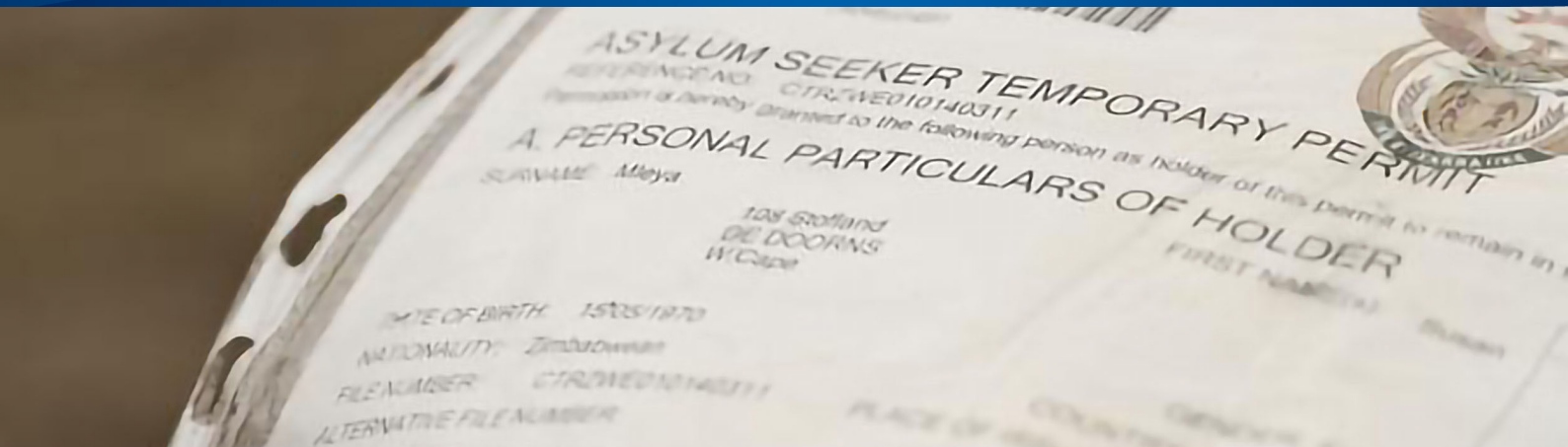


# POLICY BRIEF

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## Institutionalisation of **immigration through integration** and mainstreaming can **foster social cohesion in South Africa**



### Executive summary

*South Africa has grappled with challenges relating to immigration governance for more than a decade in the post-apartheid era. Most policy debates focus on how South Africa's immigration policies should facilitate regional integration, given the country's role economically and politically. The immigration question remains one of the issues on the policy agenda with intergroup hostility, and violence between African immigrants and South Africans is a serious concern. This policy brief scrutinises the immigration policies in terms of how they could be effective in preventing violence by anticipating it. The brief proposes policy interventions related to intergovernmental relations, social integration of immigrants and mainstreaming of immigration issues in public services, to enhance their transparency and ethical conduct as well as self-governance by communities.*

### Introduction

Challenges relating to immigration governance are often a threat to the country's reputation internationally as a polity built on constitutional democracy and human rights culture. The right to freedom of immigrants is overtly and covertly curtailed by the widespread resentment of foreign nationals by South Africans. Frequent violence against immigrants from poor and working-class backgrounds and protests organised against immigration-related public concerns have placed immigration on the national policy agenda of the Department of Home Affairs. The enactment of the Border Management Authority Act (Act No. 2 of 2020) should improve the institutional capacity

of the department to implement the immigration policy by scrutinising unlawful entry into the country. A major change would be to enforce the country's regulations regarding legitimate use of international borders and minimise the public concern over porous borders. However, the conflict that occurs between members of some host communities and immigrants, particularly in Gauteng and Kwa-Zulu Natal provinces, requires policy-driven interventions led by communities and the public sector. Beyond the activities of the Department of Home Affairs, South Africa's immigration governance practices should be enhanced with initiatives and processes that achieve governmentality of immigration conduct. Such policy actions should include the mainstreaming of immigration in public services and social integration of immigrants. These have been the missing links in the implementation of the international migration policy and related laws in South Africa.

### Overview of the problem and the policy context

Since 1994 the government developed the immigration policies in South Africa with the view to prioritising the country's socioeconomic development and to use the policies as instruments for enhancing the country's reputation as a recognised global partner in the implementation of human rights policies. However, due to institutional incapacity, unethical conduct of public service officials who are responsible for state functions relating to regulating immigration, such as the issuing and inspection of national identity documents,

visas, permits and licences, the problem of irregular immigrants<sup>1</sup>, colloquially referred to as 'undocumented' and 'illegal' immigrants (not asylum seekers) has become an important societal issue. The government has not yet optimised the state's capacity to implement and manage a selective immigration policy, which like many countries that prefer skilled migrants, became an instrument for socioeconomic development and skills enhancement. The Immigration Act No. 13 of 2002 has proved to be ineffective in managing immigration rules in ways that are aligned with regional and international policies, or the economic incentives of employers and the immigrant prescribed categories of permits and visas issued to foreigners with different entitlements. The White Paper on International Migration (2017)<sup>2</sup> provides a framework for reviewing the Act. Other policy proposals for South Africa have focused on enhancing regional integration of migration. The position of this brief is that South Africa will benefit from enhancing internal processes for immigration and post- immigration integration.

The review happens amidst pervasive discontent among South Africans who perceive immigration as injurious to their wellbeing. The internal pressure that the South African government faces due to ineffective control of immigration flows arises from a growing realisation that 21st century states are built on a different form of political, social and economic architecture. It is a system that emphasises economic integration and interdependency as the world system becomes regionalised and globalised (Machinya, 2022). South Africa is party to bilateral and multilateral agreements, including those that govern orderly immigration and protect the rights of immigrants. States' pursuit for legitimacy and recognition in the context of globalisation means that they are obliged to conform to the global norms or risk facing pressure from international organisations and criticism by civil society (Makaryan & Chobanyan, 2014)<sup>3</sup>.

The immigration policy stipulates the South Africa's preference for selective immigration whereby skilled immigrants are explicitly encouraged to work and reside in the country. However, this merit-based policy has proven to be challenging when it comes to enforcement. It was a drastic shift from historical immigration flows between South Africa and its neighbours. Implementation was jeopardised by the absence of a capacitated bureaucratic

mechanism to support legal entry at the borders (Centre for Development and Enterprise [CDE], 2011)<sup>4</sup>, but also because the internal labour practices do not necessarily comply with the merit-based policy, as shown by citizens' complaints about low-skills jobs that employers predominantly avail to immigrants. The notion that there is an influx of immigrants in the country is a concern that arises from the citizens' realisation that border controls are not adequately or effectively managed, and hence the public discourse about "porous borders". The disjuncture between the policy objectives and its implementation is one of the contributing factors to the high levels of dissatisfaction about immigrants among certain South African citizens. This gap has inspired the organisational purpose of a radical interest group (Operation Dudula).

### **Strained immigrant-citizen relationships as a consequence of the policy gaps in immigration management**

There is dissatisfaction among South Africans arising primarily from their belief that there is an influx of low-skilled immigrants in the country which is contrary to what the legal instruments stipulate as the selective practices in immigration processing. Analysis of national statistical data in the 1990s indicated that the immigrant population in the post-1994 period was predominantly young males with low education and skills like the youth of the majority of the African population group in South Africa, (Lucas, Amoateng & Kalule-Sabiti, 2006)<sup>5</sup>; and not necessarily the priority categories stipulated in the policy and legislative frameworks. It would frustrate poor and unemployed citizens that immigrants who do not meet the socioeconomic criteria for immigration and should not be issued visas or licences often find their way into the country illegally and some find jobs in the formal sector. Recurring vigilantism driven by Operation Dudula and severely disruptive road blockades organised by truckers have been framed as protesting unemployment, unfair employment practices that exclude South Africans and fail to effectively implement the selective immigration policy. Clearly, the interventions by the government to reverse the situation of undocumented immigrants is proving to be another challenge to policy makers with the potential to jeopardise multilateral and bilateral agreements with some of the international bodies and neighbouring countries (Gordon et al, 2020)<sup>6</sup>.

1 For receiving countries irregular immigration entails entering, working or staying without valid authorisation and documentation

2 Department of Home Affairs (DHA). 2017. *White Paper on International Migration for South Africa*. Pretoria: DHA. <http://www.dha.gov.za/WhitePaperonInternationalMigration-20170602.pdf>

3 Makaryan, S. & Chobanyan, H. (2014). Institutionalization of migration policy frameworks in Armenia, Azerbaijan and Georgia. *Int Migr*, 52(5): 52-67. doi:10.1111/imig.12163

4 CDE (2011) South Africa's Migration Policies: A regional perspective. Centre for Development and Enterprise. Workshop No. 8. Johannesburg. <https://www.cde.org.za/wp-content/uploads/2018/07/South-Africas-migration-policies-A-regional-perspective-CDE-Report.pdf>

5 Lucas, D., Amoateng, A.Y. & Kalule-Sabiti, I. (2006). International migration and the rainbow nation. *Population, Space and Place*, 12(1):45-63. <https://doi.org/10.1002/psp.391>

6 Gordon, S. L., Roberts, B., Struwig, J., Mchunu, N., Mtyingizane, S. & Zondi, T. (2020). Size does matter: The relationship between perceived immigrant group size and attitudes towards foreign nationals. *Southern African Journal of Demography*, 20(1):28-56.

Research on migration studies informs us that conflict between immigrants and citizens in destination countries is a common occurrence and is driven by perceptions among citizens that immigrants break the laws of a country. The literature shows that immigration can ignite violence and political instability in host countries, and citizens' discontent about immigrants leads to instability. Gebremedhin and Mavisakalyan (2013) in an article titled: *"Immigration and Political instability"* state that "immigration may adversely affect political stability if conflict becomes endemic among heterogeneous groups of people living in close proximity due to the process of migration" (p. 317). Unless it is prevented, such conflict can be costly to quell. At worst such developments can escalate to militaristic interventions, as was the case in South Africa after the 2008 attacks on immigrants in Gauteng townships (Matunhu, 2011)<sup>7</sup>. That conflict could erupt among co-residents because of immigration, does not seem to be one of the assumptions that informed the formulation of South Africa's White Paper on international immigration. This is one of the reasons why South Africa does not have effective interventions to quell violence referred to as xenophobic attacks despite their frequent occurrence in some regions of the country. The White Paper acknowledges weaknesses in immigration management processes that produce antisocial behaviour. The implementation of the White Paper will be bolstered if some of the key principles that already underlie effective governance practices can be incorporated, as promoted by the constitution and other policy instruments. These principles are intergovernmental relations (IGR), integration and mainstreaming. Considering these approaches to immigration will support the all-government-all-society approach to normalising this activity.

### **Policy recommendations: intergovernmental relations, mainstreaming and social integration**

The intergovernmental relations approach (IGR) is promoted by Section 40 of the South African Constitution and the Intergovernmental Relations Framework Act (Act No. 13 of 2005). According to this legislative framework there is value in government and state institutions coordinating and cooperating in the implementation of their functions across different spheres of government. Malan (2012:116)<sup>8</sup> explains that the system has developed and become a statutory framework that entails the establishment of mechanisms and forums to deal with interactions that address "policy alignment, integration and coherence" across different domains and levels

of government. The law requires that immigration practices be centrally coordinated by the Department of Home Affairs, because international migration is a national competency. But as a prerequisite for orderly, harmonious, and humane immigration, border control processes should be aligned with mechanisms and systems for integration of immigrants in the destination country. Beyond processing and issuing of immigration permits, other functions relating to how immigrants become legitimate participants in the social and economic life of their destination country could be institutionalised into the functions of local government structures. This requires an intergovernmental relations approach.

Undeniably, the immigration question is a serious issue in the public discourse, and it is partly so because of the concerns raised by unethical practices and incapacity in the government mechanisms responsible for immigration governance. Addressing the high levels of malpractice with the issuing of documents, which South Africans contest are issued to immigrants illegally, requires both horizontal and vertical coordination of immigration affairs. This implies a mainstreaming approach similar to the way in which gender and disability have been addressed in governance. Immigration policy is relevant for public administrative functions pertaining to labour and employment, education and training, social services, and housing. It is also the foundation of employment practices by private sector industries that rely on immigrant labour, including transport, mining, tourism and hospitality. Officials should be accountable and promote transparency by regularly communicating the conduct of their departments and agencies when it comes to implementing immigration policy decisions and actions. Transparency can empower citizens and reduce the misinformation that often triggers violence against immigrants.

Another policy practice absent from South Africa's immigration policy is social integration. Broadly speaking, integration is the process by which immigrants and refugees become part of the receiving society, but authors caution that "it is often used still to imply a one-way adaptation or acculturation to the dominant culture and way of life" (Threadgold and Court, 2005, p.8)<sup>9</sup>. According to Kuhlman a key component of integration is that migrants maintain their own identity while also becoming part of the host society. It is achieved "when migrants become a working part of their adopted society, take on many of its attitudes and behaviour patterns and participate freely in its activities, but at the same time

7 Matunhu, J. (2011). Revisiting the May 2008 Xenophobic Attacks in South Africa. *African Journal of Criminology and Justice Studies*. 5(1-2)95-108.

8 Malan, L.P. (2012) Intergovernmental relations in South Africa A revised policy approach to co-operative government African. *Journal of Public Affairs*, 5(3):115-124

9 Threadgold, T. & Court, G. (2005) Refugee Inclusion: A Literature Review. Cardiff: Cardiff School of Journalism, Media and Cultural Studies.

retain a measure of their original cultural identity and ethnicity” (Bernard, 1973<sup>10</sup> cited in Kuhlman, 1990, p.4)<sup>11</sup>. For example, immigrants should be free to align their interests and skills with the host country’s economic development plans including taking advantage of skills development programmes that can support their integration into the economy. The opposite is immigrant exclusion, disadvantage, marginalisation, and deprivation across different service domains, namely, housing, health and social care, child welfare, safety, interaction and community cohesion, employment training, lifelong learning, and education (Threadgold and Court, 2005, p.43).

South Africa’s economy is weak, and crime rates are high. The lack of a social integration system for immigrants can exacerbate this crisis and create a “*laissez faire*” environment whereby immigrants identify economic opportunities including those not adequately protected by the government and participate in parallel economic activities. Considering that South Africa is a multicultural society immigrants would have a problem identifying a dominant culture, as it varies across host communities, work settings, school and trading spaces. Mekuria Bulcha<sup>12</sup> recognised the bi-directional character of integration stating that integration implies “a mutual live and let live” attitude based on tolerance of difference, solidarity and positive social interaction. This is not to suggest a harmonious equilibrium or a static balance between the different groups. Conflict is a natural part of the relationship (1988: 85). But it can minimise the effects of “othering” among South Africans who express an anti-immigrant attitude. South Africans’ lack of empathy and high levels of intolerance towards immigrants’ transgressions, and how these transgressions are responded to with brutal violence, sometimes leading to fatalities and destruction of livelihoods and require interventions that will narrow the gap between the two groups.

Multi-disciplinary and compulsory social integration programmes implemented at the local level of government but funded through the Department of Home Affairs’ national budgets could be considered. They would require participants to register with service-providing organisations (intergenerational non-governmental organisations) and these databases should

be coordinated at national level. The social integration programmes should focus on group skilling and local languages competences and entail an intergovernmental system of service delivery. If successful, such social integration interventions can reduce the anonymity of residents in host communities, increase opportunities for social contact and solidarity and be an avenue for social capital creation across nationality lines. South Africans will not target business ventures in their local communities whenever there is a misunderstanding about immigrants if some of these ventures provide direct benefits to local people. The programme indicators can be incorporated into various departments’ social cohesion goals and evaluated in line with the National Evaluation Policy Framework (Department of Planning, Monitoring and Evaluation, 2011).

## Conclusion

One of the outcomes of the proposed policy practices would be *governmentality*. The concept of governmentality provides a useful lens through which to see how the government’s initiatives to provide orderly immigration can be realised by normalising this historical human activity that has strong roots among African societies and explains their contemporary makeup. It was coined by the philosopher Michel Foucault in the late 1970s. Lemke (2001; 2007)<sup>13-14</sup> and provides a widely understood description of his concept of governmentality which applies to progressive states. It entails the indirect use of power by government to control its citizens through various techniques such as empowerment, which render citizens self-governable, and thus the two entities co-determining each other’s emergence’ (Lemke, 2001:191). Attaining this level of ‘conduct of conduct’ (Lemke, 2001; 2007) by the government with host communities and immigrants requires interventions that can address misinformation, provide early warning, enhance opportunities for social interaction between members of different nationalities with the view to dissolve barriers and ‘othering’ between groups and develop empathy. It is envisaged that immigration policy practices that promote social integration and mainstreaming of immigrants and are organised according to IGR values would yield benefits for the state because they would contribute to governmentality in the sphere of immigration. This could augment immigration governance, considering that challenges to effective implementation

10 Bernard, W.S. (1973) Indices of integration in the American community. In: International Migration 11:3 The Hague: Intergovernmental Committee for European Migration.

11 Kuhlman, T. (1990) The economic integration of refugees in developing countries: A research model. Amsterdam. Vrije Universiteit. <https://core.ac.uk/download/pdf/15453708.pdf>

12 Bulcha, M. (1988) Flight and Integration: Causes of mass exodus from Ethiopia and problems of integration in the Sudan. Uppsala. Scandinavian Institute of African Studies

13 Lemke, T. (2001). The Birth of Biopolitics”: Michel Foucault’s Lecture at the Collège de France on Neo-liberal Governmentality. *Economy and Society*, 30(2): 190–207  
[DOI:10.1080/03085140120042271](https://doi.org/10.1080/03085140120042271)

14 Lemke, T. (2007). An indigestible meal? Foucault, governmentality and state theory. *Distinktion: Journal of Social Theory*, 8(2):43-64 <https://doi.org/10.1080/1600910X.2007.9672946>

of the existing immigration policy include the absence of capacity to implement the policy across sectors. This is compounded by widespread unethical conduct among government officials responsible for issuing and regulating state permits and licenses. South Africa requires an immigration system that is safeguarded by an ethical public service. The state will continue to work with its social partners and social integration programmes will be devolved horizontally and vertically while ensuring coordination by the Department of Home Affairs. In the post-immigration phase, immigrants can pursue their citizenship entitlements guided by known legal frameworks. The causes of xenophobia are not well understood, but key to the anti-immigrant sentiment is the view that immigrants who are in the country take jobs away from South Africans whose participation in the economy can mostly be realised by reserving low-skill jobs for them. There is also the concern of immigrants who perpetrate crimes. This does not mean that foreigners are distinct from South Africans and investing in social integration interventions will progressively provide awareness that immigrants do not have an inferior status or sense of morality and reducing the gap of differentness and dichotomies can reduce their exclusion.

