



# **Opportunity beyond borders**

The DA's position on migration

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## List of Acronyms

AU	African Union
DHA	Department of Home Affairs
DZP	Dispensation of Zimbabweans Project
EAC	East African Community
ECOWAS	Economic Community of West African States
EU	European Union
GCRO	Gauteng City-Region Observatory
ILO	International Labour Organisation
OECD	Organisation for Economic Co-operation and Development
RRO	Refugee Reception Offices
SADC	South African Development Community
SAHRC	South African Human Rights Commission
SANDF	South African National Defence Force
SAPS	South African Police Services
UNHCR	United Nations High Commissioner for Refugees
ZEP	Zimbabwean Exemption Permit.

## **A Message from DA Leader, John Steenhuisen**

I am delighted and proud to present the DA's Migration Policy. In South Africa's current context of rising xenophobic tension driven by widespread government failure, this policy is timely and important. All thanks must go to Head of Policy Gwen Ngwenya, her team in the policy unit, and the various experts who gave freely of their time and advice.

The crucial thing about the DA's Migration Policy is that it is grounded in data and facts, rather than myth and misconception. It can seem counter-intuitive, but immigration presents more opportunity than risk for South Africa. This paper sets out how we can maximise that opportunity and mitigate the risks. It makes the case for integration over isolation and hope over fear.

Our policy is open-minded and open-hearted, underpinned by the liberal values of freedom, fairness, opportunity, diversity, inclusion, rationality, transparency, and the rule of law. It charts a route to a South Africa which is regionally and globally integrated, where tourism and trade opportunities are maximized, scarce skills and know-how are easily imported, and human rights are respected.

Far from being a zero-sum game, where migrants benefit at the expense of locals, the DA's migration policy, if implemented effectively, would bring socioeconomic benefits for South Africa, offer migrants safety and opportunity, and open the doors for South Africans to trade, work, travel or study abroad.

Ideally, this migration policy needs to be implemented alongside the DA's broader economic growth strategy and our foreign relations policy, which puts firm pressure on other states to uphold human rights, open markets, democracy, and the rule of law. These three policies are mutually reinforcing and will establish a virtuous cycle in which South Africa grows from strength to strength.

A vote for the DA in 2024 will be a vote for secure borders, effective border control, and freedom of movement, economic growth, and human rights.

Yours sincerely,  
John Steenhuisen

## **A message from Shadow Deputy Minister of Home Affairs, Adrian Roos**

South Africa's dysfunctional border security and immigration enforcement has seen migration policy framed in fear. It is critical to constructively engage legitimate concerns by increasing border patrols and force multipliers along our porous borders, eliminating corruption in permitting and an e-verification system to deal with employment without a work permit. Our migration priorities are to attract skills, promote trade and investment by removing migration barriers to businesses, facilitate tourism, and progressively move towards freedom of movement. Far from being a free for all, this requires regional integration of systems for the identification and tracking of irregular immigrants and crime across borders. As Shadow Deputy Minister on Home Affairs, I welcome this migration policy framed on opportunity. This will help ensure South Africans benefit as much as possible from the economic growth and jobs available through international investment and the African Continental Free Trade Area.

## Introduction

Millions of people migrate across the world in search of a better life. Some to join family, some driven by an entrepreneurial spirit, and others forced to flee from persecution and deprivation. Whatever the motivation, all migrate in the hope that beyond their borders lies opportunity. It has been estimated that if all of the world's international migrants (people living in countries other than their own country of birth) lived in one country, it would amount to around 281 million people. That is about the population size of Indonesia, which is the world's fourth-largest country.<sup>1</sup> In total, international migrants account for 3.3% of the global population.<sup>2</sup>

Although estimates are often contested, Statistics South Africa (Stats SA) estimates that there are 3.95 million migrants (regardless of legal status) in South Africa as of 2021.<sup>3</sup> The majority of migrants come from neighbouring countries such as Eswatini, Lesotho, and Zimbabwe. As the most industrialised economy in the region it comes as no surprise that South Africa is the top destination for migrants from Southern Africa, receiving 23% of all migrants in the region.<sup>4</sup> However, South Africa is not only a receiving country and South Africans migrate to neighbouring countries as well, such as Eswatini, Mozambique, and Zimbabwe<sup>5</sup> or further abroad, to countries such as the United Kingdom (UK), Australia, and the United States of America (USA).<sup>6</sup>

Intra-regional migration is common within Sub-Saharan Africa. By 2020, 63% of all migrants born in sub-Saharan Africa, lived in another country in the region.<sup>7</sup> Despite the high incidence of migration, or perhaps because of it, for many countries migration has become a hotly contested issue. On the other side of hope are millions who see migrants as a threat; a threat to already scarce resources, a threat to livelihoods, and ultimately a threat to national values. Some of these threats are real and are based on the real experiences of people in communities who bear the brunt of failed immigration and other government policy.

However, many threats, as this paper will demonstrate, are either based on inaccurate information or fears which are unlikely to materialise, and which are stoked by uncertainty of the unknown and by the politicians who profit from it. South Africa has struggled with incidences of xenophobic sentiment and related prejudice, violence, and crime for many years. The cost of xenophobia is high; it puts lives in danger, stunts economic potential by

deterring investment, tourism and cross-border trade, and risks making South Africa a pariah in Africa and on the global arena.

It is critical to constructively engage legitimate fears and concerns. Demonising genuine fears and concerns risks entrenching opinions and other defensive positions. The task for any government is to harness the opportunity presented by migration, while taking seriously the anxieties of those who feel left behind. Helpfully, the narrative of opportunity is backed by the weight of socioeconomic evidence.

## Strategic Approach

Our migration priorities are to ensure policy is designed to:

- Attract skills, knowledge sharing, and know-how;
- Promote trade and investment by removing migration barriers to businesses (big and small);
- Encourage tourism, and
- Progressively move towards freedom of movement

South Africa must ensure that irrespective of the reason for travel our rules and procedures encourage compliance by being easy to understand, fair, and transparent. Our proposals should progressively lead to achieving freedom of movement into and out of South Africa for all persons. If implemented effectively, such freedom should over time reduce restrictions applied to South African citizens too when traveling the world. South Africans also reap the benefits of a continent and world in which it is made easy to work, start a business, travel and/or study abroad.

We can achieve all this by harnessing the following opportunities:

### **Opportunity created by freer movement of people**

The DA is committed to framing migration policy in the language of opportunity as opposed to the language of fear. The language of fear communicates that we need to do a better job of keeping people out, while the language of opportunity is that we need to do a better job of enabling people to enter and remain legally. This includes secure borders, as well as efficient, fair, and transparent legal channels for migration and trade.

The World Bank has estimated the size of the opportunity presented by the African Continental Free Trade Area. This could lead to a 7% (or \$450 billion)

increase in regional income, faster wage growth for women, and the lifting out of extreme poverty of approximately 30 million people by 2035. In addition, skilled and unskilled workers will also see their wages rise by 10.3% and 9.8%, respectively.<sup>8</sup> The free movement of people is thus expected to help contribute to economic integration of the African continent.

There is plentiful research indicating that the corruption of officials as well as the 89% rejection rate of applications by the Department of Home Affairs (DHA) drives the illicit market for 'papers'.<sup>9</sup> Moreover, many Refugee Reception Offices (RROs) in South Africa have a rejection rate of between 95% and 100% on asylum applications, which raises questions and concerns about the process for determining the status of refugees.<sup>10</sup>

Ensuring that the documentation process is accessible, fair, and transparent will go a long way to manage the proliferation of undocumented migrants. More importantly, this will ensure that the focus is on improving the system, and not merely increased securitisation of the border. For many foreign nationals who enter the country legally, the struggle to remain legally occurs internally.

### **Opportunity created by economic participation of migrants**

The language of fear is that foreign migrants compete for public resources and jobs; the language of opportunity is that migrants pay rent,<sup>11</sup> pay taxes,<sup>12</sup> transfer skills, know-how and knowledge, and purchase goods and services contributing to South Africa's revenue. Foreign migrants often create jobs and, in some areas, employ more South Africans than locals do. Local research by the Gauteng City-Region Observatory (GCRO) found that although foreigners own 80% of local informal trade they employ twice as many South Africans on average than their South African competitors (6 vs 3) and are more than twice as likely to pay rent to a South African for their retail premises.<sup>13</sup>

Due to the high employment returns to education and South Africa's skills deficit,<sup>14</sup> the concern about competition for jobs finds primary expression among low skilled and unskilled work. Calculating the precise effect of migration on employment of locals in South Africa is a complex endeavour. However, salient economic opinion in the field is that migrants either have a neutral impact on the employment prospects of South Africans or tend to create more jobs than they occupy. There is also the potential for the transmission of entrepreneurial skills, know-how and knowledge from migrants to locals.<sup>15</sup>



The 2011 Census revealed that migrants are five times more likely to hold a diploma or a university degree than South Africans. In addition, approximately 1.5% of migrants have post-school qualifications compared to 0.3% of South Africans.<sup>16</sup> In terms of social assistance, among the three child grants provided by the state, foreign-born migrants constituted just a mere 0.3% of the total beneficiaries.<sup>17</sup> This indicates that concerns regarding pressure on social transfers, are at least in part not well founded.

A 2018 joint study by the Organisation for Economic Co-operation and Development (OECD) and the International Labour Organisation (ILO) found that migrant labour contributes significantly to the South African economy.<sup>18</sup>

The study found that migrants:

- ⇒ generally, do not displace native born workers;
- ⇒ raise income per capita by up to 5%; and
- ⇒ have a positive effect on the government's fiscal balance (through the payment of income tax and value added tax).

Noting the above, migrant workers overall contribute favourably to the economy of the country.

In another study, *Mixed Migration, Forced Displacement and Job Outcomes in South Africa*, findings included that between 1996 and 2011 one immigrant worker generated approximately two jobs for native-born individuals,<sup>19</sup> having a net positive impact on jobs and wages in the country. The study further found that migrants and native-born individuals may hold employment which complement each other, rather than competing with one another. Migrants are also more likely to start their own business, which in return creates opportunities for locals and contributes positively to the economy.<sup>20</sup> The study further found that around 25% of migrants are self-employed,<sup>21</sup> indicative of the entrepreneurial and business skills they bring to the country and the possible benefits this holds.

Migrant-run businesses do not only benefit migrants but South Africans too. The UN Migration Case Study<sup>22</sup> found that:

- Migrant business owners often used additional community services such as transport services to deliver their stock, which contribute to employment opportunities for mostly South African nationals in the transportation sector.<sup>23</sup>

- They create employment opportunities in the areas in which they conduct their business from, for both local and foreign nationals.<sup>24</sup>
- Migrant business owners also contribute to the local economy in the form of rental payments to property owners, with 74% of the migrants in this study renting property from South Africans to conduct their businesses from.<sup>25</sup>
- These migrant businesses make both social and economic contributions in numerous ways in the communities they operate in, although these are not always recognisable. They provide employment opportunities, and bring much needed services and goods to areas, which are provided at affordable prices.<sup>26</sup>

It is critical to recognise that migrants, across skill levels, contribute to host countries. Especially in service sectors, certificates and qualifications may be valued less than experience or other factors. This requires South African employers and policymakers to work together in developing frameworks for skills recognition and recognition of prior learning or experience to make sense of migrant hiring patterns. This is critical to promote greater understanding in sectors where the prevailing feeling is that migrants are being preferred where South Africans have equivalent skills. Without this understanding, South Africa risks turning away skills and know-how essential to its national economy.

### **Opportunity to address harmful myths**

The language of fear also communicates that foreign nationals compete against South Africans for scarce public resources while the reality is that competition and the poor state of public resources is driven by high rates of unemployment, corruption, and political incompetence. Another misconception is that foreign nationals threaten our way of life and security; while those who flee economic hardship and authoritarian rule are often strongly committed to liberal democracy and to championing human rights. Furthermore, there is no indication that there is a greater propensity to crime by foreign nationals than South Africans.<sup>27</sup>

Many foreign nationals want to enter legally, have qualities to contribute to the economy, and look forward to living in a free, secular, and developing society where they can realise their aspirations.

The ambition of opportunity beyond borders is made more concrete in the following goals, indicators, and targets.

**Table 1: Sustainable Development Goals (SDG)<sup>28</sup> and DA formulated indicators and targets.**

	Goal	Indicator	Target
SDG 4	Quality Education	<ul style="list-style-type: none"> <li>By 2030, substantially increase the supply of qualified teachers, including through international cooperation for teacher training in developing countries, especially least developed countries and Small Island Developing States (SIDS).</li> <li>Percentage of international students in South African Higher Education Institutions (HEI).</li> <li>Percentage South Africans involved in exchange programmes.</li> </ul>	<ul style="list-style-type: none"> <li>Attract teachers in order to fill South Africa's skilled teacher gap.</li> <li>At least 8 - 10% of students enrolled in public HEI should be international students, by 2030. International students currently make up around 7% of the total student population in South Africa.<sup>29</sup></li> <li>70% increase in South Africans participating in international exchange programmes by 2030. Currently only 12 000 South African's are studying abroad.<sup>30</sup>.</li> </ul>
SDG 8	Decent Work and Economic Growth	<ul style="list-style-type: none"> <li>Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity, and innovation.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure policy is reflective of progressive steps taken towards freedom of movement, taking into account reasonable and evidence-based constraints.</li> <li>Implement points-based system which gives recognition of skills, experience, and prior learning.</li> <li>Provide automatic corporate visa allocation for scarce skills workers, as a percentage of the workforce, for companies in sectors experiencing widespread skills shortage.</li> <li>Abolish the minimum threshold (R5 million)<sup>31</sup> for investment to qualify for a business visa.</li> </ul>
		<ul style="list-style-type: none"> <li>Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.</li> </ul>	<ul style="list-style-type: none"> <li>Introduce e-verification system that would enable, and require, employers to check the work eligibility status of potential employees against a Home Affairs database. A self-check mechanism must also be provided.</li> </ul>

SDG 10			<ul style="list-style-type: none"> <li>• Ensure legal status is not investigated as part of any labour dispute process.</li> </ul>
		<ul style="list-style-type: none"> <li>• Devise and implement policies to promote sustainable tourism that creates jobs.</li> </ul>	<ul style="list-style-type: none"> <li>• Introduce remote working visas to live and work from South Africa.</li> <li>• Support roll out of the African passport.</li> <li>• Extend global visa-free travel policy to all countries where practically feasible, without requirement of reciprocity.</li> </ul>
		<ul style="list-style-type: none"> <li>• Level of support for cross-border trade.</li> </ul>	<ul style="list-style-type: none"> <li>• Introduce a trader's permit or visa for improved cross-border trade.</li> </ul>
	<b>Reduced Inequalities</b>	<ul style="list-style-type: none"> <li>• Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard.</li> </ul>	<ul style="list-style-type: none"> <li>• Reviewing and amend existing policy frameworks currently preventing SAPS from handling the prevention, detection, and investigation of xenophobic violence and related hate crimes.<sup>32</sup></li> </ul>
		<ul style="list-style-type: none"> <li>• Facilitate orderly, safe, regular, and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure safe borders, and bring close to zero the number of people who die or disappear in the process of migrating across South African borders.</li> <li>• Lower the remittance transaction costs from South Africa to SADC from 15%<sup>33</sup> to 3%.</li> </ul>
		<ul style="list-style-type: none"> <li>• Ensure enhanced representation and voice for developing countries in decision-making in global international economic and financial institutions in order to deliver more effective, credible, accountable and legitimate</li> </ul>	<ul style="list-style-type: none"> <li>• Use every international platform, where reasonably possible, to articulate issues critical to the growth, development, and stability of the African continent.</li> </ul>

SDG 16		institutions	
		<ul style="list-style-type: none"> <li>Promote the rule of law at the national and international levels and ensure equal access to justice for all</li> </ul>	<ul style="list-style-type: none"> <li>Eliminate and oppose laws which prevent migrants from protesting against foreign governments in South Africa.</li> </ul>
		<ul style="list-style-type: none"> <li>Proportion of migration indicators produced at the national level for evidence-based policy making.</li> </ul>	<ul style="list-style-type: none"> <li>Optimise data processes between government and agencies to increase the availability of high-quality, timely and credible migration data.<sup>34</sup></li> </ul>
	<b>Peace, Justice and Strong Institutions</b>	<ul style="list-style-type: none"> <li>Substantially reduce corruption and bribery in all their forms</li> </ul>	<ul style="list-style-type: none"> <li>Limiting human interaction between applicants and migration officials by ensuring that the bulk, if not entirety, of any application is able to be completed online, in line with world-wide approaches and best practice.</li> <li>Blacklisting officials who have been found guilty of involvement in migration corruption and fraud from working for any state agency or government department as well as laying criminal charges.</li> <li>Provide a hotline for whistleblowers, i.e. for applicants, officials as well as members of the public who wish to report cases of fraud, corruption, and malpractice.</li> </ul>
		<ul style="list-style-type: none"> <li>Develop effective, accountable, and transparent institutions at all levels.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure reason is provided for rejected applications, and the availability or not of an appeals process is clearly outlined.</li> </ul>
		<ul style="list-style-type: none"> <li>Legal identity.</li> </ul>	<ul style="list-style-type: none"> <li>Work with international community to guarantee legal identity for all.</li> </ul>
		<ul style="list-style-type: none"> <li>Strengthen relevant national institutions,</li> </ul>	<ul style="list-style-type: none"> <li>Ensure inter-governmental co-ordination is led by the</li> </ul>

		including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime.	Department of Home Affairs to deal with claims of xenophobia and violence against foreign nationals before flash points transform in to a humanitarian crisis.
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## 1. Freedom of movement

### Defining concepts

The concepts of 'freedom of movement' and 'open borders' are often poorly understood or used interchangeably.

'Free movement' typically encompasses three types of freedoms:

- a) **right of entry**, i.e. visa-free entry or visa-on-arrival.
- b) **right of residence**, i.e. the right to live in the country;<sup>35</sup> and
- c) **the right of establishment**, i.e. the ability to engage in economic activity, either as an employee or self-employed person.<sup>36</sup>

The 1981 African Charter on Human and People's Rights<sup>37</sup> and the 1991 Treaty on the Establishment of the African Economic Community<sup>38</sup> highlighted the free movement of people as crucial for continental integration following Africa's colonial past. For some, it heralded a future not just of continental integration, but one of global integration. Unfortunately, however, South Africa remains closer to the world dictated by our fears than the world guided by those early aspirations.

The concept of 'open borders' exists on a continuum, i.e. there are different types of borders with varying degrees of openness. From borders where people can move freely without any restriction whatsoever to borders with one or more of the following restrictions:

- ⇒ Requirement to confirm identity on arrival or departure, i.e. present passport or national identity document;
- ⇒ Requirement to present pre-approval document or to obtain an approval document at the border i.e., visa, work permit, etc.;
- ⇒ Restriction on duration of stay;
- ⇒ Restriction on activities to be conducted during stay;

- ⇒ Security/clearance checks; and
- ⇒ Criminal background checks.

Importantly, neither the concept of 'open borders' or 'freedom of movement' implies no borders. On the contrary, freedom of movement requires borders, as well as their effective administration to ensure protection from criminal activity such as the smuggling of illegal goods and human trafficking. Furthermore, neither term inherently includes the right to citizenship or access to social welfare [note Article 19 of the African Union (AU) Free Movement Protocol<sup>39</sup> in this regard]. However, these assumptions often stand in the way of public buy-in of the idea of freedom of movement.

### **Freedom of movement on the African continent**

In 2018, member states of the AU adopted the Protocol to the *Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Establishment*. The protocol aims to strengthen Africa's commitment to freedom of movement.<sup>40</sup> Implementation of the protocol encompasses three phases: first, the right of entry and the abolition of visa requirements, the second which is the right of residence, and the third is the right of establishment. During the third phase, migrants may participate in income-generating activities in their new country of residence, such as owning a business and holding assets.<sup>41</sup> South Africa can make progress on all three phases, while placing reasonable conditions on job seekers (e.g. subject to a point system) and without extending access to social assistance (until progress has been made on social contribution portability between countries).

Across the developed and developing world, the internationalisation project in recent years is being dealt a hefty blow. Even though fewer people than ever before in history live in poverty, many have been left behind. This is causing more countries to become more insular and to look inward. In South Africa, rampant crime, low growth, and rising levels of unemployment provide an opportunity for the politics of nationalism to capitalise on this simmering discontent; and in so doing have brought renewed energy to calls for greater protectionism.

The Southern African Development Community (SADC) response to the Free Movement Protocol<sup>42</sup> has been overly-cautious, placing prohibitive preconditions to the adoption of the protocol by SADC member states. The common SADC position includes preconditions such as a) the "existence of peace, security and stability in the continent" and b) "convergence

*amongst countries with a view to reduce economic imbalances between Member States.”<sup>43</sup>*

These preconditions neglect the reality that peace, security, and stability in the continent, as well as economic convergence, are the very goals that the free movement of people is expected to achieve. Furthermore, it ignores policy options, in the event that the policy is detrimental or that the project errs in its haste, to place reservations or pause implementation.

The SADC region lags measurably behind the Economic Community of West African States (ECOWAS) region in its openness to mobility.

ECOWAS has one of the most advanced and well-implemented migration regimes in Africa.<sup>44</sup> By eliminating obstacles to the free movement of persons, services, and capital, the ECOWAS protocol aims to strengthen sub-regional economic integration. The protocol devised a three-phase approach in which mobility should be achieved, namely: *“(1) the right of entry and abolition of visas, (2) the right of residence; and (3) the right of establishment.”<sup>45</sup>*

Phases one and two of the protocol have already resulted in ECOWAS creating a visa-free region and ensuring that rights of residence have been extended to 15 of its members. Citizens of ECOWAS states with a valid passport and an international health certificate may visit another member state of ECOWAS for a maximum of 90 days without obtaining a visa.<sup>46</sup>

The protocol provides a variety of benefits to African countries in addition to promoting the free movement of citizens. In Rwanda, Seychelles, and Mauritius, the benefits of intra-African trade, mobility, skills transfer, and tourism have been demonstrated. Rwanda, for example, saw its tourism revenue grow by 4% in 2014 after issuing visas on arrival to all Africans in 2013.<sup>47</sup>

It should be noted that while ECOWAS and the East African Community (EAC) have the most progressive free movement regimes on the continent, economic and social conditions between member states are not homogeneous. A lesson perhaps for those who would halt openness until there is greater economic convergence. For example, the EAC, has two middle-income countries, Kenya and Tanzania, and four low-income countries, namely Burundi, Rwanda, South Sudan and Uganda, and has experienced distinctive economic growth rates among member states.



Over the last decade, Rwanda and Tanzania experienced an average real GDP growth rate of above 6%, Kenya and Uganda an average of 5%, and Burundi achieved 2.5%. South Sudan had an overall negative growth rate of -4.2% (**Table 2**). The main factor for the low growth rates in both Burundi and South Sudan is the lack of peace and stability, which disrupts economic activity.<sup>48</sup>

**Table 2: Real GDP growth, 2010 – 2020 (%)**

EAC Country	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Average
Burundi	5.1	4.0	4.4	4.9	4.2	-0.3	1.7	-0.2	1.6	1.8	0.3	<b>2.5</b>
Kenya	8.4	6.1	4.5	5.9	5.4	5.7	5.9	4.9	6.3	5.4	-0.3	<b>5.2</b>
Rwanda	7.3	8.0	8.7	4.7	7.6	8.9	6.0	6.1	8.6	9.5	-3.4	<b>6.5</b>
South Sudan	5.5	-4.6	-52.4	29.3	2.9	-0.2	-13.5	-5.8	-1.9	0.9	-6.6	<b>-4.2</b>
Tanzania	6.4	7.9	5.1	7.3	6.9	7.0	7.0	7.1	5.4	5.8	2.0	<b>6.1</b>
Uganda	8.2	5.9	3.2	4.7	4.5	5.7	2.6	5.0	6.2	6.8	2.9	<b>5.0</b>

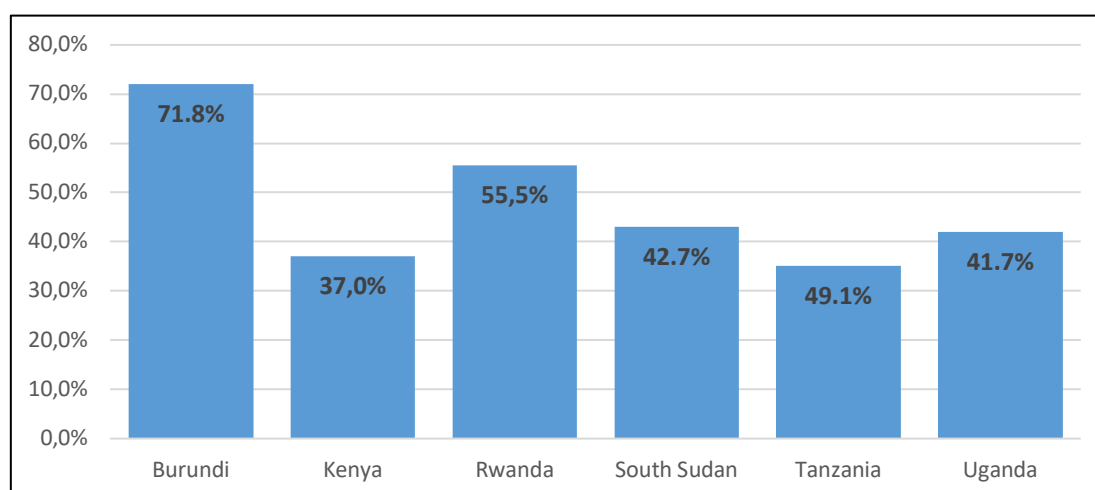
Source: African Development Bank,<sup>49</sup> World Bank<sup>50</sup> and IMF<sup>51</sup>

While overall EAC countries have enjoyed steady growth in recent years, there has been minimal progress to improving poverty levels, inequality, and unemployment rates. The EAC region faces high levels of poverty, inequality, and unemployment. Poverty is extremely high in Burundi and Rwanda. In 2020, the population living below the international extreme poverty line (\$1.90 a day) for Burundi was 72% and 55% for Rwanda (**Figure 1**).

Similar to the EAC, economic disparities between SADC countries exist.

South Africa as a significant stakeholder on the continent needs to play a leading role in the SADC region to drive the agenda towards the free movement of people.

**Figure 1: Percentage of population living under extreme poverty<sup>52</sup>**



Source: World Bank, 2020

**To lay the foundation of interventions for the free movement of people, the DA in government will:**

- Ratify the protocol on free movement of persons.<sup>53</sup>
- Move towards progressive realisation of 90-day visa-free entry of all persons on the African continent for purposes of travel; and the right to reside and the right to establishment as a move towards the global realisation of these rights.
- Ratify the AU draft implementation roadmap with amendments to indicative dates; the timelines need to be both ambitious and realistic.
- Work with other countries, particularly in the region, to meet agreed standards on civil registration systems, improve border management systems, and collaborate on security.
- Encourage the AU Commission and global community, the European Union (EU) in particular, to provide technical support to member states to ensure that the objectives of the protocol are not undermined by poor implementation.

## 2. Piloting Freedom of Movement

The freedom of movement enjoyed by citizens of the EU is the most ambitious venture of continental mobility in the modern era. Within the EU, citizens of member states do not require a visa to enter another member state, only valid proof of identity such as a passport is required. Africa, and the SADC region, is relatively far from achieving the same for its citizens, but it does also mean that we have international successes and failures from

which to learn from while adapting those lessons to the African continent. One way to take a learning by doing approach is to begin piloting freer movement. South Africa already has a history of special dispensations.

## 2.1. Special Dispensations

### **Zimbabwe**

As part of the Dispensation of Zimbabweans Project (DZP), the DHA conducted a documentation and regularisation drive for Zimbabwean migrants between 20 September 2009 and 31 December 2010.<sup>54</sup> The DZP was designed to regularise the status of Zimbabwean migrants in South Africa so that they could live, work, and study there. Furthermore, the DZP was meant to relieve pressure on South Africa's asylum system, which was the last resort for many Zimbabweans fleeing economic and political hardship in Zimbabwe. However, after the DZP permits expired on 31 December 2014, a new process of regularisation was initiated, allowing holders of DZP permits to renew their permits under the Zimbabwean Exemption Permit (ZEP).

The ZEP permits were issued for four years, from 1 January 2018 and expiring on 31 December 2021. In January 2022, ZEP holders were given until 31 December 2022 to apply for visas appropriate to their status. After which time those whose applications have failed will be required to return to Zimbabwe.

### **Lesotho**

In 2015, a four-year Lesotho Special Permit (LSP) was introduced to allow qualifying Basotho to lawfully work, study, and do business in South Africa. According to a report published by the DHA in October 2017, only 194 941 applications for LSPs were received. This is out of an estimated 400 000 Basotho believed to be living in South Africa.<sup>55</sup> Lesotho has been seeking to negotiate a special arrangement with South Africa similar to that of Italy and the Vatican where citizens of the former are not required to possess passports to travel to the latter country.

## 2.2.A Regional Dispensation Approach for Increased Mobility

In relation to Botswana, Eswatini, Lesotho, and Namibia, South Africa should consider implementing a reciprocal policy of freedom of movement as a

test case and the beginning of a SADC and later a continent-wide dispensation. While migrants remain citizens of their country of origin, increasing freedom of movement should be allowed. Increased freedom of movement would boost economic activity since people would be able to trade more easily across borders. It would also help boost South African tourism and other sectors.<sup>56</sup>

The combined population of the four countries is approximately 8 million people, with only half being economically active. If one further takes into account that not all people would want and indeed be able to move between countries, for various reasons, then the number of people likely to migrate is much lower. This would make the test case applicable to some 1.5 million people.<sup>57</sup>

A Regional Dispensation Approach for increased mobility would be underpinned by the establishment of regional labour market information systems and regional labour exchanges to facilitate employment.

Although Zimbabwe is larger and most of South Africa's migrant flow comes from Zimbabwe, decisive dates can be put in place to eventually bring Zimbabwe, as well as other SADC countries, into the special dispensation initially extended to Botswana, Eswatini, Lesotho, and Namibia. The reality that migration management issues facing South Africa are linked to its foreign policy towards Zimbabwe is one of the biggest challenges the country has failed to address.

In response to Zimbabwe's economic and political crises, the exercise of quiet diplomacy exacerbated regional instability. South Africa has a principled obligation to be more outspoken, and a mobility-orientated migration stance means that pragmatically the DA in government could not afford to adopt the approach of 'quiet diplomacy' but would be vociferous about neighbouring states upholding human rights, protecting democracy, and exercising the rule of law.

The DA would rescind the regulations introduced in 2020<sup>58</sup> that criminalise the engagement in political activity by refugees and asylum seekers and prevents them from speaking out against their repressive regimes without permission from the Minister of Home Affairs.

The DA in government would introduce the following special dispensation with regards to our closest neighbours:

- Allow ZEP holders, approximately 180 000 Zimbabwean nationals, to apply for any alternative visa for which they qualify, including permanent residency for ZEP holders of more than 5 years.
- Allow visa free-entry allowing travel, study, and trade or establishment of a business to all citizens of Botswana, Eswatini, Lesotho, and Namibia with a path to permanent residency for postgraduates, those qualifying under the points system, and for those whose business has survived after 5 years.
- Initially establishment will not include the right to seek work, and the ability to work will still be governed by separate work provisions.
- After 3 years of the roll-out of this special dispensation programme, review evidence and consider setting out a clear plan with timelines for integrating Zimbabwe and the rest of SADC into the special dispensation.
- The special dispensation programme should form part of South Africa's custom roadmap to the progressive realisation of the AU protocol by building implementation experience in the region.

### 3. Addressing migration documentation failure by Home Affairs.

To a large extent the social stigma that surrounds migrants, particularly those of African origin, is linked to the perception that the majority are undocumented and therefore operate outside of the law in all their activities. As a result, it clouds debates and provides cover for those who are hostile towards all foreign nationals.

Therefore, the clean, efficient, fair, and transparent functioning of the DHA is integral to ensuring that domestically there is social buy-in for opportunity focused migration policies and that externally, migrating to South Africa is viewed as an attractive option.

Corruption and delays at the DHA mean that many who arrive legally are at risk of becoming undocumented. It also means that those who wish to circumvent the law are provided with easy means to do so by officials open to bribes. If locals do not trust that the migration system is operating effectively, then there will be suspicion regarding those it lets in. The more reliable, transparent, and trustworthy the entire process and management systems, the greater the possibilities for freedom of movement.<sup>59</sup>

To illustrate, but a few examples, the maladministration and corruption challenge within the DHA:

- The closing DHA balance for irregular expenditure amounted to R500 million in 2020.
- In May 2016, 15 people, including a deputy director at the DHA, were arrested on charges of fraud and corruption.
- In March 2017, at the DHA Ficksburg border post, 18 people were arrested for fraud and corruption, including 10 police officers and 5 officials from Home Affairs. A Corruption Watch report states that the two most significant forms of corruption occur when officials at the DHA demand bribes to issue documents, and when police officers, or private security, illicit bribes for entry to Refugee Reception Offices.
- Corruption Watch reports a median bribe of approximately R5,000.
- In November 2021, eight officials were arrested on corruption charges for allegedly issuing permits (temporary residence permits and work permits) to undocumented persons at the Lebombo Port of Entry between South Africa and Mozambique.

These cases barely scratch the surface of the corruption prevalent in the DHA. With the disproportionate attention placed on securing South Africa's borders, it is important to note that while there are illegal border crossings a great deal of corruption occurs at the border posts and is also prevalent in the implementation of migration policy once foreign nationals are in the country.

In addition to corruption, the DHA is also notorious for its inefficiency. For example, acquiring permanent residence status can take anywhere from 30 days to five years - with no real explanation as to how the duration of the process can differ so drastically on a case-by-case basis. It is also nearly impossible for applicants to establish the status of their application (i.e. at what stage an application is at in the system). Officials themselves struggle to establish this.

As a result of migration service inefficiency often only a small number of asylum applications are processed in any given year – with those which remain unprocessed simply adding to a growing backlog of applications.

Inefficiency and corruption in the system makes it extremely difficult for those foreign nationals genuinely attempting to gain legitimate documentation.<sup>60</sup> The proliferation of businesses and criminal syndicates

that prey on desperate undocumented migrants also contributes to the association between crime and undocumented migrants even though many of these migrants may be legal work-seekers, asylum seekers or victims of trafficking and exploitative work circumstances.

### **Improving the institutional governance of migration in South Africa requires:**

- Implementation of an advanced migration registry system to properly document all migrants when entering or leaving the country, this includes the taking of biometrics and other identification, together with the necessary alert mechanisms which are connected to both domestic and international institutions of safety and security, like the South African Police Service (SAPS), Interpol, South African Revenue Service etc.
- Limiting human interaction between applicants and migration officials by ensuring that the bulk, if not entirety, of any application is able to be completed online, in line with world-wide approaches and best practice.
- Blacklisting officials who have been found guilty of involvement in migration corruption and fraud from working for any state agency or government department as well as laying criminal charges.
- Providing a hotline for whistleblowers, i.e. for applicants, officials as well as members of the public who wish to report cases of fraud, corruption, and malpractice.
- Ensuring migration policy is informed by credible data from a well-capacitated Statistics South Africa (StatsSA) and other research bodies.
- Agreeing to norms and standards with external governments to reinforce South Africa's ability to deliver an efficient service.

## **4. Asylum seekers and Refugees**

In 1998, South Africa's parliament passed the Refugees Act<sup>61</sup> to formally adhere to the principles and standards relating to asylum seekers and refugees, by the United Nations High Commissioner for Refugees (UNHCR). The Act recognises refugees as *"persons who have fled from their home country or place of habitual residence owing to a well-founded fear of persecution for reasons relating to their tribe, race, religion, nationality, political opinion or membership in a particular social group."*

South Africa is a signatory to the 1951 Refugee Convention relating to the Status of Refugees as well as subsequent protocols and conventions.<sup>62</sup>

Meaning that we have a moral imperative as well as legal obligations to assist and protect those who are seeking refuge in South Africa.

Another growing concern is the numbers of displaced people globally. Many will be displaced in Sub-Saharan Africa due to water scarcity and other natural disasters. South Africa has to contend with how to manage people fleeing ecological and economic crisis, in addition to political crisis.

Disturbingly, the only operational RROs in South Africa are located in Durban, Pretoria, and Musina. Offices in Johannesburg, Port Elizabeth, and Cape Town have been closed since 2011/2012. It is unsurprising then that in 2016 the United Nations Human Rights Commission estimated a backlog of 1,096,063 unresolved asylum applications in South Africa. This figure has been contested, however, with some estimations coming in at 381,754<sup>63</sup> and 153 000.<sup>64</sup>

In spite of lower estimates, South Africa would still have the highest number of pending asylum cases in the world. The case backlog has increased opportunities for corruption, as desperate applicants are more easily taken advantage of. Bribes are often solicited for entering RROs, receiving the documentation required for applications, submitting applications, document renewal, acquiring the services of an interpreter, and receiving assistance from a Refugee Status Determination Officer.<sup>65</sup>

The move towards more restrictive migration regulations has a profound impact on asylum seekers who are most vulnerable. A critical regulatory amendment took place in 2011 and made access to asylum status more difficult for asylum seekers. The period for seeking a permit was initially 14 days. The amendment then reduced this period to only 5 days. This period is far too short for persons who enter a country with no resources and lack familiarity with the rules and procedures. Furthermore, certain administrative features such as the processing of certain nationalities on specific days (when a translator for that nationality would be available)<sup>66</sup> makes it difficult for asylum seekers to present themselves at any time. Deportation of such asylum seekers would amount to a violation of the principle of non-refoulement, i.e. not forcing a refugee or an asylum seeker to return to a country in which they will face likely face persecution.

Paradoxically by tightening up the rules the law encourages greater numbers of undocumented migrants caused by an inability to comply.

**To promote compliance, as well as to fulfil our principled and legal duties towards asylum seekers and refugees we would:**



- Ensure that all urban Refugee Reception Offices remain open and are fully functional, and that regional offices exist in all provinces where large numbers of migrants are located.
- Ensure systems are put in place to take the biometrics of all asylum seekers on arrival at the border.
- Provide extra capacity in order to clear the backlog of cases before the Refugee Appeal Board.
- Ensure reason is provided for rejected applications, and that the availability or not of an appeals process is clearly outlined.
- Increase the number of days asylum seekers have to apply for asylum to at least 14 working days after arrival.
- Allow asylum seekers to book an appointment upon entry at the border to ensure that there is a guarantee of receiving assistance on the allotted date. If an appointment is already secured, then this will go some way to reducing corruption at centres.
- Ensure that if any applicant is turned away on the day of their appointment, an extension on the application period is automatically granted.
- Continue to support the non-encampment approach with regards to refugees and asylum seekers.

## 5. Addressing the high numbers of undocumented migrants

*If a society's respect for the basic humanity of its people can best be measured by its treatment of the most vulnerable in its midst, then the treatment of suspected illegal immigrants... offers a disturbing testament to the great distance South Africa must still travel to build a national culture of human rights.<sup>67</sup>*

Over 1.5 million undocumented migrants have been deported from South Africa to neighbouring countries such as Lesotho, Mozambique, and Zimbabwe since 1994. South Africa arrested and deported 260,000 migrants in 2006 alone. Annual figures of deportations have since declined. According to home affairs Minister Aaron Motsoaledi, between April 1, 2020, and March 31, 2021, 14,859 people were deported, compared to 29,376 in the previous year. Along with the costs associated with deportation there is shared concern among many countries, including those in Africa such as Botswana, that this process is only a 'revolving door'.<sup>68</sup>

Deportation has been widely criticised by human rights groups, including the South African Human Rights Commission (SAHRC). Many criticisms have been expressed regarding the arrest and removal procedures, which they claim to resemble those employed to control black South Africans under apartheid.<sup>69</sup> The Immigration Act 13 of 2002<sup>70</sup> had draconian measures on undocumented immigration, such as a the "community policing" regulation, whereby South Africans are expected to spy on others and alert the authorities of suspicions.<sup>71</sup>

During a review of migration and detention in South Africa, it was revealed that the country did not adhere to the procedures for arresting foreigners. This involved issuing notices of deportation, extending detention, and providing interpreters. In addition, police stations and the Lindela Detention Facility were found to have been conducting unlawful and arbitrary practices regarding detention. These practices involved, among others, use of force, corruption, poor hygiene, lack of access to health care, and poor living conditions.<sup>72</sup>

It is important that detainees receive an opportunity to make submissions regarding the extension of their detention; however, recently, the SAHRC reported that this does not often happen at Lindela. According to detainees, they are unaware of such provisions. This highlights how detainees are rarely informed of their rights, and in a language they understand since no interpretation services are offered.<sup>73</sup> Legal judgments have gone a small way to improve some detention standards<sup>74</sup>, but a great deal more still needs to be done.

Deportation is costly for South Africa, and therefore other interventions to manage undocumented populations must be explored in combination. In some cases, this can include amnesty and/or regularisation. The South African government approved three migration amnesty programmes between 1996 and 2000 to grant permanent residence status to three categories of undocumented migrants:<sup>75</sup>

- (i) contract mine workers from SADC member states who had been in South Africa for at least ten years before 1995 and who voted in the 1994 elections;
- (ii) undocumented migrants from SADC member states who entered the country clandestinely during apartheid; and
- (iii) former Mozambican refugees who entered South Africa prior to 1992.

Many have expressed concern that the promise of amnesty, and thus the opportunity for regularisation, could encourage more persons to migrate to South Africa, hoping to later be regularised. These concerns are well founded. However, they need to be balanced against the human and economic costs of alternative approaches.

Regularisation of those who would qualify may be important for another reason, in that by legalising the stay of undocumented migrants who have deep roots in the host country, host countries would be able to reduce the risks of workplace exploitation and are better able to promote the protection of migrants under domestic laws.

To the extent that it is true that undocumented foreign workers may be favoured by employers operating outside of labour laws, an opportunity for regularisation would ensure their compliance with the applicable laws. The DA advocates migration to be followed within the ambits of the law. This will ensure trust is restored within the migration system, and enhance the overall accountability and transparency of the system.

Other deterrence measures to undocumented migration to South Africa include better workplace procedures. Research has shown that policies that mandate verification of employee eligibility to work in a country successfully reduce the number of undocumented workers in that country,<sup>76</sup> whereas the impact of 'show me your papers' enforcement is minimal<sup>77</sup> and it also reduces the prevalence of 'profiling' which often proves to be problematic.

**In order to address future undocumented migration and the current undocumented population in South Africa, the DA will:**

- Explore the economic cost vs benefit of an e-verification system that would enable employers to check the work eligibility status of potential employees against a Home Affairs database. If feasible, this would mandate employers to verify that a prospective employee possesses a valid permit to work in South Africa. A self-check mechanism must also be provided to allow persons to check their status and resolve any discrepancies.
- Ensure that legal status is not reported or investigated as part of any labour dispute process. This ensures that there are no barriers to foreign nationals accessing the same labour rights as South Africans, in order to limit the arbitrage opportunity for exploitative employers.

- Eliminate reporting systems of undocumented persons by members of the public. Interventions guided by neighbourhood watches against 'illegal immigrants' ferment ground for xenophobic violence;
- Investigate and drastically improve conditions and treatment at holding facilities for those arrested or awaiting deportation, and prevent unlawful arrests, human rights violations, and poor treatment of irregular migrants; and
- Provide an amnesty period for all undocumented migrants, giving them an opportunity to either return home and attempt to re-enter legally without prejudice or to apply for the relevant visa from within South Africa (provided they have the required documentation). If the application from within South Africa is unsuccessful, then the same rules as a failed visa renewal apply.

## 5.1 Child Statelessness

There is insufficient data regarding stateless persons in South Africa, however, there is heightened concern about statelessness among children. In 2021 the Department of Basic Education had 465 826 South African learners without identity (ID) numbers captured in the LURITS School Administration System<sup>78</sup>. No ID indicates their births have not been registered and these South African children are effectively stateless, unable to apply for a drivers licence, work or social support.

There is currently no comprehensive policy framework for determining and managing stateless children in South Africa.

As stated in the Constitutional Court judgment of *S vs M* (CCT 53/06):<sup>79</sup> *"Every child has his or her own dignity." A child "cannot be treated as a mere extension of his or her parents, umbilically destined to sink or swim with them." The "sins and traumas of fathers and mothers should not be visited on their children."*

**The DA is committed to preventing the occurrence of child statelessness and mitigating its consequences through appropriate interventions, such as:**

- Strengthening the institutional capacity for the management and protection of stateless persons.

- Promoting partnerships between government and development partners, civil society, and NGOs to strengthen the response to statelessness.
- Removing the requirement for South African citizen to witness the birth to receive a notice of birth.
- Allowing children to apply for naturalisation at the age of 18 where they have no proof of birth registration.
- Pro-actively working with the Department of Basic Education to address the large numbers of learners without birth registration through increased deployment of mobile units and opening of Home Affairs offices on Saturdays to accommodate school learners.

## 6. Impact of foreign nationals on public services

While there is a generalised fear of foreign nationals accessing social grants, occupying hospital beds, and government subsidised housing, the more common reality for most migrants is a life of hardship in accessing services.

Documentation problems are often at the root of many problems migrants face. Often, the DHA is relatively inefficient in processing and providing migrants with accurate documents in a timely manner. This has resulted in many migrants either lacking documents, or having incomplete-, temporary-, or wrong documents. Without documentation access to a wide range of services becomes extremely difficult.

Moreover, most South Africans, do not understand migrants' documents. This includes bank employees, landlords, police officials, and municipal officials. As a result, migrants have difficulty cooperating with police, difficulties accessing banking services, problems accessing social services, and difficulties acquiring property from landlords and estate agents, who all require a South African identity document for all transactions, while migrants possess other forms of identification.<sup>80</sup>

Despite the fear by some that migrants deplete public finances at the expense of native South Africans, in fact migrants contribute substantially to the public purse. Migrants tend to pay more in income and value added taxes (VAT) than native-born individuals.<sup>81</sup>

The following brief survey of the rules governing social assistance highlights that migrants without permanent residence, let alone undocumented migrants, do not have many avenues to access public services.

## 6.1 Housing<sup>82</sup>

To qualify for a government subsidy house, one must meet the criteria of the National Housing Subsidy Scheme. This includes that applicants must be South African citizens.

Community Residential Units (CRUs) are made available for rent but not for sale. The CRU project involves refurbishing inner-city buildings and hostels. Again, to be eligible to rent a unit an applicants needs to be a South African citizen.

The Upgrading of Informal Settlements Programme (UISP) aims to provide basic services (electricity, water, sanitation, and roads) to informal settlements, and not necessarily houses. The principal beneficiaries are those that meet the National Health Security Strategy (NHSS) criteria, in other words beneficiaries who are South African citizens. However undocumented migrants are considered on a case-by-case basis.

Gap housing is available to people who earn over R3,500 per month, but below R15,000 per month (this is the minimum amount required by banks to qualify for home loans). Again, to qualify, applicants must be South African citizens or permanent residents.

In Social Housing Programmes, municipal and provincial governments can provide subsidies to businesses to construct residential housing projects, provided some houses are built and rented out on an affordable basis. To qualify for these programmes, applicants must be South African citizens or permanent residents.

If the qualifying criteria for housing assistance, as listed above, is strictly applied by the Department of Human Settlements (DHS) and other housing institutions, the allocation of housing opportunities will not be prejudiced by migrants.

Currently, the main obstacles to migrants accessing housing are inadequate documentation and their status. Banks, financing institutions, landlords, real estate agencies and municipalities require adequate documentation from migrants to facilitate their access to housing. Through our policies of regularisation and increased legal entry into South Africa, migrants will be issued with the necessary documents and status which would enable them to access housing on their own accord through the

private property market. Together with expediting all visa applications, including those of asylum seekers and refugees, the DA will also seek to drastically expedite the conversion process of temporary permits and documents, where migrants meet the necessary qualification criterion, into permanent documents. Being issued with permanent documents, as opposed to temporary documents, would also assist migrants in more readily accessing housing opportunities.

## 6.2 Health

South African legislation and regulations regarding migrants' access to healthcare frequently depart from the Constitution. This causes confusion between healthcare providers and the Constitution.<sup>83</sup>

Section 27 of the Constitution says that *“everyone has a right to have access to health care services, including reproductive health care services”* and that no one may be denied access to emergency medical treatment. The Constitution does not differentiate based on nationality or legal status. It is important to note that the South African healthcare system does not provide adequate healthcare services to anyone, South African or not. Foreign nationals, however, often struggle to access healthcare at all.

The Constitutional Court has not dealt with any specific case regarding access to healthcare by foreign nationals. Consequently, the court has not defined whether asylum seekers, refugees, and economic migrants have any right to access healthcare and under what conditions and how they can do so. As a result, hospital administrators are left to interpret the law in the absence of case law.

The immigration statute indicates, however, under section 49 (4) that *“anyone who intentionally facilitates an illegal foreigner to receive public services to which such illegal foreigner is not entitled shall be guilty of an offence and liable on conviction to a fine.”*<sup>84</sup> The provision highlights the divergence between constitutional and immigration law with regard to healthcare access.<sup>85</sup>

Medical professionals may become confused by the legislative framework dividing asylum seekers, refugees, migrants, and medical tourists who compete for limited resources. Because of the disparity between the Constitution's socio-economic aspirations and the statutes, healthcare providers find themselves in an untenable position.

While legal certainty and consistency regarding the provision of healthcare is urgently required, the DA will advocate for the provision of emergency and primary health care services to migrants (including undocumented migrants) as a fundamental human right. The DA aims to mitigate and manage health risks posed by migration, to safeguard public health and to protect the lives of migrants.

### 6.3 Social grants

Social grants through the South African Social Security Agency (SASSA) are available to citizens and permanent residents only.<sup>86</sup> The most recent data at hand indicates that foreign-born migrant children represented only 0.3% of total grant recipients, out of the three child grants provided by the government.<sup>87</sup> In comparison, as of 2019 some 18 million South Africans received some form of social assistance from government.<sup>88</sup>

Data shows that only between 16% to 25.4% of all legally documented migrant children receive some form of social support from government, compared to almost 57% of South Africans under the age of 19.<sup>89</sup> Similarly, of a total of 470,019 foster care grants, only 629 were allocated to refugee children.<sup>90</sup>

Similarly, only migrants, including recognised refugees and asylum-seekers, who are legally allowed to work in South Africa qualify for benefits of the Unemployment Insurance Fund (UIF).<sup>91</sup>

**Table 3: Social Assistance Matrix<sup>92</sup>**

<b>Categorie s of persons covered.</b>	<b>social assistance</b>	<b>national and occupation al old-age and disability pension</b>	<b>unemploy ment benefits</b>	<b>healthcare (including health insurance)</b>	<b>public housing</b>	<b>public schooling</b>
<i>Citizens</i>	Old Age Grant Child Support Grant Disability Grant Care Dependenc y Grant Foster Child Grant War Veterans'	Retirement benefits (via pension or provident funds)  Disability benefits (via Employmen t injuries and diseases;	The payment of illness, maternity, adoption and dependent's benefits in the event of unemploy ment.	They enjoy free primary health care. Are also able to access health care through private medical schemes.	There is provision for housing subsidies to accelerate access to housing. Housing subsidy is not a cash payout but is paid	Loans and bursaries are allocated to eligible students in public higher education through the NSFAS.



	Grant Grant-in-Aid Social Relief	and Motor Vehicle Accidents (RAF)	It is contributory in nature.		directly to financial institution.	
<i>Permanent residents</i>	Old Age, Child Support, Disability, Care Dependancy, Foster Child, And War Veterans grants; Grant-in-Aid Social Relief	Retirement benefits (via pension or provident funds)  Disability benefits (via Employment injuries and diseases; and Motor Vehicle Accidents (RAF))	Through the Unemployment insurance fund, can access unemployment benefits in the event of unemployment. They need to be contributors and formally employed to access this benefit.	They enjoy free primary health care and also can access health care through private medical schemes.	Access housing subsidies. I.e. the Housing subsidy grant and the Human settlement redevelopment grant.	Can access loans and bursaries through the NSFAS for public schooling in public higher education.
<i>Temporary residents (including contract migrants)</i>	Not covered.	The Road Accident fund, a non-employment based social insurance scheme is available to temporary residents. They can also access compensation for occupational injuries and diseases.	Temporary residents are excluded from Unemployment insurance.	Temporary residents are not covered in the public sector. Health care is available to them through the private sector through private schemes, which is contributory in nature.	Not covered.	Not covered.

Source: Nyent, M., du Plessis, M. and Apon, L.A., 2007

**While recognising that concerns regarding competition for scarce resources is largely based on perception, the DA will ensure the following in order to relieve tensions:**

- Support the provision of basic public services to permanent residents, refugees, and asylum seekers. And ensure stricter controls to ensure that those who do not qualify do not access benefits.
- The above can be achieved by ensuring the information systems of DHA, South Africa Social Security Agency (SASSA) and other government agencies are equipped to serve only qualifying migrants.

- Migrants should be informed of social assistance policies and protocols. There also needs to be increased awareness of the qualifying criteria amongst front line officials in all relevant departments.
- Implement consistent protocol throughout all government institutions providing the same service in order to prevent confusion, and ensure that such protocols are transparently communicated and applied.
- Collect, monitor, and evaluate data to ensure that empirical evidence guides policy prescriptions in this area.

## 7. Efficient, safe, and welcoming borders

Border management is a term used to describe both border security and border control.

**Border security** refers to a variety of measures which are taken to ensure the integrity and security of a country's land, sea, and air borders. Regular patrols and fence maintenance would be an example of border security.

**Border control** refers to measures which are taken to administer the flow of goods and people across borders. Passport control and customs and excise are good examples of border control.

Effective border management is important for any sovereign state. Ideally it ensures that:

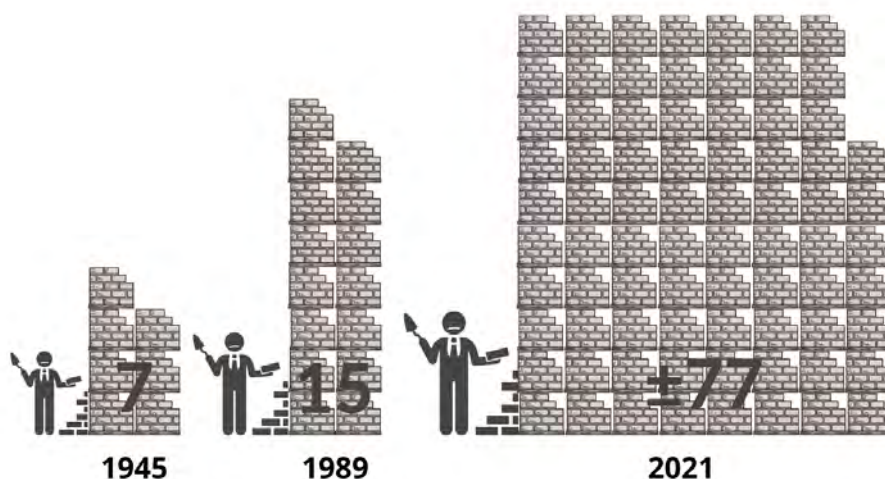
- states can protect themselves from external security risks (such as terrorism).
- cross-border crime including hijacking, smuggling, and trafficking are appropriately combatted; and
- goods can move across borders without unreasonable delays or other non-tariff related costs.
- the migration of people in and out of a country is monitored, occurs only through designated entry and exits ports, and that the correct policies have been effectively implemented.

### 7.1 Physical borders

Physical borders today are taken for granted as essential to security in countries like South Africa, yet they are in fact a rather recent phenomenon. And many countries still do not have physical borders, although the number of countries who do have them is increasing.

As of the end of World War II in 1945, there were seven border fences and walls in the world. At the time of the fall of the Berlin Wall in 1989, there were 15. Today, as the world moves towards increased securitisation, there are approximately 77 walls worldwide. Many of these walls were erected after the events of September 11 in the United States.<sup>93</sup>

**Figure 2: Number of border walls/fences in the world**



*Source: U.N Refugee Agency, Elisabeth Vallet, The University of Quebec at Montreal*

Physical barriers are often in practice one of the least effective means to manage borders. Ironically, the bulk of people and contraband smuggling into countries like the USA is via formal crossing points.<sup>94</sup>

Entry into South Africa appears to be no different, with most irregular and smuggled migrants from the horn of Africa entering via the Beitbridge border post. Similarly smuggling of migrants from central Africa and southern Africa into South Africa is reported at the Beitbridge border.<sup>95</sup> Undocumented persons have to weigh up various risks other than detection, such as risk of coming into contact with violent criminals who may traffic them or rob them of their meagre belongings, drowning, or being mauled by wild animals while crossing the Limpopo river. These threats account for why crossing at a legal point may not always be the riskiest option.

The reverse is also true, sometimes people find legal points the most inconvenient. Even with travel documents, some individuals choose to cross the border at an uncontrolled location due to the cumbersome nature of border controls. What is evident is that the behaviour of migrants when

crossing borders is motivated by a wide range of drivers, which can differ from populist accounts of hordes of indiscriminate crossings at illegal points. Understanding the drivers which influence where migrants decide to cross is essential to effective border management.

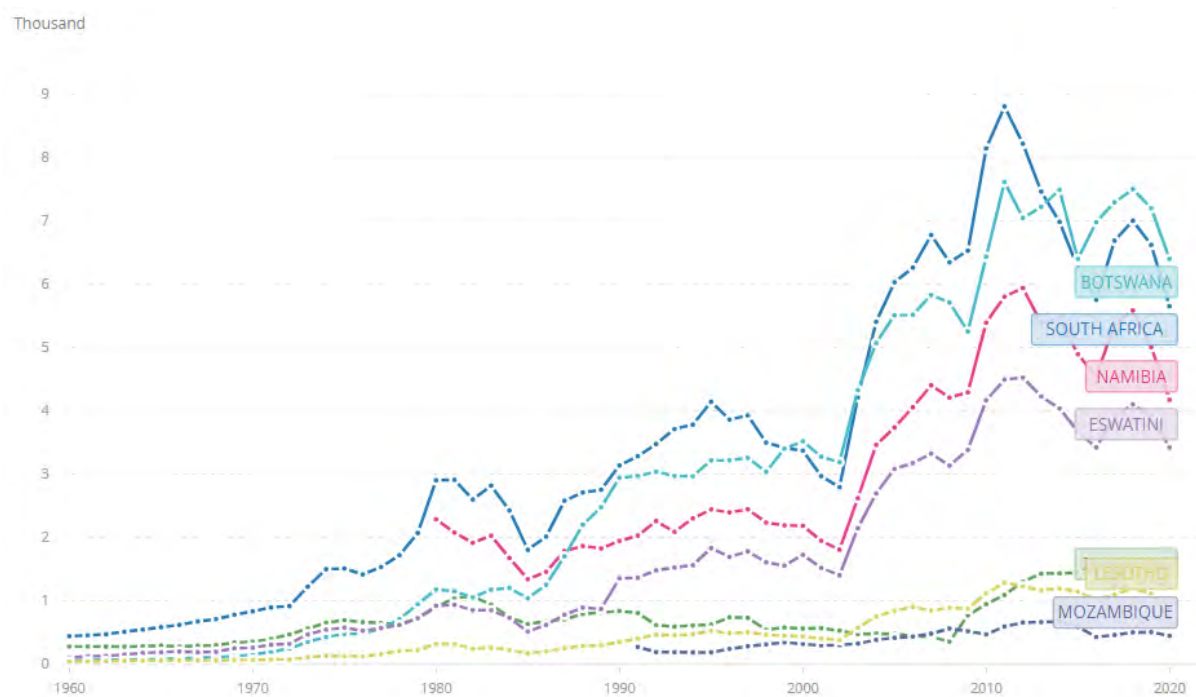
Unless a country plans to build an impenetrable wall around its entire perimeter few migrants are ultimately prevented from crossing, because “there’s always a place to cross.” While it is often a physical wall many have in mind, in reality border security will be a combination of infrastructure, technology and boots on the ground at different points. Whatever the nature of border security it is critical to manage expectations about the limits of what border security can achieve.

Even if we reach back into history, the Great Wall of China was no flimsy fence but it too was only marginally successful at deterring ‘trespassers’. Small bands of barbarians were kept at bay but those who were more organised, such as the Huns were able to ride around the wall, found under-maintained sections they could ride over, or simply bribed guards to allow them to pass through one of the main gates.<sup>96</sup> Today’s modern walls face the same difficulties in that the economic incentives often outweigh the risks of attempting to cross- whether the risks are faced at legal entry points or otherwise.

The economic disparities between South Africa and most of its neighbours means that the incentive to enter South Africa (whether legally or illegally) is high. An emphasis on securitisation will likely drive this activity further underground not dramatically limit it. The USA, despite more sophisticated border security, continues to have its border with Mexico breached at a high rate. GDP per capita is five times greater in the USA than Mexico, making the economic incentive to cross the border into the USA understandable.

**Figure 3** below illustrates that same economic incentive for migrants from some of South Africa’s neighbouring countries.

**Figure 3: GDP per capita (current US\$)<sup>97</sup>**



Source: World Bank, 2022

## 7.1 The cost of physical and virtual borders

The USA-Mexico border is approximately 3,110 km in length and is guarded by more than 16,000 border patrol agents. Since 2003 the US government has spent approximately \$333 billion on immigration enforcement.<sup>98</sup> Yet despite such high levels of spending there continue to be demands for even greater expenditure on enforcement at the borders. This should come as little surprise as tougher securitisation of borders, in particular the construction of physical walls, is often a response to popular demands instead of evidence and given priority due to the tangible and symbolic nature of a wall. These demands, in the US or in countries like South Africa, are unlikely to wane. Illegal migration and smuggling will continue driven by a host of factors to which increased border security may not always be an effective or sufficient response.

Physical walls on their own, no matter how high or solid, have rarely ever been enough and need to be augmented with patrols, drones, sensors, scanners, watch towers, aerial and marine surveillance. The department of public works' planned expenditure on constructing fences between South Africa and its neighbours (eSwatini, Lesotho, Mozambique, and Zimbabwe) is upwards of R5 billion. This figure has been criticized for underestimating

the true cost as it does not include the various technology and human resources which would be required alongside the border fences in order for them to be effective.<sup>99</sup>

Although some form of formal border must be maintained, ongoing investment in ever more elaborate security measures must be weighed against the opportunity cost of having allocated those resources to other areas of the economy. Countries such as South Africa with more thinly stretched resources should realistically consider the impact any investment in border security is expected to have versus the cost of deploying and maintaining it. Border security costs will continuously increase when expected to compensate for lack of policy and implementation to address issues such as regional instability, foreseeable climate crises and natural disasters, the asylum system, and challenges to cross border trade.

It is important to consider the effect of more restrictive borders on migration flows. Researchers have noted that while the 1960s saw millions of Mexicans cross the border into the US, 85% returned home.<sup>100</sup> However more securitized borders meant that people grew hesitant to leave as their ability to re-enter was less certain. The increased securitization of South Africa's borders risks the same chilling effect on circular migration, encouraging greater numbers of people to stay.

## 7.2 South Africa's border management strategy

Border management in South Africa should primarily be directed at increasing points of entry to make it easier to enter legally as well as enhancing the efficiency of border control to ensure that a record is made of all people and goods moving through the border. Constructing extensive walls, along with the extensive non-physical infrastructure required to make them effective, would not be the best allocation of scarce resources.

Currently, a duplication of the border post process occurs as similar checks and processes are conducted on both the South African and neighbouring country's side.<sup>101</sup> This duplication results in slower border crossing times.

Ultimately if government wants to reduce the number of people entering the country illegally then it must make legal entry a more accessible, welcoming, and transparent process.

## 7.3 One-Stop Border Posts

One-stop border posts should be located along South Africa's international land and maritime/sea borders to expedite the border crossing process, reduce administrative burdens and costs, and enhance regional trade and travel. In addition, agreements should be signed with each of the country's territorial neighbours that will allow for the mutual recognition of regulation and inspections procedures so that the emigration and migration stages of the process may be completed in a single step, with officials from both countries working side by side.

Key components of the one-stop system should include:

- (i) Inspection through joint customs control;
- (ii) A single window inspection with coordinated opening hours;
- (iii) The prior exchange of information for clearance;
- (iv) The systematic reduction of routine inspection practices;
- (v) A reduction of the number of documents required by both sides and the elimination of superfluous procedures;
- (vi) The alignment of trade documents to the standard UN layout;
- (vii) the introduction of customs inland clearance practices by all cooperating partners; and
- (viii) Increasing the number of border posts. There is currently only one main border post between Zimbabwe and South Africa, yet there are many border posts on the borders of Eswatini and Lesotho respectively.

The above interventions will go a long way to reducing barriers to entry.

The goal is to drive economic migrants and asylum seekers through the legal channels of entry and ensure that the barriers to making use of those channels are low. This represents the bulk of activity at South Africa's borders. Border access and border control therefore should be at the frontline of our border management strategy.

Systems and protocols to make freedom of movement safer and more secure at our borders will include:

- Improved multi agency collaboration;
- National civil registry systems linked to border posts;
- Movement Control Systems, with alert mechanisms, linked to Advanced Passenger; Information Systems, Interpol and Regional Security Systems;

- Regional database of registered vehicles, to track cross border movement of vehicles;
- Tracking mechanism for moving cattle across borders;
- Identifying and registering members of communities on borderlines to facilitate secure cross-border movement of these communities (including children and parents attending schools across borders);
- Bilateral cross-border collaboration and intelligence between neighbouring countries;
- Improved security and integrity of travel documents including African Passport;
- The use of e-passports among regional countries in order to reduce the use of forged documents. The e-passport is equipped with biometric identification, which makes it difficult for someone to fabricate a counterfeit document.
- Increased information on legal migration pathways in sending countries;
- Zero tolerance of corruption, which remains the primary driver of ineffective border management; and
- The promotion of regional peace and stability by ensuring that neighbouring states uphold human rights, protect democracy, and observe the rule of law.

#### 7.4 Coordination of border management

South Africa has a coastline stretching nearly 2800km, from the desert border with Namibia around the tip of Africa and to the border of Mozambique, and 4800km of land borders with Botswana, Eswatini, Lesotho, Mozambique, Namibia, and Zimbabwe.<sup>102</sup> There are approximately eighteen government departments and entities that have a role in either border security or control. These include the Department of Home Affairs (DHA), the South African Police Services (SAPS), the Department of Defence (DoD/SANDF) and the South African Revenue Services (SARS).<sup>103</sup> Effective coordination between these institutions is paramount.

The coordination of these institutions was the responsibility of the Border Control Operational Coordinating Committee (BCOCC), which has largely failed its mandate of eliminating illicit trade, stopping illegal migration, fighting crime syndicates related to illegal migration and combatting cross-border poaching.<sup>104</sup> It is now the mandate of the Border Management Authority (BMA). However, the BMA alone cannot solve these issues.<sup>105</sup> The BMA already creates unresolved overlaps in border security functions with



SAPS and the South African Navy, and runs the risk of burdening the already under-resourced DHA.<sup>106</sup>

**The BMA will fail if it does not ensure the following:<sup>107</sup>**

- The development and implementation of coherent policy;
- facilitating co-operation and co-ordination between relevant institutions;
- improving working relations between border stakeholders;
- facilitating effective and efficient information sharing between stakeholders; and,
- facilitating joint operations between stakeholders.

The lead agency, should at least ensure:

- Improvement of the policy and institutional framework;
- developing a better training regime, which will ensure all border personnel are adequately trained, continuously up-skilled and developed;
- human resource management (especially challenging due to the multitude of agencies involved);
- administration of equipment and infrastructure;
- ensuring both irregular and regular migration is properly recorded to inform decision-making; and
- finding solutions to moral and ethical challenges (corruption) and ethnic and cultural challenges (language barriers and families living on separate sides of the border).<sup>108</sup>

Beyond the inability to monitor and control the flow of human traffic across the borders, significant delays at borders hampers the flow of goods and adds high non-tariff costs to trade in the region. Causes of delays at the Beit Bridge crossing, for example, have been noted to include the lack of a dedicated commercial lane for trucks, power failures on both sides of the border, poor information and communication technology (ICT) infrastructure, crime and corruption.<sup>109</sup> It should be noted that the latter three causes also have a major role in the flow of undocumented migrants across borders.

In 2003, the government removed the South African National Defence Force (SANDF) from border security with over 30 companies deployed at the time, intending the SAPS to take over the role in a phased manner. However, by 2008 it became apparent that SAPS is unable to adequately manage border security on its own. In 2009, the government reversed the

decision and the SANDF has been in the process of redeploying to secure border areas, both in terms of land and maritime borders under *Operation Corona*.

In terms of human resources, the Department of Defence (DoD) has recognised that more personnel are necessary to adequately secure our borders.<sup>110</sup> *Operation Corona* was supposed to see the deployment of 22 companies along South Africa's borders, but to date only 15 companies have been deployed and are on patrol.<sup>111</sup> Again, in light of the expansive border that must be monitored it is clear that more companies deployed are necessary to protect our borders based on the current doctrine and to assist those crossing our borders for various reasons, often being non-criminal in nature, to follow the correct legal channels at border posts.

The Department of Public Works and Infrastructure (DPWI) is currently responsible for maintaining the border fences. This is despite the fact that for the most part, the country's current border barrier is still comprised of a series of old agricultural fences installed during the apartheid era. A reasonable, evidence-based approach to border security would require border fences to be useful where erected. There are many stretches along our land borders which are in a state of significant disrepair, which as a result fail to meaningfully contribute to protecting the country from cross border risks.<sup>112</sup>

**To tackle illicit trade, wildlife poaching, drug and human trafficking, migrant smuggling, organised crime, terrorism, stock-theft, and unchecked irregular migration, the DA would:**

- Ensure that allocation to border security assesses return on investment, and balances the cost of physical and technological border security measures with interventions in the interior which may be equally or more effective.
- Explore the return on investment of increasing the number of companies deployed along our land borders gradually from 15 to at least 25.
- Explore the return on investment of increasing the maritime patrol, surveillance and enforcing capabilities within the South African Navy and eventually establish a dedicated coastguard to operate at sea/out-shore zone and in-shore coastlines.
- Task units with repairing and maintaining border fences.

- Ensure border personnel are not only tasked with guarding the border but assisting and redirecting all persons they counter to legal entry points.
- Where it will add value, invest in the use and sharing of high-tech, cyber- and satellite technology to provide a 24/7/365 surveillance and observation capability of both maritime- and land borders.
- Enter into various cooperative and shared responsibility border protection MOU's and protocols with neighbouring countries and other international allies.

## 8. Tourism and Mobility

**Prior to the Covid-19 pandemic, tourism contributed more than R130 billion to the South African economy or around a 3% direct contribution to GDP.**<sup>113</sup> Tourism also accounted for 4.5% of total employment in South Africa.<sup>114</sup> It will likely once again be central to economic growth and reducing South Africa's stubbornly high unemployment rate as it tends to absorb higher numbers of low skilled labour. The devastating effects of the Covid-19 pandemic on the sector is clear with only 8.8 million foreign travellers in South Africa in 2020, compared to 30.7 million in 2019.<sup>115</sup>

In order to encourage tourism once again into South Africa, gaining entry for the purposes of travel must be as easy as possible. However, exorbitant visa regulations place an unnecessary administrative burden on potential tourists. For example, the visa regime introduced by DHA in 2015, required all minors entering or leaving the country to present an unabridged birth certificate (UBC), which lists the personal details of both their parents.<sup>116</sup> As a result, travellers were inundated with excessive documentation requirements, with the potential of being turned away at airports if they do not have the required documents.<sup>117</sup> This has adversely affected travel to South Africa.<sup>118</sup> According to a report by the Tourism Business Council of South Africa (TBCSA), between June 2015 and July 2016, over 13,000 people were denied entry into the country due to the contentious rule. This translated to a potential loss of around R7.51 billion in revenue to the economy.<sup>119</sup>

In November 2018, the tourism industry eagerly awaited the publication of amendments to the visa regulations, as minors from visa-exempt countries would no longer be required to obtain a UBC before leaving the country.<sup>120</sup>

Despite numerous positive headlines in the media, the amended regulations did not provide the industry with the certainty it had hoped for. To begin with, countries whose nationals need visas still required an UBC when applying. This included citizens of India and China. Secondly, the new regulations regarding minors in visa-exempt countries were unclear. This relates to countries such as the USA and Europe.<sup>121</sup>

The updated advisory by DHA reads: *“Children who are foreign nationals and who are visa exempt are strongly advised to carry these documents since they may be requested to produce them when traveling through a port of entry of the Republic.”*<sup>122</sup> This causes confusion in interpretation, as it reads that a UBC documentation could still be requested when entering South Africa.

In 2019, Home Affairs Minister Aaron Motsoaledi signed a special waiver. This was followed by the circulation of a new travel advisory stating that foreign minors travelling to South Africa only required a valid passport. In addition, the confusing wording that UBC documentation *“may be required”* has been removed from the advisory. This was seen as a victory for the travel industry and the overall tourism sector.<sup>123</sup>

Tourism can boost the economy and create jobs, so government should be taking steps to make it as accessible as possible, not the other way around. South Africa's economy cannot afford to lose foreign visitors who spend dollars and pounds.

The DA will ensure that tourism is prioritised and gets the support it needs to become a core driver of economic growth, employment and development in South Africa.

As one of the leading tourist destinations in the world, South Africa would benefit from providing a remote work visa which would allow international visitors to stay longer and work remotely while traveling in the country. Countries like Germany, Mauritius, Portugal, and the United Arab Emirates (UAE)<sup>124</sup> have already taken lead in attracting remote workers to support their tourism sector, especially during the Covid-19 pandemic.<sup>125</sup>

Remote working visa options would be advantageous for the country allowing it to benefit from the ever-growing number of worldwide distant or traveling workers (nomadic workers).<sup>126</sup> It should be recognised that apart from the potential to boost the country's tourism sector, there are other ways remote workers will contribute to the country's economic growth.

Among others, remote workers are a source of foreign direct investment,<sup>127</sup> which leads to the development of an economy. In addition, remote workers are likely to spend money on local businesses rather than international chains, resulting in financial benefits for local businesses.<sup>128</sup>

**As part of our commitment to enhancing global mobility into South Africa, we will ensure that the following measures are prioritised. :**

- Support the roll out of the *African passport*<sup>129</sup> as a step towards long term free movement objectives.
- Continuously work towards bringing in more countries, not just in Africa, within a visa-free travel policy, for a period of up to 90 days, and not dependent on reciprocity.
- Where a visa is necessary before travel, ensure the ability to apply online and to receive an e-visa.
- Issue multiple entry visas as a general rule.
- Enable change in terms and conditions, as well as change from one visa status to another while remaining in the country.
- Introduce remote working visas to live and work from South Africa.

## 9. Business

South Africa will need to throw all it can to attracting investment and entrepreneurs. In an environment where some countries around the world are rolling out the red carpet for businesses and entrepreneurs South Africa cannot afford to be merely tinkering at the margins. Strict policies have restricted foreign investors in establishing successful businesses in South Africa.

One of the greater challenges has been that an investment in excess of R5 million is required to apply for a business visa.<sup>130</sup> This has been a large barrier to entry for many businesses, especially small businesses, which can spur local competition, further fuel the small business market, and increase employment opportunities.

A further barrier is the limitation placed on industries for which business visas may be applied. Section 15(1A) of the Immigration Act<sup>131</sup> provides that no business visa may be granted or renewed if it is listed as undesirable by the Minister of Home Affairs. In addition to this limitation, persons who wish to obtain the business visa must provide an undertaking where at least 60% of the total staff will be South African citizens or permanent residents

employed permanently.<sup>132</sup> These legislative provisions create unnecessary barriers to much needed entrepreneurial activity in the country.

Apart from the foreign business regulations mentioned above, issues also extend to local companies seeking skilled foreign workers. Our country competes with other countries for talent in sectors such as ICT, engineering, skilled trades, and medicine. Yet, our burdensome visa processes could potentially discourage skilled workers from taking advantage of employment opportunities in South Africa.<sup>133</sup> For example, corporate visas are issued to an entity and allow a corporate entity to employ a pre-determined number of skilled/semi-skilled/unskilled workers. However, businesses find the process for corporate visas extremely cumbersome and opaque. The preparation of documents, along with the decision-making process, can take up to several months.<sup>134</sup>

**The DA's interventions to utilise migration policy to spur business activity will include:**

- Abolishing the minimum threshold for investment to qualify for a business visa, rather placing the weight of the assessment on business plans. Financially, applicants need only show that they will be able to provide for themselves for the duration of their stay.
- Allowing for independent assessment of the viability of business plans and remove Department of Trade and Industry (DTI) exclusivity in recommending the application.
- Giving applicants sight of the recommendation given to their application (whether positive or negative) and ensuring applicants are given an opportunity to respond to concerns or attach additional material in support of their application.
- Streamline the corporate visa application process by reducing regulatory requirements and administrative hurdles, such as red tape and application processing turnaround times.

## 10. Small Scale Cross-border trade

Small scale cross-border trade refers to transactions in goods and services between residents and non-residents, usually conducted by small and unregistered traders.

There is sometimes concern that freeing up cross-border movement would lead to many people arriving from neighbouring countries to the detriment of the local economy. What is often ignored is that South Africa gains a great

deal from the propensity of people in the region to spend money in the country as traders, and South Africa should look to increase this where possible.<sup>135</sup>

Such trading includes the following categories as identified by GCRO:<sup>136</sup>

- *“traders who travel to South Africa for short periods (1-4 days) to buy goods (usually from formal sector retail and wholesale outlets and farms) to take back to their home country to sell. These goods are sold in markets, on the street, and to formal sector retail outlets and to individuals. This category of trader appears to be the most numerous and can be called “shoppers”;*
- *traders who travel to South Africa for longer periods (1 week to 2 months) who carry goods to sell in informal and retail markets. The profits are then invested in buying goods which are then taken back to their home countries for sale in informal and formal sector markets;*
- *traders who travel across three or more countries including South Africa, buying and selling as they go;*
- *a seemingly small category of traders who only bring goods from their home country to sell in South Africa without taking goods out of South Africa for sale in their home country; and*
- *South Africans who take goods to sell in other Southern African countries markets, on the street and to formal sector retail outlets.”*

South Africa's economy benefits from trade due to the various expenditures made by traders. South Africa's wholesalers, from which traders buy their goods, and employees are the biggest beneficiaries. In addition, there are at least 20% of SADC entrepreneurs involved in street trade in South Africa who employ people (typically local South Africans).<sup>137</sup> These traders also contribute to the transport and hospitality industries in South Africa.

Most traders travel to South Africa on a regular basis. Cross-border trade reveals why migration policy should also focus on the flow of people as opposed to static relocation. When movement between borders is made easier, those who make a living from cross-border trade are able to leave the host country. By making entry more difficult, South Africa actually encourages more migrants to stay in the country who would otherwise have returned to their country of residence.

Previously, there has been little support for small-scale cross-border traders, but that is beginning to change. Increasing recognition of the importance of this type of trade has been achieved at both the national and regional

levels, with numerous regional institutions implementing initiatives to assist small-scale traders.

The DA would support initiatives such as those initiated by the Common Market for Eastern and Southern Africa (COMESA). COMESA has adopted and implemented regulations defining small-scale traders' rights and responsibilities and has funded Trade Information Desks that help traders cross borders as part of its global role. Moreover, it has developed the Simplified Trade Regime (STR) to exempt low-value transactions from customs duties and simplify the clearance process for small traders. While the regime does not remove the requirement for permits, certificates, or licenses, it represents a step in the right direction.

Removing barriers to regional trade integration would benefit the poor, as they carry the majority of small-scale, cross-border commerce within Africa. Among the potential benefits are:<sup>138</sup>

- food security;
- job creation and entrepreneurship;
- reduced poverty;
- higher government tax revenue; and
- long-term development outcomes.

**To facilitate cross-border trade, the DA commits to:**

- The effective roll-out of the special dispensation programme initially for Botswana, Eswatini, Lesotho, and Namibia. Nationals from these countries would have visa-free entry into South Africa and therefore able to trade and enter and exit the country freely;
- Introduce a trader's permit/visa for all other African countries: Foreign traders rarely qualify for business permits in South Africa. Instead, they are issued visitor permits by immigration officials. However, these permits do not allow cross-border traders to engage in street trading in South Africa, therefore they are always at risk of arrest. More often than not, this leaves traders vulnerable to corrupt officials who would attempt to get bribes from them.<sup>139</sup>

## 11. Work

Various categories of foreign nationals are entitled to work in South Africa. They include those in possession of critical skills, students, asylum seekers, refugees, ZEP permit holders and those with general work visas etc. Such



work entitlements are necessary for South Africa to meet its international and human rights obligations as well as to attract skills and investment. In an environment of growing calls to restrict or ban foreign nationals from certain professions, it is important to note therefore that not every foreign national who is entitled to work in South Africa necessarily possesses a critical skill.

South Africa does however suffer a critical shortage of skills to fill certain professions. These include, but are by no means limited to, shortages of mathematics and science teachers, nurses, doctors, and engineers.<sup>140</sup>

According to a report released in 2011 by the South African Council for Educators (SACE),<sup>141</sup> thousands of South African teachers leave to teach in other countries every year, and South Africans make up a third of all foreign teachers in the UK. Qualified foreign educators are needed in the South African education system as skilled and experienced local teachers are leaving the country and not enough new teachers are being trained domestically.

The movement of teachers out of the country, notably in the 1990s, led to a vacuum that was filled to some extent by foreign educators. However, xenophobic attacks and policy uncertainty around work permits and visas have led to many foreign educators leaving the country along with local educators.

In Botswana recruiting scarce skills from abroad existed alongside the policy of 'localisation', which ensured that when citizens of Botswana gained the necessary qualifications, they would get jobs previously held by foreign professionals.<sup>142</sup> A similar program that manages the expectations and rights of South Africans as well as foreign migrants would help to ensure a smooth transition as South Africans increasingly acquire the required skills.

There are challenges with using a critical skills list in order to determine the skills required in a country. South Africa's critical skills list has often been challenged for lacking transparency, excluding skills which employers know to be difficult to source, and for being a lagging indicator for the actual skills required in the job market.

A recent report endorsed by the World Economic Forum (WEF) examined the effectiveness of skill-selective immigration policies in increasing the inflow of highly-skilled migrants. It finds that a points-based system is much more effective at attracting and selecting high-skilled migrants than

policies based on demand. The demand-led policies still requires job offers, labour market tests, or the demand for scarce-skilled occupations before a person can enter the country.<sup>143</sup> Countries that have already implemented point-based systems include the UK, Canada, New Zealand and Australia.

Benefits of a points-based system include that it requires less resources as much of the process is streamlined, objective criteria is set, the selection process is transparent and that it attracts better candidates.<sup>144</sup> In addition, provision of permanent residency status acts as a crucial factor in drawing foreign high-skilled migrants.

Such a point-base system will allocate a set number of points to a set of requirements.<sup>145</sup> For instance, to qualify for a working visa in South Africa an applicant should score more than 80 points. These requirements (or factors) can include, among others, the level of education, experience and skills, a business plan, having an employment offer in the country, age, connections to the country, and proficiency in speaking English or any other South African language. The system could include some mandatory requirements such as being able to speak a certain language.

### **To attract critical skills the DA will:**

- Move to a points-based skilled migration system, as opposed to a skills-demand system, as the points-based system has proven to be more attractive to aspiring skilled migrants. Skills that fall into the South African critical skills list will carry points along with other criteria such as qualifications, languages spoken, work experience etc.
- Appoint a professional third-party service provider(s) to administer the points-based migration system, ensuring the process is administered efficiently and independently according to best industry practice and decreasing the adjudication and appeals processes.
- Ensure the system is highly transparent to ensure the certainty and integrity of the system, thereby increasing the attractiveness for skilled migrants to apply.
- Aim to have a turn-around time for the processing of applications of not more than 3 months.
- Offer permanent residency to high scoring candidates.
- Create a visa and path to residency for individuals who are exceptional in their endeavour, talent, skills, and/or knowledge but not part of the critical skills list.
- Simplify regulations to make the repatriation of remittances easier and to lower remittance transaction costs,<sup>146</sup> and

- Update the critical and scarce skills lists based on transparent market intelligence and methodology. This is to ensure that it is easier for industry and individuals to motivate for the inclusion of a skill onto the critical skills list.
- Offer automatic allocation of corporate visas for scarce skills, as a percentage of the workforce, to companies in sectors experiencing widespread skills shortages.

## 12. Study

Tertiary education has become a major global export commodity.<sup>147</sup> In the last four decades, the number of enrolments in higher education by international students increased substantially. Between 1975 and 2016, foreign student enrolment rose from 0.8 million to 3.5 million worldwide.<sup>148</sup> In 2020, it was estimated that approximately 12 000 South Africans were studying abroad,<sup>149</sup> while international students studying in South Africa make up 7% of the total student population ( $\pm$ 70 000 students) in South Africa (**Figure 4**).<sup>150&151</sup> The majority of international students who select South Africa usually come from neighbouring African countries, such as Zimbabwe, Nigeria and Lesotho. This is attributable to South Africa's reputation for having some of the best higher education institutions in Africa.<sup>152</sup>

**Figure 4: Headcount enrolment of all non-South African students from 2012 – 2017**



Source: Council on Higher Education, 2019

Despite South Africa's obligations to neighbouring countries concerning access to tertiary education,<sup>153</sup> many international students have difficulty applying for, or renewing study permits in South Africa. These challenges are attributable to the application process for visas and immigration laws.<sup>154</sup> For example, international students under the age of 18 are considered legal minors and, as a result, must submit additional documentation when travelling unaccompanied and when applying for a study visa in South Africa.<sup>155&156</sup> Another example is the requirement that all international students undergo criminal background checks. There is no presumption of innocence for students seeking to study abroad. Instead, they have to prove they are not criminals in the country where they have previously lived. Due to the different requirements and procedures by country, this requirement can be overwhelming for many internationals.<sup>157</sup>

In addition to difficulties associated with visa applications and immigration policies, international students are also subject to xenophobic attacks.

In reports of xenophobic attacks across South African communities, higher education institutions are not spared.<sup>158</sup> As international students compete for local resources, it causes tension between local and international

students as South African students feel deprived, resulting in invoking their citizenship for support.<sup>159</sup>

International students also have reason to feel aggrieved by xenophobic sentiments as a consequence of recent policy changes. This includes withdrawing the critical skills waiver for international students.

Following changes in the country's immigration policy, government has withdrawn a blanket waiver for international students studying critical skills areas.<sup>160</sup> Under the 2016 waiver, international students studying in critical skills fields were allowed to apply for permanent residency without completing the five years of post-qualification experience and without providing employer testimonials. The withdrawn blanket waiver can be viewed as deliberate attempts to curb the influx of international students. This will affect not only the students studying in critical skills fields but also adversely affect critical industries.<sup>161</sup>

International students play a vital role in an economy. Their unique skill set, talent, and cultural background can accelerate the development of a nation and make it more diverse. Also, international interaction and the flow of knowledge are essential components of the emerging global structure.

South Africa needs to recognise the educational, cultural, and potential financial benefits provided by international students to their host country. To that end, the DA will support efforts that attract and retain international students in South Africa and remove laws which unreasonably hinder access to international students.

### 13. Eliminating Xenophobia

There have been various reasons stated for violent xenophobic attacks, but more frequently than not the narrative expressed by perpetrators is one of an uncontrolled influx of undocumented foreign nationals from neighbouring African countries competing for or taking jobs and local business opportunities from South Africans. However, victims of violence tend to be both documented and undocumented at the time that they are attacked.

The 2015 KwaZulu-Natal Premier's Special Reference Group on Migration and Social Cohesion (SRG) noted a triggering and channelling of the violence, by local South African businesspeople against migrants. The Report noted that business rivalry and competition over township

economies were key drivers. The SRG noted that the government had been unable to address this, despite repeated occurrences or waves of looting. Allegations by South African businesspeople that migrants used corrupt or cartel like business practices were not supported by the SRG's investigations. It appears that the migrants rather deploy a mixture of careful logistics and social cohesion to increase efficiencies. It was noted that the various spheres of government had not provided sufficient small business skills training, township economic development, and support to facilitate the competitiveness of South African owned local businesses.

There are also other factors regarding migrants that have been explored in this position paper which drive xenophobic sentiment and behaviours. These include perceptions that because there are many migrants, most have entered the country illegally and unfairly take employment opportunities from poor South Africans or that migrants tend to resort to a life of crime to survive. These views, often half-truths, can result in all migrants being treated prejudicially.

It is clear that access to resources and public opinion regarding how well our borders are managed matters very much in terms of how migrants are viewed. Therefore, migration management and awareness are equally important.

Confidence in border management is, however, not the most important intervention to address xenophobia. The reality is that the perception of an uncontrolled influx of people is intensified by other grievances including unemployment, poor public service delivery and high crime and violence rates. Public education and awareness campaigns can have limited impact, however the most plausible route to easing tensions is via comprehensive policies and policy implementation which will lead to the creation of more jobs, a safer society and improved standards of living for all.

A migration strategy focused on the opportunities of a world with greater freedom of movement, as this position paper does, is more likely to succeed when the majority of South Africans are skilled, are able to find employment, and receive high quality public services. **Without rising economic prosperity and improved living standards for South African citizens migrants are likely to continue to be wrongfully identified as the source of deprivation.**

In 2019, cabinet approved the 'National Action Plan to Combat Racism, Racial Discrimination, Xenophobia, and Related Intolerance'.<sup>162</sup> However, the national Government is failing in its mandate and often leaves the responsibility to municipalities to deal with incidents as a by-law infringement. To address the current lack of coordination between governments when dealing with xenophobia and violence against foreign nationals, the Department of Home Affairs should take the lead to facilitate intergovernmental coordination on roles, responsibilities, and funding.

### Addressing xenophobia requires that:

- migration is managed in a manner that engenders confidence and trust;
- migration is integrated into a broader economic growth and development strategy, and that the positive economic and social outcomes of migration are regularly communicated;
- civil servants, not only the public, receive training and information to empower them to take decisions and to combat false perceptions;
- inter-governmental co-ordination is led by the Department of Home Affairs to deal with xenophobia and violence against foreign nationals before flash points transform in to a humanitarian crisis;

## Appendix A: Crime Statistics, Foreign nationals, and South African nationals

	Foreign nationals			South African nationals			Foreign Total	SA Total	Foreign n %	F:SA
CRIME	2016	2017	2018	2016	2017	2018	TOTAL	TOTAL	%	Ratio
Offence under liquor act (general) – public drinking etc	1180	997	1000	20892	16131	16364	3177	53387	5,61	1:17
*Abduction (Common or statutory law)	30	24	15	405	325	273	69	1003	6,44	1:15
Forgery of bank notes	15	32	198	28	41	32	245	101	70,8	2:1
*Assault with purpose to inflict GBH	6710	6326	6783	14653	14154	14204	19819	430127	4,4	1:22
*Attempt to commit offence ito Criminal Law A/Act (Sexual Offences & Related	83	75	73	1414	1380	1373	231	4167	5,25	1:18

Matters)										
Attempted arson (all)	3	4	2	113	97	115	9	325	2,69	1:36
Attempted burglary (all)	108	105	91	1624	1520	1479	304	4623	6,17	1:15
Attempted carjacking	16	12	19	242	244	241	47	727	6,07	1:15
Attempted common robbery	30	24	24	520	403	416	78	1339	5,5	1:17
*Attempted Farm Murder	3	1	0	10	17	12	4	39	9,3	1:10
Attempted Fraud	4	8	3	52	31	28	15	111	11,9	1:7
Attempted hijacking (truck)	0	1	2	14	10	13	3	37	7,5	1:12
Attempted Motor Vehicle theft	16	23	34	548	520	351	73	1419	4,89	1:19
*Attempted Murder (all)	696	614	556	10619	10375	10358	1866	31352	5,62	1:17
*Attempted rape (all)	2	0	3	28	27	36	5	91	5,2	1:18
Attempted robbery (all)	77	114	86	1124	1072	1017	277	3213	7,94	1:12
Attempted theft (all)	2207	2213	2137	1986	1808	1895	6557	5689	53,54	1:1
Possessing counterfeit goods for dealing	956	387	277	780	531	354	1620	1665	49,32	1:1
Breach of peace	35	20	15	2636	1834	1962	70	6432	1,08	1:92



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