

SALO Public Policy Dialogue on South Africa's Migration Policy and Migrant Rights: With a special focus on Zimbabweans in South Africa

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Executive Summary

On 31 May 2024, the Southern African Liaison Office (SALO), in partnership with the Norwegian Embassy, hosted a public dialogue looking at the complexities of South Africa's migration policy, specifically regarding Zimbabweans in South Africa. It examined the current state of migration in the country, South Africa's migration reform process, and the potential impact on migrants residing in South Africa, focusing on the White Paper on Citizenship, Immigration and Refugee Protection. Panellists included Ambassador HE Mr David Hamadziripi, Ambassador of Zimbabwe to South Africa; Ms Nyeleti Baloyi, Consortium for Refugees and Migrants in South Africa (CoRMSA); Mr Ngqabutho Mabhena, Zimbabwe Community in South Africa; and Ms Margaret Monyani, Institute for Security Studies (ISS), as a respondent to the panellists.

Context / Importance

South Africa's migration policy has seen significant shifts leading up to the 29 May 2024 general election, reflecting growing political pressure and public sentiment. The government has proposed several legislative changes aimed at tightening immigration controls and addressing the influx of migrants, particularly from neighbouring Zimbabwe. Key among these proposals is the adoption of the White Paper on Citizenship, Immigration and Refugee Protection, and the termination of the Zimbabwean Exemption Permit (ZEP), a special dispensation that has allowed Zimbabwean nationals to live and work in South Africa under specific conditions. This has sparked widespread concern among human rights and advocacy groups that this regressive approach to immigration without providing viable alternative legal pathways to documentation does not address the systemic migration issues in South Africa such as the Department of Home Affairs (DHA) and border management inefficiencies, misinformation, xenophobic attitudes, and the exploitation and marginalisation of migrants. Conversely, proponents of stricter migration policy argue that it is necessary to protect local jobs and resources in the context of South Africa's high unemployment rates and economic challenges.

The electoral politics of migration

Migration policy has been a central theme in the election campaigns of major political parties and reflects broader tensions around migrants in South Africa. The ruling African National Congress (ANC) has faced pressure from opposition parties and segments of the electorate to adopt a tougher stance on immigration. Growing xenophobic attitudes have been in some part fuelled by anti-immigrant political rhetoric over the past decade and ultimately pressured the ruling government into changing its stance to appease its voter base. Politicians have continuously scapegoated migrants for the continued socioeconomic challenges of unemployment, crime and poor service delivery that characterise the contemporary South African experience.

The opposition proposed varying approaches to managing the influx of migrants while addressing the socio-economic factors driving migration. The South African Broadcasting Corporation (SABC) aired a debate program, “Election 360”, and in its first episode on immigration and border management, various parties criticised the current immigration system as being too lenient.¹ Some political parties and figures advocated for the mass deportations of undocumented migrants, citing economic and security reasons. One such figure is Gayton McKenzie of the Patriotic Alliance (PA), whose manifesto further called for an audit of the documents of all foreigners and for the building of a wall on the border to keep migrants out.² Consequently, it stands to reason that his populist campaigning contributed to his party’s success at the voting polls and his subsequent appointment as Minister in the Department of Sports, Arts and Culture in South Africa’s new Government of National Unity (GNU). ActionSA, led by Herman Mashaba, was also a proponent of the mass deportation of undocumented immigrants under the slogan #PutSouthAfricaFirst. Mashaba's tenure as Johannesburg mayor included police raids on foreign-owned shops, reflecting his hardline approach.

The proposed White Paper

The DHA released the White Paper on 10 November 2023, proposing a complete overhaul of the migration system in South Africa, and the withdrawal from international protocols governing refugees. It was opened for public comment until the end of January 2024, a relatively short time considering the magnitude of this undertaking. According to the DHA, this new White Paper aims to reform its colonial-era migration policy and move towards a more Pan-African approach. Still, the proposed policies are seen as restrictive and regressive on the path to citizenship, which could lead to increased statelessness, especially for children of migrants. Some political parties also viewed it as an election-timed scheme to garner support.

The White Paper suggests a radical revision of the Citizenship Act, including stricter criteria for granting citizenship and a repeal of the current Citizenship Act and the Births and Deaths Registration Act. The new legislation would streamline and consolidate citizenship, immigration, and refugee protection under a single legal framework. It also introduces changes to the visa system, including abolishing certain visas such as the relative’s visa, corporate visa, and intra-company visa; and introducing new ones, including limited-duration permanent residence visas linked to investment. It further emphasises the need for more efficient visa processing and border management, proposing the review and alignment of the Border Management Authority Act with the new policy framework. The White Paper further proposes a

¹ Dionne, K & Wellman, B. 2024. How immigration issues are steering South Africa’s 2024 elections. *Good Authority*. 28 May. Available: <https://goodauthority.org/news/south-africa-immigration-diaspora-2024-elections/> [26 July 2024].

² Haffajee, F. 2024. Patriotic Alliance manifesto: (our) God first, others must stay out. *Daily Maverick*. 21 April. Available: <https://www.dailymaverick.co.za/article/2024-04-21-patriotic-alliance-manifesto-our-god-first-others-stay-out/> [26 July 2024].

review and potential withdrawal from the 1951 Refugee Convention and the 1967 Protocol, and then to rejoin them with reservations limiting its responsibility towards refugees. The government considers this necessary, citing a lack of resources to fully meet the socio-economic rights these international agreements entail. The proposed legislation will also include reservations and exceptions as permitted by international conventions. Finally, it acknowledges the challenge of undocumented migrants and the financial burden of deportation, suggesting the establishment of the Border Management Authority to help mitigate illegal entries. The White Paper also calls for the creation of an advisory board comprising various government departments to ensure coordinated policy implementation.³

Participants in the dialogue expressed concerns that the White Paper is not based on evidence and is instead trying to resolve DHA corruption and administrative issues by creating more restrictive policies for migrants. Ms Baloyi expressed concern over the lack of a clear outline of the processes of the proposed measures and emphasised the need for policies that ensure the protection of migrants' rights and access to legal documentation, healthcare, and education; noting the need for a more balanced approach to policy formulation that considers both security and humanitarian aspects of migration. Mr Mabhena argued that the current policies do not realistically address the presence of low-skilled migrants who are economically active in South Africa. He advocated for the reinstatement of the 2017 White Paper, which proposed specific visas for low-skilled workers and small business operators from the SADC region. He also criticised the lack of political will within the SADC to address the economic disparities driving one-way migration to South Africa and called for a more balanced regional approach to industrialisation and economic development. According to both Baloyi and Mabhena, the White Paper is problematic and in need of a complete rewrite with proper public consultation and an approach that addresses the actual challenges faced by migrants in South Africa.

Zim-SA relations

The evolving migration policy in South Africa has significant implications for bilateral relations with Zimbabwe. Diplomatic efforts have intensified, with calls for more collaborative approaches to managing migration and addressing the root causes of economic and political instability in Zimbabwe. Ambassador David Hamadziripi's address underscored the complex issues surrounding Zimbabwean migrants in South Africa, emphasising the need for a cooperative approach between the Zimbabwean and South African governments. He highlighted the vulnerability of undocumented Zimbabweans to exploitation and the importance of creating formal, safe, and regular migration pathways. In his view, the unilateral decision by the South African government to terminate the ZEP without prior discussion with Zimbabwe undermines

³ Shomoleake, T. 2024. Home Affairs publishes final White Paper on Citizenship, Immigration and Refugee Protection. *Polity*. 17 April. Available: <https://www.polity.org.za/article/home-affairs-publishes-final-white-paper-on-citizenship-immigration-and-refugee-protection-2024-04-17> [26 July 2024].

trust and complicates efforts to manage migration through regularised channels. The current political climate in South Africa shows a hardening stance towards migrants, reflected in recent elections and policy proposals.

Looking ahead

Political stability and economic opportunities in South Africa have always attracted migrants, particularly from sub-Saharan Africa. Despite having progressive policies for refugees and asylum seekers, the country has historically imposed severe restrictions on other forms of legal migration, leading to an overwhelmed asylum system. This contradiction was particularly evident during Zimbabwe's crisis in the 2000s when many Zimbabweans fled to South Africa, giving rise to the ZEP that remains a contentious issue today.⁴ While irregular migration is a long-standing issue, as South Africa approached its most contested elections since 1994, the discourse around it became increasingly polarising. Ultimately, the economic and social impact of migration policy changes is a major consideration, and economists and policy analysts have warned that restrictive immigration policies could have unintended consequences, including labour shortages in certain sectors and increased informality in the labour market. On the other hand, proponents argue that stricter controls will help to stabilise the labour market and ensure that South African citizens have better access to employment opportunities. Certainly, the outcome of the elections and the subsequent policy implementations will have far-reaching implications for migrants, bilateral relations, and the socio-economic landscape in South Africa.

Policy Critiques

1. The White Paper on International Migration is poorly written, exclusionary, and does not accommodate the needs of migrants already in the country effectively, leading to a crisis among ZEP holders.
2. Administrative inefficiencies and bureaucratic obstacles in processing waivers and rejections for ZEP holders result in delays that often place documented migrants into undocumented status.
3. The main issue with migration is not the migrants themselves, but the poor management of migration processes. The inefficiency of border management, such as long wait times at Beitbridge, encourages illegal entry.
4. Stricter migration policy and mass deportations do not address the regional political and socio-economic dynamics that result in often one-way migration into South Africa.

⁴ Dionne, K & Wellman, B. 2024. How immigration issues are steering South Africa's 2024 elections. *Good Authority*. 28 May. Available: <https://goodauthority.org/news/south-africa-immigration-diaspora-2024-elections/> [26 July 2024].

Policy Recommendations

The speakers collectively recommended a range of measures:

1. **Enhancing Cooperation and Agreements:** Ambassador Hamadziripi and Mr Mabhena emphasised the need for better bilateral and regional cooperation, with specific calls for labour migration agreements and regional industrialisation efforts to create jobs and reduce the economic pressures driving migration to South Africa.
2. **Revising Legislative Frameworks:** Ms Baloyi and Mr Mabhena advocated for rewriting the White Paper on International Migration to include input from affected communities and to ensure practical and humane policies.
3. **Improving Administrative Efficiency:** All speakers stressed the need for better training of officials, specialised migration courts, and streamlined border management to reduce illegal crossings and administrative delays.
4. **Understanding and Addressing Root Causes:** Monyani and Mabhena highlighted the importance of understanding the socio-economic factors driving migration and suggested comprehensive regional approaches to address these issues.

Conclusion

The public dialogue hosted by SALO underscored the complexities of managing migration between Zimbabwe and South Africa. Ambassador Hamadziripi, Nyeleti Baloyi, and Ngqabutho Mabhena's speeches collectively highlight the multi-faceted migration challenges between Zimbabwe and South Africa. They call for cooperative and inclusive policy approaches that address both the human rights and economic dimensions of migration. By aligning their suggestions with international best practices and regional development strategies, these speakers provided the basis for a comprehensive framework for improving the migration landscape in Southern Africa.

The South African government maintains a firm stance on enforcing immigration laws, which continues to be a contentious issue. SALO's efforts to foster dialogue and build consensus are crucial for developing informed and effective migration policies that promote regional stability and development. Enhanced cooperation between countries, comprehensive legislative reforms, and improved administrative processes are essential steps towards achieving a more humane and efficient migration system in South Africa. These discussions are vital for creating informed policies that not only address immediate concerns but also work towards long-term regional stability and development.

The analysis and recommendations included in this report do not necessarily reflect the view of SALO or any of the donors or conference participants, but rather draw upon the major strands of discussion put forward at the event. Participants neither reviewed nor approved this document. The contents of the report are the sole

responsibility of SALO and can under no circumstances be regarded as reflecting the position of the donors who provided financial assistance for this policy dialogue session.

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International liaison, dialogue and research

The Southern African Liaison Office (SALO) is a South African-based not-for-profit civil society organisation which, through advocacy, dialogue, policy consensus and in-depth research and analysis, influences the current thinking and debates on foreign policy, especially regarding African crises and conflicts.

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