response. They may lose interest in activities that they

enjoyed before and relationships with family and friends may suffer. Over the long term, they may be diagnosed with depression or post-traumatic stress disorder.

The importance of solid and reliable support structures cannot be over-emphasised. It is not only necessary, but extremely important to have other people who are simply willing to listen, to prove emotional and practical support and who do not make the individual feel worse in any way. Secondary victimisation may also occur in a court setting where victims must testify against alleged attackers. By testifying or attending court proceedings, victims may even experience a certain sense of relief in that the perpetrators would not be able to hurt other people in a similar manner. If criminals are given prison sentences, it may also give assurance that the specific offenders will not come back and victimise them again. Successful sentencing may further improve a diminished trust in the criminal justice system and provide the victims with relief that the proceedings are dealt with and completed. It will not, however, bring back their loved one or erase any memories of the attack.

Neighbours and peers of farm attack victims of may themselves develop an intense fear of being victimised. Media reports and first-hand experiences recounted by victims may leave these individuals feeling anxious about their own safety and may cause them to alter their lifestyles. A family friend of a murdered victim was quoted as saying that they are "**paralysed with fear**" because the attack on their friend left them feeling defenceless and exposed. In a certain sense, it may force individuals who live in rural areas to take the responsibility for their own security seriously. By taking precautions and being vigilant, individuals can take a proactive approach in preventing farm attacks.

The victim's perception of the crime may not be down-played in any way or ignored at any stage. Service providers and role players have to keep in mind that the victim did not ask to be victimised or to be in the situation. Victims should receive considerable empathy and support when completing police and insurance reports. As stated earlier, a worrying number of victims are exposed to extreme and unnecessary levels of violence and torture. Victims may suffer severe psychological damage in cases where the attack was accompanied by horror, terror, torture and manipulation, especially where victims were constantly threatened with imminent death. The son of victims who were brutally murdered on their farm in 2009, shares how finding his parent's bodies

still affects his daily life: “**Every day of my life, I recall even the smallest details of what I saw when I discovered my parents**”. He continues by saying that the murders have left him feeling totally helpless and that no therapist could empathise adequately with his situation.

“Secondary victims” of attacks may also refer to employees who are left without any income as a result of the loss of production or because the owners may have decided to sell the property. Farms not only provide employees with income, but also a place where they can live and care for their families. Employees often discover their murdered employers. These people can therefore be viewed as the silent victims because they are indirectly affected to great extent. Having to relocate or being unable to provide for their families may leave them feeling uncertain and forgotten.

6. Case studies presenting problematic factors with the South African criminal justice system

The following case studies provide examples of attacks where the criminal justice system, at some stage, failed the victims.

6.1 Hibbe van der Veen

Mr Hibbe van der Veen was violently attacked on his farm in Bronkhorstspruit, Gauteng on 16 July 2012 at 23:53 by five attackers, none of them known to him. The attackers threw a piece of wood through his window and gained access to his home. He was shot while struggling physically with three of the attackers. After his cousin, who had spent the night on the property, returned fire, the attackers fled on foot. Mr. van der Veen sustained a gunshot wound to his stomach and was in a coma for almost five weeks. He had to undergo three major operations to repair the massive internal injuries caused by the gunshot.

Although the attackers were arrested shortly after the attack, they were released on bail. After two unsuccessful identity parades, the accused were released despite sufficient evidence from the crime scene that incriminated them. Mr van der Veen has since vowed not to let the case go unresolved and is still in communication with the station commander, demanding regular updates and progress on the case.

6.2 David and Bernadette Hall

Mr David Hall and his wife Bernadette were attacked on their Fochville dairy farm on 20 February 2012. As usual, the couple began their day by milking the cows. At 6:10 the couple was overpowered outside the dairy by five attackers. None of the attackers were known to the couple. Mr Hall was shot execution style after he tried to defend himself and his wife, and he died on the scene. Mrs Hall was then taken to the house where the attackers demanded money and the keys to the safe. After she was assaulted and tied up, the attackers ransacked the house and fled with their loot in her vehicle.

Mrs Hall used the community radio to call for help, and their neighbours rushed to her aid. It took the SAPS 30 minutes to reach the farm. Mrs Hall remains unsatisfied with how the case was managed. She stated that she was never kept up to date with information regarding her case. No forensic evidence was collected from the scene and no fingerprints were retrieved. Her rights and the relevant procedures were never explained to her and she was never able to reach the relevant officers at the station. Two of the attackers were arrested and charged, but was released due to a technicality regarding her statement.

6.3 Francois and Eunice du Toit

Mr du Toit, his wife Eunice and their two children were attacked on their farm in the Lydenburg/Groblersdal district, Mpumalanga on Sunday evening, 23 January 2012. At 00:30, Mrs du Toit was woken by flashlights shining into their bedroom. She woke her husband and told him that there were people outside. Mr du Toit stood up to look through the glass sliding door. When he turned around to retrieve his firearm from his bedside table, he was shot from behind. The attackers then entered the room, walked around the bed and fired two more shots at Mr du Toit. His wife was told to get up and hand them the keys to the safe. The children were taken to the kitchen, where they were order to lie on the floor, where they were kicked. After Mrs du Toit took the attackers to the safe and opened it, they emptied it and fled with the couple's vehicles.

The reaction time of SAPS was 45 minutes, even though the farm is a mere 25 km from the closest town. Mrs Du Toit is also not satisfied with the way in which the SAPS manages the case. Apart from their very poor reaction time, she had to repeat her statement three times. The forensic evidence was lost at some stage, along with the case docket. She says that the attitude from SAPS was that they could just not be bothered.

Three attackers were arrested and charged. Their case was heard on 3 November 2015 in the High Court. However, all charges were withdrawn against two of the accused and one was found not guilty due to a lack of evidence. In response to the outcome of the case, Mrs du Toit stated that she was extremely disappointed and had lost all faith in the criminal justice system. She said that there was no effort in seeking

justice and it was as if the court had heard a petty case of a stolen wallet and not that of a husband, father and farmer who was brutally murdered.

6.4 George Erasmus

Mr Erasmus, a pensioner who stayed on a smallholding in Hammanskraal, north of Pretoria in the Gauteng province, was ambushed in his house after he went out to buy the newspaper on Sunday morning, 10 October 1999. Upon his return at approximately 10:00, three attackers waited for him inside his house, one of which was known to Mr Erasmus, as he was a contract worker on the property. After Mr Erasmus saw one of the men aiming a weapon at him, he attempted to run away. The attacker immediately opened fire, but his weapon jammed. They then grabbed Mr Erasmus and took him to the safe, where they demanded the keys. When he took the keys from his pocket, he accidentally dropped it. When he bent down to pick it up, the attacker shot him though his neck, downwards and through his shoulder. The heavily-wounded Mr Erasmus was then dragged to the bathroom, where after the three attackers fled with his car.

No one was arrested for the attack on Mr Erasmus. However, just more than a year after the attack, he received news that one of his firearms that was stolen during the attack had been retrieved. It was found at a roadblock a year before (therefore just after the attack took place) in a vehicle that turned out to be Mr Erasmus' stolen vehicle. The driver, passengers and vehicle were allowed to leave the roadblock.

7. Conclusion

In an ongoing national study on farm attacks, AfriForum has found that in more than half of cases investigated, the criminals escaped. Of the 41% of suspects that were arrested, 39% were charged but only 23% were sentenced.

Cases	**40**
Average number of attackers	3,75

% of attackers (150)	
Escaped	52%
Apprehended	45%
Arrested	41%
Released	7%
Charged	39%
Appeared in Court	29%
Convicted	23%
Sentenced	23%

No arrests made (% of cases)	28%

It is clear that the conviction rate for these crimes remains very low. It is true that the conviction rates for murder and other serious crimes in South Africa are similar, if not lower. It is therefore of the utmost importance that the criminal justice system should intensify its efforts to successfully prosecute and sentence dangerous criminals. Apart from the investigations by SAPS, the forensic analysis of evidence and the correct procedures which have to be followed in every case, the courts must enforce strict bail conditions where possible. Because of the fact that there is on average 3,75 attackers involved in each farm attack, and that more than half of these attackers escape, the apprehension and arrests of and charges against the suspects should be intensified to ensure that bail is not granted in cases where suspects may pose a threat, are dangerous to society or pose a flight risk. Even if correctional service facilities are overpopulated, these dangerous individuals can not be allowed to re-enter society until judgement has been passed.

We earnestly hope that you will view these crimes in a serious light as our farmers live in mortal danger every day of their lives. It is not fair that the victims and the families are left behind to once again become victims as a result of the failures of the criminal justice system in South Africa.