"To say that we cannot share this life-saving vaccine with you because you are foreign is to say your life doesn't matter" -

An audit of civil society responses to counter health xenophobia in the South African public health system 2000-2022

"South Africa belongs to all who live in it"

- The Freedom Charter,
26 June 1955

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ACRONYMS AND KEY TERMS

ARVs	Antiretroviral Treatment
DHA	Department of Home Affairs
HIV	Human immunodeficiency virus
HPCSA	Health Practitioners Council South Africa
KAAX	Kopanang Africa Against Xenophobia
MSF	Médecins sans Frontiers
NGO	Non-governmental Organisation
PASSOP	People Against Suffering, Oppression & Poverty
SA	South Africa
SAHRC	South African Human Rights Commission
SANDF	South African National Defence Force
SAPS	South African Police Service
SERI	Socio-economic Rights Institute
SRDG	Social Relief Distress Grant
TAC	Treatment Action Campaign
UNHCR	United Nations High Commissioner for Refugees

Asylum seeker
An individual seeking international protection. In countries with individualised procedures, an asylum seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Not every asylum seeker would ultimately be recognised as a refugee, but every recognised refugee was initially an asylum seeker.

Migrant
An umbrella term, not defined under international law, reflecting the common lay understanding as being a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons.

Refugee
Any person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable, or owing to such fear, is unwilling to avail himself or herself of the protection of that country (2).

Foreign nationals
In this report we use the term "foreign national" throughout to refer to cross-border migrants who could be asylum-seekers, refugees, undocumented or on other types of permits. In using this term, we also refer primarily to migrants from the African and Asian continents who have entered the country as refugees or so-called lower skilled economic migrants. This is in contrast to European migrants for example, who generally have better visa and permit options and are afforded privileges that separate and protect them from the risks and violence faced by foreign nationals.

EXECUTIVE SUMMARY

With a particular focus on the health sector, this report documents responses to xenophobia in South Africa (SA) from 2000-2022. The overall aim of the research is to determine what has been effective in challenging xenophobia and how to foster solidarity to inform strategic and thoughtful future action, while identifying different forms and modes of responses to xenophobia, including xenophobic violence during this period.

Over 80% of the population in SA rely on state-funded access to health. While almost everyone faces challenges in accessing treatment in the country's failing public healthcare system, specific categories of the population – including asylum seekers, refugees and migrants without documents – face heightened risks, intersectional violence and discrimination when doing so. With rising inequality, unemployment and a public health system crippled by underfunding, corruption and systemic weaknesses, discrimination and violence against foreign nationals and others perceived as "outsiders" such as South Africans from other provinces or naturalised citizens is increasing. The Covid-19 pandemic has further exacerbated the risks and vulnerabilities for many of the country's most marginalised populations.

Drawing from an audit of key civil society actions and strategies that have resisted (health) xenophobia in SA over the past two decades, the report explores the following main questions: what kinds of responses have emerged to tackle multiple forms of health xenophobia? What initiatives, strategies and actions were taken in the past and are taken now – whether organised or informal, by coalitions, organisations, groups or individuals – and how can an understanding of these responses help to mobilise more successfully in the future?

The key findings show that there are persistent civil society responses that aim to address the immediate needs of foreign nationals while simultaneously fighting for more awareness, long-term systemic change and recognition of the core structural issues that have led to the crisis within the public healthcare system. To do this, civil society has utilised a variety of advocacy tools: engaging with Parliamentary mechanisms, community mobilisation, protest action, statements, public education, lodging complaints with statutory bodies, embarking on litigation and engaging community networks to mobilise on a local clinic level. The findings of this research also show that within an increasingly challenging context, diverse collaborations and partnerships can be particularly valuable. They draw on the experiences of social justice organisations and their connections with groups and individuals embedded in communities through their histories of local level networking and activism. Highlighting the small, less visible responses which, often have more sustainable impact, this report offers a starting point from which to plan and strategise for the future.

However, considering continued and increasingly more emboldened and explicit xenophobia, and the failure (or refusal) of the South African government to take consistent and unequivocal action against xenophobia, it is evident that civil society responses have not been sufficient to quell and address this prejudice. While building on the strategies of the past, new strategies, alliances and energy are urgently needed to continue the struggle to ensure the Freedom Charter vision that "South Africa belongs to all who live in it" – including its public healthcare system.

SUMMARY OF KEY FINDINGS

1.) Challenging conditions for those working with and on behalf of migrants

The already challenging conditions for those working with and on behalf of migrant populations is steadily deteriorating in SA. This has been further exacerbated by the Covid-19 pandemic, state capture, corruption, failing service-delivery, high unemployment, poverty, and violence which adds to an increasingly hostile approach to immigration shaped by pervasive public hostility towards migrants and strong anti-immigrant sentiment at all levels of government. For those working with migrants, this work is emotionally draining, frustrating and sometimes even physically dangerous. This needs to be acknowledged and the work better supported.

2.) The value of collaborations and partnerships

This finding emphasises the importance of developing and fostering interventions, which include creating allies across diverse spaces of work. Examples include collaboration between civil society and those working within the health system as well as between civil society organisations and researchers. Research itself can provide a much-needed evidence base that can inform and contribute significantly to the success of interventions.

3.) Making connections: racialised exclusion as the common denominator

When South African healthcare workers deny treatment or exert other forms of violence on black Africans who seek care, they explicitly and implicitly dehumanise them, placing them on a lower rank in the global racist "human hierarchy" that elevates whiteness at the expense of variously racialised black and brown populations. Xenophobia in South Africa is a variation of racism and needs to be addressed as such, as some organisations already do, working off the broader platform of racial justice rather than keeping the issue of migration "siloed".

4.) Local action and networks are vital to anti-xenophobia work

Civil society can play a significant role in mobilising a broader base with a louder voice in demanding accountability and change. Responses embedded in community-based action and local networks that reach beyond migration-related issues to encompass concerns shared by all members of a community have huge potential to effectively challenge xenophobia in SA. Resourcing and supporting community organisations to do the work they are already doing is an important strategic move and should guide and inform responses going forward.

5.) Holding and defending space: less visible but critical

There have been no "big wins" against xenophobia, including health xenophobia. Yet, there are numerous actors at different levels who continuously put out little fires in ways that are rarely publicised but constitute a key pillar of protection. Taking a stand against xenophobia in everyday contexts plays a critical part in protecting migrants from immediate physical harm. Long-term, deeply embedded interventions nurtured by actors who are part of and enjoy trust and legitimacy in their community are likely to do some of the most impactful work. Even though their effects are difficult to measure, these more subtle and incremental responses should be acknowledged and better supported.

1. INTRODUCTION

The right to health requires health facilities, and services to be available, accessible, appropriate, and of good quality for all persons, free from discrimination (1). In SA, as across the globe, asylum seekers, refugees and other migrant groups are vulnerable to poor health and disproportionately affected by health inequities (2–4). Often, they are also accused of burdening the public healthcare system illegitimately and blamed for systemic challenges such as over crowding, poor quality facilities and infrastructure, limited access to treatment and poor management (5). This report documents responses to xenophobia over the past two decades with a particular focus on the health sector in SA.

1.1 HEALTH XENOPHOBIA IN SA

In 2009, Human Rights Watch warned that in SA "xenophobia, violence, and discrimination create both environments that promote risks to migrants' health as well as barriers to obtaining basic healthcare"(1). In 2023 this warning remains not only relevant but perhaps even more critical given the current state of public healthcare and discrimination against non-nationals.

On paper, SA stands out from other countries across the Southern Africa Development Community region for its robust constitutional and legislative frameworks to protect human rights, including the rights of migrants, for example, through policies on access to healthcare, and the protection of people with diverse gender identities and sexual orientations (6,7). SA has signed and ratified several key international human rights instruments (see Table 1 below). Based on the Constitution and the Freedom Charter that state that "SA belongs to all who live in it" (8), foreign nationals have the right to equality and the equal protection and benefit of the law within SA. SA's refugee policy is regulated by the Refugees Act which grants refugees freedom of movement, the right to work, and access to basic social services, including primary healthcare and emergency care (9).

Research, media reports and the experiences of organisations working with migrants consistently document anti-foreigner sentiment not only amongst healthcare workers but also amongst administrative staff and security personnel (1,2,6,10–12). Foreign nationals face multiple hurdles when trying to access the healthcare to which they are legally entitled. Unlawfully, they are confronted with demands for upfront payment of fees for maternal healthcare, including at the time of delivery; a demand for upfront payment of fees before emergency treatment is provided; and a misclassification of documented refugees and asylum seekers as full-paying patients (10,13). At the time of writing, the Gauteng High Court had confirmed this position in law (14).

The barriers and challenges that migrants face in accessing healthcare in SA are replete across many other spheres too, including education and employment. Although the country has a progressive Constitution and (currently still) relatively inclusive legislation, migrants, asylum-seekers and refugees in SA face high levels of structural and systematic violence, anti-foreigner sentiment, a backlog of refugee status determination applications; fear of arrest, detention and deportation and multiple barriers to accessing documentation and services (2,7,10,15).

At the end of 2022, health xenophobia hit an unprecedented low point when Operation Dudula, a new movement with the aim to remove "irregular migrants" from SA (see Text Box 2) physically expelled migrants from clinics and hospitals across the country, prevented access and, in some cases, took chronic and life-saving medication away from migrants (16). In September 2022, Operation Dudula called on the South African government "*to declare a state of emergency over illegal immigration*" (17). Operation Dudula and others like it advocate for the removal of migrants as the most immediate remedy to solve, or at least strongly alleviate, the country's problems of unemployment, crime, poverty and poor service delivery (see also Case Study 2 page 46).

While such dramatic and visible forms of health xenophobia have taken place in full view of the media and public, everyday health xenophobia – as well as responses to it – are more pervasive, entrenched and concealed. These public and institutional practices are particularly concerning in light of SA's current efforts to "retreat" from its more progressive policies and laws, specifically the "unconstitutional regression in access to care" (18) that would legally endorse and legitimise the exclusion already unlawfully implemented by healthcare workers as well as organisations like Operation Dudula.

- Operation Dudula was founded in Soweto, outside of Johannesburg in 2021
- Dudula was led by Nhlanhla "Lux" Dlamini until he left in July 2022 over a disagreement with the rest of the leadership.
- "Dudula", means to "force out" or "knock down" in isiZulu and relates to the movement's main goal: to remove "illegal migrants" from South Africa.

Figure 1: Operation Dudula Profile

1.2 DOCUMENTING RESPONSES TO HEALTH XENOPHOBIA

Chronic underfunding, systemic weaknesses and a lack of political will to address this have severely compromised the public health system's ability to provide quality care to the over 80 % of the population that rely on state-funded access to health (4,19–21). Although this affects the entire population, foreign migrants face additional challenges (2,6,7,22,23). In particular, those without documentation frequently report xenophobia, being turned away, discriminated against and treated with hostility when they seek care. Specific categories of migrants including women, sex workers and LGBTIQ individuals face heightened risks and encounter intersectional violence and discrimination on many levels (6,24,25). Therefore, healthcare facilities – ostensibly places of care founded on both constitutional guarantees and professional commitments to healing and protecting lives – are sites of such struggle, hostility, and violation for many migrants.

The main questions this research explored are the following:

1. What kinds of responses have emerged to tackle multiple forms of health xenophobia?
2. What initiatives, strategies and actions were taken in the past and are taken now – whether organised or informal, by coalitions, organisations, groups or individuals – and how can an understanding of these responses help to mobilise more successfully in the future?

The study was commissioned by the Health Justice Initiative who co-founded the Collective Voices against Health Xenophobia initiative.[1] It sought to document responses to xenophobia between 2000 and 2022 with a particular focus on the health sector in order to inform the strategy and future work of Collective Voices. The focus here is on the public healthcare system and excludes the private sector and traditional health practitioners.

The research was overseen by the Health Justice Initiative and The African Centre for Migration & Society and focuses on auditing existing research and data on health xenophobia, its impact on the most vulnerable in society and historic initiatives resisting xenophobia and discrimination within the healthcare system. This includes an audit of civil society strategies and actions to challenge xenophobia in SA to explore key actions and strategies that have resisted (health) xenophobia in SA over the past two decades. Health xenophobia and "general" xenophobia cannot be easily disentangled, and this research focused on key instances of xenophobia – whether in the public health sector or beyond.

1.3 CONCEPTUALISING "HEALTH XENOPHOBIA"

In this study, we use the term "health xenophobia" rather than medical xenophobia (26) to capture a broader sense of healthcare beyond the direct interaction between medical professionals and patients. **Health xenophobia thus encompasses the provision of health services, the experiences of those who (can't) access and receive services, but also legislation and policy as well as administration and security at health facilities.** Health xenophobia, therefore, can refer to patients being turned away from health facilities due to a lack of documentation or unable to pay (often unlawful) fees, to the harassment and abuse of foreign patients by healthcare staff including administrative staff and security, to policy amendments which reduce the rights of migrants to access basic healthcare services.

While the notion of xenophobia theoretically refers to negative attitudes and hostility towards foreign nationals and others considered "outsiders" (21) - racialisation is at the core of the exclusion of foreign migrant populations in SA's public health system (and beyond). Several respondents specifically linked the patterns of present-day health xenophobia to practices of racially differentiated access to healthcare during apartheid. As such, the report considers xenophobia in SA a variant of racism rather than a separate phenomenon (27).

1 It was established in August 2022, and following its national convening in April 2023, changed its name to Collective Voices for Health Access.

1.4 STRUCTURE OF THE REPORT

At the centre of this report is a timeline (see page 21) constructed from the findings of the study. It maps out key documented outbreaks of violence, including the ways in which this violence played out. The timeline also includes some of the social and political triggers and exacerbating factors and identifies key responses to health xenophobia. While the impact or efficacy of a response is difficult to measure, the emphasis here is on responses aiming for social change through challenging xenophobia and fostering solidarity to inform strategic and thoughtful future action. This is critical because the already challenging conditions for those working with and on behalf of migrant populations is steadily deteriorating in SA. State capture, corruption and failing government and service-delivery institutions, high unemployment, poverty, and violence add to an increasingly hostile approach to immigration and migrants – in policy and practice (28–31). This context has also been further exacerbated by the Covid-19 pandemic, which heightened the risks and vulnerabilities faced by many of the country's most marginalised populations (32–34).

The timeline shows that over the last two decades, there have been regular incidents of xenophobic violence that have occurred most frequently amidst the poor, mobile and heterogeneous populations of SA's urban informal areas (35). Although by no means an exhaustive representation of the prevalence and nature of xenophobia or of responses to health xenophobia since 2000, the timeline offers a starting point from which to strategise and plan for the future.

Following a brief description of the methodology and an overview of the changing social and political landscape in SA, the report discusses the timeline through three key periods: a.) 2000-2009; b.) 2010-2018; and c.) 2019-2022/23. For the first two periods, we provide a brief context to what was happening at the time, then highlight documented responses based on the type of response (i.e., collective action, legal action, protest, media statement etc.), when it happened, and the key player(s) involved. For the third and most recent period (2019-2022/23), we highlight responses through three case studies: Responses to the Covid-19 pandemic, to Member of Executive Council (MEC) Phophi Ramathuba's comments and to Operation Dudula at hospitals in 2022. The report then provides an overview of the key features to the documented responses, which include recommendations for moving forward.

2. METHODOLOGY

The overall aim of the research was to determine what has been effective in challenging xenophobia and fostering solidarity to inform strategic and thoughtful future action. This was guided by the following objectives set out in the Terms of Reference:

1. Conduct a desktop audit of civil society and government activities that have pushed back against (health) xenophobia in SA since the early 2000s. This will include engagement with democracy-supporting institutions and complaints lodged, litigation and court cases, coalitions formed and public demonstrations.
2. Conduct interviews with key stakeholders to ascertain what has worked and what has not worked and should not be repeated, and any recommendations that follow from their experience in the field. This can include government officials, community leaders, members of civil society organisations and national and international organisations etc.
3. Develop a report that will form the basis of a workshop in March 2023 that will help forge recommendations for a way forward for the Collective Voices coalition.

2.1 RESEARCH APPROACH AND DESIGN

The study used a qualitative approach and was conducted in two stages: step one included an online audit and desktop review of secondary information and step two included interviews with key respondents.

2.1.1 AUDIT AND DESK REVIEW

Step one involved online research on documented incidents of resistance against xenophobia, including the following types of interventions:

- public statement/press release/open letter
- legal action
- political activism/protest/"voice"
- provision of relief
- provision of information/infographics etc.
- dialogues/campaign
- lobbying/political activism
- online articles/media content
- research/policy briefs
- South African National Defence Force deployment/police involvement
- alliance formation/collective mobilisation

A desk review of literature and research on xenophobia and health xenophobia in SA was also conducted, which included:

- A brief scoping of laws, policies and advocacy campaigns that have impacted on migrants in SA (e.g., in access to health and documentation) - this included amended laws and policies and new ones introduced and at draft stage.
- Reports, briefings and interventions on xenophobia and service-delivery more broadly, with a focus on health and migration.
- A specific focus on responses to xenophobia during the Covid-19 lockdown, including access to vaccines and social support.

2.1.2 SEMI-STRUCTURED INTERVIEWS

Step two involved twelve semi-structured interviews conducted online with sixteen key respondents (see Table 1 for the list of key respondents). The key respondents were purposely selected as individuals who are or have been involved in responses and initiatives addressing xenophobia in SA. This included individuals who work either individually or in organisations with migrants (directly and indirectly) such as non-governmental organisations (NGOs), international agencies and community-based organisations (CBOs) and past or present activists. Potential key respondents were identified via networks known to the researchers and through suggestions from the participants of *Collective Voices Against Health Xenophobia* and a snowball approach through which suggestions of other respondents were sought. All interviews were conducted virtually and analysed through thematic analysis to identify key themes.

Table 1: List of Key Respondents[2]

Key Respondent	Area of work	Date
TN	NGO	Feb 2023
SK	NGO	Feb 2023
NR	CBO	Feb 2023
JS	CBO	Feb 2023
LA & JM	Academic	March 2023
FV	Faith-based	Feb 2023
LR	Health-sector	Feb 2023
FV	Health-sector	March 2023
SP	Health-sector	Feb 2023
D, G & M	NGO health-sector	March 2023
DK	Academic/CBO	March 2023
SS	CBO	Feb 2023

2 Respondents have been anonymised with the use of letters (not direct initials) rather than names.

2.1.3 CONSENT, CONFIDENTIALITY AND ANONYMITY

Ethical clearance was obtained from the University of the Witwatersrand Human Research Ethics Committee (HREC) non-medical.[3] Ethical issues were considered at all stages of the research process including the sensitivity of research questions and ensuring that respondents felt comfortable and aware of the consent process throughout.

In terms of limitations, we found that the availability of secondary data was determined by what we could access online and primarily by what is available in the public domain. A number of organisations that we contacted were able to share internal reports and notes with us, however, not all responses have been documented and/or the documents are not available. Moreover, other than the outcome of litigation cases, the audit could only gather information on what took place, not what the impact was or any measurement of the efficacy of the response/intervention.

The qualitative interviews were helpful in filling in gaps with everyday responses and narratives that are not part of any official and documented interventions/campaigns. However, the majority of respondents are located in Gauteng due to difficulties in accessing other potential respondents elsewhere in the country. Therefore, although this report reflects on responses across SA, the findings from the interviews are mostly limited to responses in Gauteng. In addition, several of the organisations that were also involved in responses during the early 2000s are either no longer active or the key individuals involved have left their positions.

Finally, the gap between policy and practice in terms of litigation is stark: even where a response has been successful in court, this often does not translate into implementation and positive change on the ground. This has been clearly demonstrated with the ten-year legal battle between refugee advocacy organisations and Home Affairs over the closing of the Cape Town Refugee Reception Office in 2012. Despite a series of rulings by the Western Cape High Court ordering Home Affairs to re-open the office in 2012, 2016 and by the Supreme Court of Appeal in 2017, the Refugee Reception Office (RRO) remained closed until March 2023 (36).

3 Clearance certificate protocol number: H23/01/28

3. SHIFTING LEGAL, POLITICAL AND SOCIAL CONTEXTS

3.1 SA'S COMMITMENT TO HEALTH

South Africa has recognised the importance of access to health care for vulnerable and migrant populations in its laws and policy documents, yet continues to allow unlawful discrimination by healthcare staff, undermining efforts to contain disease and improve treatment outcomes"

(Human Rights Watch 2009: 1)

At present, the denial of access to healthcare services to anyone, including migrants, is unmistakably unlawful in SA. The National Health Act (NHA) (61 of 2003) guarantees rights to healthcare for everyone in SA and acknowledges the health needs of vulnerable groups and provides for free healthcare for pregnant and lactating women and children under the age of six regardless of nationality and documentation status (37). This right to health is also echoed in SA's Refugees Act (130 of 1998), and the Promotion of Equality and Prevention of Unfair Discrimination Act (4 of 2000) which prohibits "unfairly denying or refusing persons access to healthcare facilities on any listed grounds" (such as sex, social origin etc.) (38).

As a member state to the World Health Assembly (WHA), SA is constitutionally mandated to ensure access to healthcare for internal and cross-border migrant populations in line with the 2008 WHA resolution (39). The South African law and policy on health is also aligned with the SADC Protocol on Health where SADC states agreed to treat citizens of other SADC states like citizens of their own country (40). The only time that a refugee, asylum seeker, or undocumented migrant from a SADC state should have to pay for healthcare services is when he or she does *not* qualify for free health services in terms of a means test. In that case, like for South Africans, the patient can be asked to pay depending on the care and type of health facility required (41).

These commitments also link processes at regional and continental level with the SADC and African Union (AU) goals of regional and continental free movement (6). Furthermore, in its National Development Plan, South Africa emphasises its vision for "providing affordable access to quality healthcare while promoting health and wellbeing" guided by the country's commitment to the Global Sustainable Development Goals and the founding goals and actions to "leave no one behind" (11).

3.2 NEW, MORE RESTRICTIVE LEGISLATION CLOSES THE GAP TO EXISTING UNLAWFUL PRACTICE

Current developments indicate a closing of the gap between what currently still exists as inclusive policy and law and longstanding, entrenched discriminatory practices on the ground.

SA pursues an increasingly restrictive approach to the rights of migrants, refugees and asylum seekers through the introduction of new laws and amendments to existing legislation. Popular scapegoating and violence directed at foreign nationals in SA thus go hand in hand with changes in the legal and policy frameworks governing immigration, employment, education and and access to critical healthcare (42,43) The Refugee Amendment Act 11 of 2017 and the Refugees Act Regulations of 2019 came into effect in January 2020 (9,44).[4] Both limit potential asylum seekers' rights under international law.[5] The Department of Home Affairs' (DHA) White Paper on Immigration (2017) seeks to amend the Immigration Act and reverse the long standing non-encampment policy while also restricting the rights of non-citizens to access public healthcare. The new Border Management Act and Border Management Agency as a new, single authority for border management provides more power to an already dysfunctional and corrupt DHA and underscores the shift towards an increasingly regressive approach to migration (42,46).

The National Health Insurance Bill sets out drastic reductions in access to healthcare particularly for asylum seekers and undocumented migrants in a move that symbolises an "unconstitutional regression in access to care" (47). Commitments to the regional and global "development agenda" with a central focus on Universal Health Coverage (48) are directly contradicted by the introduction of these major health reforms.[6] The National Health Insurance Bill will impact all aspects of healthcare access, including those associated with responses to HIV and TB. It excludes the majority of migrants from coverage. This is evident, for example, in Section 2 (4.2), of the current Bill which states: "an asylum seeker or illegal foreigner is only entitled to (a) emergency medical services; and (b) services for notifiable conditions of public health concern" and Section 6.4.2 which states "this clause also provides that an asylum seeker or illegal foreigner is only entitled to emergency medical services and service for notifiable candidates of public health concern" (47).

Civil society groups have criticised these clauses during the Bill's parliamentary public consultation process and provided submissions challenging the bill between September and November 2019[7] (see submission from the Johannesburg Migrant Health Forum (MHF) in Text Box 2 below). However, formal responses from the Parliamentary Portfolio Committee on Health thus far suggest that concerns raised around the lack of clarity on full population coverage including implied restricted access to healthcare services for asylum seekers and undocumented foreigners have been ignored.

4 The amended Refugees Act provides the legislative framework for refugee protection in SA, whereas the Regulations explain how the provisions of the Act are to be applied and implemented. This means the Regulations are subsidiary to the Act – in other words, they cannot extend beyond what is provided for in the Act.

5 The provisions make it far harder for a person to claim asylum in SA by increasing the grounds on which refugee status can be denied or withdrawn including the time allowed to renew visas and to stay legally documented once here. The Act also limits the rights to work and study for asylum seekers (45).

6 The global agenda includes addressing the goals associated with immigration governance and global health, notably three key Global Compacts: (1) Universal Health Coverage; (2) the Global Compact for Refugees (GCR); and (3) the Global Compact for Safe, Orderly and Regular Migration (GCM). All of these compacts highlight the importance of access to healthcare for migrants as a global public health priority (47,48).

7 The Parliamentary committee produced a "consolidated matrix" to respond to submission on the National Health Insurance. The responses "however" are very limited and do not adequately address the concerns raised in submission (51).

Furthermore, statements and circulars issued by the Department of Health (DoH) have already contradicted the rights and provisions set out in the Constitution and National Health Act. This has legitimised and exacerbated "unlawful implementation" as a common practice: A key example here is the circular issued by the Gauteng DoH early in 2020 during the onset of the Covid-19 pandemic. The circular reclassified non-citizens and made migrant, refugees and asylum seeker mothers pay for antenatal and maternal healthcare services. While this circular was quickly withdrawn, its impact had already "leaked" into visible instructions and further legitimised xenophobia at the implementing base (p.18).

The African National Congress's (ANC) 6th National Policy Conference Report also includes several extremely concerning recommendations for SA's migration governance, including the renewed call for an encampment policy as well as the suggestion to "review" their accession to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol without reservation. This is based on the claim that SA did not consider the "safety and security" (p.40) of their own citizens first at the time of signing (52). The report also points to a continued refusal to acknowledge the root causes of challenges with the governance of migration and xenophobia. Instead, it shifts the blame onto organisations who take the State to court over immigration matters (p.41) and accuses certain groups of "taking advantage of the policy gaps and misinterpreting the spirit of the Constitution" in outbreaks of xenophobic violence (52).

These worrying policy and legislative trends cast doubt on the meaningfulness of the few tentatively positive developments, such as the finalisation of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2019 (53) and the draft Prevention and Combating of Hate Crimes and Hate Speech Bill (2018) which specifically lists "nationality, migrant or refugee status" under the "characteristics" that hate crimes can be directed towards. The Bill also aims to provide for the offence of hate crime and of hate speech, and the prosecution of persons who commit those offences.

The Southern Africa Litigation Centre (SALC) made a submission on the National Health Insurance Bill (54). The submission detail concerns that the National Health Insurance Bill, 2019, removes existing forms of access to healthcare services to certain categories of foreign nationals, particularly asylum seekers, certain categories of children and dependents, immigration detainees, citizens of the SADC and other undocumented migrants. SALC believes that this restrictive population coverage in the Bill is unlawful, unconstitutional, inhumane, bad for public health, and in conflict with the objectives of National Health Insurance. Parliament has a duty to uphold the Constitution and not to enact laws that it knows to violate the Constitution. With extensive court precedent indicating that these provisions would be unconstitutional, passing the Bill in its current form would be an infringement of the rule of law, exposing the public purse to inevitable, expensive, and wasteful litigation.

Text Box 1: The Johannesburg Migrant Health Forum Submission on the White Paper on National Health Insurance (18)

The Johannesburg Migrant Health Forum Submission on The White Paper on National Health Insurance

The coverage envisioned by National Health Insurance for refugees and asylum seekers is not commensurate with the coverage that these categories of people are entitled to receive currently. The prohibition of regression means that the following aspects of the White Paper are particularly problematic:

27.1 Under the White Paper, refugees will be entitled to "basic healthcare services", a term that is used in the Refugees Act but that has never been defined. Currently, refugees are treated in the same way as South Africans. They are means tested to determine the level of subsidisation in hospitals, while being provided with all primary healthcare services free of charge.

27.2 Asylum-seekers are, under the White Paper, entitled only to emergency medical treatment and treatment for notifiable conditions. The treatment of asylum-seekers currently is the same as that of South Africans and refugees.

27.3 All other non-nationals under the White Paper will have to pay in full for healthcare services. Currently, both the Uniform Patient Fee Schedule and the SADC Protocol on Health mandate special treatment of nationals of SADC states. No such provision has been made in the White Paper.

27.4 The White Paper provides that a special contingency fund will be used to pay for healthcare services to refugees. This separation does not appear warranted under domestic, regional and international law; and, the reason behind the development of this fund is unclear and raises concerns about the future funding of healthcare services to all types of migrants. It also reveals the Department's apparent view that migrants are necessarily a burden on the state and should be treated as a contingency. In fact, as noted earlier, many migrants are productive economically and socially and contribute to public funds through taxation.

27.5 The White Paper makes no mention of, and therefore appears to offer no coverage to pregnant and lactating women from outside South Africa or to their children below age six. This directly contradicts the protection given to pregnant and lactating women and children in the National Health Act and in the Constitution, and the policy imperative of providing special treatment to marginalised groups. It also impacts negatively on some of the most vulnerable migrants, including unaccompanied minors who will be particularly unable to pay for their own care. In the ways described above, the White Paper constitutes a regression in access to healthcare services by migrants and is, therefore, subject to legal challenge.

(Johannesburg Migrant Health Forum, 2016)

Figure 2: The Johannesburg Migrant Health Forum Submission on The White Paper on NHI 2016 (55)

3.3 INCREASINGLY OPEN CAMPAIGNING ON XENOPHOBIC PLATFORMS

SA's slide towards more openly anti-immigration rhetoric across the political spectrum, including in the ruling party ANC is evident. Reflecting broader global shifts, emergent anti-immigrant movements and new political parties have pushed mainstream politics further towards the political right, widening the space and tolerance for more openly racist and xenophobic rhetoric. For example, running on an overtly xenophobic platform, the Patriotic Alliance had its first significant success in the 2021 municipal elections. The party is led by Gayton McKenzie, who stated during the Covid-19 pandemic that he would personally switch off the oxygen machine of a foreign national if this would save a South African instead (56). A new party, Action SA was started by Johannesburg's notoriously xenophobic former mayor Herman Mashaba, who repeatedly located the blame for "irregular migration" with migrants themselves.

Similar rhetoric manifests prominently in the health sector. While this can also be attributed to an increase in media attention and reporting of certain types of xenophobic statements and behaviours, the clear shift in the mainstreaming of xenophobia in politics reflects the shift in the legislative landscape cannot be ignored. This is shown, for example, in comments by people in influential leadership positions like Qedani Mahlangu, Aaron Motsoaledi, Herman Mashaba and Phophi Ramathuba. While we discuss this in detail in the next section, it is important to note the haphazard condemnation or disciplining by the government; the level of political complicity in either failing to condemn and/or even justifying xenophobic attitudes, behaviours and violence.

4. MAPPING RESPONSES TO HEALTH XENOPHOBIA

Responses to xenophobia and xenophobic violence over the last two decades have involved multiple actors and stakeholders: NGOs, international organisations, civil society and CBOs, collectives, coalitions and individuals within and outside the health system. These responses are diverse and multifaceted; they target different actors and policies related to health xenophobia as well as different spaces in which health xenophobia manifests. Sometimes these responses are highly visible and amplified by traditional and social media; sometimes they take place within healthcare settings or elsewhere “behind the scenes”. This reflects the nature of xenophobic discrimination and violence itself, which presents in various forms, ranging from everyday street-level abuse to discrimination and harassment by government officials and recurring bouts of popular xenophobic violence in varying intensity and scale. Responses have also had to adapt to changing socio-political environments, forms of xenophobic mobilisation and the Covid-19 public health emergency.

The timeline (see Figure 3) is constructed from the findings of the audit and desktop review. The timeline shows that over the last two decades, there have been frequent incidents of xenophobic violence (see Figure 4) that have occurred most frequently amidst the poor, mobile and heterogeneous populations of urban informal areas (57). Although not exhaustive, the timeline depicts some of the key documented outbreaks of xenophobic attacks, statements, and associated responses. In what follows, we analyse the timeline by breaking it into three key periods: 2000-2009; 2010-2018; 2019-2022/23.

For the first two periods, we provide a brief context to what was happening at the time, then highlight documented responses based on the type of response (i.e., collective action, legal action, protest, media statement etc.), when it happened, and the key player(s) involved. For the third and most recent period (2019-2022/23), we highlight responses through three case studies: Responses to the Covid-19 pandemic, to MEC Phophi Ramathuba’s xenophobic comments and to Operation Dudula’s protests outside public health facilities in 2022.

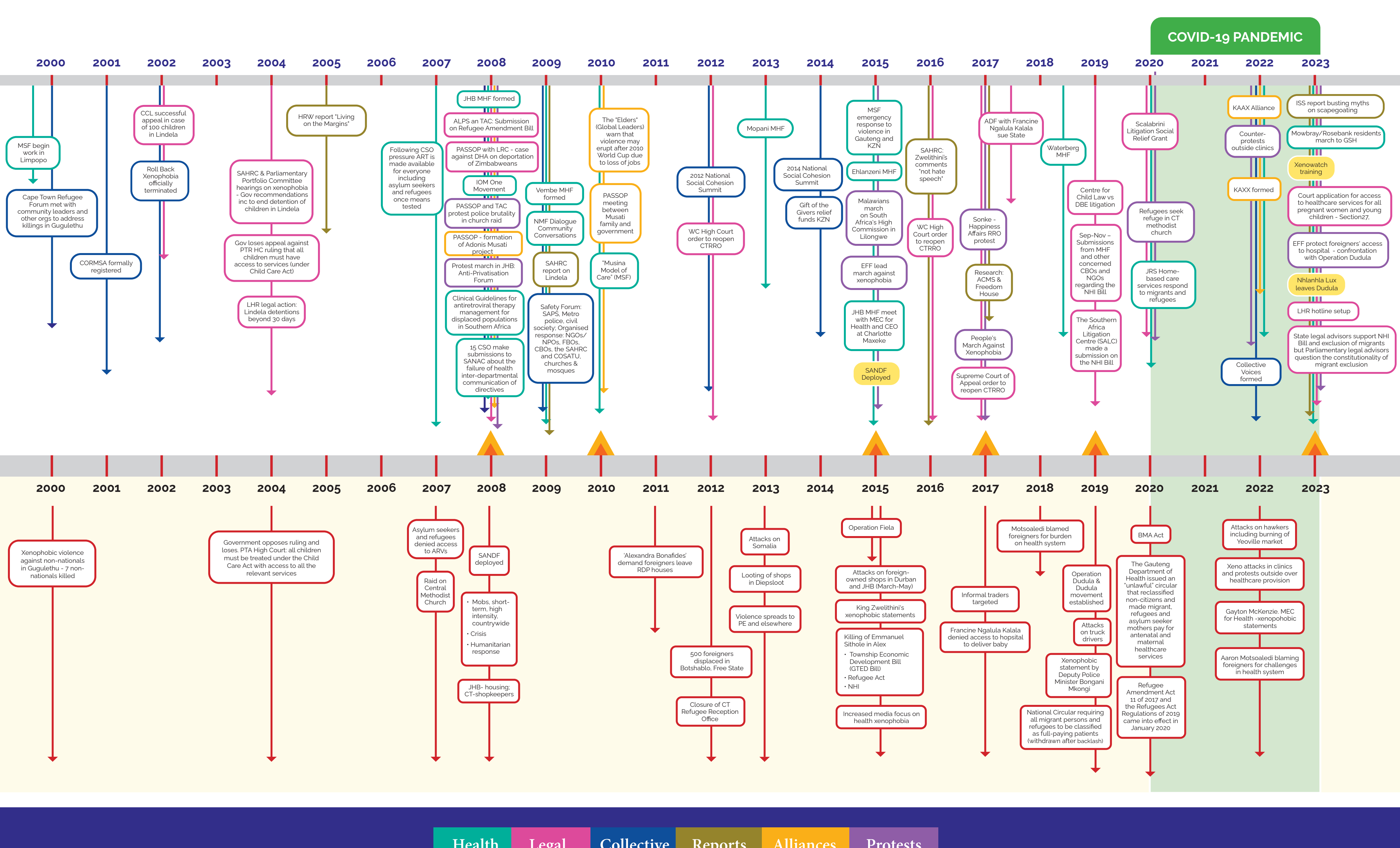


Figure 3: Timeline of response to xenophobia 2000-2022/2023

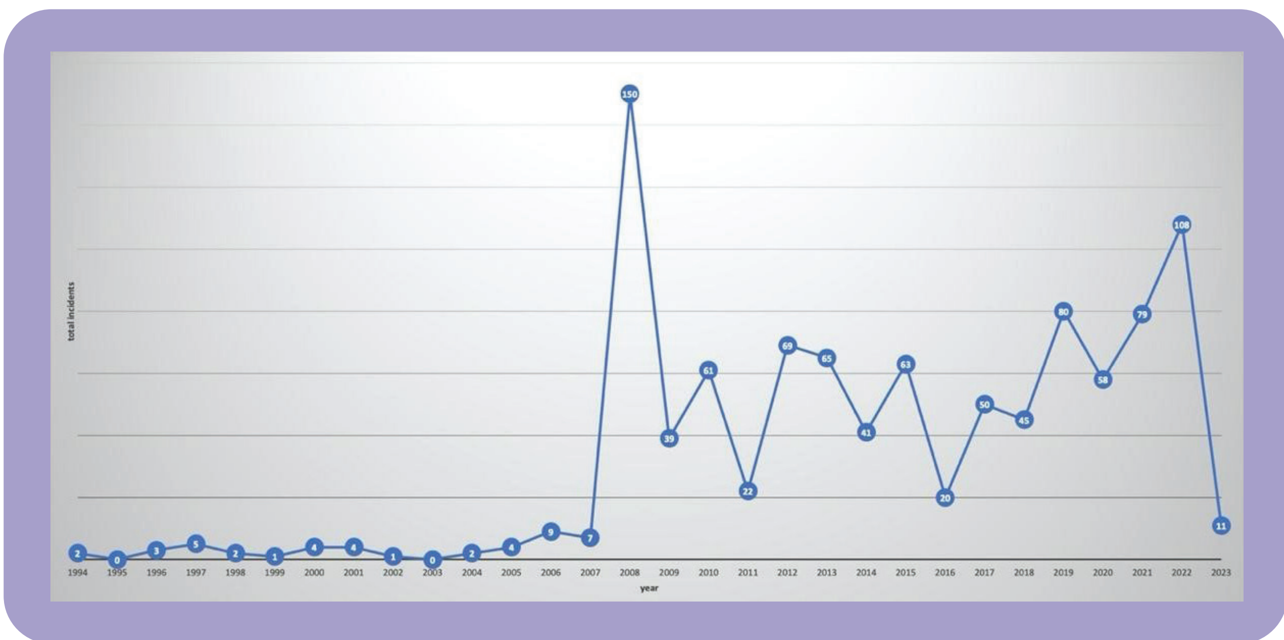


Figure 4: Xenowatch Incident Data: 1994-2023(58)

Since 2008, when the first large-scale xenophobic attacks started in Alexandra and spread across SA, there has been more media coverage and documentation available. It is, however, likely that much of this violence is never reported. In 2016, XenoWatch, a comprehensive, crowdsourced and verified recording and early warning system of xenophobic violence was established by African Centre for Migration & Society (ACMS), Wits University (59). It is, however, impossible to say *with certainty* how many incidents of violence have occurred exactly, particularly before 2008.

4.1 PERIOD ONE: 2000-2009

4.1.1 WHAT HAPPENED DURING THIS TIME?

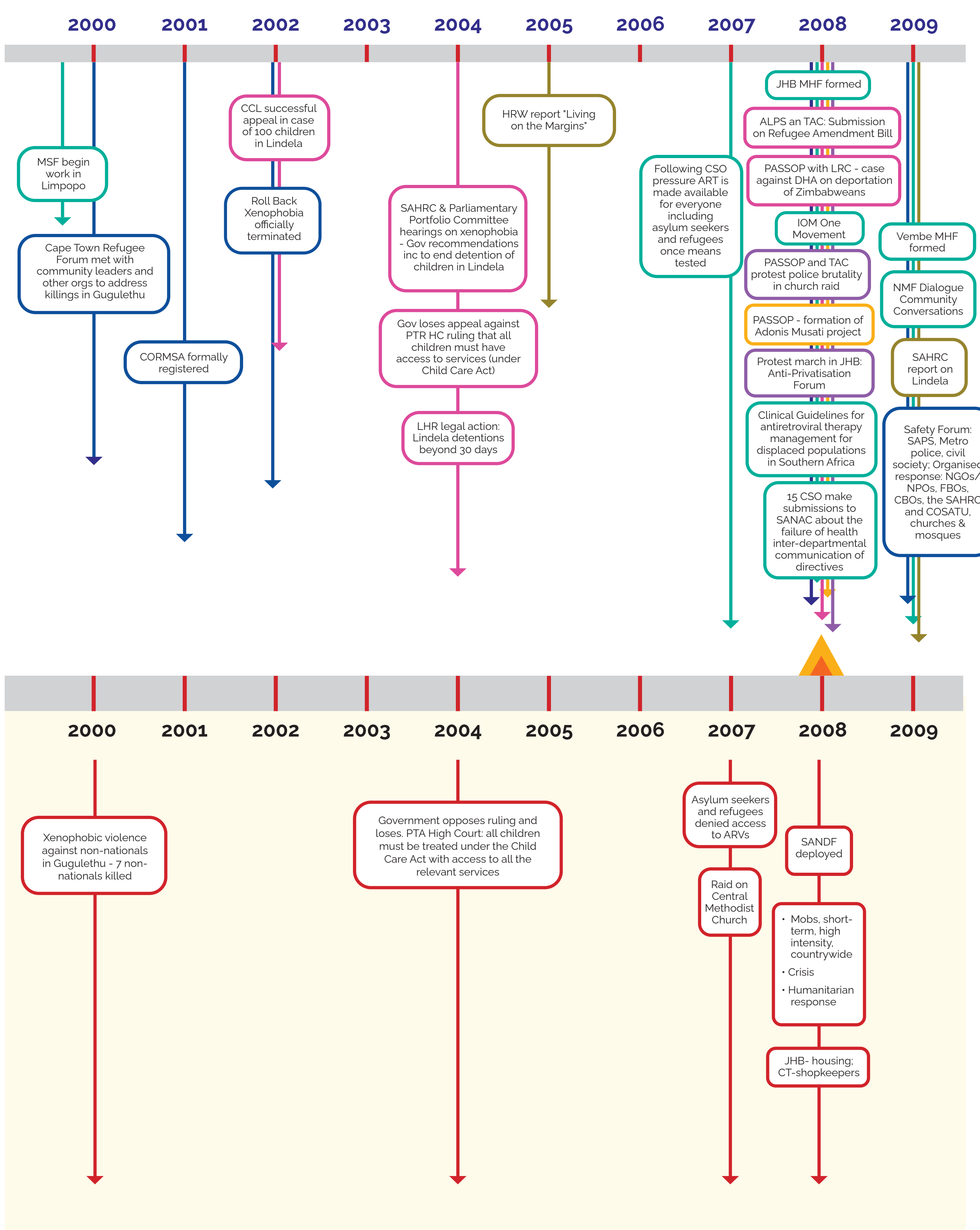


Figure 5: Period One: 2000-2009

Rising xenophobia

From 2000, a number of incidents of xenophobic violence against foreign migrants have been documented, including sporadic attacks and killings, arrests and detentions and barriers faced by asylum seekers and refugees in terms of accessing certain forms of healthcare including Antiretrovirals (ARVs).

In 2001, the South African government committed to uphold the Declaration adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban. However, despite the emphasis on developing concrete actions and a workplan to fight xenophobia – eventually realised in the *National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance of 2019*, the plan still lacks meaningful implementation (53). The following year, in 2002, the first civil society response to xenophobia in post-Apartheid SA, known as the "Roll Back Xenophobia" (RBX) campaign, ended. This RBX campaign had been launched in 1998 in response to the rising levels of xenophobia particularly targeted at African migrants and refugees. Through a partnership between the South African Human Rights Commission (SAHRC), the National Consortium on Refugee Affairs (which was many years later rebranded as Consortium for Refugees and Migrants in South Africa) and with funding from the United Nations High Commissioner for Refugees (UNHCR) the campaign aimed to combat xenophobia through public education in the media, communities, schools and workplaces. However, it is evident with the ongoing xenophobia and the explosive xenophobic attacks in 2008 across the country that upon the termination of the campaign in 2002, the aims and intended outcomes of the initiative were "never realised" (60).

In neighbouring Zimbabwe during the early 2000s, the political situation was rapidly deteriorating. State-sponsored violence, intimidation and corruption led to economic collapse and a massive humanitarian crisis. Yet, the SADC countries and especially SA (who had mediated a power-sharing agreement in September 2008) failed to condemn Mugabe's abusive policies and practices. Unable to exercise their civil and political rights and struggling to meet basic needs such as food, health and clean water, thousands of Zimbabweans fled across the border to neighbouring countries, including SA (61).

In 2007, the Central Methodist Church in Johannesburg – led by Bishop Paul Verryn – opened its doors as a place of refuge to Zimbabweans and refugees from other African countries and became a sanctuary and a symbol of the plight of asylum seekers and refugees in SA during this period (62,63).[8] The Central Methodist church was supported by a clinic run by Médecins Sans Frontières (MSF)/Doctors Without Borders. Situated adjacent to the church, the clinic provided healthcare to people staying in the church and the surrounding areas. MSF reported that consultations increased from 750 a month in 2008 to an average of 2350 a month in 2009 (64).

In January 2008, the church was violently raided by South African Police Services (SAPS) and the DHA Immigration Unit. 300 people were arrested and many more assaulted and harassed. An urgent application by the Legal Resource Centre (LRC) and others to the Johannesburg High Court led to the release of those detained. Following the May 2008 xenophobia attacks, which rapidly spread from the Johannesburg township of Alexandra to other locations around the country, the number of migrants and refugees assisted by the church increased exponentially. At the height

8 In 2019, Cape Town's Central Methodist Mission also became a site of refuge for hundreds of refugees who moved there after eviction from outside the UN High Commission for Refugees (UNHCR) city centre offices where they were protesting against xenophobia and demanding repatriation to their home countries (62).

of the crisis, more than 3000 refugees stayed in the church, including over 100 unaccompanied children. As the violence spread across Johannesburg, the South African National Defence Force (SANDF) protected the Central Methodist Church in Johannesburg from attacks (62).

The 2008 xenophobic attacks

The May 2008 attacks are the most prominent and globally mediatised "xenophobic violence" of this period (65). In the Cape Town area alone, an estimated 20000 foreign nationals were internally displaced by xenophobic violence and across the country at least 62 foreign nationals were killed and hundreds wounded (66). Although the government eventually brought the SANDF in to halt the violence, the failure to respond swiftly and appropriately not only left foreign nationals exposed to acute danger but also meant that civil society and non-state bodies had to quickly step in and respond to the crisis. Furthermore, statements from the ANC reiterated the government's denial of xenophobia while blaming the violence on "criminality" (67,68).

I heard it said insistently that my people have turned or become xenophobic...I wonder what the accusers knew about my people which I do not know...the dark days of May, which have brought us here today, were visited on our country by people who acted with criminal intent."

(Thabo Mbeki, former President, 3rd June 2008) (67).

Although the majority of the victims were foreign nationals, a third of those killed were South African citizens. Therefore, although the attacks are primarily remembered as anti-immigrant "*it is important to recognise the diverse sources of violent exclusion that emerged from the country's volatile and varied socio-political configurations*" (69) (p.21). The SAHRC reported that following the violence, 597 arrests were made. However, only 16% of those arrests resulted in a conviction and these convictions were for malicious damage to property and common law crimes (70). At this time, as is the case now, xenophobic statements and violence are not regarded as a specific type of crime in SA. While the drafting of the Prevention and Combating of Hate Crimes and Hate Speech Bill (the Hate Crimes and Hate Speech Bill) B9-2018 marked a significant step towards imposing criminal penalties for xenophobia, it is yet to be signed into law.

From 2008 to 2009, foreign migrants continued to face xenophobic violence. The Coalition Against Xenophobia[9] recorded a series of xenophobic attacks after 2008 in Durban, for example, including the murder of two migrants from Zimbabwe and Tanzania and the injury of another Zimbabwean after they were chased by a mob and forced to jump from a high rise building in the Durban city-centre (69).

9 The Coalition against Xenophobia consists of the Anti-Privatisation Forum together with a range of other social movements, community organisations, NGOs and immigrant association. https://www.saha.org.za/apf/declaration_of_the_coalition_against_xenophobia_cax_2.htm

4.1.2 WHAT RESPONSES TOOK PLACE?

Alliance formation/collective mobilisation

In the early 2000s, alliances between different organisations and civil society formed in response to the increasing incidents of xenophobic violence. Examples include:

- **August 2000**: Cape Town Refugee Forum composed of various NGOs and CBOs met with community leaders, ministers of religion and other organisations to address the rising xenophobic attacks which had left seven foreign nationals dead (71).
- **2001**: The Consortium for Refugees and Migrants in South Africa, initially under the name of National Consortium for Refugee Affairs, comprising 26 member organisations across SA, was formed and registered as an NGO (69).
- **May 2008**: The Anti-Privatisation Forum together with a range of social movements, community organisations, NGOs and migrant organisations, formed the Coalition Against Xenophobia. Over several months the Coalition Against Xenophobia organised a mass march through inner-city Johannesburg, provided material and legal assistance to victims of attacks, and conducted educational workshops in communities across SA (69).
- **2008**: People Against Suffering, Oppression & Poverty (PASSOP) responded to the death of Adonis Musati – an asylum seeker who starved to death outside the Cape Town Refugee Reception Office – by raising funds to repatriate his body and have a proper burial. The Adonis Musati Project was subsequently established to support asylum seekers in South Africa (73).

Figure 6: Poster produced by The Anti-Privatisation Forum in 2008 for the anti-xenophobia campaign

Collective cction and protest action

Collective action was seen primarily across the responses to the 2008 xenophobic violence including coordinated support by NGOs (local and international), UN agencies, faith-based organisations, and individuals. Many provided humanitarian assistance to the victims of the violence including donations of food, clothing and other goods to those displaced.

- **May 2008**: In the Western Cape a task team was formed and led by the Treatment Action Campaign (TAC) which served as a command centre for the multi-organisational relief effort in Cape Town. Together with other civil society organisations, the task team sent memorandums listing demands to the UNHCR and government at all levels while legal support and other forms of advocacy put pressure on those agencies to fulfil their respective mandates (74).
- **May 2008:** In Gauteng, the Protection Working Group (PWG) was established, consisting of UNHCR, civil society organisations, the DHA and other government departments, researchers and the SAPS. The PWG shared information on incidents/threats/trends and coordinated responses between various civil society organisations, UN Agencies and others (75).
- **May 2008**: Across the country there was also a central response from faith-based organisations including the Methodist synod, and the Muslim Council. The Central Methodist Mission in Johannesburg remained open as a safe haven for the increased number of displaced migrants. The church also facilitated entry into a primary school for children (69).

Collective action can also be seen in terms of protests including marches and rallies such as:

- **February 2008**: In response to the January 2007 raid on Johannesburg Central Methodist Church, PASSOP and TAC led a protest against police brutality and xenophobia outside the Caledon Square Police Station in Cape Town. A memorandum was handed over to the station commander (73, 74).
- **May 2008**: A Coalition Against Xenophobia-led anti-xenophobia march was held in Hillbrow and inner-city Johannesburg (72).
- **November 2008**: Coalition Against Xenophobia with Anti-Privatisation Forum engaged in a “Shut down Lindela” campaign (a facility operating in terms of the Immigration Act for the temporary detention of undocumented migrants who are awaiting deportation from SA) and mobilised communities from the East Rand, Soweto, the Vaal, Pretoria and the Free State along with migrant communities from Johannesburg for a 24 hour picket outside of the “repatriation” (detention) centre calling for Lindela to be shut down (76).

Legal action

This period saw several critical legal responses to xenophobia and health xenophobia including:

- **2004**: Lawyers for Human Rights representing the Centre for Child Law brought an urgent application before the High Court on behalf of a number of unaccompanied minor children being detained at Lindela with adults. The minors were also facing imminent deportation. The judgment confirmed that unaccompanied foreign children are protected by the Constitution and laws relating to children and that government departments have a legal obligation to protect unaccompanied foreign children, children could not be detained in the same facilities as adults and that they cannot be deported without first undertaking a Children’s Court enquiry (77,78).

- **2004**: LHR pushed for a three-day hearing jointly chaired by the SAHRC and six members of Parliament's Portfolio Committee on Foreign Affairs into the detention of foreigners at Lindela beyond 30 days (79).
- **2004**: SAHRC together with the Parliamentary Portfolio Committee on Foreign Affairs (Portfolio Committee) agreed to hold open hearings on xenophobia and problems related to it to address the root causes of alleged human rights violations of non-nationals. The government was presented with a set of recommendations including to end detention of children at Lindela (79).
- **2004**: The government opposed and lost the Pretoria High Court case which confirmed that that all children (whether South African or not) must be treated under the Child Care Act with access to all the relevant services (80).
- **2008**: In partnership with, and represented by the LRC, PASSOP won a court case against the Department of Home Affairs in 2008 stopping the deportation of close to 20 Zimbabweans (73).
- **January 2008**: The LRC and others initiated a legal challenge to the arrest and prolonged detention of refugees and other migrants during a violent raid on the Johannesburg Central Methodist Church by SAPS and DHA Immigration Unit. They instituted an urgent application to the Johannesburg High Court, and the refugees were subsequently released (81).

Beyond the humanitarian crisis related to the attacks of May 2008, various civil society organisations also initiated programmes with a longer-term vision aimed at preventing the occurrence of violence and promoting social cohesion. This included:

- **2009**: The International Organisation for Migration (IOM) initiated the "ONE" Movement, a social change campaign that sought to reverse attitudes that result in discrimination, xenophobia, racism and tribalism. This was intended to use media campaigns, community conversations, youth mobilisation, curriculum interventions and human rights training with a wide range of civil society partners to promote a culture of tolerance, human dignity and unity in diversity across South and Southern Africa (82).
- **2009**: The Nelson Mandela Foundation Centre of Memory organised social cohesion community dialogues in violence-affected communities across the country. This was a continuation of work started in late 2007, focusing on HIV prevention (65,83).

Public statements/Press release/Open letters

During this period there was a series of public statements, press releases and research reports aimed to make visible the increasingly precarious status of asylum seekers and refugees as well as the xenophobic violence impacting their lives. For example:

- **2009**: Statement from civil society organisations on resolving the refugee crisis at the Central Methodist Church, Johannesburg (81).
- **2009**: UNHCR condemned the latest xenophobic attacks against foreigners, including refugees and asylum-seekers from Zimbabwe, in De Doorns, a farming community northeast of Cape Town (60).

Specific responses to health xenophobia

MSF were at the centre of health responses in this period. The response of the clinic outside the Central Methodist Church, and expansion of this work to support inhabitants of so-called slum buildings in the inner-city, which included many undocumented migrants was critical: the presence of the clinic itself represented the extent of the desperation and need of marginalised groups, especially migrants in the inner city. It also exposed the barriers faced by foreign nationals in accessing healthcare at public health facilities. In addition, key respondents in this study described accompanying foreign migrants to hospitals to ensure that they were able to access treatment and were treated fairly. Key respondents also described this as important in terms of connecting migrants and the clinics:

we thought in those key clinics, we could bridge the way at the same time as advocacy work so that the rights of migrants could be seen and their right to care recognised"

(D, G & M interview, March 2023).

The Southern African HIV Clinicians Society and the UNHCR launched the first "Southern African Clinical Guidelines for Antiretroviral Therapy Management for Displaced Populations" as a response to challenges in accessing ARVs for asylum seekers and refugees (84). The AIDS Law Project and TAC also made a key submission on the 2008 Refugee Amendment Bill and opposed the repeal of rights to healthcare for migrants. This submission included a report from the TAC task team after visiting Musina. In addition, TAC produced materials to help refugees understand access to services while the AIDS and Rights Alliance for Southern Africa developed a pamphlet on health for all (74,84).

In December 2009, the Human Rights Watch (HRW) report, "*No Healing here: Violence, Discrimination and Barriers to Health for Migrants in South Africa"* described two broad sets of abuses affecting migrants' health in SA: abuses leading to health vulnerability and barriers to access healthcare. The report stated,

even when seeking emergency care after xenophobic attacks or rapes, migrants are often turned away by medical personnel who may discharge them prematurely, harass them, charge them excessive user fees, and call the police to deport them"

The report mentioned that the South African state had failed to protect the basic rights and safety of migrants. This failure to ensure that migrants have access to the healthcare services compounded their medical conditions (1). This is despite the DoH affirming the rights of asylum seekers and refugees to access healthcare, including a 2007 government directive to treat all people regardless of their nationality or legal status (85). The HRW researchers reported that refugees and asylum seekers, even those who were documented, were being refused treatment in clinics and hospitals, had their care terminated prematurely, were charged excessive fees, or verbally harassed for being foreign (1).

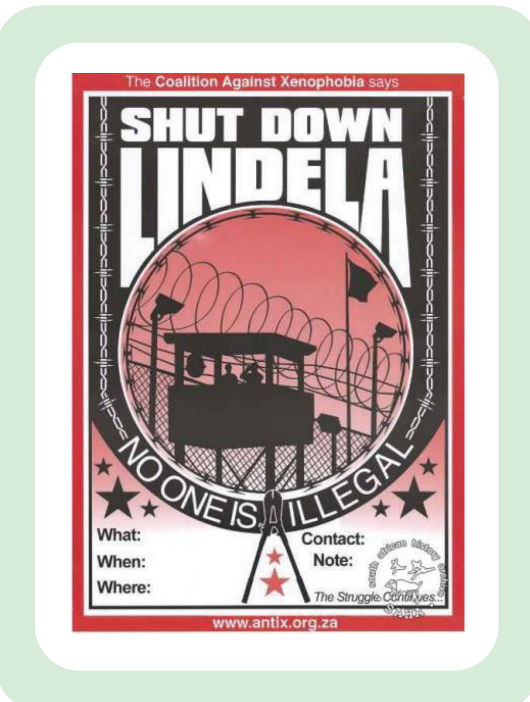


Figure 7: Coalition Against Xenophobia poster to "Shut down Lindela" (2008)

Analysis

This period represented times of extreme violence and disruption located within an increasingly hostile context for foreign nationals. As such, responses to xenophobia primarily needed to be both immediate and short-term – as in the case of the 2008 attacks and the raid on the Central Methodist Church – as well as sustained and strategically planned, to address increasing barriers to accessing basic rights, particularly to health.

Short-term, limited and defined response

For non-state actors and civil society, the visible violence, loss of lives and livelihoods of the 2008 attacks necessitated urgent humanitarian responses. It was based on limited, defined and attainable needs and goals including shelter, food and clothing. Key respondents spoke of

an effective coalition of key players – it pulled together all sorts of people including the state and police"

(FV Interview, March 2023)

impressive but difficult coordination with lots of organisations with their own minds – but it mostly worked"

(JS interview, Feb 2023).

Most key respondents identified the role of the TAC and MSF as the key factor in ensuring that the responses were effective. Describing an "*emergency atmosphere*" (FV Interview, March 2023), key respondents drew comparisons between the 2008 response and other periods of collective struggle in terms of the level of cooperation and coordination. In particular, respondents referred to the TAC-led fight against HIV and the significance of being able to mobilise diverse groups and organisations around a key issue and over a long period. However, where 2008 for some "*energised a kind of nostalgia and support that went back to anti-apartheid struggle*" (TP Interview, February

2023), it is clear that a collective response to xenophobia has been "*harder to pull together for the long term*" (JS Interview, February 2023).

Specific strategies that worked well during this period were based on the ability to draw on pre-existing relationships and networks and to establish new ones. For example, a number of key respondents attested to the importance of the working relationship established between UNHCR staff and a senior SAPS official during the 2008 response. This relationship proved crucial in pre-empting and responding early to outbreaks of xenophobic violence. However, a key respondent noted that when the DHA took over the management of the group, they prevented direct communication between UNHCR and SAPS (JPM Interview, Feb 2023), which made pre-empting and responding to violence much less effective.

Exposing migration as a social determinant of health

The support provided by MSF's health facility established next to the Central Methodist Church is a key response which exposed the plight of those staying in the church. Like the HRW report it also shone light on the extent to which the relationship between migration and health cannot be ignored. (6,74). Many key respondents saw MSF's response as a critical political move or, "*a political response engaging in the political context of inequality and poverty and breaking a dogma in terms of who can engage*" (SE, Interview Feb 2023). This response was also described as "*a watershed moment*" for MSF who "*chose to be part of a collective denouncing xenophobia and became known as pro-migrant amongst Home Affairs and key people in the DoH*" (D, G & M Interview, March 2023).

From this period, there is substantial documentation on how relief was organised in camps, impact reports, minutes of UN Protection meetings, and academic research reports with clear recommendations (60,69,86,87). A key respondent who kept detailed monthly reports on the response noted that this was done because, "*we knew this would become history*" (JS Interview, Feb 2023). Yet, none of these responses have been systematically archived or can be publicly accessed. Instead, the focus seems to have been on evaluations that explore responses to address xenophobia and the importance of fostering social cohesion, the general tenor of which is that little of it had any impact (69).

Responses to health xenophobia at this time were based on addressing increasing levels of hostility directed at foreign nationals when trying to access healthcare at public health facilities as well as strategic interventions by civil society to ensure that asylum seekers and refugees were not excluded from accessing treatment for communicable diseases – including accessing ARVs.

There were two key forums established in this period; the Johannesburg Migrant Health Forum (MHF) which comprised the Forced Migration Studies Programme (FMSP) (later renamed the African Centre for Migration & Society - ACMS), International Organization for Migration and the Wits Reproductive Health and HIV Research Unit (later renamed Wits Reproductive Health Initiative WRHI) in 2008 and the Hate Crimes Working Group, formed at the end of 2009 and early 2010. Both forums aimed to create a multi-sectoral network of civil society organisations with members from across diverse sectors, including LGBTIQ+ rights; migrants, refugees and asylum seekers rights; gender-based entities and broader human rights organisations. The broad focus of the HCWG was to spearhead advocacy and reform initiatives pertaining to hate crimes in SA and the region (88). The MHF aimed to engender a collective response from those working before and after 2008 on migration issues, with a focus on collecting data, networking and strategising and engaging with key stakeholders, such as the DOH (89).

4.2. PERIOD TWO: 2010-2018

4.2.1 WHAT HAPPENED DURING THIS TIME?

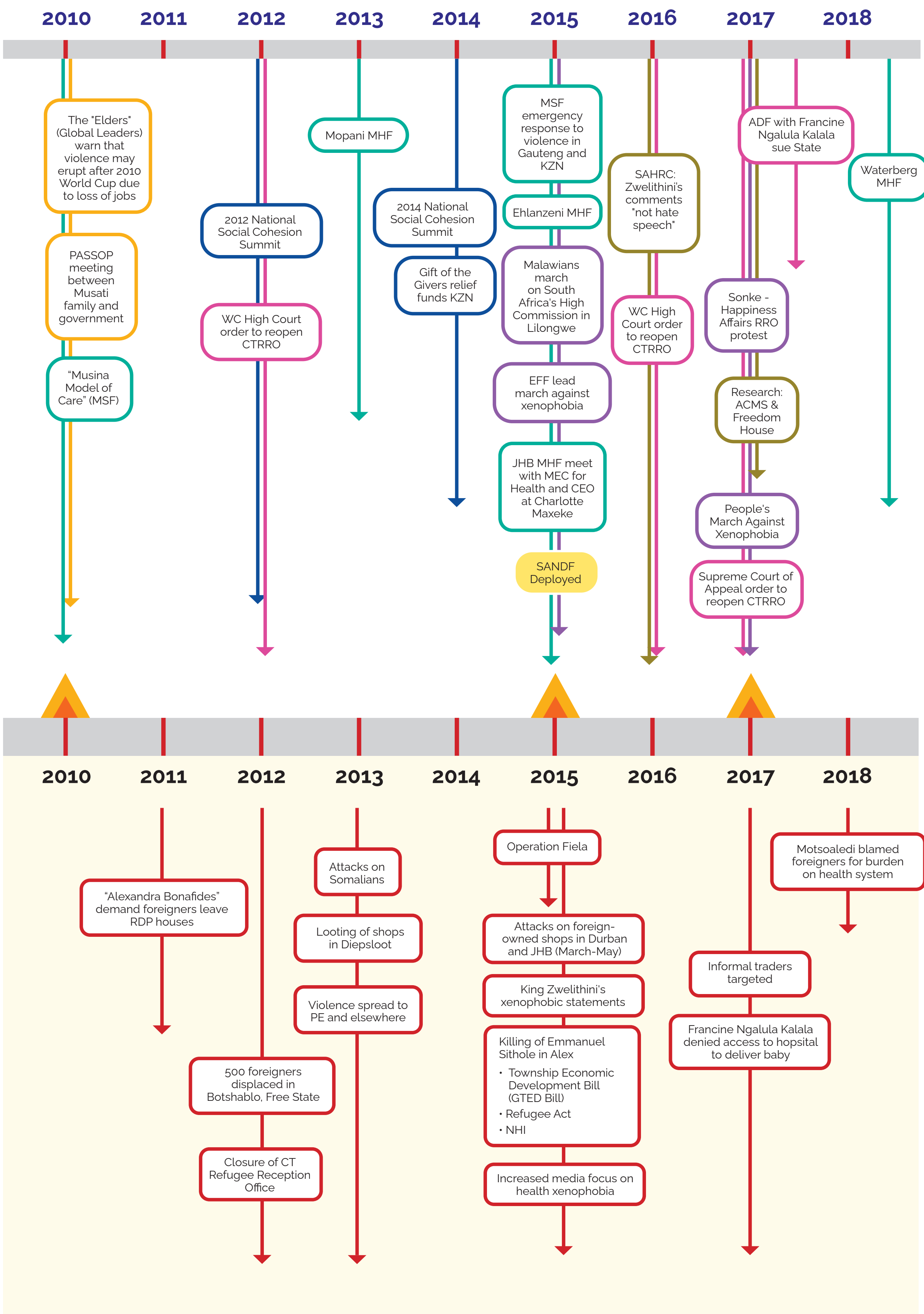


Figure 8 Period Two: 2010-2018

Targeting of traders and businesses

In 2010 "The Elders" (an international NGO composed of public figures noted as senior statesmen, peace activists and human rights advocates brought together by Nelson Mandela) warned that violence could once again erupt in SA. They pointed to concerns regarding the impact of the ending of the 2010 World Cup hosted by SA, which they felt would lead to a loss of jobs and subsequent tensions over unemployment.

This focus on employment, particularly jobs held by foreign nationals, characterises this period. From 2011 onwards, there were noticeable flare-ups of xenophobic violence most often targeting foreign-owned businesses and homes. In 2012, the police in Limpopo launched an aggressive military-style campaign to apprehend criminals and tackle illicit activities in the province. Dubbed "Operation Hardstick", this campaign targeted small informal businesses run by migrants and refugees, regardless of whether they had valid licences or not. The business owners were informed that "foreigners" were not allowed to operate in SA, that their asylum-seeker and refugee permits did not entitle them to run a business, and that they should leave the area. Over 600 businesses were closed, owners were detained, their stock confiscated, and "fines" imposed (90).

In 2011 other incidents included:

- Four nights of looting around Thabong in the Free State in which more than 20 businesses, mostly owned by Bangladeshis, were looted and 42 people arrested (91).
- An attack on 32 shops and 100 foreign-nationals displaced in Freedomville following a strike by miners at the Impala Mine near Phokeng in the North West Province (91).
- Attacks and looting of shops owned by Pakistanis and Ethiopians in Modimolle, in Limpopo (92).
- Petrol-bombing of shops owned by foreigners in Beacon Valley, in the Western Cape (92).

In March 2015, violence broke out in Durban with five people killed, and many businesses looted and torched. The violence was widely attributed to inflammatory remarks by Zulu King Goodwill Zwelithini in Pongola:

[F]oreigners...will say "let us exploit the nation of idiots". As I speak you find their unsightly goods hanging all over our shops, they dirty our streets. We cannot even recognise which shop is which, there are foreigners everywhere...I ask our government to help us to fix our own problems, help us find our own solutions. We ask foreign nationals to pack their belongings and go back to their countries (93).

Following these remarks, violent attacks occurred in Isipingo and in the central business district of Durban with many foreign nationals seeking refuge in police stations in fear for their lives. The attacks spread across Kwa-Zulu Natal (KZN) during March–May 2015. Violence also erupted in Johannesburg forcing hundreds of foreign nationals to flee their homes overnight and seek refuge in police stations and other safer spaces. A temporary "camp" was set up by the Methodist Mission and the Gift of the Givers on the outskirts of Johannesburg (94). Many housed in this camp came from the Central Methodist Church in Johannesburg following a violent raid by SAPS and the SANDF along with a contingent of Home Affairs officials. Many buildings in the central business district of Johannesburg were also raided as well as hostels in Jeppestown and Alexandra.

At a similar time, SAPS initiated Operation Fiela-Reclaim ("Clean sweep"). The operation was initially launched as an anti-xenophobia initiative but paradoxically morphed into "an initiative against crime in general" in which undocumented foreigners ended up being targeted by SAPS and many hastily deported (95). In Cape Town, Wilfred Solomons-Johannes from the City of Cape Town stated "*We have seen, as a result of* Operation Fiela*, many illegal activities have been highlighted, many illegal immigrants that are here, that are not even documented are being dealt with through the necessary process*." (95).

Xenophobic rhetoric

The targeting of undocumented migrants in this initiative played straight into the vicious cycle of xenophobia, linking illegality and criminality to migrants which then provides further justification for scapegoating and violence against them. A key proponent of this focus on "illegal" migrants as the root of the problem at this time was then Johannesburg Mayor Herman Mashaba, who blamed African migrants for the high levels of crime in Johannesburg (96).

In 2017, a march by the "The Mamelodi Concerned Residents" to protest against African immigrants in SA triggered a wave of looting of shops owned by foreign nationals, burnings of houses and clashes between the two groups in Pretoria. The Association distributed pamphlets that read:

Zimbabweans, Nigerians, Pakistanis etcetera are not our countrymen. [They] bring nothing but destruction, hijack our buildings, sell drugs, inject young SA ladies with drugs and sell them as prostitutes. How is that helping us? They have destroyed our beloved Johannesburg. Now they are destroying Pretoria ***(97)****.*

Xenophobic rhetoric from politicians and government officials was also on the rise. When visiting Hillbrow Police Station in Johannesburg on 14 July 2017, the then Deputy Minister of Police, Bongani Mkongi, accused foreign nationals of economic sabotage and made erroneous statements about the numbers of foreign nationals in Johannesburg as well as claiming "S*outh Africans have surrendered their own city to the foreigners…we cannot surrender this land.*" (98). This statement was widely condemned by civil society organisations, with the SAHRC warning that "*statements such as this have the potential of fuelling anti-immigrant sentiments*" (99).

In 2018, then Johannesburg Mayor Herman Mashaba conducted a citizen's arrest of a street trader pushing a cow's head in a trolley in Johannesburg Central Business District (CBD) and tweeted:

We are going to sit back and allow people like you to bring us Ebolas in the name of small business. Health of our people first. Our health facilities are already stretched to the limit [sic]" ***(96)****.*

The narrative of blaming of foreign nationals for health challenges and burdening the healthcare system is particularly prevalent in this period from 2015 onwards. For example, in 2015 former Gauteng Health MEC Qedani Mahlangu made the unsubstantiated claim that often "*nine out of 10*" patients in provincial health facilities were immigrants and blamed them for putting strain on the healthcare system (100). Such a claim is also in line with the xenophobic rhetoric of former Minister

for Health, Aaron Motsoaledi, (Minister for Home Affairs at the time of writing this report). Motsoaledi is well-known for his views on foreign nationals accessing healthcare – captured, for example, in the following statement made during a speech at the National Education, Health and Allied Workers' Union (Nehawu) Nurses' Summit in 2018:

The weight that foreign nationals are bringing to the country has got nothing to do with xenophobia… it's a reality. Our hospitals are full, we can't control them. When a woman is pregnant and about to deliver a baby, you can't turn her away from the hospital and say you are a foreign national… you can't. And when they deliver a premature baby, you have got to keep them in hospital. When more and more come, you can't say the hospital is full now go away… they have to be admitted, we have got no option – and when they get admitted in large numbers, they cause overcrowding, infection control starts failing" (101).

Although no data or evidence was provided by Motsoaledi to substantiate these claims, he also argued that SA must re-evaluate its immigration policy in order to prevent illegal immigrants from entering the country (102).

4.2.2 WHAT RESPONSES TOOK PLACE?

Alliance formation/collective mobilisation and protest activism

The xenophobic statements and rhetoric of government ministers, officials and others described above led to a number of anti-xenophobia rallies during this period organised by various different groups and parties. For example:

- **July 2010**: Schubert Park community organisation in the City of Tshwane (an affiliate of the Anti-Privatisation Forum) held an all-inclusive community event of a mini soccer tournament (on the last day of the World Cup in SA) and a film screening and debate on xenophobia (103).
- **June 2013**: Somali migrants in Johannesburg marched to Parliament in response to xenophobic violence against Somali asylum seekers and refugees (104).
- **April 2015**: Malawians marched on SA's High Commission in Lilongwe, demanding charges be laid against Zulu King Goodwill Zwelithini for his xenophobic statements in Pongola, and called for a boycott of SA businesses (105).
- **April 2015**: Economic Freedom Fighters led an anti-xenophobia rally in Alexandra, Johannesburg (106).
- **April 2015**: The People Against Xenophobia formed as an emergency coalition convened to take a stand and denounce the 2015 xenophobic violence. It was organised by a coalition including Africa Diaspora Forum, SECTION27, Consortium for Refugees and Migrants in South Africa (CORMSA), MSF, Methodist church of SA, Equal Education, Corruption Watch and Awethu! A People's Platform for Social Justice in Johannesburg. The march was endorsed by 183 organisations, academic centres, trade unions, faith-based organisations etc. as well as a number of individuals (107).

- **April 2015**: The People Against Xenophobia coalition picketed outside of the Central Police Station to protest raids under the "Operation Fiela-Reclaim" action through which numerous foreign nationals were detained (72).
- **2014**: Establishment of Student Advocates for Health in 2014 by health science students at the University of the Witwatersrand. Aimed at tackling "social inequality in healthcare", this initiative included sensitising healthcare workers towards migrant patients, assisting migrants facing challenges accessing healthcare and navigating bureaucracies (LR Interview, Feb 2023) (108)

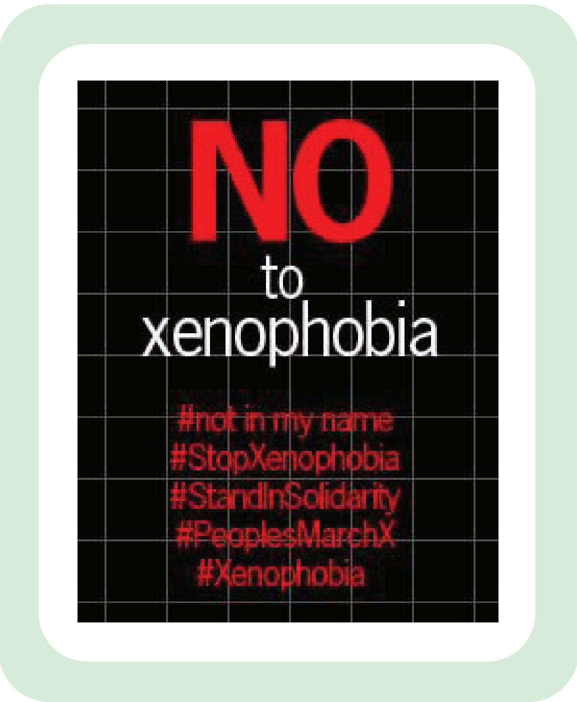


Figure 9: Poster for the People's March Against Xenophobia, 2015

Legal action and complaints

- **2010**: PASSOP lodged a complaint with the SAHRC against the Cape Town Refugee Reception Office Manager for the treatment of asylum seekers – and the associated death of Adonis Musati outside the RRO (73).
- **2012**: MSF, SECTION27, LHR and PASSOP lodged a complaint with the SAHRC concerning the need for an investigation into the state of health and provision of healthcare services at Lindela (76).
- **September 2014**: The Somali Association of SA and the Ethiopian Community of SA, along with individual members, represented by LHR, won an appeal through the Supreme Court of Appeal in a decision that ruled against some of the essential elements on which "Operation Hardstick" was based. The appeal court found that the authorities in Limpopo (which included Limpopo's Department of Economic Development, Environment and Tourism; the Ministers of Police, Home Affairs and Labour; Limpopo's MEC for Safety, Security and Liaison; the National Police Commissioner; Limpopo's Provincial Police Commissioner; the Standing Committee for Refugee Affairs and two of the most affected municipalities) had displayed attitudes that were "*unacceptable and contrary to constitutional values*" (109).
- **April 2015**: African Diaspora Forum and 30 others lodged complaints with the SAHRC against

King Goodwill Zwelithini for hate speech and inciting violence against foreign nationals and sedition in his speech made in Pongola in March 2015 (110). The SAHRC concluded that the words of Zwelithini "*fall short of incitement to violence as he did not actively encourage, call for or pressurize the audience into committing violent acts against migrants*" (98).

- **2015**: LHR lodged an urgent application to seek a court order declaring Operation Fiela unconstitutional and unlawful. LHR requested an order interdicting the arrest and detaining of undocumented foreigners without following the correct procedures and in violation of section 14 of the Constitution, which guarantees the right to privacy and not to have one's home searched unless authorised and done in accordance with legislation. The application, however, was removed by the Judge from the roll due to "*lack of urgency*" and apparent failure to prove that the arrests were part of an extended campaign rather than a one off event (111).
- **2015**: SECTION27 reached a settlement with the DHA to provide a comprehensive list of everyone arrested during Operation Fiela, full access to detainees being held at the Johannesburg Central Police Station and Lindela Repatriation Centre and a halt to any deportation of those arrested for two weeks while LHR consulted to determine detainees' legal status (112). 12 May 2015 – The recent spate of xenophobic attacks and the subsequent crackdown of Operation Fiela-Reclaim ("clean sweep").
- **2015**: A case was brought by the Scalabrini Centre, the LRC and LHR in the Western Cape with the leaders of the refugee community to challenge the DHA's unilateral, ungazetted decision that all asylum seeker and refugee permits could only be renewed at the place where the initial application for asylum was submitted. The High Court ruled in favour of the applicants and declared DHA's action unlawful (113).
- **2015**: The Centre for Child Law and LHR brought a case against the state for failing to recognise separated asylum-seeking children as dependents of their extended families, with whom they arrive in the country. This would allow separated children to apply for asylum together with their caregivers under the Refugees Act. The judgement was in favour of the Centre for Child Law provided that separated minors are to be read into the definition of dependents as it appears in the Refugees Act of asylum seekers who are their caregivers (77).
- **2017**: The Hate Crimes Working Group issued a statement to Deputy Minister Mkongi to express grave concern over xenophobic statements made on 14 July 2017 while visiting Hillbrow Police Station in Johannesburg (114).
- **2017**: Sonke Gender Justice and Lawyers for Human Rights filed a formal complaint with the SAHRC to investigate Mkongi's statements and determine if these were xenophobic (99,115). Following a mediation process initiated by the SAHRC, the Deputy Minister released a media statement expressing regret for the unintended consequences of his words (115).
- **2017**: Asylum seeker Francine Kalala sued the SA government, after two hospitals turned her away while she was in labour. She was forced to give birth in a train station (116).
- **October 2017:** In a case brought by refugee advocacy organisations including the Scalabrini Centre, the Legal Resource Centre and the University of Cape Town Refugee Rights Project, the Supreme Court of Appeal (SCA) ruled that the closure of the Cape Town Refugee Reception Office by the DHA was unlawful. The court ordered the DHA to reopen the office within six months. This followed a series of rulings dating back to 2012 when the RRO first closed (117).
- **March 2018**: The LRC took the matter concerning the Cape Town RRO back to court on behalf of the Scalabrini Centre and the Somali Association of SA. In May 2021, Acting Judge Alma de Wet ordered Home Affairs to submit monthly reports on its progress in opening the office (36). The CT RRO was eventually reopened in 2023, some 11 years later.

- **February 2018**: The Hate Crimes Working Group launched its Hate and Bias Crime Monitoring report. The report captured the findings of a longitudinal research study (2013 – 2017) in five provinces of SA to gauge the types, nature and impact of hate crimes perpetrated against individuals and communities (118).

Dialogue and campaigns

- **2010**: PASSOP organised a meeting between Adonis Musati's family and the then Deputy Minister of Home Affairs, Malusi Gigaba in order to provide some closure for the family. Gigaba conveyed his condolences and had lunch with the family (73).
- **2010**: PASSOP laid a complaint with the SAHRC against the Refugee Reception Centre Manager who was responsible for the Refugee Reception Centre where Musati starved to death (she has since been dismissed) (73).
- **2012**: The Department of Arts and Culture hosted a National Cohesion Summit and adopts a social cohesion and nation building strategy) (119).
- **2014 and 2015:** Follow-up Social Cohesion Summits were held with report-backs and presentations to Parliament on social cohesion by the Department of Arts and Culture (66).

Public statements/Press release/Open letter

- **2014**: SAHRC report on the Lindela Repatriation Centre is released (120).
- **2015**: SAHRC stated that 2015 attacks in Soweto were xenophobic violence – countering police claims that the violence was criminality not xenophobia (121).
- **April 2015**: Civil society organisations submitted an open letter to the African Commission on Human and Peoples' Rights regarding the xenophobic attacks in SA. It called upon the South African government to protect foreign nationals from further attacks, provide humanitarian assistance, bring perpetrators to justice and "condemn unequivocally comments by persons in positions of authority and influence which may amount to incitement to violence". It also requested international organisations to assist with humanitarian assistance for internally displaced foreign nationals in SA and those returning to their own countries and to governments of other countries to ensure steps are taken to prevent reprisals against South African nationals in their territories (29).
- **November 2015**: A press release by Amnesty International called out Minister of Health Aaron Motsoaledi for "shameless scapegoating of refugees and migrants" following a series of xenophobic statements by the minister. Stating that Motsoaledi is fully aware of the challenges faced in the public health system, Amnesty stated he should "stop fueling xenophobia with these unfounded remarks" (102).
- **July 2018**: LHR published an open letter to Cyril Ramaphosa on World Refugee Day on the poor treatment of asylum seekers and refugees in SA and the disregard by the DHA towards the Constitution and national and international laws. Calling out the levels of corruption and a culture of undermining the values of the Constitution, LHR urged the government to use the mechanisms available to ensure that, by 2019, SA could fully support and protect refugees (15).

Research/Policy briefs

- **2016 and 2017**: The African Centre for Migration & Society, Wits with Freedom House published research and a detailed case study on Diepsloot in Johannesburg. Part of parallel research conducted in 15 other South African communities, the study documented and explained the status of social cohesion across the country. More specifically, it identified the causes of group-based conflicts, communal violence, and patterns of violent exclusion (122).

Government response

- **2012**: Constitutional Court Judge Edwin Cameron visited Lindela to conduct an inspection on conditions and complaints by detainees (123).
- **2012**: Free State Premier, Ace Magashule, spoke out against the xenophobic attacks on foreign-owned businesses stating:

*These attacks violate the fundamental principles of our Constitution, which rejects discrimination and intolerance on the basis of race, creed or geographic origin" **(124).***

- **2015**: Deployment of SANDF troops to intervene in volatile areas where xenophobic attacks were breaking out in Johannesburg and Durban and which police struggled to contain (125).
- **2015**: SAPS arrested 121 people after xenophobic attacks in Soweto. The attacks were triggered by the shooting of two teenagers by a foreign-national shopkeeper (126).

Specific responses to health xenophobia

From 2010 onwards, responses indicate an increased focus on and development of responses to the challenges facing migrants in accessing healthcare as well as the impact of detention and deportation conditions on the health of migrants. In 2013, the withdrawal of MSF operations from Musina significantly impacted responses to migrant health issues given the challenges faced by highly mobile populations in border areas. However, the opening of an International Organization for Migration (IOM) Musina office led to an increase of interventions and projects that involved partnership between government, IOM, and other international and local NGOs to address key health issues for migrants particularly in these border areas.

In January 2014 the Western Cape Refugee and Migrant Forum held its first meeting. Bringing together organisations working with refugees and migrants across the province, the Forum discussed strategic responses to concerns such as the decrease of trauma counselling services in the Western Cape and the decision to close the Cape Town RRO.

Key migrant health-related issues were also in the spotlight in this period including the failure of health services within the detention centre, Lindela. In 2010, a research report by FMSP on Lindela found that detainees were denied access to chronic medication, including ARVs and experienced high levels of violence and corruption (127).

- **2014**: SAHRC investigation on the state of human rights including the right to healthcare services at Lindela. The Commission's report revealed a wide range of human rights violations (120,128).
- **2015**: MSF emergency response to outbreaks of xenophobic violence in Gauteng and KZN (64).

- **2015**: Johannesburg MHF met with the MEC for Health and the CEO of Charlotte Maxeke Hospital, in Johannesburg to address ongoing challenges faced by foreign migrants in accessing healthcare. A list of cases collated by the forum was shared with the MEC and the CEO. However, the meeting did not lead to any positive steps forward.

4.2.3 ANALYSIS

Two clear trends are apparent in this period: first, there was an increase in interventions meant to build social cohesion such as dialogues and conversations organised by state and non-state actors in the aftermath of the 2008 attacks. Second, there was ongoing presence of xenophobic violence in urban areas targeting businesses and livelihoods of foreign nationals.

Responding to violence rather than causes

As with the xenophobic attacks in 2008, in 2015 and 2017, the state responded through police intervention by dispersing perpetrators and facilitating evacuation of the victims to places of safety, even though the violence was often organised and incited in public meetings. Defence Minister at the time, Nosiviwe Mapisa-Nqakula said troops would be sent to "*... come in as the last resort - the army will serve as a deterrent*," and "*There are people who will be critical, but those who are vulnerable will appreciate this decision. Now we are deploying because there is an emergency*" (125)**.**

Despite the findings of research into the 2008 violence and an increased awareness of xenophobia as a social problem in SA, there appeared to be little *concrete* programming on the ground that addressed causes and triggers of tensions and violence. As such the xenophobic incidents continued (60).

Engaging the state and demanding accountability

The legal case brought and won by Somali and Ethiopian individuals and organisations against the state regarding the actions of "Operation Hardstick" is significant; along with other victories such as the rulings against the DHA regarding the unlawful closure of the Cape Town RRO, it highlights the role of litigation as an important response to xenophobia. These cases forced open a space for the law to identify and expose xenophobic sentiments and behaviours as incongruous with the legal frameworks and rights in SA. In the "Operation Hardstick" case, the court was quoted as urging authorities to not allow their frustrations around increasing numbers of asylum seekers and increasing employment challenges to "*blind them to their constitutional and international obligations*" and that 'it should also not "*diminish their humanity*" (90). However, these cases are only effective in as far as they force change on the ground: the ten-year struggle to open the Cape Town RRO and the increasing violence against foreign nationals is evidence of the limitations of the legal responses and, moreover, the increasing challenges to hold the state accountable.

Other efforts to demand accountability had some success. The response by PASSOP to the death of Adonis Musati, who starved to death while he queued in front of the Cape Town RRO led to a meeting in 2010 between PASSOP staff, Adbell Musati (Adoni's identical twin brother) and parents and the former Deputy Minister of Home Affairs, Mulusi Gigaba. PASSOP reported that Mr Gigaba apologised to the family and shared lunch with them. PASSOP also lodged a complaint with the SAHRC against the manager of the RRO that Musati had died queuing outside. The manager has since been dismissed (73).

In another case, Francine Kalala, an asylum seeker from the Democratic Republic of Congo, who was turned away from several hospitals and forced to give birth in Park Station in Johannesburg was visited by the Health MEC Dr Gwen Ramokgopa at Charlotte Maxeke Academic Hospital on 6 June where the baby was admitted. Ramokgopa condemned the incident and stated that a patient's nationality should not be used to determine access to healthcare:

*We belong to a global community that is expected to treat everybody who comes to our facilities. This is expected from any health system in the world." **(129)***

However, the Minister for Health at the time, Aaron Motsoaledi, vehemently denied Kalala's version of events and the existence of xenophobia within the health system. As reported in the minutes of a Parliamentary Committee on Health meeting, Motsoaledi stated "South African *Hospitals did not have problems with serving foreigners because even undocumented foreigners had enjoyed the services of the health sector in SA*" and that "*according to records, most hospitals across SA had also delivered babies from foreigners in the past few months*" (130).

4.3. PERIOD THREE: 2019-2022/23

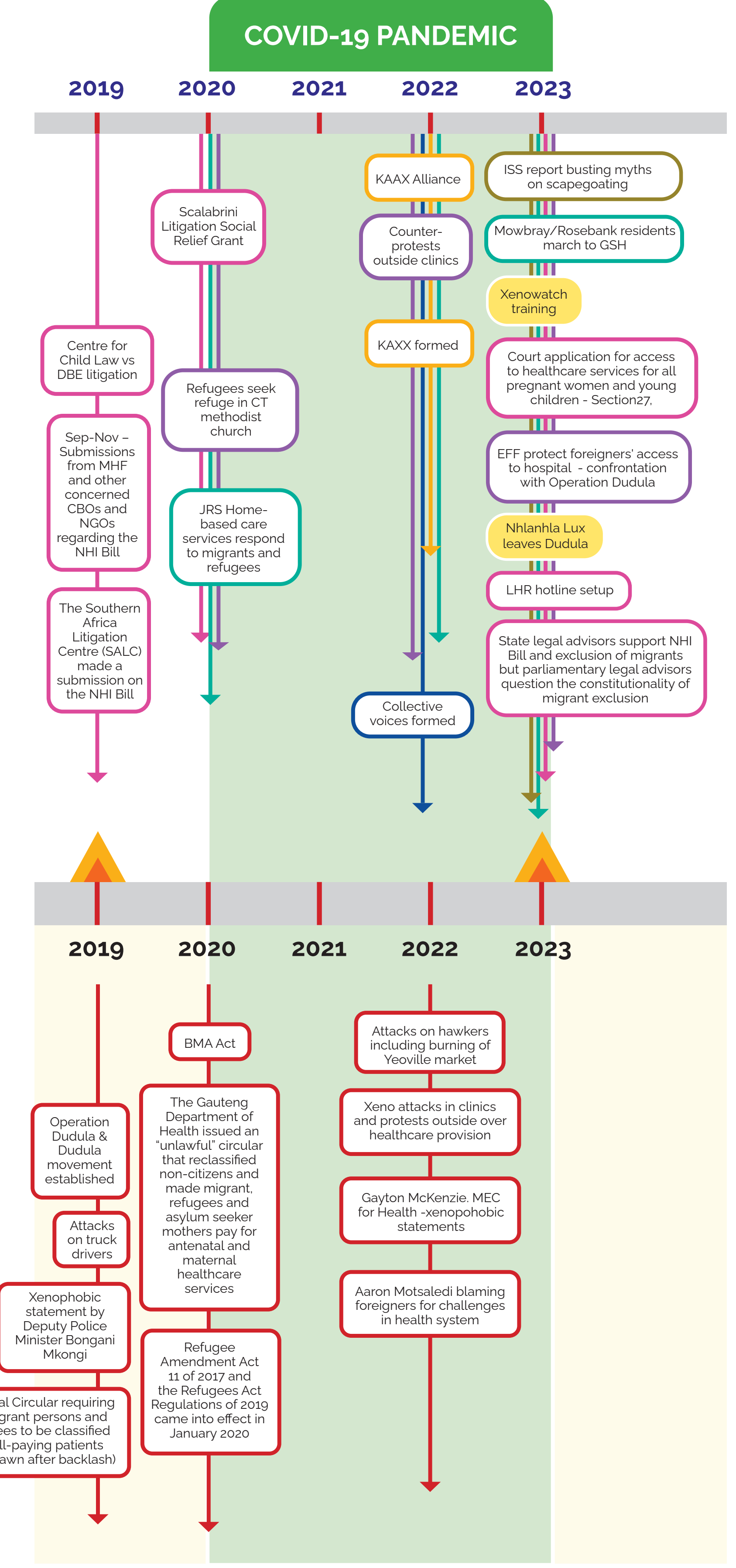


Figure 10: Period Three: 2019-2022/23

CASE STUDIES

1. Responses to the exclusion and marginalisation of foreign-nationals from Covid-19 social support and the vaccination roll-out programme.
2. Responses to xenophobic comments by Limpopo MEC Phophi Ramathuba.
3. Responses to Operation Dudula's anti-foreigner protests outside clinics and hospitals in 2022.

4.3.1 CASE STUDY 1: RESPONSES TO THE EXCLUSION AND MARGINALISATION OF FOREIGN NATIONALS FROM COVID-19 SOCIAL SUPPORT AND VACCINATIONS

The Covid-19 pandemic hit SA in March 2020. On 23 March 2020, President Ramaphosa announced a nationwide lockdown to slow the spread of the virus and to enable health systems to prepare for the influx of Covid-19 cases. As elsewhere in the world, the disruptions to livelihoods and income-generation strategies had a disproportionate impact on the most marginalised populations, including asylum-seekers, refugees and undocumented migrants (30,32,131,132). Yet, government interventions to cushion the impacts of the strict lockdown did not include these populations, which led to their increased vulnerabilities and compounded forms of suffering during the pandemic period and afterwards (133).

The social assistance plans included the *Social Relief of Distress Grant* (SRDG) of R350 and were made available to those who were unemployed, including those who had lost their jobs as a result of the pandemic, for a period of six months from May 2020. The Child and Social Support Grants were also increased from R350 to R624 until October 2020. The government also initiated a programme to provide food parcels to those who are threatened by food insecurity (134). A South African national ID or special permit (115,117) were required to access the SRDG and food aid (132,135), which meant that most asylum seekers, refugees, and undocumented migrants were excluded from these relief programmes (96,136).

There was also a failure to provide clear guidance and reassurance on whether undocumented groups would be included in the Covid-19 vaccination programme. The electronic vaccination data system (EVDS), an online database for registration to be vaccinated, required either a South African ID number, a foreign passport number or an asylum seeker permit number. From the start, no clear directive was given of how people who are undocumented could register for the vaccination (34). This excluded not only many foreign nationals but also significant numbers of SA citizens without identification documents, including the homeless (137).

Response from government

Addressing claims of discrimination against foreign nationals, the acting MEC for Social Development in Gauteng, Panyaza Lesufi, claimed that the department was not discriminating against migrants, refugees and asylum seekers with the requirement for people to be documented to access support. He argued:

Our approach is simple. Whoever is appropriately documented to be inside the country will get support, and if people are not documented to be in the country, it's unfortunate. We will request them to deal with that aspect so that they can be in a queue. We are not discriminating" (136).

Similarly, the Minister for Social Development, Lindiwe Zulu, clarified the department's stance by stressing that refugees qualified for the special Covid-19 SRDG *if* they were registered with the Department of Home Affairs (136). However, the closure of the RROs as part of the lockdown regulations, meant that foreign nationals could not apply for or renew refugee permits, asylum permits, and residence permits. Although the DHA issued a directive granting blanket extensions on the validity of all permits and visas due to expire during lockdown (which was extended four times) and then introduced an online renewal system, many refugees and asylum seekers were unable to access this and had little chance of accessing the appropriate documentation to ensure support. Unable to renew existing permits, asylum seekers had their bank accounts frozen and many found themselves with no means of meeting basic needs (132).

It also meant that many migrants were vulnerable to harassment and extortion by law enforcement agents despite the calls for a moratorium on the detention and the deportation of migrants including those whose permits expired during the lockdown (137). LHR reported on the continued arrest of undocumented migrants throughout lockdown as well as the detention of people who are stateless. As a result, migrants were less willing to seek out support from authorities and to go for vaccination, testing or care for Covid-19 due to the fear of being arrested and detained (30,133).

In terms of access to the Covid-19 vaccination, the government initially issued contradictory statements on whether refugees, asylum seekers and undocumented migrants would be included. Initially, former Minister for Health, Dr Zweli Mkhize, stated that the government did not have the capacity to assist undocumented foreign nationals (132). However, in an address on the 1 February 2022, President Ramaphosa stated that the vaccine would be available to "*all adults living in SA, regardless of their citizenship or residence status.*" He further pledged that the government would put in place "*measures to deal with the challenge of undocumented migrants so that, as with all other people, we can properly record and track their vaccination history*" (138).

Figure 11: Social media slide developed by the Scalabrini Centre featuring President Cyril Ramaphosa, 1 Feb 2021

While awaiting national guidelines and in the absence of a National Department of Health process, the Western Cape Health Department issued a circular on 29 July 2021 advising all health facilities that they could commence vaccination of undocumented clients. A system was devised using a paper-based registration form, and writing "Undocumented" in the section of the form requiring an ID number (139). In October 2022, the National Department of Health devised a system for generating a number that would meet the data requirements of the EVDS system, while also protecting the identity of the individual (139). This was tested out in pilot sites in Johannesburg, Cape Town and Durban, where vaccinations were available to anyone who requested them (140).

Response from civil society and non-state actors

That the state had excluded some of the most marginalised population groups from aid and social relief during such a time of crisis drew criticism from civil society who called out the government's discriminatory and xenophobic approach (30,133,138,141). The Socio-Economic Rights Institute (SERI), for example, stated that it was unlawful, discriminatory and inhumane to exclude migrants and undocumented migrants from food relief according to the Constitution and that "SA *has a long history of using narrow qualifying criteria and onerous registration processes (e.g., housing lists and indigent registration) as a way to target social benefits*". (141)

A key legal response was the successful litigation by the Scalabrini Centre of Cape Town in 2020, regarding the exclusion of people on asylum-seeker or special-permit status from the Covid-19 SRDG. The Western Cape High Court granted a court order that allowed some asylum seekers and special permit holders within SA to apply for the monthly SRDG. It also indicated that the Minister of Social Development must, within five days of the order, calculate the cost of the inclusion and make the necessary changes to the legislation to facilitate inclusion (142).

Responses from public health: discriminatory access to vaccines

Several civil society groups consistently urged the government to urgently address this gap and to adhere to basic public health principles, human rights guarantees and social solidarity (132,143). A number of statements, op-eds and letters to the National Department of Health kept a spotlight on the challenges with vaccine access. Organisations such as the Health Justice Initiative advocated prominently for overcoming vaccine nationalism and holding the state to account, working towards including everyone in SA in the vaccination plan. Arguing that "*nationality cannot be a proxy for first access; because xenophobia also fuels hesitancy*" the HJI – like others – pushed for a "firewall" to be set up to protect people seeking care and vaccination from arrest or prosecution for documentation or status related reasons (141).

The lack of clear direction from the National Department of Health compelled provinces and service NGOs to develop their own plans. In early August 2021, the first vaccination drive in Cape Town specifically designed to accommodate people who may not have documentation took place at The Hope Exchange, an NGO that provides key services to vulnerable and street-based people (139).

Such responses through the public health lens connect directly to the battles for access to ARVs and TB services for citizens and non-citizens in SA alike (65). Key respondents spoke of how the challenge of access to the vaccine presented during the pandemic "*shows the extent of exclusion in the health system – to say that we cannot share this life-saving vaccine with you because you are foreign is to say your life doesn't matter*" (D,G & M Interview, March 2023).

The International Commission of Jurists also set out international law obligations on the right to health for all in a September 2020 report "Living like people who die slowly: The need for right to health compliant Covid-19 responses" (144).

4.3.2 CASE STUDY 2: RESPONSES TO XENOPHOBIC COMMENTS BY LIMPOPO HEALTH MEC PHOPHI RAMATHUBA

Figure 12: Case study 2: Responses to comments made by Limpopo Health MEC Phophi Ramathuba

In August 2022, MEC of Health in Limpopo, Phophi Ramathuba, launched a verbal attack on a Zimbabwean patient in hospital "explaining" that the patient should pay for the medical procedure she had just received at Bela-Bela Hospital and that undocumented migrants were draining SA's resources. The attack was filmed – with the MEC clearly aware of the filming – and went viral after being posted on social media (145). The attack ignited polarised responses. Many local and international civil society organisations condemned the xenophobic comments and pointed to the dangers of scapegoating migrants while ignoring the "*financial and administrative challenges crippling the health system*"(21). Many called on the South African government to condemn Ramathuba's comments and to unequivocally address health xenophobia (21). Various organisations and individuals also lodged complaints with the Health Professions Council of SA (HPCSA), which resulted in Ramathuba being sanctioned (146).

Response from government

Exposing the extent to which health xenophobia has been entrenched and legitimised by the state, the Deputy Minister of Health said that "*we should have the debate at another level*" but did not condemn the statement and behaviour of Ramathuba in principle (147). President Cyril Ramaphosa similarly stated that although Ramathuba could have flagged the issue "*in another way*" she "*raised an important issue*" of how "*service delivery is affected by migration*" (148). Limpopo Premier,

Mathabatha also defended the MEC in arguing that she should "*continue with the good work*"; he also stated that he appointed Ramathuba as a politician, not a doctor (149).

Ramathuba herself responded to the backlash by stating that SADC countries should pay medical expenses for their citizens who receive treatment in SA because "*the already overburdened health system is now coming to its knees*" (10). It is significant to note here that in August 2020, two years prior to the incident, Ramathuba was implicated in allegations of tender corruption in her department as part of an investigative process by Special Investigating Unit (SIU) (150,151). Although the allegations were dismissed by the public protector in March 2022, the Limpopo DoH has been embroiled in a range of corruption charges involving the procurement of PPE in the province resulting in the Limpopo Head of Department and Chief Financial Officer being charged in February 2022 (152,153) (130,131).

Protests and campaigns outside health facilities by Operation Dudula also came in the wake of Ramathuba's comments (16–19). While this is described further in the next case study, it is important to note that Operation Dudula further deflected the focus on a health system in crisis and a lack of state accountability by stressing the "external" threat posed by foreign "outsiders" (152).

Response from civil society, opposition parties and non-state actors

Civil society and non-state actors issued a series of press statements, op-eds and open letters criticising Ramathuba's actions. They called for the ANC and the National Department of Health to condemn Ramathuba's sentiments and to provide a more differentiated position and robust evidence on the impact of migration on the healthcare system. TAC criticised Health Minister Joe Phaahla at the TAC congress for his refusal to address xenophobia in the health system following Ramathuba's remarks (154). The EFF in Limpopo called for Ramathuba to be removed from her position, arguing that Ramathuba "*caused damage to the health sector*" stating:

> *The Economic Freedom Fighters strongly condemns Ramathuba's approach of shouting and disrespecting patients and workers. We have no confidence, none whatsoever, in Ramathuba, therefore we believe that she should be released from her duties so that the state of health could improve in the province (155).*

Dale McKinley from Kopanang Africa Against Xenophobia criticised the MEC Phophi Ramathuba's behaviour stating it was "*xenophobic and outrightly wrong*" (156) while the Zimbabwean embassy in Pretoria issued a statement saying its officials watched "*with shock and disbelief*" how the patient was treated by Ramathuba. Complaints were also laid at the HPCSA by individuals representing various civil society organisations as well as the EFF's Mbuyiseni Ndlozi (155). A private hospital in Zimbabwe also offered to pay the medical bill of the Zimbabwean woman who was berated by Ramathuba (157).

The opposition party, the Democratic Alliance (DA) also laid a complaint against Phophi Ramathuba with the HPCSA as well as SAHRC, the Public Service Commission (PSC) and the ethics committee in the Limpopo Legislature stating that Ramathuba's comments are "*inconsistent with the standard of treatment that should be afforded to a patient and not in the best interest or well-being of the patient*" (146).

During this time, the Progressive Health Forum called for criminal sanctions against Patriotic Alliance leader Gayton McKenzie after he claimed that he would personally switch off foreign nationals' oxygen machines to save a South African. Convener, Dr Aslam Dasoo, condemned McKenzie's words as "*outlandish - even by the toxic standards of xenophobia*" and as hate speech of the worst possible kind. Dr Dasoo argued that Phophi Ramathuba should be held accountable for creating new space for such comments (56).

Response from HPCSA

Following an investigation, Ramathuba received a caution and reprimand "*for unprofessional behaviour and unbecoming [conduct] of a medical professional [for] shouting at a patient's bedside as the patient was vulnerable at the time*". However, she received no fine or disciplinary action. While many civil society organisations considered the HPCSA's decision too weak (158), one of the key respondents considered the reprimand significant and noteworthy as it went against what she described as the tendency of medical professionals to not go against "*their own*", with actions "*designed to protect …the profession rather than to protect the public and maintain ethics*" (LR Interview, Feb 2023)**.**

At the time of writing, it appears that Dr Ramathuba did not accept the penalty imposed by the Committee of Preliminary Inquiry and as a result, a professional conduct committee will hold a disciplinary enquiry to determine whether her conduct was unprofessional or not.

4.3.3 CASE STUDY 3: RESPONSES TO OPERATION DUDULA AT HOSPITALS IN 2022

> *It's a ticking bomb, and it's about to explode because South Africans are angry. We can't be called xenophobic because what we are doing is ensuring the law is followed…we are trying to reclaim our SA."*
>
> *(Operation Dudula's national spokesperson Zandile Dabula) (159).*

Figure 13: Case study 3: Responses to Operation Dudula outside public health facilities in 2022

Increasingly, Operation Dudula and other groups and political parties advocate for the removal of migrants as the most immediate remedy to solve, or at least alleviate, the country's problems of unemployment, crime, poverty and poor service delivery. Accordingly, Operation Dudula focuses its criticism on the government for failing to keep foreign nationals out of the country and/or not deporting them (159).

In January 2022, Operation Dudula members intimidated patients and prevented foreign nationals from entering the Jeppe public health clinic in Johannesburg. In August 2022, they repeated this type of action outside Kalafong Provincial Tertiary Hospital in Pretoria where, according to MSF they chanted threatening statements and prevented many from entering the facility for three weeks (12,160). An MSF health promotion supervisor was quoted as stating that:

Protestors are putting the hospital staff under immense pressure with demands that all foreigners be removed…they have even demanded that critically ill patients who are migrants must be 'unplugged' and taken out" (12).

While the Gauteng MEC for Health obtained a court interdict from the Pretoria High Court prohibiting the group from threatening and denying patients and employees access to the hospital, the protests continued with Operation Dudula members demanding to see the ID documents of those seeking to access the hospital (160). In June 2022, Operation Dudula members issued illegal eviction notices to foreign-owned or run shops in Orange Grove, a suburb of Johannesburg alleging that foreign nationals are the cause of the "neighbourhood's ills, including drugs and prostitution". Owners were given seven days to vacate their businesses (161)(138). Local community members and foreign-business owners developed an "early warning system" on WhatsApp group to warn one another of the presence of Operation Dudula in the area the level of intimidation and harassment for many of the shop owners pushed them to consider leaving the area, and /or returning to their home countries (161) .

In November 2022 an Operation Dudula splinter group marched to Groote Schuur Hospital protesting what they claimed was the hiring of locals over "illegal foreign nationals." Operation Dudula's Western Cape deputy chairperson condemned the action saying they had not authorised the march (162).

Government responses

In direct response to the protests by Operation Dudula outside and in some cases, inside health facilities the government took a stand. In August 2022, the Department of Health in Gauteng obtained a court interdict barring Operation Dudula from protesting outside Kalafong Provincial Tertiary Hospital in Atteridgeville while public order police members were also deployed to ward off intimidation and threats against migrants seeking medical treatment at the facility (137). At this time the Minister for Health, together with the Director-General also met with the leadership of Operation Dudula in "*an attempt to open the lines of communication so that Operation Dudula are free to talk to us about specific matters they might have*" (140). The same month the Minister in the Presidency, Mondli Gungubele, made the following statement:

*Preventing access to healthcare can have dire consequences to patients and have a negative impact on the public health system and to citizens at large. We understand that the public health system is overburdened because of a myriad of challenges; however, doctors and healthcare workers have an obligation to provide healthcare to those in need. The Hippocratic Oath guides the actions of doctors, which includes them not withholding services because of religion, nationality, race, politics or social standing. Government is hard at work to improve our healthcare system and deal with challenges **(163)**.*

In a statement issued by DoH in September 2022, Minister for Health Joe Phaahla stated that:

*I am hereby making a call to the leaders and followers of [those] responsible for the blockades of our health facilities to stop these with immediate effect. Yours as citizens is to hold the government accountable for improvement of services whatever the cause of poor service might be. We do not prefer to rely on law enforcement to create an environment conducive for our health workers to do their best in saving lives, that is our last resort, but of course if we are left with no alternative, we will call on the police to keep law and order" **(164)**.*

Laudably, the DoH also issued a statement which warned against the following:

*The department cautions against any individual or organisations whose actions pose [a] threat on the lives of health workers and patients and, working closely with the law enforcement agencies, will act accordingly. The department reiterates a call by the government to condemn actions of those preventing people from accessing health facilities based on nationality, colour of their skin and the language they speak" **(165)***

Civil society response

In response to the eviction letters and harassment by Operation Dudula in Orange Grove, shopkeepers opened cases of intimidation against Operation Dudula members with SAPS, assisted by SERI. The "Orange Grove Foreign Shop Committee" also met with members of Dudula's Orange Grove branch at Norwood Police Station with Operation Dudula agreeing to withdraw the letter in return for the withdrawal of the case against them (161).

A key respondent related the experience of encountering Dudula protesting outside a public health facility in Johannesburg and described the sense of helplessness and fear this instilled in people at the clinics as well as the inaction of the police to protect foreign patients:

Everyone agreed that Operation Dudula was terrible and was wrong, but no one knew quite what to do with that. They would come and check people's passports in the queue. The security didn't feel safe stopping them. These people came with guns...The police did nothing. People got beat up. And it was just accepted, no one was going to help them, or help you if you tried to help them. If you tried to help them then you would be attacked too as a South African. So, people were scared. That's the reality of it. And the government, like the SAPS, didn't seem to care. It was the private security companies who often helped and supported. And when we had those big incidents in Hillbrow, it was private security who came to help" (SP Interview, Feb 2023).

Despite fears of reprisals, counter protests were held and the Kopanang Africa Against Xenophobia (KAAX), Zimbabwe Isolated Women in South Africa (ZIWISA) and other organisations staged a picket at Hillbrow Clinic, Johannesburg demanding better treatment of immigrants (166) in November 2022. Claire Ceruti from KAAX noted: "*Chasing people away from healthcare on the basis of their nationality is completely inhuman, unfair and illegal...It is disgusting for anyone to be denying people who are already vulnerable access to healthcare*" (167).

In the same month, a march was organised by Mowbray and Rosebank residents in Cape Town to Groote Schuur Hospital to "retrace and symbolically erase anti-migrant and xenophobic sentiments" left by the Operation Dudula splinter group when they protested outside of the hospital (145). This followed the example of other actions by local communities to resist the hostility of Operation Dudula. The Johannesburg suburb of Brixton, for example, made it clear that Operation Dudula was not welcome there when it launched a chapter in the suburb in July 2022 (168).

Figure 14: The Mowbray & Rosebank Community Action Network says No to Operation Dudula and Xenophobia

Prior to this in August 2022, KAAX also organised a picket outside the SAHRC claiming, "The SAHRC is failing to use its legitimacy, power and mandate to halt the current trajectory towards intolerance and violence towards fellow Africans''. This action was supported by MSF who issued a press release citing the "intensifying xenophobic climate and politisation of healthcare" as preventing patients accessing treatment in Pretoria. In September 2022, the EFF also confronted Operation Dudula outside Kalafong Hospital in Tshwane. Operation Dudula had been trying to prevent "illegal" migrants from accessing the hospital and intimidating staff for weeks. KAAX also sent a letter requesting a meeting with the president and key ministers. In January 2023, *Collective Voices* issued a press release on the violent intimation of patients outside the Jeppe Street Clinic (169).

The coalition repeatedly wrote to the Minister of Health and MEC of Health in Gauteng to request a meeting to forge strategies to counter health xenophobia collectively. No reply was received and the coalition eventually published an open letter to the Minister of Health urging similar (170).

5. KEY FINDINGS AND RECOMMENDATIONS: TOWARDS THOUGHTFUL AND STRATEGIC ACTION TO COUNTER HEALTH XENOPHOBIA

The three cases above expose the political nature and instrumentalisation of xenophobia and highlight the need to respond strategically and politically. This section highlights some of the key constraints and challenges for organisations and individuals working against xenophobia in SA.

5.1 CHALLENGING CONDITIONS FOR THOSE WORKING WITH AND ON BEHALF OF MIGRANTS

The already challenging conditions for those working with and on behalf of migrant populations is steadily deteriorating in SA. All further exacerbated by the Covid-19 pandemic, state capture, corruption and failing government and service delivery institutions, high unemployment, poverty, and violence add to an increasingly hostile approach to immigration and migrants (171–173).

Pervasive and increasing xenophobia

Those working to counter xenophobia are faced with pervasive public hostility towards migrants. While xenophobic violence had an unprecedented peak in the attacks of 2008, SA has a persistent level of xenophobia that remains sporadically interspersed by, and constantly at risk of, smaller scale outbreaks. The audit and timeline show that there has been an increase in the number of reported and documented cases of xenophobia: violent attacks, hate speech, incitements to violence, scapegoating and the denial of access to health services to foreign nationals since 2000. Mobilising against foreigners has become more organised at community level – often without any direct or concrete response from the state. This is evident particularly through the actions of Operation Dudula. Many key respondents stated that xenophobia within and outside of the health sector has been escalating in its intensity since Covid-19.

Institutionalised and mainstreamed xenophobia

Second, organisations are also confronted with strong anti-immigrant sentiment at all levels of government. Mobilising against foreigners has generally become more mainstream in South African politics, amongst new and old political parties alike. Where the South African government has responded to incidents of health xenophobia, it has predominantly criticised the methods used to prevent foreigners from accessing health services (Ramathuba's bedside berating of a patient, Dudula's actions outside of clinics) rather than refuting the premise informing these actions: the claim that foreigners are an undue burden on the healthcare system. In the period under review, there has been no consistent government condemnation of xenophobic statements or sanctions against those who make them. The overlap with the rhetoric and anti-foreigner sentiment expressed by high-ranking officials works symbiotically with actions of informal actors like Operation Dudula.

A number of key respondents pointed to the link between the impact of the pandemic on livelihoods and standards of living and the "*politicisation of healthcare*". This has led to increasing resentment towards migrants who are blamed for the failings of the healthcare system and who are perceived as the reasons for substandard care in the public health system, especially those who are seen as "*less deserving*" (D, G & M Interview, March 23). As one respondent put it, "*health is political…that's not something you can deny or change and you can use that to take away healthcare and get votes or you can use that to push rights*" (DK, Interview, March 23). Reflecting on the work of Anti-Privatisation Forum and the campaign "Shut down Lindela", an activist argued that

the only real sort of resistance to xenophobia is organisation and movements themselves. Without that, xenophobia is going to reign supreme in our country".

He also argued that civil society needs to *"build a necessary mass force that can provide a powerful deterrent to elements who want to exploit the kind of poverty of people for their own sort of interest"* (76).

Socio-political crisis

Third, the overall level of the political and socio-economic crisis in SA directly impacts the capacity of those responding to health xenophobia since the discrimination of migrants is only one of "*many forms of violence against people living in SA*" (JS Interview, Feb 2023). Many organisations struggle to sustain responses to health xenophobia given multiple and increasing emergencies, needs and rights violations all around them. This is compounded by funding challenges as well as the "*high levels of stress and burnout*" many staff members face (JS Interview, Feb 23).

Threats against those who take a stand

Fourth, some of those who are publicly taking a stand against xenophobia face threats and risks to their personal safety. In April 2022, SERI and its staff became a target of online threats. This followed comments by the City of Johannesburg's Member of the Mayoral Committee for Economic Development and ActionSA counsellor after SERI and the South African Informal Trader's Forum (SAITF) had challenged and reversed the eviction of over 400 street traders from inner-city Johannesburg. As a result, a SERI attorney was accused by the Members of the Mayoral Committee of "*supporting foreigners*" and "*wanting the city to be dirty"* and the organisation received severe threats, including of lynching and rape (174). Similarly, in April 2023 the director of the Helen Suzman Foundation and her family received threats over social media following the Foundation's legal challenge to the Department of Home Affairs over its decision to discontinue the Zimbabwean Exemption Permit, a step that would have dire implications for more than 170000 Zimbabwean permit holder (170).

5.2 KEY FEATURES OF CIVIL SOCIETY RESPONSES

Since the early 2000s, civil society has persistently engaged and responded to health xenophobia, aiming to achieve two goals: first, to address the immediate needs of foreign nationals, and second, to work towards long-term systemic change and raising awareness about the core structural issues underlying the crisis of the public healthcare system. To this end, civil society has used a variety of tools available: statements, public education, mobilisation, protest action, engaging parliamentary structures, lodging complaints with statutory bodies, embarking on litigation and engaging community networks to mobilise on a local clinic level.

Larger and more formalised social justice NGOs have often been the most visible advocacy driving forces against health xenophobia with support from researchers, healthcare workers and smaller CBOs. The notable ones include TAC, SECTION27, LHR, and LRC and, more recently, SERI, ICJ and others who focus on rights and access to health as one part of their broader mandate. Often, the response to xenophobia is located within existing areas of work where organisations identify how xenophobia intersects with other key concerns such as health access, legal rights, employment rights or gender-based violence. For example, TAC's focus on access to ARVs for migrants detained in Lindela was part of a broader campaign around equal access to healthcare services, including prevention and treatment of HIV and TB (74). SERI's support and representation of KAAX in challenging the prohibition of the anti-xenophobia march in 2022 drew on SERI's broader work to protect the socio-economic rights of individuals, communities and social movements (176). SECTION27's recent litigation[10] to ensure access to free healthcare for all pregnant and lactating women and children under six, including persons seeking asylum, undocumented persons and persons affected by statelessness is situated in their work to protect rights to access health for all (14).

Responses to xenophobia have therefore had to intensify and have primarily focused on legal action against the state and against those espousing anti-foreigner sentiments as well as more organised collective action through visible protests by coalitions. Since 2022, KAAX has effectively brought together a number of individuals and organisations to respond to xenophobia despite a lack of central funding. On 18 March 2022, SERI, acting on behalf of KAAX, launched an application to overturn the prohibition of Johannesburg's anti-xenophobia march led by KAAX (176). The Johannesburg Police Department (JMPD) claimed that threats from Operation Dudula posed a risk to the march. Operation Dudula and #PutSouthAfricansFirst had themselves held marches with approval from JPMD and SAPS during which undocumented foreign nationals had allegedly been arrested (177). One key respondent directly engaged with actors such as Operation Dudula in an effort to forge more sustainable and community-based initiatives.

Responses to xenophobia have often been fragmented and, outside of the acute crisis in 2008, limited in terms of coordination. It is often specific flare-ups of xenophobic violence and crisis situations that elicit responses from diverse organisations and collectives that then focus on providing legal or humanitarian assistance, engage in advocacy or conduct research. For example, the acute crisis of the 2008 xenophobic attacks initiated the Protection Working Group (PWG) as well as the first Migrant Health Forum in Johannesburg. KAAX was also formed in 2022 to respond to the actions of the newly formed Operation Dudula.

10 SECTION27 launched the application "*in response to complaints by many pregnant women and mothers of young children who have been required to pay fees to access healthcare services at public hospitals in Gauteng. In one tragic case, a two year old died after being denied emergency treatment when he swallowed rat poison at home*" (14). For more resources on this case, see https://section27.org.za/2023/07/maternal-and-child-health-court-papers/

Incidents of xenophobic violence have also catalysed less direct initiatives such as community dialogues, cultural events and social cohesion building events, as highlighted in the first two periods of the timeline. However, key respondents argued that these initiatives failed in addressing the roots of xenophobic violence as embedded in institutions such as the healthcare system. While such initiatives played an important role in creating spaces for discussions, exchanging experiences and ideas, they may not have gone far or deep enough to effect sustained change. This was a common concern in research evaluating responses to the 2008 xenophobic attacks and remains a concern today (60,66,178).

5.3 THE VALUE OF COLLABORATIONS AND PARTNERSHIPS

Recognising the challenge of sustainability, the analysis highlights the value of diverse collaborations and partnerships. Responses that have included collaborations between organisations with diverse mandates, resources, skills and interests seem to be most effective in terms of maintaining momentum and focus. With strength in numbers and diversity, this is based on a recognition that "*health xenophobia is not occurring in silos and that responses cannot happen in silos either*" (SK Interview, Feb 2023).

Key respondents highlighted the importance of connecting with and creating allies *within* the health system. The audit found two examples of "chaperone" assistance programmes where individuals located within or who are familiar with the healthcare space, helped migrants navigate the system. The first intervention took place in 2014 when health science students at the University of the Witwatersrand formed the Student Advocates for Health initiative. Their aim was to tackle "social inequality in healthcare" (108). This initiative included sensitising other healthcare workers towards the rights of migrant patients, assisting migrants facing challenges accessing healthcare and navigating bureaucracies (LR Interview, Feb 2023). In another case, respondents described a period when MSF staff accompanied patients to hospitals to ensure they received appropriate treatment. This response "*not only ensured care was given but helped practitioners realise that MSF were there and that they would make sure everyone got care.*" (D, G & M Interview, March 2023). Civil society can play an important role in developing and fostering these kinds of interventions. One such collaborative intervention was an oral a statement before the UN Human Rights Council in May 2023 by the ICJ and partners calling on South Africa to address ongoing xenophobia and discrimination against foreign nationals and make specific mention of the refusal of medical treatment and care to pregnant and lactating foreign national women at state health clinics (179).

Another key form of collaboration is that between civil society organisations and researchers. There is now considerable evidence on how, why and where xenophobic violence erupts in SA and on the triggers, factors and conditions that enable this violence (21–24). Yet this research has largely not translated into the design of interventions, thus depriving current programmes of a much-needed evidence base that could contribute significantly to their effectiveness and success. Recent examples of research that has been conducted with and alongside communities, civil society and NGOs illustrate ways in which a concrete evidence-base can be built collectively, ethically and, with the aim of informing future work and impacting policy change (71,122,180). Many anti-xenophobia interventions led by civil society are limited in impact, and do not adequately grapple with the complexities of xenophobia within the context of a failed state and sometimes even do harm (60).

5.4 MAKING CONNECTIONS: RACIALISED EXCLUSION AS THE COMMON DENOMINATOR

When South African healthcare workers deny treatment or exert other forms of violence on black Africans who seek care, they explicitly and implicitly dehumanise them, placing them on a lower rank in the global racist "human hierarchy". To reiterate what one of the respondents said, "*to say that we cannot share this life-saving vaccine with you because you are foreign is to say your life doesn't matter*". While poor black South Africans have some (albeit) limited level of protection afforded by citizenship, compared to white South Africans, their rights too, remain nominal, not substantial. They too are excluded – the public health system is failing all who need to access that care. Thus, to varying degrees, all poor black people are denied their humanity and their rights in South Africa, and those slightly higher up aggressively and anxiously defend their own position by discriminating against those lower down.

Xenophobia in South Africa is thus a version of the racism (27,183) that manifests in "the daily denial of dignity and socio-economic rights" to the majority of black people in SA, including migrants' (184). For struggle stalwart Ahmed Kathrada too, "*xenophobia is racism - you can't get out of that*" (185). Racism – with White supremacy at its origin – actively dehumanises and oppresses black and brown people in order to deny them equality. Its basic (and global) premise is that whiteness is the gold standard of humanity while blackness is different and inferior and can be treated accordingly. As KAAX pointed out: "*Much like the apartheid years, what we are witnessing is cruel manipulation to turn predominantly black African brothers and sisters against each other by sowing seeds of division*". KAAX also drew direct parallels between the *Dompas* of apartheid and the "papers" (permits, visas, passports) of today.

Some of our key respondents explicitly considered the contemporary treatment of migrants in the public health sector as having strong foundations in the apartheid era. There are significant continuities in the severe underfunding of services (for black South Africans in general and with the increasing curtailment of legal rights to services for migrants), the overt and subtle dehumanising of black patients (inter alia, *Interview, March 2023*) and the co-option of medical personnel in excluding racialised populations (today, in perpetuating beliefs that foreigners are inferior and through "assisting" to enforce both lawful and unlawful immigration control). Key respondents also pointed out continuities in denying access to those considered to be from somewhere else (then Bantustans, now foreign countries): *"But you don't live here, why do you come to this clinic?" (SP interview, March 2023*). Another respondent also noted that

When I first started practicing, there was a real sense of 'you should go back to your province"

(FV Interview, March 2023).

Nothing about the parameters of the exclusion migrants in South Africa face is arbitrary – it is a local version of a global pattern. To inform interventions and forge broad-based alliances, the questions of "what do we call it?" or "what are we dealing with?" is far more than a theoretical consideration: it directly informs how we can tackle and change it without hiding the root cause and origins of xenophobia as a variant of racism. In the context of overall deprivation and exclusion from basic dignity for black people in South Africa building a broader alliance that demands rights and positions itself as part of a more inclusive platform of racial justice, as many organisations have already shifted towards. This can involve foreign nationals and South Africans alike.

5.5 LOCAL ACTION AND NETWORKS ARE VITAL TO ANTI-XENOPHOBIA WORK

A key respondent spoke about the need to build political communities from the ground up, mobilising around issues of common concern. For one of the respondents, "*the best responses to xenophobia are local economic development and effective social services*" (NR Interview, Feb 2023). While civil society cannot directly achieve those objectives, it can play a role in mobilising a broader base with a louder voice in demanding them. This audit shows that responses embedded in community-based action and local networks have the potential to effectively challenge xenophobia in SA. These responses not only build on the histories and experiences of communities and activists but also reach beyond migration-related issues to encompass concerns shared by all members of a community. This is captured by one of the key respondents who spoke about why he became involved in the fight against xenophobia:

We are a working-class organisation. We're working for those who are exploited. Those who are mistreated. So, we feel as a continuum of Africa. There were no borders before. They were created by those who came and divided us. We really understand as an organisation that Africa is one. And we really understand that even Johannesburg as it is, it was built by migrants"

(SS Interview, March 2023).

The same respondent also described specific ways in which his community has resisted and responded to xenophobia in their areas:

In our area [township, inner-city, suburb in Johannesburg], we never had major xenophobia attacks…in 2008, when there was the xenophobic attacks in Alexandra, as an organisation, we called a meeting in our area, and we said comrades, what we see on the TV and what we hear on the news, we don't support it and we think our community should not support it"

(SS Interview, March 2023).

In 2015, we had a protest in our area, and during the protest, some criminal elements came and broke into the shops of the Somalians and Ethiopians, so we had to suspend the protest and went inside the community and tried to stop those who were breaking into the shops and steal…So we took it upon ourselves and we asked these guys, the Somalians, to transport us around in their cars when we recovered those items. The community members in the area also helped because they saw them put fridges and each and every guy who was a victim could come and identify their items… and then we patrolled our area making sure that none of those things would happen again

(SS Interview, March 2023).

A number of other examples revealed how this type of action and networks form some of the key foundational work to push back against xenophobia. A key example includes the work of KAAX, a coalition sustainably active despite very little funding, that has brought together a broad array of organisations, civil society and activists. Key respondents noted that KAAX was centred on activists' experiences of advocacy and protest, based on lessons learned and a recognition of "*community as a connection – as a key piece to ensuring that people unite around that one issue*" (JS Interview, Feb 2023). Therefore, resourcing and supporting community organisations to do the work they are *already doing* is an important strategic move and should guide responses going forward.

Local level networks are also central in producing evidence. In two of the three case studies discussed in this report, incidents of xenophobia were recorded and disseminated in ways that were not initially dependent on any formal channels or mainstream media. Such local evidence-generation should be fed into a wider network (and systematically collated through a national mechanism like XenoWatch) so that those organisations able to take it further can use it to hold the government and other actors accountable.

5.6 HOLDING AND DEFENDING SPACE: LESS VISIBLE BUT CRITICAL

Among progressive forces there is a blind spot, which is that we expect that when we engage in a battle that we're going to have these major victories, there's going to be a major change in policy … but that's not the way politics works generally speaking and certainly not in this country, these kinds of things can be very gradualistic…very hidden in the context of progress, or should we say at least holding a space…defending this space"

(DK Interview, March 2023).

There have been no "big wins" against xenophobia, including health xenophobia. Yet, there are numerous actors at different levels who continuously put out little fires in ways that are rarely publicised but constitute a key pillar of protection. These interventions fulfil the important function of someone showing up, of being there and of "*holding space*" (DK Interview, March 2023). Taking a stand against xenophobia in everyday contexts often plays a critical part in protecting migrants from immediate physical harm. The interviews provided several examples of long-term, deeply embedded and personal interventions. These are centred on the initiative and commitment of the individuals involved and are often taxing on their mental health and endanger their physical safety. These interventions are often less visible and sometimes may deliberately avoid exposure, for example, the interactions between a key respondent with the local leadership of Operation Dudula in his area in Johannesburg. This is the type of engagement Mark Heywood urges activists to have: "*honest and open conversations with the ordinary people who are expressing, publicly or privately, xenophobic sentiment" (186)*. A key respondent echoed this call and promoted the idea "*to organise marginalised communities…ultimately dialogue will break down prejudices"* (NR Interview, Feb 2023).

Actors who are part of and enjoy trust and legitimacy in their community are likely to do some of the most impactful work. Even though their effects cannot be conventionally measured or quantified, these more subtle and incremental responses should be documented, acknowledged and better supported.

6. CONCLUSION

This report has aimed to document and explore key civil society actions and strategies that have resisted (health) xenophobia in SA over the past two decades. Setting out the changing and challenging social and political landscape in SA, the findings show that there are persistent civil society responses that aim to address the immediate needs of foreign nationals while simultaneously fighting for more awareness, long-term systemic change and recognition of the core structural issues that have led the crisis within the public healthcare system. At the time of publication of this report, a different but related research project was released that echoes much of our conclusions, thus reinforcing our findings (187).

Civil society responses documented here are characterised by diverse collaborations and partnerships often tied together through the work of larger social justice organisations and their connections with groups and individual activists embedded in communities. The small, often less visible responses that aim to knit connections between people – often across personal, political and ideological divides – from the ground up are also identified as the key responses that have the potential for sustainable impact on a local and ultimately national level. Based on collating key strategies and initiatives over two decades, this report has aimed to provide an institutional memory for many of these initiatives and serves as a starting point from which to plan and strategise for future action and activism. Particularly in view of the increased intensity and bold nature of recent manifestations of health xenophobia.

Finally, the expansive body of work documented here is testament to the hard and relentless work of activists, researchers, lawyers, human rights advocates, health workers, community networks, NGOs, academics, civil society and many others. While not every response, experience, story and action could be captured, the focus on greater visibility for some of this work, especially local level collaborations and activism, is invaluable in order to understand how the past can inform and shape the future. As one of the key informants shared:

We may be fighting the same battle generally as 20 years ago and we are up against a system that is supported by global developments but we still fight…we still have that vision…not of a rainbow nation but of basic justice, basic rights for all"

(JS Interview, Feb 2023).

REFERENCES

1. Human Rights Watch. No Healing Here: Violence, Discrimination and Barriers to Health for Migrants in South Africa [Internet]. 2009 [cited 2021 Mar 1]. Available from: https://www.hrw.org/report/2009/12/07/no-healing-here/violence-discrimination-and-barriers-health-migrants-south-africa
2. Crush J, Tawodzera G. Medical Xenophobia and Zimbabwean Migrant Access to Public Health Services in South Africa. Journal of Ethnic and Migration Studies. 2014;40(4):655–70.
3. Admin DDP. Skewed attitudes against migrants in South Africa's public health system fuel medical xenophobia [Internet]. 2021 [cited 2023 Mar 3]. Available from: https://ddp.org.za/blog/2021/07/28/skewed-attitudes-against-migrants-in-south-africas-public-health-system-fuel-medical-xenophobia/
4. Walker R, Vearey J. "Let's manage the stressor today" exploring the mental health response to forced migrants in Johannesburg, South Africa. IJMHSC [Internet]. 2022 [cited 2022 Nov 15]; Available from: https://www.emerald.com/insight/content/doi/10.1108/IJMHSC-11-2021-0103/full/html
5. Amnesty International. Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers [Internet]. 2016 [cited 2022 Nov 11]. Available from: https://www.amnesty.org/en/documents/pol30/4062/2016/en/
6. Walker R, Vearey J. Gender, Migration and Health in SADC: A Focus on Women and girls. 2019.
7. Gandar S. "They Treated me as if I was nothing" Research report on the gendered impact of the decision to close the Cape Town Refugee Reception Office. [Internet]. Sonke Gender Justice; 2019. Available from: file:///Users/rebeccawalker/Downloads/They-treated-me-as-if-I-was-nothing.pdf.
8. South Africa, South Africa, Department of Justice and Constitutional Development. The Constitution of the Republic of South Africa, 1996: as adopted on 8 May 1996 and amended on 11 October 1996 by the Constituent Assembly. 2015.
9. Department of Home Affairs, Government of South Africa. Refugees Act, 1998 (ACT NO. 130 OF 1998) Refugees Regulations. 2019.
10. Walker R. Migration, Trauma and Wellbeing: Exploring the Impact of Violence within the Healthcare System on Refugee Women in South Africa, In: Mobilities of Wellbeing: Migration, the State and Medical Knowledge [Internet]. Carolina Academic Press; 2021 [cited 2021 Jun 11]. Available from: https://cap-press.com/books/isbn/9781531020316/Mobilities-of-Wellbeing
11. Vearey J, Modisenyane M, Hunter -Adams Jo. Towards a migration-aware health system in South Africa : a strategic opportunity to address health inequity. South African Health Review. 2017 Dec 1;2017(1):89–98.
12. Intensifying xenophobic climate and politicisation of healthcare blocks patients from hospitals in Pretoria | MSF [Internet]. MSF Southern Africa. [cited 2023 Jan 19]. Available from: https://www.msf.org.za/news-and-resources/press-release/intensifying-xenophobic-climate-and-politicisation-healthcare
13. Medical xenophobia in South Africa - Medical and Health Humanities Africa [MHHA] [Internet]. [cited 2023 Jan 19]. Available from: https://www.medicalandhealthhumanities.africa/news/medical-xenophobia-in-south-africa
14. Nicodemus P. Maternal and Child Healthcare Case June 2022 [Internet]. SECTION27. 2022 [cited 2023 Jan 20]. Available from: https://section27.org.za/2022/06/maternal-and-child-health-case-june-2022/
15. Lawyers for Human Rights. Open letter to President Ramaphosa on World Refugee Day [Internet]. The Mail & Guardian. 2018 [cited 2023 Apr 6]. Available from: https://mg.co.za/article/2018-06-20-00-open-letter-to-president-ramaphosa-on-world-refugee-day/
16. Mutandiro BK. Operation Dudula chases immigrants away from Joburg clinic [Internet]. GroundUp News. 2023 [cited 2023 Jan 19]. Available from: https://www.groundup.org.za/article/operation-dudula-chases-immigrants-away-from-joburg-clinic/
17. Nkanjeni U. Operation Dudula calls for government to declare a state of emergency over illegal immigration [Internet]. 2022 [cited 2023 May 19]. Available from: https://www.timeslive.co.za/news/south-africa/2022-09-12-operation-dudula-calls-for-government-to-declare-a-state-of-emergency-over-illegal-immigration/
18. Scalabrini. Migrant and Refugee Access to Public Healthcare in South Africa [Internet]. Scalabrini. 2019 [cited 2022 Feb 21]. Available from: https://www.scalabrini.org.za/news/migrant-and-refugee-access-to-public-healthcare-in-south-africa/

19. SACAP. The shocking state of mental health in South Africa in 2019 [Internet]. 2019 [cited 2021 Jul 14]. Available from: https://www.sacap.edu.za/blog/management-leadership/mental-health-south-africa/
20. Maphumulo WT, Bhengu BR. Challenges of quality improvement in the healthcare of South Africa post-apartheid: A critical review. Curationis. 2019 May 29;42(1):1901.
21. Heever A van den. GUEST ESSAY: Limpopo health MEC's berating of Zimbabwean patient is appalling and shameful [Internet]. Daily Maverick. 2022 [cited 2023 Apr 6]. Available from: https://www.dailymaverick.co.za/article/2022-08-28-limpopo-health-mecs-berating-of-zimbabwean-patient-is-appalling-and-shameful/
22. Vearey J. Moving forward: why responding to migration, mobility and HIV in South(ern) Africa is a public health priority. Journal of the International AIDS Society. 2018 Jul 1;21.
23. IOM. Migrants' Rights to Health. A Legislative and Policy Review for Southern Africa. 2022.
24. Ritshidze. State of healthcare for key populations in South Africa [Internet]. 2022 [cited 2022 Feb 10]. Available from: https://ritshidze.org.za/wp-content/uploads/2022/01/Ritshidze-State-of-Healthcare-for-Key-Populations-2022.pdf
25. Freedman J, Crankshaw TL, Mutambara VM. Sexual and reproductive health of asylum seeking and refugee women in South Africa: understanding the determinants of vulnerability. Sexual and Reproductive Health Matters. 2020 Jan 1;28(1):1758440.
26. Crush J, Tawodzera G. Medical Xenophobia and Zimbabwean Migrant Access to Public Health Services in South Africa. Journal of Ethnic and Migration Studies. 2014 Apr 3;40.
27. Mpofu W. Xenophobia as Racism: The Colonial Underside of Nationalism in South Africa. International Journal of Critical Diversity Studies [Internet]. 2020 Dec 1 [cited 2023 Feb 17];3(2). Available from: https://scienceopen.com/hosted-document?doi=10.13169/intecritdivestud.3.2.0033
28. Amit R. Queue here for corruption: Measuring irregularities in South Africa's asylum system [Internet]. Pretoria: Lawyers for human Rights; 2015. Available from: http://www.lhr.org.za/publications/queue-here-corruption-measuring-irregularities-south-africa%E2%80%99s-asylum-system
29. Corruption watch. Open letter to the African Commission re: xenophobia [Internet]. Corruption Watch. 2015 [cited 2023 Apr 6]. Available from: https://www.corruptionwatch.org.za/open-letter-to-the-african-commission-re-xenophobia/
30. Oliveira E, Walker R. No country for poor people: South African government must act on its motto of "saving lives and protecting livelihoods". Daily Maverick [Internet]. 2021 Mar 24 [cited 2021 Nov 11]; Available from: https://www.dailymaverick.co.za/article/2021-03-24-no-country-for-poor-people-south-african-government-must-act-on-its-motto-of-saving-lives-and-protecting-livelihoods/
31. Blaser Mapitsa C, Landau L. Measuring Municipal Capacity to Respond to Mobility. SAGE Open. 2019 Jan 1;9(1):2158244019829565.
32. Mutambara VM, Crankshaw TL, Freedman J. Assessing the impacts of COVID-19 on women refugees in South Africa. J Refugee Stud. 2021 Mar 31; feab044.
33. Kihato CW, Landau LB. Coercion or the social contract? COVID 19 and spatial (in)justice in African cities. City & Society [Internet]. 2020 [cited 2020 Jun 11];32(1). Available from: https://anthrosource.onlinelibrary.wiley.com/doi/abs/10.1111/ciso.12265
34. maple N, Walker R, Vearey J. Covid 19 & Migration Governance in Africa. 2021 p. 375–92. Report No.: 2.
35. Misago JP. Politics by Other Means? The Political Economy of Xenophobic Violence in Post-Apartheid South Africa. The Black Scholar. 2017 Apr 3;47(2):40–53.
36. Washinyira BT. After 10 years of court battles, Home Affairs will open Cape Town refugee office [Internet]. GroundUp News. 2023 [cited 2023 Apr 5]. Available from: https://www.groundup.org.za/article/long-awaited-cape-town-refugee-reception-office-to-officially-open-on-monday/
37. National Health Act. 2003.
38. Department of Justice. Promotion of Equality and Prevention of Unfair Discrimination Act Amendment Act (2008) [Internet]. 2008. Available from: https://www.justice.gov.za/legislation/acts/2000-004.pdf
39. World Health Assembly. World Health Assembly Resolution 61.17: Health of Migrants. WHA; 2008.
40. SADC. Protocol on Health in the Southern African Development Community [Internet]. Gaboronne: SADC; 1999 [cited 2022 Mar 8]. Available from: https://www.sadc.int/files/7413/5292/8365/Protocol_on_Health1999.pdf
41. Walls HL, Vearey J, Modisenyane M, Chetty-Makkan CM, Charalambous S, Smith RD, et al. Understanding healthcare and population mobility in southern Africa: The case of South Africa. SAMJ: South African Medical Journal. 2016; 106:14–5.

42. Landau LB, Amit R. Wither Policy? Southern African Perspectives on Understanding Law, 'Refugee' Policy and Protection. Journal of Refugee Studies. 2014 Dec 1;27(4):534–52.
43. Amit R. From Protection to Exclusion: Asylum Seekers and Immigration Detention in Democratic South Africa. In: Nethery A, Silverman SJ, editors. Immigration Detention: the Migration of a Policy and its Human Impact. Routledge; 2015.
44. The Republic of South Africa. The Refugees Amendment Act of 2017 [Internet]. 2017 [cited 2022 Jul 25]. Available from: http://www.saflii.org.za/za/legis/num_act/raa2017110201 7g41343231.pdf
45. Government of the Republic of South Africa. Refugees Act, 1998 (ACT NO. 130 OF 1998) Refugees Regulations [Internet]. 2019. Available from: https://www.gov.za/sites/default/files/gcis_document/202001/42932rg11024gon1707.pdf
46. Mthembu-Salter G, Amit R, Landau LB, Gould C. Counting the Cost of Securitising South Africa's Immigration Regime [Internet]. Brighton, UK: Migrating out of Poverty Research Programme Consortium, University of Sussex; 2014. Available from: http://migratingoutofpoverty.dfid.gov.uk/files/file.php?name=wp20-mthembu-salter-et-al-2014-counting-the-cost.pdf&site=354
47. Republic of South Africa. National Health Insurance Bill. 2019.
48. MPACT Global Action. Ensuring Universal Health Coverage for Key Populations - MPact Global Action [Internet]. 2019 [cited 2022 Mar 15]. Available from: https://mpactglobal.org/ensuring-universal-health-coverage-for-key-populations/
49. IOM. Proposed Health Component Global Compact for Safe, Orderly and Regular Migration. Geneva: International Organization for Migration; 2017.
50. African Union. Common African Position (CAP) on the global compact for safe, orderly and regular migration. AU/STC/MRIDP/4(II). African Union; 2017.
51. National Health Insurance (NHI) Bill: Public Hearings Day 19, With Deputy Minister | PMG [Internet]. [cited 2023 Mar 3]. Available from: https://pmg.org.za/page/National%20Health%20Insurance%20(NHI)%20Bill:%20public%20hearings%20day%2019,%20with%20Deputy%20Minister
52. African National Congress. ANC 6th National; Policy Conference Report. 2022.
53. Republic of South Africa. National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance [Internet]. 2019. Available from: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.justice.gov.za/nap/docs/NAP-20190313.pdf
54. SALC. SALC Submissions on the South African National Health Insurance Bill (NHI) [Internet]. 2019 [cited 2023 May 9]. Available from: https://www.southernafricalitigationcentre.org/2019/11/28/salc-submissions-on-the-south-african-national-health-insurance-bill-nhi/
55. Johannesburg Migrant Health Forum. Migrant Health Forum Submission on the White Paper on National Health Insurance [Internet]. 2016. Available from: https://www.mm3admin.co.za/documents/docmanager/f447b607-3c8f-4eb7-8da4-11bca747079f/00104917.pdf
56. Majola D. Progressive Health Forum: McKenzie should face sanctions for migrants remarks [Internet]. 2022 [cited 2023 Mar 22]. Available from: https://ewn.co.za/2022/08/29/progressive-health-forum-mckenzie-should-face-sanctions-for-remarks-on-migrants
57. Misago JP, Monson T, Landau L. May 2008 violence against foreign nationals in South Africa: understanding causes and evaluating responses [Internet]. Forced Migration Studies Programme and Consortium for Refugees and Migrants in South Africa; 2010. Available from: http://www.migration.org.za/uploads/docs/report-27.pdf
58. Bule K, Milolo S, Misago JP. Xenophobic Violence in South Africa Report: an analysis of trends, causal factors and responses [Internet]. African Centre for Migration & Society; 2021 [cited 2023 Feb 28]. Available from: http://www.xenowatch.ac.za/wp-content/uploads/2022/04/Xenowatch-Report_Final_Dec_2021_.pdf
59. Jean Pierre Misago. Xenowatch: Monitoring Xenophobic Violence in South Africa. Presentation presented at: Xenowatch Project Launch; 2018 Oct 12; Cape Town.
60. Misago JP, Freemantle I, Landau LB. Protection from Xenophobia: An Evaluation of UNHCR's Regional Office for Southern Africa's Xenophobia Related Programmes [Internet]. Johannesburg: University of the Witwatersrand; 2015. Available from: http://www.unhcr.org/research/evalreports/55cb153f9/protection-xenophobia-evaluation-unhcrs-regional-office-southern-africas.html
61. Human Rights Watch. Political poison sickening Zimbabwe [Internet]. Human Rights Watch; 2008 [cited 2023 Apr 4]. Available from: https://www.hrw.org/news/2008/12/12/political-poison-sickening-zimbabwe

62. Kuljian C. Making the invisible visible: a story of the Central Methodist ChurCh. The Salon [Internet]. 2010;3. Available from: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://wits.journalism.co.za/wp-content/uploads/2019/10/CMC-Salon-article-Dec-2010.pdf
63. Reuter H. Don't blame Verryn .... Mail & Guardian [Internet]. 2009 [cited 2023 Mar 20]; Available from: https://mg.co.za/article/2009-12-11-dont-blame-verryn/
64. Responding to the consequences of xenophobic violence | MSF [Internet]. MSF Southern Africa. 2019 [cited 2023 Mar 20]. Available from: https://www.msf.org.za/news-and-resources/latest-news/responding-consequences-xenophobic-violence
65. Misago JP, Freemantle I, Landau LB. Protection from xenophobia: An Evaluation of UNHCR's Regional Office for Southern Africa's Xenophobia Related Programmes. The African Centre for Migration and Society, University of the Witwatersrand and UNHCR. 2015.
66. Misago JP. Xenophobia and Outsider Exclusion: Addressing Frail Social Cohesion in South Africa's Diverse Communities. Synthesis Report [Internet]. Johannesburg: ACMS; 2017. Available from: https://freedomhouse.org/sites/default/files/South_Africa_Community_Social_Cohesion_Profiles_Synthesis%20Report.pdf
67. Mail & Guardian. Mbeki says attacks on foreigners not xenophobia [Internet]. 2008 [cited 2023 Mar 22]. Available from: https://mg.co.za/article/2008-07-03-mbeki-says-attacks-on-foreigners-not-xenophobia/
68. Simao P. Mbeki denies xenophobia behind S.African attacks. Reuters [Internet]. 2008 [cited 2023 Mar 17]; Available from: https://www.reuters.com/article/idUSL03188349
69. Misago JP, Monson T, Polzer T, Landau LB. May 2008 Violence Against Foreign Nationals in South Africa. Understanding Causes and Evaluating Responses. 2010.
70. SAHRC. Report on the SAHRC Investigation into Issues of Rule of Law, Justice and Impunity arising out of the 2008 Public Violence against Non-Nationals. 2010.
71. Hadland A. Violence and Xenophobia in South Africa: Developing Consenus, Moving to Action. Human Sciences Research Council (HSRC); 2008.
72. March against xenophobia - [APF] [Internet]. [cited 2023 Jan 19]. Available from: https://apf.org.za/spip.php?article283
73. PASSOP. Advocacy Campaigns [Internet]. 2023 [cited 2023 Mar 18]. Available from: https://www.passop.co.za/programmes/other-advocacy-campaigns
74. Treatment Action Campaign. Welcome to South Africa. A Special Report on the systematic abuse of immigrants [Internet]. 2008. (Equal Treatment). Report No.: Issue 25. Available from: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.tac.org.za/wp-content/uploads/2020/04/ET25English.pdf
75. African Diaspora Forum. African Diaspora Forum Reintegration and Repatriation of Migrants Displaced During the May 2008 Xenophobic Attacks [Internet]. 2009. Available from: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.adf.org.za/documents/ADF%20sites%20report.pdf
76. Shut down Lindela! South Africa's symbol of shame! - [APF] [Internet]. [cited 2023 Apr 5]. Available from: https://apf.org.za/spip.php?article319
77. Centre for Child Law. 20 years of imagining children constitutionally. Strategic litigation and advocacy for children's rights in South Africa. Centre for Child Law; 2018.
78. Evans J. Govt criticised for treatment of detained foreigners – The Mail & Guardian [Internet]. 2004 [cited 2023 Apr 13]. Available from: https://mg.co.za/article/2004-11-02-govt-criticised-for-treatment-of-detained-foreigners/
79. SAHRC. South African Human Rights Commission open hearings on xenophobia and problems related to it: [Internet]. 2004 [cited 2023 Mar 18]. Available from: https://static.pmg.org.za/docs/2005/050209sahrc.htm
80. Buchner-Eveleigh M. Children's rights of access to health care services and to basic health care services: a critical analysis of case law, legislation and policy. De Jure Law Journal. 2016;49(2):307–25.
81. AIDs Consortium and civil society organisations. Statement from civil society organizations on resolving the refugee crisis at the Central Methodist Church, Johannesburg [Internet]. 2009. Available from: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/http://section27.org.za/wp-content/uploads/2010/04/Civil-Society-Statement-with-signatories-20091208.pdf
82. IOM. 'ONE' Movement Launched to Combat Xenophobia and Racism in South Africa as New Study is Released [Internet]. International Organization for Migration. 2009 [cited 2023 Feb 16]. Available from: https://www.iom.int/news/one-movement-launched-combat-xenophobia-and-racism-south-africa-new-study-released
83. Nelson Mandela Foundation. Tackling violence against people perceived to be foreigners: [Internet]. 2015 [cited 2023 Jan 20]. Available from: https://www.nelsonmandela.org/uploads/files/social-cohesion1.pdf

84. SAHA - South African History Archive - Xenophobia [Internet]. [cited 2023 Apr 5]. Available from: https://www.saha.org.za/apf/xenophobia.htm
85. The National Department of Health. Revenue Directive- Refugees/Asylum-seekers with or without a permit. [Internet]. 2007 [cited 2022 Jul 25]. Available from: https://www.passop.co.za/wp-content/uploads/2012/07/revenue-directive_refugees-and-asylum-seekers-with-or-without-permit.pdf
86. South African Human Rights Commission. Report on the SAHRC investigation into iIssues of rule of law, justice and impunity arising out of the 2008 public violence against non-nationals [Internet]. 2010. Available from: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sahrc.org.za/home/21/files/Non%20Nationals%20Attacks%20Report%2051-96.pdf
87. Vahed G, Desai A. The May 2008 Xenophobic Violence in South Africa: Antecedents and Aftermath. Alternation. 2013;20:145–75.
88. Resources – Hate Crimes Working Group [Internet]. [cited 2023 Apr 12]. Available from: https://hcwg.org.za/resources/
89. Vearey J, Thomson K, Sommers T, Sprague C. Analysing local-level responses to migration and urban health in Hillbrow: the Johannesburg Migrant Health Forum. BMC Public Health. 2017 Jul;17(S3):427.
90. Rickard C. Court victory for asylum seekers [Internet]. GroundUp News. 2014 [cited 2023 Apr 4]. Available from: https://www.groundup.org.za/article/court-victory-asylum-seekers_2324/
91. Xenophobic attacks - pattern changing [Internet]. News24. [cited 2023 Apr 4]. Available from: https://www.news24.com/news24/xenophobic-attacks-pattern-changing-20120724
92. Shops petrol-bombed over 'protection fee' | News24 [Internet]. [cited 2023 May 15]. Available from: https://www.news24.com/news24/shops-petrol-bombed-over-protection-fee-20120713
93. SAHRC. SAHRC finalizing report on complaints against King Goodwill Zwelithini [Internet]. 2016 [cited 2023 Apr 5]. Available from: https://www.sahrc.org.za/index.php/sahrc-media/news-2/item/362-sahrc-finalizing-report-on-complaints-against-king-goodwill-zwelithini
94. Poplak R. Clean up the rubbish: What happened to the people of Central Methodist Church? [Internet]. Daily Maverick. 2015 [cited 2023 Apr 4]. Available from: https://www.dailymaverick.co.za/article/2015-05-12-clean-up-the-rubbish-what-happened-to-the-people-of-central-methodist-church/
95. Nicolson G. Operation Fiela: Thousands of arrests, doubtful impact [Internet]. Daily Maverick. 2015 [cited 2023 Apr 4]. Available from: https://www.dailymaverick.co.za/article/2015-09-08-operation-fiela-thousands-of-arrests-doubtful-impact/
96. Bornman J. Mashaba's xenophobic legacy [Internet]. The Mail & Guardian. 2019 [cited 2023 Apr 4]. Available from: https://mg.co.za/article/2019-11-07-00-mashabas-xenophobic-legacy/
97. Xenophobia a convenient scapegoat for Rosettenville and Mamelodi [Internet]. The Mail & Guardian. 2017 [cited 2023 May 15]. Available from: https://mg.co.za/article/2017-02-13-00-xenophobia-a-convenient-scapegoat-for-rosettenville-mamelodi/
98. SAHRC. Zulu king's comment on foreigners 'hurtful and harmful, but not hate speech': SAHRC [Internet]. 2016 [cited 2023 Feb 6]. Available from: https://www.sahrc.org.za/index.php/sahrc-media/news/item/464-zulu-king-s-comment-on-foreigners-hurtful-and-harmful-but-not-hate-speech-sahrc
99. SAHRC. South Africa: Human Rights Commission condemns utterances of xenophobic statement by leaders [Internet]. 2017 [cited 2023 Apr 4]. Available from: https://www.sahrc.org.za/index.php/sahrc-media/news/item/750-south-africa-human-rights-commission-condemns-utterances-of-xenophobic-statement-by-leaders
100. Jacobs G. Pregnant foreigners are putting too much pressure on South Africa's hospitals, Gauteng MEC [Internet]. The South African. 2015 [cited 2023 Apr 6]. Available from: https://www.thesouthafrican.com/news/pregnant-foreigners-are-putting-too-much-pressure-on-south-africas-hospitals-gauteng-mec/
101. Lebuso S. Africa Day: Foreign nationals being used as scapegoats [Internet]. City Press. 2023 [cited 2023 May 15]. Available from: https://www.news24.com/citypress/news/africa-day-foreign-nationals-being-used-as-scapegoats-20220525
102. Amnesty International. South Africa: Minister Motsoaledi must not use refugees and migrants as scapegoats for the failing health system [Internet]. Amnesty International. 2018 [cited 2023 Mar 20]. Available from: https://www.amnesty.org/en/latest/press-release/2018/11/south-africa-minister-motsoaledi-must-not-use-refugees-and-migrants-as-scapegoats-for-the-failing-health-system/
103. Anti- Privatisation Forum. Schubart Park Residents - 'You touch an immigrant; you touch a community' - [APF] [Internet]. 2010 [cited 2023 May 15]. Available from: https://apf.org.za/spip.php?article387

104. Wendell R. Somali traders in S.Africa march against attacks | Reuters [Internet]. Africa crisis. 2008 [cited 2023 Apr 12]. Available from: https://www.reuters.com/article/idUSL02722612
105. Solomon R. OP-ED: Scapegoating illegal African immigrants as criminals adds fuel to the xenophobia fire [Internet]. Daily Maverick. 2019 [cited 2023 Apr 4]. Available from: https://www.dailymaverick.co.za/article/2019-09-30-scapegoating-illegal-african-immigrants-as-criminals-adds-fuel-to-the-xenophobia-fire/
106. Poplak R. Gunshots and Gogos: The EFF rallies against xenophobia in Alexandra [Internet]. Daily Maverick. 2015 [cited 2023 Apr 4]. Available from: https://www.dailymaverick.co.za/article/2015-04-20-gunshots-and-gogos-the-eff-rallies-against-xenophobia-in-alexandra/
107. Watch C. Press conference: march against xenophobia [Internet]. Corruption Watch. 2015 [cited 2023 Apr 6]. Available from: https://www.corruptionwatch.org.za/press-conference-march-against-xenophobia/
108. Omarjee L. Wits students tackle social inequality in healthcare through new society [Internet]. Wits Vuvuzela. 2014 [cited 2023 Mar 21]. Available from: https://witsvuvuzela.com/2014/06/19/wits-students-tackle-social-inquality-in-healthcare-through-new-society/
109. Southern African Legal Information Institute. Somali Association of South Africa and Others v Limpopo Department of Economic Development Environment and Tourism and Others (48/2014) [2014] ZASCA 143; 2015 (1) SA 151 (SCA); [2014] 4 All SA 600 (SCA) (26 September 2014) [Internet]. 2014 [cited 2023 May 18]. Available from: http://www.saflii.org/za/cases/ZASCA/2014/143.html
110. Rights violation charge laid against Zulu king [Internet]. The Mail & Guardian. 2015 [cited 2023 Apr 5]. Available from: https://mg.co.za/article/2015-04-16-rights-violation-charge-laid-against-zulu-king/
111. Wallis L. Disturbing court judgment ignores our rights [Internet]. 2015 Jul [cited 2023 Apr 12]. Available from: https://www.groundup.org.za/article/disturbing-court-judgment-ignores-our-rights_3082/
112. Section27. Press statement on Operation Fiela [Internet]. Section27. 2015 [cited 2023 Apr 12]. Available from: https://section27.org.za/newsite/2015/05/14/press-statement-on-operation-fiela/
113. Submissions Archives [Internet]. Scalabrini. 2022 [cited 2023 Apr 12]. Available from: https://www.scalabrini.org.za/category/submissions/
114. Hate Crimes Working Group. Call to discipline Deputy Minister of Police for xenophobic statements [Internet]. Sonke Gender Justice. 2017 [cited 2023 May 19]. Available from: https://genderjustice.org.za/publication/call-to-discipline-deputy-minister-of-police-for-xenophobic-statements/
115. Sonke Gender Justice, Lawyers for Human Rights. Sonke and Lawyers for Human Rights welcome the Deputy Minister of Police's statement on unintended consequences of public statements he made in July 2017 [Internet]. Sonke Gender Justice. 2018 [cited 2023 May 12]. Available from: https://genderjustice.org.za/news-item/sonke-and-lawyers-for-human-rights-welcome-the-deputy-minister-of-polices-statement-on-unintended-consequences-of-public-statements-he-made-in-july-2017/
116. Ncube M. South Africa hospitals accused of mistreating pregnant migrants [Internet]. Refugees. 2017 [cited 2023 Apr 13]. Available from: https://deeply.thenewhumanitarian.org/refugees/articles/2017/12/06/south-africa-hospitals-accused-of-mistreating-pregnant-migrants-2
117. Washaya V. Cape High Court rules closure of refugee centre was unreasonable and irrational [Internet]. GroundUp News. 2012 [cited 2023 Apr 5]. Available from: https://www.groundup.org.za/article/cape-high-court-rules-closure-refugee-centre-was-unreasonable-and-irrational_336/
118. Hate Crimes Working Group. The State of Hate in South Africa in 2021. Avocacy brief. Cape town; 2021 Nov.
119. Department of Arts and Culture (DAC). Discussion Document: A National Strategy for Developing an Inclusive and a Cohesive South African Society. 2012.
120. SAHRC. sahrc report on lindela [Internet]. 2014. Available from: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/http://www.sahrc.org.za/construction-site/home/21/files/Gauteng%20-%20Investigative%20Report%20-%20Lindela%20-%201%20September%202014.pdf
121. SAHRC. SAHRC calls on Government to act quick on xenophobic tensions [Internet]. 2015 [cited 2023 Apr 10]. Available from: https://www.sahrc.org.za/index.php/sahrc-media/news-2/item/307-sahrc-calls-on-government-to-act-quick-on-xenophobic-tensions
122. The African Centre for Migration & Society. Xenophobia and outsider exclusion. Addressing frail social cohesion in South Africa's diverse communities. Freedom House; 2017.
123. Visit to Lindela Repatriation Centre, Krugerdorp bu Justice Edwin Cameron, Constitutional Court of South Africa. 2012.
124. The Premier, Department of the Premier Free State province. Premier Condemns xenophobic Attacks. 2012.

125. ABC news. South Africa will deploy troops to curb anti-immigration violence. ABC News [Internet]. 2015 [cited 2023 Mar 19]; Available from: https://www.abc.net.au/news/2015-04-22/south-africa-to-deploy-troops-over-anti-immigrant-attacks/6410964
126. Soweto: Violence escalates between locals and foreigners – The Mail & Guardian [Internet]. [cited 2023 Apr 11]. Available from: https://mg.co.za/article/2015-01-22-two-dead-foreign-owned-shop-burnt-in-soweto/
127. Amit R. Lost in the Vortex: Irregularities in the Detention and Deportation of Non-Nationals in South Africa [Internet]. Rochester, NY; 2010 [cited 2023 Apr 6]. Report No.: 3274019. Available from: https://papers.ssrn.com/abstract=3274019
128. Waiting for change at Lindela [Internet]. The Mail & Guardian. 2014 [cited 2023 Apr 6]. Available from: https://mg.co.za/article/2014-10-09-waiting-for-change-at-lindela/
129. Jobo T. Ramokgopa will investigate Park Station baby birth saga [Internet]. Midrand Reporter. 2017 [cited 2023 Apr 6]. Available from: https://northeasterntribune.co.za/202955/ramokgopa-will-investigate-park-station-baby-birth-saga/
130. Parliamentary Monitoring Group. Minister of Health on Woman who gave Birth at Park Station; Mentally Ill Patients care services; KZN Department of Health | PMG [Internet]. 2017 [cited 2023 Apr 6]. Available from: https://pmg.org.za/committee-meeting/24613/
131. Paremoer L, Nandi S, Serag H, Baum F. Covid-19 pandemic and the social determinants of health. BMJ. 2021 Jan 29;372: n129.
132. Vearey J, Gandar S. Foreign migrants must be included in the Covid-19 response. The Daily Maverick [Internet]. 2020; Available from: https://www.dailymaverick.co.za/article/2020-03-20-foreign-migrants-must-be-included-in-covid-19-response/
133. Benavides R, de Gruchy T, Vearey J. Migration and Covid-19: Emerging Concerns with South Africa's Response to the Pandemic. Johannesburg: African Centre for Migration & Society, University of the Witwatersrand; 2020. (Migration and Coronavirus in Southern Africa Coordination Group (MiCoSA): Issue Brief). Report No.: 1.
134. Department of Health, South Africa. Food parcels are available for anyone who may need them - SA Corona Virus Online Portal [Internet]. SA Corona Virus Online Portal. 2020 [cited 2023 Apr 10]. Available from: https://sacoronavirus.co.za/2020/04/17/food-parcels-are-available-for-anyone-who-may-need-them/
135. Mukumbang FC, Ambe AN, Adebiyi BO. Unspoken inequality: how COVID-19 has exacerbated existing vulnerabilities of asylum-seekers, refugees, and undocumented migrants in South Africa. International Journal for Equity in Health. 2020 Aug 20;19(1):141.
136. SABC news. Foreign nationals feel excluded by SA government from receiving social relief grant [Internet]. SABC News. 2020 [cited 2023 Mar 21]. Available from: https://www.sabcnews.com/sabcnews/foreign-nationals-feel-excluded-by-sa-government-from-receiving-social-relief-grant/
137. Lawyers for Human Rights. Lawyers for Human Rights submission: Special Rapporteur on the Human Rights of Migrants. [Internet]. 2021 [cited 2023 Apr 11]. Available from: https://www.thenewhumanitarian.org/report/94865/south-africa-migrants-face-unlawful-arrests-and-hasty-deportations
138. Mothapo T. Maverick citizen: refugee rights: South Africa belongs to all who live in it, and so does the right to be vaccinated against Covid-19 [Internet]. Daily Maverick. 2021 [cited 2023 Apr 11]. Available from: https://www.dailymaverick.co.za/article/2021-02-10-south-africa-belongs-to-all-who-live-in-it-and-so-does-the-right-to-be-vaccinated-against-covid-19/
139. Stent J. Undocumented people can now get Covid vaccines - in some areas [Internet]. GroundUp News. 2021 [cited 2023 Apr 13]. Available from: https://www.groundup.org.za/article/undocumented-people-can-now-get-covid-vaccines-some-areas/
140. Dennis Hurley Centre. Sept Update: Municipal Elections and Vaccinations. 2021 Sep [cited 2023 Apr 13]; Available from: https://2auws.r.a.d.sendibm1.com/mk/mr/YsBDQg5jtvXAYaQB5JsxZFX_qQI2YbWeP9TrB0FitA1Tskz8XTYJgbC9k2R47jlY7lypQ8eEWmkYQmhCaS-dSOC0S-nRWUj2W12Di86wnaCg0xdifOujmq0FGkqwgg2gkdUEwUtqdw
141. Nokhepheyi Y, Richter M, Hassan f. Tracking the South African 'MAC' Advisories when Expert Advice and Secrecy Collide in a Pandemic: Assessing government transparency in public health decision making and vaccine prioritisation and selection. August 2020 – August 2021. Health Justice Initiative; 2021 Dec. Report No.: Briefing Paper no. 1.
142. Scalabrini Institute for Human Mobility in Africa. Scalabrini Centre wins court order to ensure asylum-seekers and special permit holders are able to receive the COVID-19 social relief of distress grant [Internet]. 2020 [cited 2023 May 16]. Available from: https://www.sihma.org.za/Blog-on-the-move/scalabrini-centre-wins-court-order-to-ensure-asylum-seekers-and-special-permit-holders-are-able-to-receive-the-covid-19-social-relief-of-distress-grant

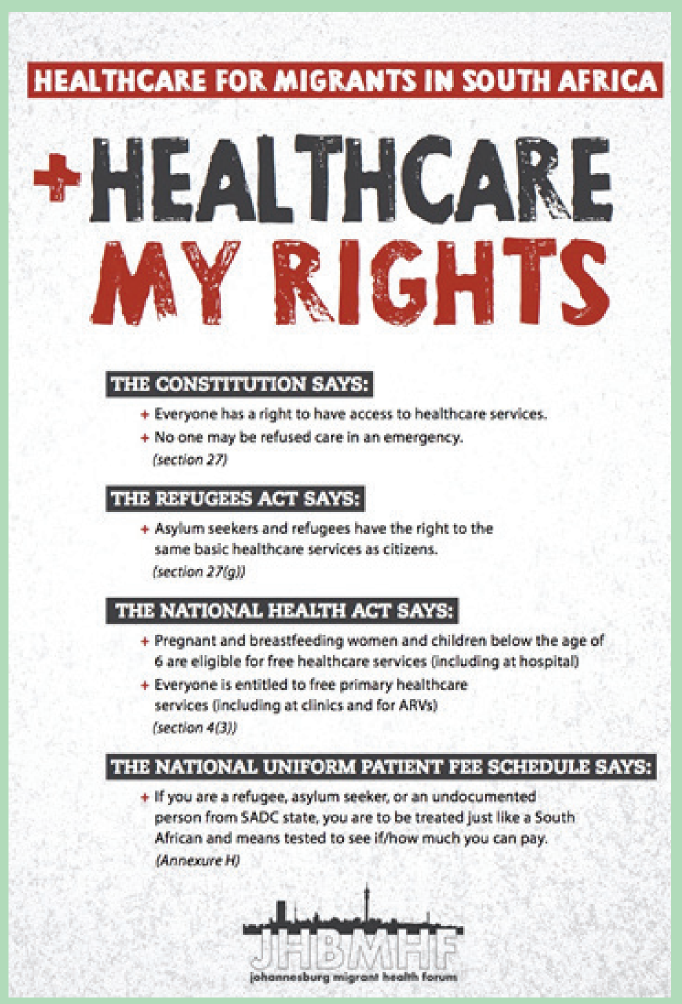
143. Heywood M. Desperate for a vaccine: Still no national plan to ensure access to vaccines for 'the undocumented' [Internet]. Daily Maverick. 2021 [cited 2023 Apr 13]. Available from: https://www.dailymaverick.co.za/article/2021-12-13-still-no-national-plan-to-ensure-access-to-vaccines-for-the-undocumented/
144. International Commission of Jurists. Living like People Who Die Slowly: The Need for Right to Health Complaint COVID-19 Responses [Internet]. 2020 [cited 2023 May 16]. Available from: https://www.icj.org/icj-new-global-report-shows-that-the-right-to-health-must-be-central-to-state-responses-to-covid-19/
145. "Limpopo's health system is being abused by undocumented foreign nationals": Dr Phophi Ramathuba [Internet]. 2022 [cited 2023 Feb 28]. Available from: https://www.youtube.com/watch?v=6oOxfY7wEKI
146. Democratic Alliance Limpopo. HPCSA decision on Ramathuba over Zim patient video a slap on the wrist [Internet]. Democratic Alliance - Limpopo. 2023 [cited 2023 Apr 11]. Available from: https://limpopo.da.org.za/2023/02/hpcsa-decision-on-ramathuba-over-zim-patient-video-a-slap-on-the-wrist
147. ENCA. Deputy Health Minister says Limpopo MEC not xenophobic | eNCA [Internet]. 2022 [cited 2023 May 17]. Available from: https://www.enca.com/news/mec-chastising-patient-not-appropriate-deputy-health-minister
148. Matiwane Z. Ramaphosa says MEC's foreigners rant could have been handled differently [Internet]. 2022 [cited 2023 May 18]. Available from: https://www.timeslive.co.za/politics/2022-08-30-ramaphosa-says-mecs-foreigners-rant-could-have-been-handled-differently/
149. Nemakonde V. "I appointed Ramathuba as a politician, not a doctor," Mathabatha tells those calling for her head [Internet]. The Citizen. 2023 [cited 2023 Mar 13]. Available from: https://www.citizen.co.za/news/mathabatha-defends-ramathuba-against-eff/
150. Sadike M. Charges laid against Limpopo Department of Health head, CFO for role in PPE scandal [Internet]. 2022 [cited 2023 Apr 10]. Available from: https://www.iol.co.za/pretoria-news/news/charges-laid-against-limpopo-department-of-health-head-cfo-for-role-in-ppe-scandal-b3b10329-fc02-4580-941f-883da4972666
151. MBriefWSM. The law and medical xenophobia in South Africa [Internet]. Juta MedicalBrief. 2022 [cited 2023 Jan 19]. Available from: https://www.medicalbrief.co.za/the-law-and-medical-xenophobia-in-south-africa/
152. Juta Medical Brief. Public Protector clears Limpopo Health of irregular PPE tender allegations [Internet]. Juta MedicalBrief. 2022 [cited 2023 Apr 10]. Available from: https://www.medicalbrief.co.za/public-protector-clears-limpopo-health-of-irregular-ppe-tender-allegations/
153. Mukwevho N. Limpopo health department refutes PPE corruption allegations [Internet]. Health-e News. 2020 [cited 2023 Apr 6]. Available from: https://health-e.org.za/2020/08/17/limpopo-health-department-refutes-ppe-corruption-allegations/
154. Gilili BC. TAC tackles health minister on medical xenophobia [Internet]. GroundUp News. 2022 [cited 2023 Mar 21]. Available from: https://www.groundup.org.za/article/tac-tackles-health-minister-on-medical-xenophobia/
155. EFF calls for the removal of MEC of Health in Limpopo - DOCUMENTS | Politicsweb [Internet]. [cited 2023 Apr 11]. Available from: https://www.politicsweb.co.za/documents/call-for-removal-of-mec-of-health-in-limpopo--eff
156. ENCA. Anti-xenophobia movement says Limpopo MEC conduct "disingenuous" [Internet]. 2022 [cited 2023 May 17]. Available from: https://www.enca.com/news/anti-xenophobia-group-says-mec-comments-are-xenophobic-generalisations
157. Luckhoff P. Zim hospital offers to pay bill of migrant patient rebuked by Limpopo MEC [Internet]. 2022 [cited 2023 Apr 13]. Available from: https://ewn.co.za/2022/08/27/zim-hospital-offers-to-pay-bill-of-migrant-patient-rebuked-by-limpopo-mec
158. Pongweni T. Health Professions Council of SA sanctions Limpopo MEC Phophi Ramathuba over xenophobic diatribe [Internet]. Daily Maverick. 2023. Available from: https://www.dailymaverick.co.za/article/2023-02-15-health-professions-council-of-sa-sanctions-limpopo-mec-phophi-ramathuba-over-xenophobic-diatribe/
159. Liwewe K. Xenophobia in South Africa Mimics Apartheid-Era Violence [Internet]. New Lines Magazine. 2022 [cited 2023 Feb 28]. Available from: https://newlinesmag.com/reportage/xenophobia-in-south-africa-mimics-apartheid-era-violence/
160. Masilela B. Kalafong hospital staff forced to produce IDs; government condemns Operation Dudula [Internet]. 2022 [cited 2023 Feb 28]. Available from: https://www.iol.co.za/news/south-africa/gauteng/kalafong-hospital-staff-forced-to-produce-ids-government-condemns-operation-dudula-28c7937f-a34f-475e-82cb-405a1ff9190c
161. Shaun. Operation Dudula agrees to stop illegal eviction letter… [Internet]. 2022 [cited 2023 Apr 14]. Available from: https://www.dailymaverick.co.za/article/2022-06-20-operation-dudula-agrees-to-stop-illegal-eviction-letters-shopkeepers-agree-to-withdraw-charges/

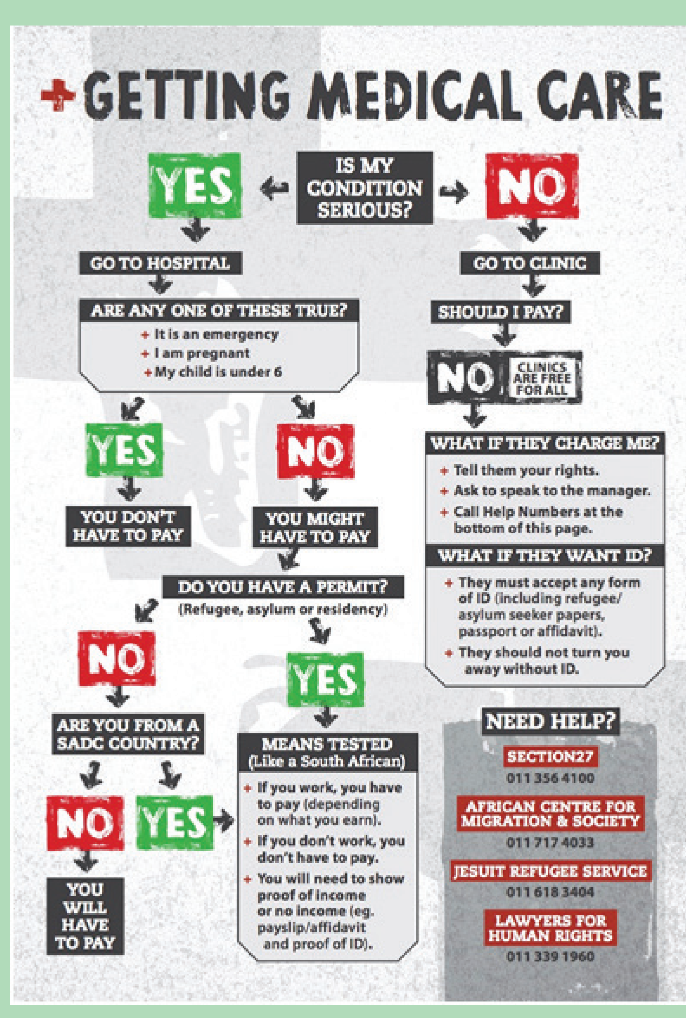
162. Thebus S. Operation Dudula splinter group march to Groote Schuur Hospital over hirings [Internet]. 2023 [cited 2023 Mar 2]. Available from: https://www.iol.co.za/capeargus/news/operation-dudula-splinter-group-march-to-groote-schuur-hospital-over-hirings-1af1b785-ff3f-4ab8-8b65-624203352ed6
163. Parliamentary Monitoring Group. Question to the Minister of Health - NW297 | PMG [Internet]. 2023 [cited 2023 Apr 6]. Available from: https://pmg.org.za/committee-question/21294/
164. Republic of South Africa. Minister Joe Phaahla on a site-visit to Kalafong Hospital, Tshwane | South African Government [Internet]. 2022 [cited 2023 Apr 6]. Available from: https://www.gov.za/speeches/minister-joe-phaahla-site-visit-%C2%A0kalafong-hospital-tshwane-1-sep-2022-0000
165. McCain N. Health minister to visit Kalafong hospital amid anti-foreigner protests | News24 [Internet]. [cited 2023 Mar 21]. Available from: https://www.news24.com/news24/southafrica/news/health-minister-to-visit-kalafong-hospital-amid-anti-foreigner-protests-20220901
166. Kopanang Africa Against Xenophobia - KAAX [Internet]. [cited 2023 Jan 19]. Available from: https://www.facebook.com/KopanangAfrica
167. Nicodemus P. Collective Voices against Health Xenophobia condemn Dudula's attack on patients [Internet]. SECTION27. 2023 [cited 2023 Mar 3]. Available from: https://section27.org.za/2023/01/collective-voices-against-health-xenophobia-condemn-dudulas-attack-on-patients/
168. Brixton Community Forum resist Operation Dudula's march in the area [Internet]. 2022 [cited 2023 May 12]. Available from: https://www.youtube.com/watch?v=cliOZreMY9U
169. Health Justice Initiative. Collective Voices against Health Xenophobia strongly condemns Operation Dudula's attack on patients at the Jeppe Clinic [Internet]. Health Justice Initiative (HJI). 2023 [cited 2023 May 17]. Available from: https://healthjusticeinitiative.org.za/2023/01/27/collective-voices-against-health-xenophobia-strongly-condemns-operation-dudulas-attack-on-patients-at-the-jeppe-clinic/
170. Richter M. Migrants under attack op-ed: Open letter – Collective Voices against Health Xenophobia's appeal to the health minister [Internet]. Daily Maverick. 2023 [cited 2023 May 17]. Available from: https://www.dailymaverick.co.za/article/2023-03-06-health-xenophobia-an-urgent-appeal-to-the-health-minister/
171. 2022 - Open letter on attacks against civil society - Wits University [Internet]. [cited 2023 Jan 20]. Available from: https://www.wits.ac.za/news/sources/cals-news/2022/open-letter-on-attacks-against-civil-society.html
172. Freemantle I, Walker R. Hollow Victories and Little Pockets of Hope: The Challenges Facing Organisations Working with People on the Move in South Africa. Brot für die Welt; 2019.
173. Amit R, Gastrow V. Lawless Regulation: Government and civil society attempts at regulating Somali informal trade [Internet]. Johannesburg: University of the Witwatersrand; 2015. Available from: http://www.migration.org.za/wp-content/uploads/2017/08/lawless-regulation.pdf
174. Webster D. Rights group Seri closes over online threats after it prevented the eviction of street traders – The Mail & Guardian [Internet]. 2022 [cited 2023 Apr 11]. Available from: https://mg.co.za/news/2022-08-02-rights-group-seri-closes-over-online-threats-after-it-prevented-the-eviction-of-street-traders/
175. Hendricks A. Twitter threats to litigants in Zimbabwean Exemption Permit court case [Internet]. GroundUp News. 2023 [cited 2023 May 17]. Available from: https://www.groundup.org.za/article/twitter-threats-to-litigants-in-zimbabwean-exemption-permit-court-case/
176. Socio-economic Rights Institute (SERI). [press statement] SERI launches application to overturn prohibition of Johannesburg Anti-xenophobia march (19 March 2022). [Internet]. 2022 [cited 2023 Mar 20]. Available from: https://www.seri-sa.org/index.php/more-news/1214-press-statement-seri-launches-application-to-overturn-prohibition-of-johannesburg-anti-xenophobia-march-19-march-2022
177. Simelane BC. Anti-foreigner march: Xenophobia-accused Operation Dudula returns to Hillbrow [Internet]. Daily Maverick. 2022 [cited 2023 Jan 19]. Available from: https://www.dailymaverick.co.za/article/2022-02-21-xenophobia-accused-operation-dudula-returns-to-hillbrow/
178. Misago JP. Responding to Xenophobic Violence in Post-Apartheid South Africa: Barking Up the Wrong Tree? African Human Mobility Review [Internet]. 2016;2. Available from: http://sihma.org.za/wp-content/uploads/2016/09/AHMR-Vol-2-No-2-May-August-2016-2.pdf#page=4
179. Christner C. ICJ and partners call on South Africa to address ongoing xenophobia and discrimination against non-citizens [Internet]. International Commission of Jurists. 2023 [cited 2023 May 17]. Available from: https://www.icj.org/icj-and-partners-call-on-south-africa-to-address-ongoing-xenophobia-and-discrimination-against-non-citizens/

180. Misago JP. Political Mobilisation as the Trigger of Xenophobic Violence in Post-Apartheid South Africa. International Journal of Conflict and Violence (IJCV). 2019 Mar 6;13(0):646.
181. Monson T, Takabvirva K, Polzer Ngwato T, Freemantle I, Anderson J. Lessons Learned Promoting Social Cohesion and Countering Violence against Foreigners and Other "Outsiders" A study of social cohesion interventions in fourteen South African Townships [Internet]. Johannesburg: African Centre for Migration & Society; 2012. (ACMS Research Report). Available from: http://www.migration.org.za/uploads/docs/report-41.pdf
182. Misago JP, Freemantle I, Landau LB. Protection from Xenophobia. 2015;108.
183. Kaziboni A. Apartheid Racism and Post-apartheid Xenophobia: Bridging the Gap. In: Rugunanan P, Xulu-Gama N, editors. Migration in Southern Africa: IMISCOE Regional Reader [Internet]. Cham: Springer International Publishing; 2022 [cited 2023 Feb 27]. p. 201–13. (IMISCOE Research Series). Available from: https://doi.org/10.1007/978-3-030-92114-9_14
184. Aids & Rights Alliance for Southern Africa. Racial discrimination still rife in African public healthcare systems – ARASA [Internet]. 2023 [cited 2023 May 17]. Available from: https://arasa.info/racial-discrimination-still-rife-in-african-public-healthcare-systems/
185. Munusamy R. Kathrada: We need real leadership to beat racism and xenophobia [Internet]. Daily Maverick. 2015 [cited 2023 May 17]. Available from: https://www.dailymaverick.co.za/article/2015-01-28-kathrada-we-need-real-leadership-to-beat-racism-and-xenophobia/
186. Heywood M. Tuesday editorial: March against xenophobia and for social justice for the "excluded majority" [Internet]. Daily Maverick. 2022 [cited 2023 Mar 3]. Available from: https://www.dailymaverick.co.za/article/2022-03-22-march-against-xenophobia-and-for-social-justice-for-the-excluded-majority/
187. Landau LB, kihato CW, Van Garderen J, Schnur G. "Mobilising for migrant rights in South Africa and Southern Africa" Summary report prepared for the Porticus Foundation. Porticus Foundation; 2023.

APPENDICES

APPENDIX A: HEALTH CARE ACCESS DECISION TREE





APPENDIX B: COLLECTIVE VOICES POPULAR-EDUCATION POSTER (JULY 2023)

> ***"All pregnant women, all women who are lactating, and all children below the age of six are entitled to free health services at any public health establishment irrespective of their nationality or document status, unless:***
>
> ***They are members or beneficiaries of medical aid schemes; or***
>
> ***They have come to South Africa for the specific purpose of obtaining health care."***
>
> ***- Department of Health Circular dated 25/05/2023***

This means that as a pregnant or breastfeeding woman or a child between 0-6 years if you need health care, you can attend any public health facility and you should not be charged. It does not matter if you do not have an ID or other form of documentation.

The court has ordered the Department of Health to display posters with the Circular wording at all public health facilities in South Africa by 17 July 2023 (*SECTION27 v Dept of Health and others,* Case no 22/19304)

If you have been denied care or charged for care, or if you don't see a poster like this in your local clinic or hospital, please contact any of the organisations below:

SECTION27: 060 985 9041 (Text or Call)

Lawyers for Human Rights: 064 6474 719 (text only)

Scalabrini Centre of Cape Town: Scalabrini Women's Platform on 061 649 6552 (Text or Call) or Children's Rights Project on 083 861 2327 (Text or Call).

Consortium for Refugees and Migrants in South Africa: communications@cormsa.org.za

With a particular focus on the health sector, this report documents responses to xenophobia in South Africa from 2000-2022. Its aim is to determine what has been effective in challenging xenophobia and how to foster solidarity to inform strategic and thoughtful future action, while identifying different forms and modes of responses to xenophobia, including xenophobic violence during this period.

Drawing from an audit of key civil society actions and strategies that have resisted (health) xenophobia in SA over the past two decades, the report explores the following main questions: what kinds of responses have emerged to tackle multiple forms of health xenophobia? What initiatives, strategies and actions were taken in the past and are taken now – whether organised or informal, by coalitions, organisations, groups or individuals - and how can an understanding of these responses help to mobilise more successfully in the future?