



Liaison, Dialogue and Research

Reg no: 2006/020285/08

The Southern African Liaison Office (NPC)

Liesbeek House, River Park,
Gloucester Road, Mowbray, Cape Town 7700

Tel: +27 (021) 680 5306

Email: info@salo.org.za

www.salo.org.za

[@salo_info](https://twitter.com/salo_info)

SALO Position Paper

29 July 2022

A Critique of South Africa's Immigration Policies:

Problematizing the Cancellation of Zimbabwe Exemption Permits



The Southern African Liaison Office (SALO) is a registered South African-based not-for-profit civil society organisation (NPC) and a Public Benefit Organisation (PBO). SALO is eighteen years old and a highly active member of civil society with a strong knowledge management, policy engagement, research, and advocacy capability. SALO contributes to building peace and security with a strong focus on human rights, gender including LGBTQIA+ rights, migration and climate change, through facilitating dialogue and consensus between national, regional and international actors. SALO has a predominantly regional focus, especially Zimbabwe, Eswatini and Mozambique. Owing to the interconnectedness of complex regional work, SALO's systemic work has extended to, and influenced agendas, in other SADC countries including DRC, Lesotho, Malawi and Madagascar, and elsewhere on the continent including the Central African Republic. Please feel free to refer to our website for further evidence of our work: <https://www.salo.org.za/>

Background:

The 6th ANC Policy Conference is underway, taking place from the 27th to the 31st of July, 2022. Amongst a number of key policy areas raised in the documents leading up to the conference, the question of migration in South Africa is the focus of this discussion paper. In recent months, the political and social climate within the Republic has witnessed increasing levels of populist and nationalist rhetoric, reminiscent of similar movements in the United States and Europe. Although South Africa has not made calls to “build a wall”, the cancellation of the Zimbabwe Exemption Permits and the launch of an “armed” Border Management Authority with a clear mandate to monitor and prevent illegal movement in and out of South Africa along the Zimbabwe and Mozambican borders, point to a systematic move to significantly reduce the number of Zimbabwean migrants residing in the country. The motivations for these radical shifts in policy are complex and multifaceted. Some leaders within government structures and the ruling party, have amplified sentiments raised by growing right-wing populism within South Africa, especially stemming from groupings such as Operation Dudula, Put South Africa First, and Action SA and the Patriotic Alliance. This paper outlines the political and socioeconomic push factors driving migration to South Africa, that demand further regional and international engagement by the ANC and other stakeholders including the labour movements (COSATU) and relevant government representatives (DIRCO). Thereafter, we outline South Africa’s policy responses to the rise in migration from neighbouring Zimbabwe, leading to the current policy decisions to cancel the ZEP and implement a strategy to radically reduce the number of Zimbabweans with the legal right to reside in South Africa. We proceed to present the consequences of these policy actions and intentions, as the challenges of implementing these strategies become more apparent. Finally, we draw a number of conclusions and present some recommendations to be taken into account, in attempting to address the complexities surrounding the cancellation of the ZEP; South Africa and in particular, the ANC’s policy towards Zimbabwe; and the need for domestic and foreign policy to align towards progressive internationalisation that builds on the bedrock of international and regional frameworks protecting human rights and which takes into account, the strong evidence base on the benefits of migration to economic development. A return to this commitment to progressive internationalisation is pertinent, given the prominence and urgency of the African Continental Free Trade Agreement (AfCFTA) and its protocols, which include the Free Movement Protocol.

The Push Factors Driving Migration to South Africa

It is hard to recall the days when Zimbabwe was described as the breadbasket of Africa. The economy thrived with strong agricultural, manufacturing and extractive sectors. A series of policy decisions have led to Zimbabwe’s political and socioeconomic crisis. These include: the unbudgeted engagement in the DRC war in 1998ⁱ; the implementation and impact of the Fast Track Land Reform Programme, which radically transformed land ownership by creating a new agrarian structure with “new class formation processes and struggles”ⁱⁱ ; and increasing authoritarianism evidenced by brutal repression of opposition and civil society movements that attracted targeted and financial sanctions from the European Union (EU), the United

States, Britain and other Western nations. Joshua Chakawa's recent analysis of sanctions on Zimbabwe, argues that "ruling party political elites have circumvented the effects of sanctions at a heavy cost to the populace"ⁱⁱⁱ.

Alena Douhan, the UN Special Rapporteur on unilateral coercive measures visited Zimbabwe and echoed Chakawa's observations:

"Over the last 20 years, sanctions and various forms of over-compliance with sanctions have had an insidious ripple effect on the economy of Zimbabwe and on the enjoyment of fundamental human rights, including access to health, food, safe drinking water and sanitation, education and employment."^{iv}

There are multiple arguments which question to what extent sanctions have impacted Zimbabwe's economy. Some analysts contend that Zimbabwe's economic decline is the result of corruption, maladministration of resources and growing patronage networks. There is a great deal of evidence that shows the deepening levels of state capture, alongside what has now evolved to become a militarised state [see the link to The Daily Maverick, Cartels Report^v].

The victims of the political and socioeconomic instability have sought opportunities in the region and beyond. South Africa, with one of the larger economies in the region and a progressive Constitution which caters for migrants (economic and others) and refugees or asylum seekers, has absorbed a significant number of Zimbabweans. Although the government officials in South Africa have been quoted many times, claiming that there are millions of Zimbabweans in the country, the facts tell a different story. The Statistics South Africa 2011 census revealed that "there are an estimated 2,188,872 foreign-born people residing in South Africa" and "672,308 were from Zimbabwe"^{vi}. Africa Check cites data from the United Nations Population Division, which estimates that in 2017, there were 649,385 Zimbabweans in South Africa^{vii}.

This data is incredibly important as we move to present the South African response to migration from Zimbabwe, the assumptions and recent changes to the policy framework.

An Overview of Policy Responses (2009-Present) Addressing Migration

In 2008, political unrest and violence affected the majority of Zimbabweans after a contested election where it is largely agreed that Zanu-PF lost the majority vote and the then opposition leader, Morgan Tsvangirayi, had won the presidential election. Coupled with a fragile economy and fear for their safety, large numbers of Zimbabweans moved to South Africa in search of greener pastures. The ANC-led government made progressive changes to what was prior to 2009, the policing of immigration, which saw foreign nationals being subjected to spot checks for documentation, detention and deportation. Alongside these violations to human dignity, locals and foreign nationals clashed in outbursts of xenophobic (often referred to as Afrophobic) violence across the country in 2008. The undercurrents of local discontentment with the presence of foreign nationals have continued to simmer, but we will come to this again later in the paper.

South Africa’s introduction of the Dispensation of Zimbabweans Project (DZP) in 2009, the Zimbabwean Special Permit (ZSP) in 2014 and the Zimbabwe Exemption Permit (ZEP) in 2017, were welcomed as important steps to regularise undocumented Zimbabweans in South Africa. In addition to developing a framework for immigration policy and the Zimbabwe question, the South African government and the ANC embarked on an engagement process to promote resolution of the systemic drivers perpetuating Zimbabwe’s political and socioeconomic crises. The table below outlines a chronological review of these actions:

Year	Context	Action	Outcome
2008	Post-electoral violence and disputed election results between Zanu-PF and the MDC-T, led by Morgan Tsvangirayi.	President Thabo Mbeki, led a negotiated settlement between Zanu-PF and the opposition, and other political actors.	A Government of National Unity (GNU) established with President Mugabe as head of state, Morgan Tsvangirayi as Prime Minister between 2009 and 2013. This period also saw a comprehensive Constitution making process, which resulted in Zimbabwe’s New Constitution (2013).
2009	Large number of Zimbabweans move to South Africa pushed by political violence and economic challenges. Many of them were undocumented.	Dispensation of Zimbabweans Project (DZP) introduced by South Africa’s government in 2009, “in order to achieve four main objectives: to reduce pressure on the asylum management system, to curb the deportation of illegal Zimbabwean migrants, to regularise Zimbabweans who were residing in SA illegally and to provide amnesty to Zimbabweans who	The DZP was largely considered a success.

		had obtained South African documents fraudulently.”	
2014	To extend the remit of the DZP.	Zimbabwean Special Permit (ZSP) introduced in 2014.	The ZSP allowed former DZP applicants to extend their stay in South Africa. Researchers confirmed that the DZP and ZSP significantly “reduced pressure on the asylum seeker management system while deportation figures dropped significantly.” ^{viii}
2017	To extend the remit of the ZSP.	The Zimbabwe Exemption Permit is introduced in 2017.	178,000 Zimbabweans continue to reside in South Africa.
November 2017	President Mugabe removed through a military “coup”, which was widely welcomed by Zimbabwe’s neighbours and did not receive condemnation from the African Union and SADC.	President Jacob Zuma speaks to President Mugabe, to ensure his wellbeing and as the SADC chairperson, calls for an emergency SADC meeting to discuss the evolving political and security situation. SADC envoys (South Africa’s Defence Minister Nosiviwe Mapisa-Nqakula and State Security Minister Bongani Bongo) meet General Chiwenga and Mugabe at his presidential residence in Harare.	Mugabe’s response neutralised a hard-line stance on the coup from South Africa and the region. The ISS reports on this period: “That rather bizarre response from Mugabe – which sprung either from deep pride or perhaps incipient dementia – seemed to neutralise SADC’s attempts to intervene. Mapisa-Nqakula and Bongo had evidently come to Harare with SADC’s rulebook in their back pockets. It demands the suspension of any government that seizes power by unconstitutional means – and military coups very definitely fall into that category.

			But as one South African official pertinently asked: 'How do you say that there has been a coup when the elected head of state himself says he is still in power?'"ix
2018	<p>Post-election violence, which saw the shooting of civilians by the military in Zimbabwe, leads to the demise of 6 people and injury of many more.</p> <p>After pressure from local, regional and international groupings, President Mnangagwa establishes a Commission of Inquiry, led by former South African President, Kgalema Motlanthe.</p>	The Commission's Report submits a set of recommendations to the Government of Zimbabwe.	Analysts concur that the Zimbabwe government has neglected to implement the recommendations provided by the Commission. The Zimbabwe Human Rights Commission has been called on to adopt the recommendations.x
2020	Growing concerns about Zimbabwe's deteriorating economic and political situation.	President Ramaphosa appoints former Cabinet minister Sydney Mufamadi and former parliamentary Speaker Baleka Mbete to "engage the Government of Zimbabwe and relevant stakeholders to identify possible ways in which South Africa can assist Zimbabwe".	<p>Opposition movement in Zimbabwe is excluded from the envoy's visit after President Mnangagwa blocked their meetings. The result was an incomplete mission.</p> <p>Analysts argue that the challenge has been for South Africa to find an entry point to motivate for dialogue in Zimbabwe.</p>

		<p>International Relations and Co-operation Minister Naledi Pandor, notes that Zimbabwe's "political dynamics are inextricably linked to the economy and thus should be confronted simultaneously". She specifically raised "the possibility of initiating an inclusive political dialogue."</p>	
2020	<p>Presiding economic and political climate warrants an additional visit by ANC envoys.</p>	<p>Secretary-General of the ANC, Ace Magashule, with an envoy consisting of current chairperson Lindiwe Zulu, Tony Yengeni, Nosiviwe Mapisa-Nqakula, and Nomvula Mokonyane visited Zimbabwe for an envoy meeting to discuss the political instability, the rise in corruption, the political violence meted against citizens and opposition political party members, and also the closing down of the civic space.</p>	<p>Once again, the delegation only met Zanu-PF despite President Ramaphosa's stance that the envoys wanted to meet a wide range of stakeholders. Zanu-PF also continues to deny there is a crisis.</p>
2020	<p>Corruption at land borders continues, with increasing coverage of illegal crossings between</p>	<p>The Border Management Act comes into force in 2020.</p>	<p>This leads to the establishment of a Border Management Authority, an attempt to centralise border</p>

	Zimbabwe and South Africa.		management responsibilities, previously held by at least 7 different government departments, under the Department of Home Affairs.
2020	A constrained South African economy, increased vulnerability of the population due to the Covid-19 pandemic, lead to the emergence of right-wing populist social movements.	<p>In April 2020, the #PutSouthAfricaFirst campaign is launched.</p> <p>Prior to this in 2019, the Sisonke People's Forum and All Truck Drivers Forum protests, lead to the murder of 12 people.</p> <p>In 2022, the launch of Operation Dudula also gain momentum across South Africa.</p>	<p>Increasing pressure from the grassroots for changes to South Africa's immigration policies.</p> <p>Some senior politicians in the ANC and elsewhere in politics, add legitimacy to populist narratives. The government's official stance also takes on a xenophobic/afrophobic approach to its policies and messaging.</p>
2021	Significant shifts in the immigration policy landscape begin to emerge.	The Department of Home Affairs issues the Immigration Directive of 2021, withdrawing the Zimbabwe Exemption Permits (ZEP). The DHA announces a grace period until December, 2022 for beneficiaries of this permit to apply for other permit categories or make arrangements to leave South Africa.	<p>The withdrawal of the ZEP is critiqued by civil society groupings on the following grounds:</p> <ol style="list-style-type: none"> 1) Lack of consultation with affected stakeholders before the announcement of the withdrawal. 2) Barriers within the permit application processes that mean a majority of ZEP holders do not qualify to apply for other permits.

			<p>These include requirements to apply from outside the country, although they have been allowed to apply in-country. Additionally, waiver applications for general work permits are taking long periods to be processed, which means those waiting for waivers, may not be able to regularise their stay in South Africa prior to December 2022. Overall delays within the DHA system, mean new applications for those who qualify and are able to submit applications, may still take processing times beyond December 2022.</p> <p>3) The Directive has devastating socioeconomic consequences for permit</p>
--	--	--	--

			<p>holders, their children and families at large. Their access to basic services including banking, housing, schooling, depends on possession of valid documentation. Even within the grace period, bank accounts have been suspended, pending the presentation of valid documentation. No consideration has been taken to weigh the impact of these policies on children of migrants affected by the Directive.</p>
2021	Operationalisation of the Border Management Act.	The Department of Home Affairs launches the Border Management Authority.	<p>First cohort of armed guards deployed along the Beitbridge border between South Africa and Zimbabwe.</p> <p>South Africa under increasing scrutiny by the region and international organisations such as the United Nations for implementing xenophobic policies</p>

			and not taking steps to discourage populist narratives from shaping discourse on crime, unemployment and other national challenges.
--	--	--	---

The Consequences of Recent Immigration Policy Trends

South Africa’s radical shifts to immigration policies and the dominant narratives communicated by government officials and movements such as Operation Dudula, have received sharp criticism from human rights bodies including the United Nations. In July 2022, Human Rights Office of the High Commissioner, condemned “reports of escalating violence against foreign nationals in South Africa and called for accountability against xenophobia, racism and hate speech that were harming migrants, refugees, asylum seekers and even citizens perceived as foreign throughout the country.”^{xi}

Similarly, Jonathan Crush in his abstract on *Xenophobia Denialism and the Global Compact for Migration in South Africa* states:

“The United Nations (UN) Global Compact for Safe, Orderly and Regular Migration (GCM) commits signatories to eliminate all forms of discrimination, and to condemn and counter expressions, acts and manifestations of racism, racial discrimination, violence, xenophobia and related intolerance. The growth of xenophobia across the global South has become increasingly apparent. Governance responses to anti-immigrant sentiment and action take three main forms: intensification, mitigation and displacement. In South Africa, policy on international migration to the country focuses more on the perceived negative impacts of migration than any potential development benefits. As a direct result, negativity pervades both public policy and popular discourse about migrants and their impact on the country. Migrants encounter an extremely hostile environment in which their constitutional and legal rights are abrogated, their ability to access basic services and resources is constrained, and their very presence in the country is excoriated by the state and citizenry. Xenophobic attitudes are deeply entrenched, and xenophobic attacks have become common.”^{xii}

Research already points to the devastating human cost of weaponizing South Africa’s immigration policies. ZEP holders have questioned whether the DHA considered the schooling requirements for children born and raised in South Africa, who may have to transition to a different education system if the directive to cancel the ZEP goes through. Families are already struggling to access basic services including banking, healthcare, and housing: all of which require valid documentation.

From a policy perspective, the budgetary costs of launching a new Border Management Authority, impending deportations for more than 170,000 ZEP holders (if they fail to receive new permits prior to December 2022), have not been included in the decision-making process. Earlier in the paper (see table on actions and outcomes), we note the significant relief

brought by the ZEP and its predecessor permits, to the asylum seeker system. The costs associated with managing undocumented migrants must be taken into account.

Furthermore, border monitoring and human rights experts, concur that deporting migrants does not solve the problem of illegal immigration. Rather, the implementation of policies that make it more difficult to obtain legal documents make the system vulnerable to corruption and abuse of power. Evidence prior to 2009, when the DZP was introduced, reveals that Zimbabweans and other nationals, testified that they had been deported multiple times and would continue to come back to South Africa. The cost for multiple deportations and maintenance of accurate records that monitor the volume and cost associated with this policy position, are also missing from arguments in support of the latest immigration policy trends.

In 2011, the Institute for Security Studies (ISS) reported that, “In 2010/11 the Department of Home Affairs reported 55 825 deportations, a number that still falls short of the 2007 high of over 300 000 deportations. The drop is due to the government’s short-lived decision not to deport Zimbabwean immigrants, but the numbers are on the rise again.”^{xiii} The ISS article contends that “Policing immigration is a zero sum game” which comes at a high cost to the police, the Department of Home Affairs and public safety in South Africa^{xiv}. At the time of publication, the authors, Chandre Gould and Lauren Landau add that: “We now know that over R300 million is being used simply against people whose only crime is not having the correct papers for being in the country.”^{xv} The shifts in current policies inevitably mean a spike in government spending, public safety as xenophobic (Afrophobic) sentiments swell in communities across the country, and increasing vulnerability for migrant families.

Conclusions and Recommendations

The ANC is recognised for its leadership as a liberation movement in Africa, with a commitment to the Freedom Charter, international statutes protecting basic freedoms and human rights, and a progressive Constitution including provisions that protect the rights of refugees, migrants and children. This ANC policy conference has an opportunity to fully address the weight of the policy decisions affecting the ZEP and other foreign nationals, who face discrimination on the basis of their nationalities. There is insufficient evidence that the negative consequences of these policy choices and actions, inclusive of their human cost, have been fully addressed. In fact, they arguably reverse previous decisions which sought to reduce the burden on South Africa’s immigration system and various streams of government resources. Finally, South Africa and its governing party, the ANC, cannot advance trade and internationalisation strategies without taking consideration of the impact of the domestic policies on its participation in the AfCFTA (African Continental Free Trade Agreement and implementation of its protocols, which include the Free Movement Protocol).

-
- ⁱ (1999) Zimbabwe's Congolese imbroglio, *Strategic Comments*, 5:2, 1-2, DOI: 10.1080/1356788990523
- ⁱⁱ Moyo, S. 2011a. "Changing Agrarian Relations after Redistributive Land Reform in Zimbabwe." *Journal of Peasant Studies* 38 (5): 939–966. doi: 10.1080/03066150.2011.634971
- ⁱⁱⁱ Joshua Chakawa (2022) Why sanctions have not worked: Zimbabwe's experience from 2001-2021, *Third World Thematics: A TWQ Journal*, DOI: 10.1080/23802014.2022.2080248
- ^{iv} United Nations: Office of the Human Rights Commissioner, *Zimbabwe: Expert calls for lifting of unilateral sanctions, urges talks*, published on 28 October 2021 [<https://www.ohchr.org/en/press-releases/2021/10/zimbabwe-expert-calls-lifting-unilateral-sanctions-urges-talks>]
- ^v Mark Heywood, *Zimbabwe: Explosive cartel report uncovers the anatomy of a captured state*, *The Daily Maverick*, published on 9 February 2021 [<https://www.dailymaverick.co.za/article/2021-02-09-zimbabwe-explosive-cartel-report-uncovers-the-anatomy-of-a-captured-state/>]
- ^{vi} Africa Check, '*Millions*' of Zimbabweans living in South Africa? *Data doesn't back claim*, published on 5 February 2019, [<https://africacheck.org/fact-checks/reports/millions-zimbabweans-living-south-africa-data-doesnt-back-claim>]
- ^{vii} Ibid, Africa Check article.
- ^{viii} Primrose Bimha, *Legalising the illegal: an assessment of the Dispensation of Zimbabweans Project (DZP) and Zimbabwe Special Dispensation Permit (ZSP) regularisation projects*, UCT Masters Dissertation, 2017 [https://open.uct.ac.za/bitstream/handle/11427/25184/thesis_hum_2017_bimha_primrose_zvikomborero_joelyn.pdf?sequence=1&isAllowed=y]
- ^{ix} Peter Fabricius, *After Zimbabwe's cleverly contrived coup, squeezing the genie of democracy back into the bottle won't be easy*, *Institute of Security Studies*, [<https://issafrica.org/iss-today/the-dark-art-of-the-coup>]
- ^x Zimbabwe Human Rights Association, *The Motlanthe Report: What's Next for Victims and the Nation - An Analysis of the Recommendations of the Motlanthe Report Two Years Later*, 2020, [http://www.veritaszim.net/sites/veritas_d/files/The%20Motlanthe%20Report.pdf]
- ^{xi} UN Human Rights Office of the High Commissioner, *South Africa: UN experts condemn xenophobic violence and racial discrimination against foreign nationals*, 15 July 2022, [<https://www.ohchr.org/en/press-releases/2022/07/south-africa-un-experts-condemn-xenophobic-violence-and-racial>]
- ^{xii} Jonathan Crush, "Xenophobia Denialism and the Global Compact for Migration in South Africa", *International Development Policy | Revue internationale de politique de développement* [Online], 14 | 2022, Online since 25 April 2022, connection on 28 July 2022. URL: <http://journals.openedition.org/poldev/4824>; DOI: <https://doi.org/10.4000/poldev.4824>
- ^{xiii} Chandre Gould and Lauren Landau, "What is the cost of South Africa's immigration and deportation policies? Research shows that this might outweigh any benefits to South Africa and to the region", *Institute of Security Studies*, 9 December 2011 [<https://issafrica.org/iss-today/counting-the-cost-of-implementing-south-africas-migration-policy>]
- ^{xiv} Ibid, ISS Article
- ^{xv} Ibid, ISS Article