

# Xenophobia and 2024

SOUTH AFRICA

Given how high the stakes will be in the 2024 elections, parties may be tempted to use whatever means at their disposal to mobilise support, including xenophobia. South Africa has a history of xenophobia which has manifested itself in several, periodic xenophobic attacks. As such, the ground is fertile for attempted xenophobic political mobilisation. Parties that have placed immigration issues at the centre of their identity and political message have grown both in strength and number since the 2019 elections. As such, there will be some significant anti-immigration messaging and noise. However, the bigger parties tend to avoid campaigning explicitly on immigration issues, meaning that although "anti-immigration parties" have grown, immigration issues will not decide the election. The ANC may battle to break this trend though. Importantly, xenophobic violence typically does not occur during election season, only after, and we expect this trend to persist in 2024.

# Xenophobia – a history

Democratic South Africa's history of xenophobia is well documented. Literature traces this history to 1994/5. In December 1994 and January 1995, the Alexandra Land and Property Owners Association and the Concerned Residents Group of Alexandra accused immigrants from Zimbabwe and Mozambique of perpetuating crime, sexual violence and unemployment in the Johannesburg township.¹ The groups forcefully evicted people from their homes in a campaign tagged "Operation Buyelekhaya" which translates to "go back home" in IsiZulu. In September 1998, a group of individuals returning from a rally organised by people who blamed foreigners for the levels of unemployment, crime, and even the spread of AIDS threw two Senegalese and a Mozambican out of a moving train.²

The most severe and widely known episodes of xenophobic violence took place in May 2008 in different parts of the country. The violence started in Alexandra and spread to other, predominantly urban, areas across different provinces. A total of 62 people died as a result, including 21 South Africans, 11 Mozambicans, five Zimbabweans and three Somalis, while thousands were injured.<sup>3</sup> Estimations of the number of people displaced range between 80,000 and 200,000.<sup>4</sup> This was not the end of the attacks as in mid-November 2009, 3,000 selectively targeted Zimbabweans living in the informal settlement of De Doorns were displaced due to xenophobic violence.<sup>2</sup>

In January 2015, Alodixashi Sheik Yusuf, a Somali shop owner in Soweto, shot and killed 14-year-old Siphiwe Mahori whom he accused of breaking into his shop together with his friends. The incident sparked widespread looting targeting foreign-owned shops, which spread to different parts of the Gauteng province. On 5 March 2015, Ga-Sekgopo residents found a foreign shop owner in possession of a mobile phone belonging to a local man who had been killed weeks earlier. The residents demanded answers from the shop owner on how the deceased man's phone ended up in his possession.

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#### **KRUTHAM 2024 BASELINE**

ANC 47 [57.5] (<u>balanced</u> risk)
DA 25 [20.8] (downside risk)
EFF <u>13</u> [10.8] (downside risk)
ACSA 4 [-] (balanced risk)
IFP 5 [3.4] (balanced risk)
Proto <u>4</u> [-] (downside risk)
Other 3 [7.6] (Upside risk

Note we have reinforced the upside ris we see for ANC though not change the numerical forecast ye

**TOPICS**Politics

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Violence subsequently erupted as the residents pushed foreign shop owners out of the Ga-Sekgopo villages.

In March 2015, the late Zulu King, Goodwill Zwelithini remarked in a speech that foreigners should go home. In April, foreign nationals were attacked in some parts of KwaZulu-Natal, with Durban being the epicentre. The late king was widely blamed for inciting the violence. He however argued that he was misquoted by the media. While it stated that his comments were hurtful and harmful, the SA Human Rights Commission (SAHRC) found that the remarks did not amount to hate speech or the instigation of violence against migrants. In September 2019, foreign nationals were once again on the receiving end of xenophobic violence, which occurred mainly in Johannesburg. These attacks resulted in the death of 12 people and were widely condemned by countries on the continent.

#### Recent developments

Whereas in the past xenophobic attacks have mostly been carried out by unorganised communities, recently organised groups targeting immigrants (mainly from other African countries) have emerged. These are Operation Dudula and the predominantly online community known as the Put South Africans First movement. Operation Dudula was launched on 16 June 2021. The formation was purposely and symbolically launched in Soweto on the day which commemorates the Soweto uprising. The existence of these groups centres on the idea that South Africans have been marginalised in favour of immigrants and these movements are therefore on a mission to reclaim what they say rightfully belongs to South Africans vis-à-vis jobs, housing, education, healthcare, and life opportunities.

Operation Dudula has used several tactics to drive its message, including raids of residences and establishments occupied by foreign nationals, vigilantism, protests, and social media. While it has held some protests/marches, Put South Africans First has mainly used social media to link foreign nationals to wrongdoing such as crime and to voice anti-immigrant rhetoric.

<sup>&</sup>lt;sup>1</sup> Bastien Dratwa. 2023. "Digital xenophobia is on the rise in South Africa". London School of Economics and Political Science. <a href="https://blogs.lse.ac.uk/africaatlse/2023/03/07/digital-xenophobia-is-on-the-rise-in-south-africa/">https://blogs.lse.ac.uk/africaatlse/2023/03/07/digital-xenophobia-is-on-the-rise-in-south-africa/</a>

<sup>&</sup>lt;sup>2</sup> South African History Online. 2015 "Xenophobic violence in democratic South Africa timeline". South African History Online. <a href="https://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa-timeline">https://www.sahistory.org.za/article/xenophobic-violence-democratic-south-africa-timeline</a>

<sup>&</sup>lt;sup>3</sup> Human Rights Watch. 2009. "World Report 2009". Human Rights Watch. https://www.hrw.org/world-report/2009/country-chapters/south-africa

<sup>&</sup>lt;sup>4</sup> "Humanitarian Assistance to Internally Displaced Persons in South Africa: Lessons Learned Following Attacks on Foreign Nationals in May 2008".

<sup>&</sup>lt;sup>5</sup> Thando Kubheka. 2015. "Somali Shop Owner Appears in Court For Murder". *EWN*. https://ewn.co.za/2015/02/04/Soweto-looting-Shot-owner-pleads-not-guilty-to-murder

<sup>&</sup>lt;sup>6</sup> Jean-Jacques Cornish. 2015. "Xenophobic attacks erupt in South Africa's Limpopo province". RFI. https://www.rfi.fr/en/africa/20150305-xenophobic-attacks-south-africa-limpopo

<sup>7 &</sup>quot;King's anti-foreigner speech causes alarm". IOL. https://www.iol.co.za/news/politics/kings-anti-foreigner-speech-causes-alarm-1835602

<sup>&</sup>lt;sup>8</sup> David Smith. "Zulu leader suggests media to blame for South Africa's xenophobic violence". *The Guardian*. <a href="https://www.theguardian.com/world/2015/apr/20/south-africa-xenophobic-violence-zulu-king-goodwill-zwelithini">https://www.theguardian.com/world/2015/apr/20/south-africa-xenophobic-violence-zulu-king-goodwill-zwelithini</a>

<sup>&</sup>lt;sup>9</sup> Theto Mahlakoana. 2019. "Police Confirm 12 People Dead as Result of Xenophobia Attacks". EWN. https://ewn.co.za/2019/09/09/police-confirm-12-people-dead-as-result-of-xenophobia-attacks

<sup>&</sup>lt;sup>10</sup> Bastien Dratwa. 2023. "Put South Africans First': Making Sense of an Emerging South African Xenophobic (Online) Community". *Journal of Southern African Studies*, 49(1), 85-103.

Importantly, Operation Dudula officially registered as a political party in September. The move followed a consultative conference in which members voted in favour of the group contesting the 2024 elections.

# Party views on immigration

There is a need to distinguish between party views on immigration generally and illegal immigration. Because of the country's history of xenophobia, these two views tend to be conflated. Moreover, political party communication tends to intentionally merge the two for political reasons.

### **Economic Freedom Fighters**

The Economic Freedom Fighters (EFF) has been very vocal in its support for immigrants particularly from other African countries. This stance is underpinned by the party's advocacy for a "borderless Africa" or a "United States of Africa". Party leader Julius Malema has in the past said that the party is willing to lose votes over this "principled" position.

The EFF epitomises the conflation between legal and illegal immigration. In January 2021, it encouraged immigrants from other Southern African Development Community member states to "find creative ways" to enter South Africa. This was as many immigrants from neighbouring countries were stuck at border posts due to restrictions on international travel imposed by the country in response to the Covid-19 pandemic. This statement was widely interpreted as a call for immigrants to illegally enter the country. In January 2022, Malema "inspected" the staff compliment of several restaurants in Gauteng with the aim of ascertaining whether foreign nationals are overrepresented and prioritised over South Africans in the hospitality sector. At this moment, it appeared that the party was backtracking on its hardline stance in support of foreign nationals, which at times bordered on encouraging criminality. However, this was not the case as the party maintains its pro-African immigrant stance.

#### ActionSA

ActionSA's rise to prominence was in part a product of the reaction of citizens (mainly Johannesburg residents) to the several socioeconomic challenges plaguing different parts of the country for which foreign nationals have largely been blamed. These include but are not limited to crimes such as drug and human trafficking and the hijacking of buildings. During his time as mayor of the City of Johannesburg, ActionSA founder, Herman Mashaba (then a member of the Democratic Alliance), was vocal about crime involving foreign nationals in the city. This won him favour with some sections of society but led to him being accused of xenophobia by others.

When Mashaba formed ActionSA in 2020, it assumed an anti-immigrant stance, which contributed to its remarkable performance in the 2021 local government elections in which the party won 44 seats in the City of Johannesburg. However, at its inaugural policy conference held in September, ActionSA toned down its controversial commentary on illegal immigration and foreign nationals. This is symbolised by its identification of the need to "review the scarce skills list to ensure it is aligned to our economic

<sup>&</sup>lt;sup>11</sup> Tshidi Madia. 2022. "Please Find a Creative Way to Enter SA – Malema Tells Those Stuck at Borders". EWN. <a href="https://ewn.co.za/2021/01/14/please-find-a-creative-way-to-enter-sa-malema-tells-those-stuck-as-closed-sa-borders">https://ewn.co.za/2021/01/14/please-find-a-creative-way-to-enter-sa-malema-tells-those-stuck-as-closed-sa-borders</a>

needs, making it easier for skilled foreigners to participate in our economy". Nonetheless, the party remains one of the most vocal about illegal immigration, as Mashaba's recent visit to the Beitbridge border post demonstrates.

#### Patriotic Alliance

The Patriotic Alliance (PA) has become the most vocal of the established parties about (illegal) immigration. The party recently made headlines during its 10th birthday celebrations when its leader Gayton McKenzie went on a verbal offensive against foreign nationals. McKenzie remarked that "the devil sent other devils here to sell drugs to our children, to take the jobs of our children," and that "they are going to go home, mabahambe (they must leave). We don't want illegal foreigners here." McKenzie also came under severe criticism in 2022, when he stated that if he was the president of the country, he would personally switch off illegal foreign nationals' oxygen machines and connect a South African. 14

PA deputy president and City of Johannesburg member of the mayoral council for transport Kenny Kunene has also accused foreign nationals of occupying hijacked buildings, some of which came into the spotlight in recent months after they caught fire. Xenophobic utterances will therefore be an integral part of the PA's elections campaign.

#### African Transformation Movement

Since its founding in 2018, the African Transformation Movement (ATM) has been very vocal about illegal immigration and its negative implications. As it does with many issues, the ATM has sought to use relevant institutions to wage its fight against illegal immigration. Earlier this year, party leader Vuyo Zungula accused the courts of "encouraging and compounding" criminality by granting bail to undocumented immigrants who are accused of crimes as they cannot be traced thereafter. Following several incidents of children dying after allegedly consuming food from predominantly foreign-owned spaza shops, Zungula wrote to ministers Joe Phaahla and Enoch Godongwana asking them to prioritise employing qualified environmental health officials to monitor local businesses, including spaza shops and other food-related industries. 16

Prior to that Zungula wrote to the SAHRC seeking its intervention on fake and expired foods found in some spaza shops. In response the SAHRC stated that it conducted a preliminary inquiry in 2018 which found no evidence of fake

<sup>&</sup>lt;sup>12</sup> ActionSA. 2023. "Summary of Approved Policies from the 2023 Policy Conference". ActionSA. <a href="https://www.actionsa.org.za/wp-content/uploads/2023/09/Summary-of-Approved-ActionSA-Policies-DIGITAL.pdf">https://www.actionsa.org.za/wp-content/uploads/2023/09/Summary-of-Approved-ActionSA-Policies-DIGITAL.pdf</a>

<sup>&</sup>lt;sup>13</sup> Sihle Mlambo. 2023. "Political analyst slams Patriotic Alliance for anti-foreigner comments at birthday rally". *IOL*. <a href="https://www.iol.co.za/news/politics/political-analyst-slams-patriotic-alliance-for-anti-foreigner-comments-at-birthday-rally-49fed07e-9313-4ab8-b71d-55a44b12ff71">https://www.iol.co.za/news/politics/political-analyst-slams-patriotic-alliance-for-anti-foreigner-comments-at-birthday-rally-49fed07e-9313-4ab8-b71d-55a44b12ff71</a>

<sup>&</sup>lt;sup>14</sup> Marvin Charles. 2022. "PA spurns SAHRC's hate speech claims against McKenzie as it doubles down on xenophobic stance". *News24*.

https://www.news24.com/news24/southafrica/news/pa-spurns-sahrcs-hate-speech-claims-against-mckenzie-as-it-doubles-down-on-xenophobic-stance-20230420

<sup>&</sup>lt;sup>15</sup> Siyabonga Sithole. 2023. "ATM leader slams justice system for granting bail to undocumented and illegal immigrants". *IOL*. <a href="https://www.iol.co.za/the-star/news/atm-leader-slams-justice-system-for-granting-bail-to-undocumented-and-illegal-immigrants-921aaab8-222b-473a-8587-40164dbfe605">https://www.iol.co.za/the-star/news/atm-leader-slams-justice-system-for-granting-bail-to-undocumented-and-illegal-immigrants-921aaab8-222b-473a-8587-40164dbfe605</a>

<sup>&</sup>lt;sup>16</sup> Siyabonga Sithole. 2023. "ATM leader pens letter to ministers amid deadly food products". *IOL*. <a href="https://www.iol.co.za/the-star/news/atm-leader-pens-letter-to-ministers-amid-deadly-food-products-219743cb-ed7e-4a15-98ae-8facee99a662">https://www.iol.co.za/the-star/news/atm-leader-pens-letter-to-ministers-amid-deadly-food-products-219743cb-ed7e-4a15-98ae-8facee99a662</a>

and expired goods being sold in Soweto.<sup>17</sup> In September, Zungula tabled a motion requesting a discussion in the National Assembly about the impact of the unregulated informal sector. He stated that "it is also reported that spaza shops and general dealers that are operated by people that are illegal in the country fund terrorists' activities".<sup>18</sup> Immigration issues will thus form a significant part of the ATM's election campaign. In fact, as part of this campaign, the ATM recently published 14 resolutions detailing how it will "put South Africans first". There is a significant focus on immigration issues in these proposals.

#### Inkatha Freedom Party

The Inkatha Freedom Party (IFP) has historically not been engaged in any xenophobic mobilisation or commentary. In fact, its late founder Mangosuthu Buthelezi was one of the leaders who attempted to quell tensions during the 2019 xenophobic attacks as he addressed George Goch, Denver and Jeppestown hostel residents. <sup>19</sup> He was however disrupted by a rowdy section of the crowd. Nevertheless, in January 2020 the IFP proposed the adoption of quotas to regulate the employment of foreign nationals in sectors of the country's economy. This was in a reaction to the observation made by the party that some sectors employ more foreign nationals than South Africans.

In December 2020, the IFP tabled the Employment Services Amendment Bill. The bill sought to amend the Employment Services Act, 2014 to oblige an employer to confirm that there are no suitable South African citizens or permanent residents that can be employed in a position before recruiting a foreign national.<sup>20</sup> The bill also sought to oblige the minister of employment and labour to publish a notice that identifies economic sectors for the purposes of ensuring that suitably qualified South African citizens and permanent residents are equitably represented in those sectors, and to set numerical targets for the identified economic sectors on the basis of what would constitute equitable representation.<sup>20</sup>

The IFP has reiterated that its bill is not xenophobic or a departure from its non-xenophobic stance but a reaction to complaints about the prioritisation of foreigners in some sectors. There has not been much progress with this bill, and it appears as good as dead given the existence of a similar bill from the minister of employment and labour (more on this later).

#### **Democratic Alliance**

While the Democratic Alliance (DA) has not used immigration issues to campaign, the party released its migration policy in 2022. This policy is pro-immigration and is designed to make immigrating to South Africa and the life of immigrants easier. The party states that its migration policy is anchored on three pillars:

<sup>&</sup>lt;sup>17</sup> SAHRC. 2023. "SAHRC slammed for food crisis reply". South African Human Rights Commission. <a href="https://www.sahrc.org.za/index.php/sahrc-media/news/item/3814-sahrc-slammed-for-food-crisis-reply">https://www.sahrc.org.za/index.php/sahrc-media/news/item/3814-sahrc-slammed-for-food-crisis-reply</a>

<sup>&</sup>lt;sup>18</sup> Richard Brooks. 2023. "ATM accuses government of failing to combat illicit trade". SABC. <a href="https://www.sabcnews.com/sabcnews/atm-accuses-government-of-failing-to-combat-illicit-trade/">https://www.sabcnews.com/sabcnews/atm-accuses-government-of-failing-to-combat-illicit-trade/</a>

<sup>&</sup>lt;sup>19</sup> News24. "Buthelezi's xenophobia message shunned as splinter group disrupts his speech to intimidate foreigners". News24.

https://www.news24.com/news24/buthelezis-xenophobia-message-shunned-assplinter-group-distrupts-his-speech-to-intimidate-foreigners-20190908

<sup>&</sup>lt;sup>20</sup> Liezl Van der Merwe. 2020. "Employment Services Amendment Bill". Inkatha Freedom Party. <a href="https://www.ifp.org.za/wp-content/uploads/2023/03/IFP-Employment-Services-Amendment-Bill.pdf">https://www.ifp.org.za/wp-content/uploads/2023/03/IFP-Employment-Services-Amendment-Bill.pdf</a>

- Opportunity created by freer movement of people this focuses on enabling people to enter and remain in the country legally, including secure borders, as well as efficient, fair, and transparent legal channels for migration and trade;
- Opportunity created by economic participation of migrants here the
  focus is on the economic contribution of migrants, including paying
  rent and taxes, skills transfer, know-how and knowledge, creating
  employment opportunities, and purchase of goods and services; and
- Opportunity to address harmful myths according to the DA, those who flee economic hardship and authoritarian rule are often strongly committed to liberal democracy and to championing human rights.<sup>21</sup> This point however assumes that everyone who migrates to South Africa is fleeing economic hardship and authoritarian rule which is not true.

The pro-immigration nature of the policy is summed up by the assertion that the DA in government would "ensure border personnel are not only tasked with guarding the border but assisting and redirecting all persons they counter to legal entry points".<sup>21</sup>

### **African National Congress**

The ANC's position on immigration is both an attempt to be receptive of immigrants as a governing party and to appease the more nationalist sections of society and the more extreme wings of the party. During its 53rd national conference in 2012, the ANC noted that the presence of undocumented migrants in the country poses an economic and security threat; and that there is empirical evidence that the majority of asylum seekers do not qualify for refugee status and protection.<sup>22</sup> The party therefore resolved that there should be awareness programmes to combat xenophobia and educate society against narrow nationalism; and that there is a need to balance the inward flow of low skilled labour to curtail the negative impact it has on domestic employment.<sup>22</sup> At its 54th national conference, the ANC resolved that implementation of the Border Management Authority (BMA) to address the question of irregular migration and border management should be expedited.

As always, views in the ANC on migration are divergent. Since assuming the position of minister of home affairs Aaron Motsoaledi has been a key anti-illegal immigration figure in the ANC and a lightning rod for this section of the party. ANC Secretary-General Mbalula is another figure who has made comments about illegal foreigners. While he made the odd remark during his time as a minister, he has become more vocal since being elected Secretary-General in December 2022. In 2021, addressing the community of Korsten following clashes between taxi operators and (mainly immigrant) business owners, Mbalula remarked that "the conflict that has arisen here, has brought sharply to the fore the challenge of undocumented and illegal businesses which are run by foreigners here in South Africa. People must be

 <sup>&</sup>lt;sup>21</sup> DA. 2022. "Opportunity beyond borders: The DA's position on migration".
 Democratic Alliance. <a href="https://press-admin.voteda.org/wp-content/uploads/2022/03/Opportunity-beyond-borders-Policy-Summary-2.pdf">https://press-admin.voteda.org/wp-content/uploads/2022/03/Opportunity-beyond-borders-Policy-Summary-2.pdf</a>
 <sup>22</sup> ANC. 2012. "53rd National Conference Resolutions". African National Congress. <a href="https://www.anc1912.org.za/wp-content/uploads/2021/01/Resolutions-2012.pdf">https://www.anc1912.org.za/wp-content/uploads/2021/01/Resolutions-2012.pdf</a>

properly documented, even those doing business here. Their business must be legal."<sup>23</sup>

While not a majority attitude in our view, anti-immigration sentiments do exist within the ANC leadership. However, these views are constrained and concealed to a degree by the fact that the ANC is the governing party. Nonetheless, these sentiments emerge evidently during election season, as Mbalula's recent comments indicate.

We must mention that during its 55<sup>th</sup> national conference, the ANC acknowledged that it needs to develop a migration policy framework to meet modern society's challenges. This policy would be discussed by its branches and would have to "combat all manifestations of xenophobia and respect aspirations of a united Africa." This will perhaps make the ANC's position clearer.

In reality we see a core message devoid of xenophobia, playing down parts of the government policy agenda, but with fringes playing to particular constituencies using xenophobia and exploiting some elements of the government's current policy agenda.

## Government actions

Over the past few years, there have been several interventions from government (especially the executive) which can be interpreted as a response to complaints about (illegal) immigration from sections of society.

## Zimbabwe Exemption Permit

In November 2021, cabinet announced that it would not renew the Zimbabwe Exemption Permit (ZEP). The ZEP was due to expire on 31 December 2021, but its holders were granted a 12-month period to regularise their stay in South Africa. Minister of home affairs, Aaron Motsoaledi, then extended this deadline to 30 June 2023 and then 31 December 2023. In June, the Gauteng High Court in Pretoria declared the 2021 decision not to renew the ZEP invalid, unlawful and unconstitutional. The court also extended the validity of the ZEP by another 12 months (until the end of June 2024). The minister applied for leave to appeal in the Supreme Court of Appeal after the High Court rejected his application. The outcome is still pending. On 1 December, Motsoaledi announced that he had extended the ZEP and Lesotho Exemption Permit to 29 October 2025.

<sup>&</sup>lt;sup>23</sup> Joseph Chirume. 2021. "Immigrants in Gqeberha say they live in fear after Cele and Mbalula's remarks". *GroundUp*. <a href="https://www.groundup.org.za/article/immigrant-shopowners-in-gqeberha-live-in-fear-after-cele-and-mbaulas-remarks/">https://www.groundup.org.za/article/immigrant-shopowners-in-gqeberha-live-in-fear-after-cele-and-mbaulas-remarks/</a>

<sup>&</sup>lt;sup>24</sup> ANC. 2022"African National Congress 55th National Conference Resolutions".
African National Congress. <a href="https://www.anc1912.org.za/wp-content/uploads/2023/02/ANC-55th-Conference-Resolutions-Peace-Stability.pdf">https://www.anc1912.org.za/wp-content/uploads/2023/02/ANC-55th-Conference-Resolutions-Peace-Stability.pdf</a>

<sup>&</sup>lt;sup>25</sup> Department of Home Affairs (RSA). 2021. "Minister Motsoaledi welcomes the decision of the High Court: Gauteng Local Division, Pretoria to struck from the roll urgent applications by Zimbabwe Exemption Permit holders for lack of urgency." Department of Home Affairs. <a href="http://www.dha.gov.za/index.php/statements-speeches/1505-minister-motsoaledi-welcomes-the-decision-of-the-high-court-gauteng-local-division-pretoria-to-struck-from-the-roll-urgent-applications-by-zimbabwe-exemption-permit-holders-for-lack-of-urgency">https://www.dha.gov.za/index.php/statements-speeches/1505-minister-motsoaledi-welcomes-the-decision-of-the-high-court-gauteng-local-division-pretoria-to-struck-from-the-roll-urgent-applications-by-zimbabwe-exemption-permit-holders-for-lack-of-urgency</a>

<sup>&</sup>lt;sup>26</sup> Tania Broughton. 2023. "Termination of Zimbabwean Exemption Permit declared unlawful, unconstitutional and invalid". *GroundUp*.

https://www.groundup.org.za/article/termination-of-zimbabwean-exemption-permitdeclared-unlawful-unconstitutional-and-invalid/

## **Border Management Authority**

The establishment of the Border Management Authority (BMA) was part of the response to complaints about illegal immigration. President Cyril Ramaphosa signed the Border Management Authority Act – which established the BMA - into law on 21 July 2020. The BMA was initially housed in the department of home affairs (DHA) and in October it was formally launched after it assumed its status as a Public Finance Management Act schedule 3 (A) public entity on 1 April 2023. The first group of officers of the border guard of the BMA were deployed in July 2022 to safeguard the country's land, air and maritime ports of entry and borders. The establishment of the BMA has been part of ANC national resolutions for over a decade.

# White Paper on citizenship, immigration and refugee protection

With the aim of overhauling the migration system, the DHA published the White Paper on Citizenship, Immigration and Refugee Protection on 10 November. The white paper aims to provide a policy framework to guide the granting of residency and citizenship to foreign nationals, and the protection of refugees and asylum seekers. The white paper proposes that South Africa should review and/or withdraw from the 1951 United Nations Refugees Convention and the 1967 Protocol Relating to the Status of Refugees with a plan to accede to them with reservations like other countries. It also proposes that the Refugee Act must be repealed as it does not take into consideration emerging international trends and exceptions provided for under international law.

The white paper makes several other proposals including the establishment of structures to deal with asylum applications and appeals speedily, the review of section 4(3) (citizenship by naturalisation) of the Citizenship Act, and the restriction of refugees from working. The public has until 19 January 2024 to make written submissions on the white paper which aims to harmonise the Citizenship Act, Immigration Act and Refugees Act among other objectives. In the main, the bill seeks to impose several restrictions on foreign nationals and their ability to enter the country. It is thus in line with the agenda of the more nationalist sections of the ANC.

In addition to these issues, the slow movement of the visa reform process can be partly explained by the emergence of a more nationalist/xenophobic outlook at the DHA. However, we must clarify that the slow progress is partly a result of inefficiencies within the DHA.

# Xenophobia and 2024 electioneering

As with many issues, certain parties – although to a limited extent - do opportunistically use immigration issues and sometimes overtly xenophobic language to campaign during election season. The ANC is one organisation that occasionally and casually employs anti-immigrant rhetoric at these times. In September, it's Secretary-General Fikile Mbalula spoke about the need to regulate the spaza shop industry in order to stop the dominance of

<sup>&</sup>lt;sup>27</sup> SA News. 2023. "White Paper set to overhaul migration system, says Motsoaledi". South African Government News Agency. <a href="https://www.sanews.gov.za/south-africa/white-paper-set-overhaul-migration-system-says-motsoaledi">https://www.sanews.gov.za/south-africa/white-paper-set-overhaul-migration-system-says-motsoaledi</a>

foreign nationals in that industry. He was quoted saying that "our country is full of Pakistanis and that is a problem".<sup>28</sup>

The leadership of the ANC in Gauteng has also come out strongly to condemn illegal immigration characterising it as an abuse of hospitality and Ubuntu. Provincial Secretary TK Nciza suggested "...that there must be some quota that speaks to locals because people believe that only the government must employ our people."<sup>29</sup> This was in relation to ensuring that the private sector employs more South Africans than foreign nationals.

The Employment Services Amendment Bill which was gazetted in February 2022 together with the National Labour Migration Policy by the minister of employment and labour, proposes a quota system wherein the minister would be empowered to set quotas for any sector of the economy to regulate its hiring (of foreign nationals). The bill is yet to be introduced to parliament. The ANC Gauteng leadership's commentary is thus in line with party efforts at national level.

While xenophobic political mobilisation tends to be on the decline during election season, the 2024 elections will be contested by several parties opposed to (illegal) immigration. Foremost is Operation Dudula which is the most likely to resort to overt xenophobic political mobilisation. Anti-immigration will also be a significant aspect of the campaign of the PA, which is now far more influential than it was in 2014 and 2019. ActionSA is another party that will spread anti-immigration message, although much more tactfully and diplomatically than the other two parties. The ATM's overarching message will be a call for a more stringent regulatory framework governing immigration. This message will be accompanied by sometimes unsubstantiated claims about crime and other wrongdoing committed by foreign nationals.

Xenophobic political mobilisation tends to have a limited impact, at least on the physical wellbeing of foreign nationals, because incidents of xenophobic violence typically do not take place during election season. We therefore do not expect xenophobic attacks in the pre-election period.

<sup>&</sup>lt;sup>28</sup> Sihle Mavuso. 2023. "SA is full of Pakistanis!' ANC SG Fikile Mbalula says only locals should run spaza shops". *IOL*. <a href="https://www.iol.co.za/news/politics/sa-is-full-of-pakistanis-anc-sg-fikile-mbalula-says-only-locals-should-run-spaza-shops-ca661f85-aae6-4f51-bf34-8581864765b8">https://www.iol.co.za/news/politics/sa-is-full-of-pakistanis-anc-sg-fikile-mbalula-says-only-locals-should-run-spaza-shops-ca661f85-aae6-4f51-bf34-8581864765b8</a>

<sup>&</sup>lt;sup>29</sup> Kamogelo Moichela. 2023. "People must not be xenophobic, but illegal immigration is a total NO! Gauteng ANC leadership calls for strict number of foreign nationals". *IOL*. <a href="https://www.iol.co.za/news/politics/people-must-not-be-xenophobic-but-illegal-immigration-is-a-total-no-gauteng-anc-leadership-calls-for-strict-number-of-foreign-nationals-767dd6e7-953b-440c-b762-a3f8b478a8d5</a>

Figure 1: Timeline of previous xenophobic attacks



We must however highlight that the ground is very fertile for xenophobic political mobilisation. Sustained high levels of unemployment, inequality and poverty coupled with a generally underperforming government, as the performance of municipalities indicates, mean that the temptation to search for "an "other" to hold accountable is high.

We must recall that in June, Afrobarometer published results of a survey which indicated that seven in 10 South Africans (70%) are not satisfied with the way democracy works. In another survey, South Africans expressed lack of trust in several institutions that are central to the functioning of democracy. Only 38% of South Africans trust the president somewhat or a lot and this figure declines to 27% for parliament and stands at 43% for the courts of law, which Afrobarometer notes marked the first time that a minority expressed trust in the country's courts.<sup>30</sup> These conditions signal a state of hopelessness and perceptions of a lack of avenues to express dissatisfaction which could result in vulnerable immigrants being scapegoated, at least rhetorically.

## Conclusion

The 2024 elections will not be decided on immigration issues. Xenophobia will thus play only a marginal role in the elections overall and their results specifically. There will however be a small number of parties who will make immigration issues an important component of their election campaigns. These will include Operation Dudula, the PA, ActionSA and the ATM. We must reiterate that the extent of xenophobia in these campaigns will differ from party to party, with Operation Dudula being the most likely to resort to explicit xenophobia. On the other hand, the EFF will continue to preach the gospel of a united Africa, although this will not be the focus of its campaign. The ANC will opportunistically use immigration issues to campaign depending on the audience party leaders address. The IFP will occasionally mention

south africans trust in institutions reaches new low-afrobarometer-20aug21.pdf

<sup>&</sup>lt;sup>30</sup> Mikhail Moosa and Jan Hofmeyr. 2021. "South Africans' trust in institutions and representatives reaches new low". *Afrobarometer*. <a href="https://www.afrobarometer.org/wp-content/uploads/2022/02/ad474-">https://www.afrobarometer.org/wp-content/uploads/2022/02/ad474-</a>

immigration issues but will not dedicate much time to them. The DA is likely to avoid the mention of immigration issues in its campaign, and even when it touches on them, the focus will be on how to attract skilled immigrants.

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