

# Strengthening Strategic Engagement and Movement Building for Migrant Rights in South & Southern Africa

## Research Brief 3

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## I. Introduction

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Despite Constitutional guarantees of equality and rights, the legacies of apartheid - such as unequal access to housing, education, and health care - have not been adequately redressed in South Africa (SA). Instead, decades of mismanagement, corruption, and anti-poor governance<sup>1</sup> have led to a worsening socio-economic crisis marked by high youth unemployment, violent crime, and collapsing public services. These failures have fuelled polarisation, with groups like Operation Dudula and March and March channelling public frustration into anti-migrant sentiment.<sup>2</sup> At the same time, the South African government is advancing policies and legal amendments that curtail protections for asylum-seekers and other migrants while casting them as threats to social order rather than rights-holders.

This *Research Brief* builds on earlier analyses (*Briefs I and II*) of SA's migrant rights sector to examine the country's shifting socio-political landscape in 2025. It highlights how documentation, health care, and education function as key battlegrounds where Constitutional promises are contested. Drawing on findings from the Deliberation Workshop 1 (January 2025), the Porticus "MOVE" Convening (April 2025), follow-up interviews and a desktop review, this *Brief* situates current struggles for migrant rights within broader histories of resistance against racialised oppression. It concludes with two case studies - the *Sans Papiers* movement in France and the United Democratic Front (UDF) under apartheid - to highlight lessons for contemporary movement-building.

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## II. South Africa's Socio-Economic and Political Context

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SA's migration landscape has entered a period of deep uncertainty. As securitisation intensifies and xenophobic narratives gain traction, the civic space for defending migrant rights continues to narrow. At the same time, decades of advocacy and civil society litigation have yielded significant – even if uneven - legal and policy gains. Civil society remains a critical actor in bridging the widening gap between Constitutional guarantees and lived realities. Yet it faces growing pressures: shrinking donor support, restrictive legislation, and an increasingly hostile political environment.

SA faces not only a widening gap between legal guarantees and lived experiences but a thinning out of its asylum legislation that was once lauded for its progressiveness. State protections have weakened, while civil society and migration organisations – longstanding defenders of rights – struggle against securitised narratives that frame migrants as threats. Despite legal victories, xenophobic attitudes have hardened, fuelled by political leaders who legitimise scapegoating and exclusion. Formal rights exist, but in practice are often conditional, contested, and at times denied. Today's immigration regime echoes apartheid's pass laws: movement without state authorisation remains criminalised, bureaucracy manufactures "illegality," and poor Black citizens are sometimes treated as "foreigners" in their own country. The realisation of rights has become precarious, mediated by documentation rather than Constitutional principle.

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<sup>1</sup> Marthinus van Staden, 'Colonialism and Apartheid Stripped Black South Africans of Land and Labour Rights – the Effects Are Still Felt Today', *The Conversation*, 23 September 2024, News24 City Press, September 2025,

<sup>2</sup> Walker et al., 'Opinion | From Dompas to Dudula'; ENCA, 'March and March Group Targets Foreign Nationals', 9 July 2025.

## 2.1 Service Delivery Crisis and Fallout from US Funding Cuts

Cuts to Official Development Assistance in 2025, particularly the suspension of USAID and PEPFAR following the Trump Administration Directives in January 2025, have had devastating effects. On 26 February 2025, about 40 USAID-funded health projects were terminated, leading to the closure of critical clinics and specialised health care services.<sup>3</sup> More than 8 000 PEPFAR funded staff were retrenched, disrupting HIV testing, prevention, treatment, and case finding.<sup>4</sup> Community-based organisations have been forced to scale back or close, halting programmes that provided food support, counselling for survivors of gender-based violence and HIV prevention.<sup>5</sup> The impacted services focused particularly on Key Populations (KPs), which also provided a welcoming and safe environment of health services to migrants. As a result, these groups have now been pushed into an already fragile and often discriminatory public health system in instances where they cannot afford private health care.<sup>6</sup>

The impact of these funding cuts must be understood within a wider national crisis of service delivery. SA's public systems – across health, education, water, and sanitation – are significantly weakened by corruption, mismanagement, collapsing infrastructure, and persistent staff shortages.<sup>7</sup> The withdrawal of donor funding has therefore exposed deeper structural failures in governance and accountability. The result is a compounding effect: donor-dependant programmes are terminated just as state institutions are unable or unwilling to fill the gap. For both citizens and migrants, exclusion from basic services has deepened inequality, eroded trust in public institutions, and intensified resentment in communities already facing deprivation.

## 2.2 Increasing Polarisation: Xenophobia and Vigilante Action

Against the backdrop of failing service delivery and deepening inequality, vigilante groups such as Operation Dudula and March on March have capitalised on frustration by framing migrants as the root cause of institutional failures. Operation Dudula in particular has intensified its disruptive protests at public health care facilities, and education.<sup>8</sup> Often dressed in military-style attire, its members have blocked clinic entrances, intimidated, and turned away those they suspect of being foreign – sometimes with the tacit support of frontline staff.<sup>9</sup>

<sup>3</sup> Marlise Richter et al., *Key Population Experiences with Health Care in Cape Town: The Impact of the US Administration Funding Cuts in 2025*, Research and Advocacy Brief: SWEAT, Sisonke, SANPUD, Triangle and genderDynamix (2025); Lyle W Murray and Francois Venter, 'The Impact of United States Government Cuts to Funding on South African Healthcare and Research', *Wits Journal of Clinical Medicine* 7, no. 2 (2025).

<sup>4</sup> Murray and Venter, 'The Impact of United States Government Cuts to Funding on South African Healthcare and Research'.

<sup>5</sup> UNAIDS, 'Impact of US Funding Cuts on HIV Programmes in South Africa', UNAIDS, 2025,

<sup>6</sup> Richter et al., *Key Population Experiences with Health Care in Cape Town: The Impact of the US Administration Funding Cuts in 2025*.

<sup>7</sup> Hoosen Coovadia et al., 'The Health and Health System of South Africa: Historical Roots of Current Public Health Challenges', *Lancet (London, England)* 374, no. 9692 (2009): 817–34; Rebecca Walker and Iriaan Freemantle, '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 (Collective Voices for Health, commissioned by the Health Justice Initiative, 2023).

<sup>8</sup> Jonisayi Maromo, 'Operation Dudula: Children of Foreign Nationals Must Be in Private Schools and Must Pay', IOL, 2025, <https://iol.co.za/news/politics/2025-09-23-operation-dudula-children-of-foreign-nationals-must-be-in-private-schools-and-must-pay/>; Jay-Dee Booyesen, 'Joint Statement: Equal Education and the Equal Education Law Centre Condemn Operation Dudula's Campaign Targeting Migrant Children from Enrolling in Public Schools', 13 August 2025; Zoë Postman, 'Reckoning with Operation Dudula: A Visceral Moment in SA', *Daily Maverick*, 23 July 2025.

<sup>9</sup> Walker et al., 'Opinion | From Dompas to Dudula'.

Médecins Sans Frontières reported that in more than half of the 15 clinics assessed in Gauteng in mid-2025, undocumented patients were physically denied entry by small groups demanding identification. The consequences have been far-reaching: mothers denied postnatal care, children refused treatment, and injured individuals left without urgent medical attention. Such actions not only violate individual rights but also undermine community health security during a period of public sector fragility and funding shortfalls.<sup>10</sup>

Operation Dudula's campaigns have expanded beyond the health sector. In July 2025, its supporters marched on the Socio-Economic Rights Institute of South Africa (SERI), accusing it of shielding undocumented migrants and undermining the interests of South Africans.<sup>11</sup> The confrontation triggered civil-society counter-mobilisation: activists and community members gathered at SERI in solidarity demonstrating the level of resistance to xenophobia and intimidation.<sup>12</sup> Operation Dudula did not deliver their memorandum but threatened violence, throwing stones and bottles and pepper spraying an individual which prompted the police to intervene.<sup>13</sup>

By late 2025 Operation Dudula had also extended its focus onto education, calling for the exclusion of migrant children from public schools from January 2026.<sup>14</sup> Organisations such as Equal Education and the Equal Education Law Centre have denounced these moves as unconstitutional and unlawful, emphasising that poor infrastructure, overcrowding, and chronic underfunding – not migration – drive the crisis in education in SA.<sup>15</sup>

Operation Dudula illustrates how grassroots frustration can be mobilised into exclusionary popularism, transforming legitimate grievances about corruption, unemployment and service delivery failures into hostility toward migrants rather than systematic inequality. Ironically, both vigilante movements like Operation Dudula and civil society coalitions such as KAAX identify similar underlying structural challenges and acknowledge the disproportionate burden on working class Black communities. Yet they diverge fundamentally in root causes and response: where Dudula blames migrants, KAAX locate the problem in state neglect, inequality, and governance failure, calling instead for solidarity and systemic reform.

### 2.3 Policy Ambivalence and its Consequences

While vigilante movements such as Operation Dudula largely operate outside formal politics, their narratives have increasingly shaped electoral strategies, bureaucratic processes, and public discourse. Despite early expectations that the Government of National Unity might mark a turning point in SA's migration governance, official responses to xenophobia have remained fragmented and inconsistent. Certain government departments have issued statements condemning the intimidation of migrants and reaffirming constitutional guarantees that “everyone has the right to access healthcare services” and that “denying individuals healthcare based on their origin is a violation of our laws and values as a nation.”<sup>16</sup> Yet at the same time – these statements link service delivery challenges to the believed “strain” posed by migrants and “individuals

<sup>10</sup> ‘Intensifying Xenophobic Climate and Politicisation of Healthcare Blocks Patients from Hospitals in Pretoria | MSF’, MSF Southern Africa, accessed 19 January 2023; MSF, ‘Press Release: Ongoing Xenophobic Action Puts at Risk the Lives of Several Non-South African Patients.’, 7 August 2025; Yeshiel Panchia, ‘Healthcare in SA: Maladministration, Not Foreigners, to Blame’, *Daily Maverick*, 14 July 2025.

<sup>11</sup> Socio Economic Rights Institute, *Press Release: Seri Condemns Unlawful Raids and War on The Poor by City Of Johannesburg’s Acting Mayor* (2023).

<sup>12</sup> SERI, ‘[PRESS STATEMENT] Operation Dudula’s March to SERI Unintentionally Demonstrates Resistance to Xenophobia and Intimidation’, SERI Socio-Economic Rights Institute, 18 July 2025.

<sup>13</sup> SERI, ‘[PRESS STATEMENT] Operation Dudula’s March to SERI Unintentionally Demonstrates Resistance to Xenophobia and Intimidation’.

<sup>14</sup> Maromo, ‘Operation Dudula’.

<sup>15</sup> Booysen, ‘Joint Statement’.

<sup>16</sup> Department of Government Communications and Information System, ‘Media Release: Government on Blocking of Access to Healthcare Services’, Government Newsroom, 5 July 2025.

who are in the country illegally,” thereby reproducing exclusionary narratives even while purporting to reject them.<sup>17</sup>

This ambivalence reflects a wider failure of state leadership in addressing xenophobia and safeguarding health facilities. The Department of Health has yet to issue binding national directives clarifying the scope of health legislation or providing practical guidance to healthcare workers and their administrators. As documented in a SECTION27 submission to the UN Special Rapporteur on the Right to Health, the Department has neither clarified the rights of migrants nor implemented measures to protect healthcare workers and patients from intimidation and violence at health facilities.<sup>18</sup> The submission highlights how anti-migrant groups, notably Operation Dudula, have physically obstructed and harassed patients – particularly pregnant women, children, and people living with HIV – while the state has failed to enforce legal protections or ensure accountability.<sup>19</sup>

The South African Human Rights Commission (SAHRC) has also warned that xenophobic intimidation, especially by groups aligned with Operation Dudula such as March and March, continues to threaten access to essential services and undermine the constitutional right to health for all persons within SA’s borders.<sup>20</sup> In a March 2025 media advisory, the SAHRC reaffirmed that everyone – irrespective of nationality or documentation status – is entitled to healthcare, and called for urgent government action to prevent discrimination and protect both healthcare providers and users from harassment and violence.<sup>21</sup>

Taken together, the SAHRC and SECTION27 statements expose a troubling disconnect between SA’s constitutional commitments and its operational realities. Without decisive national leadership, coordinated enforcement, and clear communication to both the public and health professionals, the government’s mixed messaging risks legitimising xenophobic exclusion under the guise of “resource protection” further eroding the integrity of the health system and universality of the right to health.

This tension between securitisation and rights protection is increasingly reflected in SA’s evolving legislative and policy landscape. The Immigration Amendment Bill (2025), for example, introduces measures that require detainees to appear in court within 48 hours and limit detention to 30 days.<sup>22</sup> While these appear rights-enhancing on the surface, they risk enabling expedited deportations without adequate judicial oversight, particularly for asylum-seekers and undocumented migrants who many lack legal representation or interpretation services.

Similarly, as discussed in *Research Brief II*, the White Paper on Citizenship, Immigration and Refugee Protection (2024) proposes the merger of asylum, refugee and immigration systems under a single regulatory

<sup>17</sup> Mzi Velapi, ‘MPs Defend Talks with Operation Dudula amid Healthcare Access Crisis’, Cape Town, *Elitsha*, 21 August 2025; Parliament of South Africa, ‘Media Statement: Operation Dudula Is a Distraction From the Work of Government- Parliament of South Africa’, 2025; Joseph Bracken, ‘Lesufi’s Office Fails to Back up His Claim about Immigrants’, GroundUp News, 2025; Jo Vearey Iturralde Rebecca Walker, Dostin Lakika, Tackson Makandwa and Diego, ‘Discrimination Op-Ed: Scapegoating Migrants in SA Undermines Progress on Healthcare for All’, Daily Maverick, 6 September 2022; Dr Tasanya Chinsamy, ‘Gauteng Policies a Danger to Migrant Maternal Care’, Health-e News, 7 September 2022.

<sup>18</sup> Section 27, ‘Submissions to the UN Special Rapporteur on the Right to Health: Access to Health Care Services for Migrants in South Africa – Section27’, Section 27, 10 October 2025.

<sup>19</sup> Section 27, ‘Submissions to the UN Special Rapporteur on the Right to Health: Access to Health Care Services for Migrants in South Africa – Section27’, 27.

<sup>20</sup> ENCA, ‘March and Marcg Group Targets Foreign Nationals’, 9 July 2025.

<sup>21</sup> SAHRC, ‘Media Statement: SAHRC Institute Legal Proceedings against the Unlawful Denial of Non-Nationals and Undocumented Persons from Entering and Receiving Medical Treatment at Public Health Care Facilities’, South African Human Rights Commission, 7 October 2025.

<sup>22</sup> Parliament of the Republic of South Africa, ‘National Assembly Passes the Immigration Amendment Bill- Parliament of South Africa’, 2025,

framework.<sup>23</sup> This approach effectively dilutes refugee protection standards and undermines SA's obligations under the 1951 Refugee Convention and the 1969 OAU Refugee Convention. It also signals a shift from a rights-based framework toward an enforcement-led model, prioritising control and deterrence over protection and exclusion. The One-Stop Border Post Bill (2024), also raises concerns; while ostensibly intended to improve regional trade facilitation, it embeds the language of "risk management" and "illegal movement control", further normalising the treatment of migration as a threat rather than a developmental or human rights issue.<sup>24</sup>

This policy ambivalence fuels a dangerous cycle: service delivery failures are deflected onto migrants rather than acknowledged as symptoms of broader governance and resource deficits. In turn, [the securitisation of migration policy legitimises exclusionary practices that deepen precarity for both migrants and marginalised citizens](#).

Recent – and ongoing – litigation –underscores the constitutional and human rights at stake. The case of *Kopanang Africa Against Xenophobia (KAAX) & Others v Operation Dudula* –filed by SERI before the South Gauteng High Court in June 2025, seeks to compel state authorities to protect migrants and healthcare workers from vigilante intimidation and violence. Similarly, the SAHRC's ongoing legal action against vigilante groups – namely, March and March in KwaZulu- Natal demonstrates the urgent need for judicial intervention to uphold basic rights and accountability.<sup>25</sup>

For migrant rights advocates, this political moment in SA presents both a challenge and an opportunity. The resurgence of exclusionary popularism exposes the fragility of post-apartheid solidarity, yet also reveals the limits of scapegoating: blaming migrants does not repair broken systems, fix corruption or improve delivery services.<sup>26</sup> The path forward requires alternative strategies and inclusive narratives that link the struggles of migrants and citizens alike – reframing resentment as a symptom of inequality rather than its cause – and building justice-orientated coalitions capable of resisting reactionary politics and reasserting a rights-based version of belonging.

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### III. Migrant Rights in Policy and Practice

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SA's Constitution grants broad rights to migrants. It guarantees access to basic health care, education, and dignity for everyone, regardless of nationality or status.<sup>27</sup> Refugees, asylum-seekers, and migrants are formally entitled to these rights under multiple laws, court rulings, and Department of Health and Education directives.<sup>28</sup> [Yet, in practice, systemic barriers, discrimination, and administrative failures routinely deny migrants – and many working-class South Africans – access to these rights.](#)<sup>29</sup>

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<sup>23</sup> Department of Home Affairs, Republic of South Africa, 'White Paper on Citizenship, Immigration and Refugee Protection: Towards a Complete Overhaul of the Migration System in South Africa', 17 April 2024; Loren B. Landau and Rebecca Walker, 'South Africa's Immigration Proposals Are Based on False Claims and Poor Logic – Experts', The Conversation, 23 November 2023.

<sup>24</sup> Government of the Republic of South Africa, 'One-Stop Border Post Bill No 49839 of 8 December 2023', 2023.

<sup>25</sup> SERI, 'Kopanang Africa Against Xenophobia and Others v Operation Dudula and Others ('Operation Dudula')', 2024.

<sup>26</sup> Postman, 'Reckoning with Operation Dudula'; Sarah A. Pugh, 'Advocacy in the Time of Xenophobia: Civil Society, the State, and the Politics of Migration in South Africa', *Politikon* 41, no. 2 (2014): 227–47.

<sup>27</sup> The Constitution of South Africa (No. 108 of 1996) (1996).

<sup>28</sup> SAHRC, 'Media Advisory: Who Is Entitled to Access to Healthcare in South Africa?', July 2025.

<sup>29</sup> Walker and Freemantle: "To say that we cannot share this life-saving vaccine with you because you are foreign is to say your life doesn't matter": Towards strategic and thoughtful action: an audit of responses to counter health xenophobia in the South African public health system 2000-2022. May 2023, Collective Voices for Health Access, commissioned by the Health Justice Initiative.

### 3.1 Documentation: The Gatekeeper of Rights

Documentation remains the central barrier to rights in SA. The Department of Home Affairs (DHA), still shaped by apartheid-era systems, is widely regarded as dysfunctional with long queues, chronic backlogs, understaffed offices, broken IT systems, language barriers, and widespread corruption.<sup>30</sup> Lost or blocked IDs can take months – or even years – to replace, leaving people in legal limbo.

Between 2011 and 2022, nearly 10% of South African children's births were never registered, and by 2023, more than 250 000 late registrations had built up, leaving some families waiting up to seven years for a birth certificate.<sup>31</sup> Women, who often bear responsibility for registering births, face burdens in navigating the DHA.<sup>32</sup> The unlawful blocking of IDs continues despite a 2024 High Court ruling against the practice, excluding many – especially women and rural residents – from accessing essential services.<sup>33</sup>

For migrants, these barriers are even more severe. The asylum and immigration regime is designed in ways that keep many undocumented, despite their efforts to regularise their documentation. Refugee Reception Offices are few and often closed and plagued by arbitrary rejections.<sup>34</sup> Missed renewals can abruptly render people 'illegal', while appeals drag on for years.<sup>35</sup> Corruption is widespread, with bribes commonly demanded to secure appointments or process applications.<sup>36</sup> Children born in SA to undocumented parents face precarity, often denied birth certificates and thus left stateless.<sup>37</sup> Even where documents exist, refugee and asylum permits are frequently not recognised by schools, clinics, banks, or the police.

Crucially, even migrants with valid documentation are not guaranteed access to services, refugee and asylum permits are often dismissed or unrecognised by officials in schools, clinics, banks, and police stations leaving documented individuals effectively treated as undocumented.

In practice, documentation – not Constitutional rights – functions as the true gatekeeper to health care, education, social protection, and justice. This bureaucratic exclusion entrenches a dual system of belonging that marginalises both migrants and many SA citizens alike.

### 3.2 Health Care

SA's Constitution guarantees everyone the right of access to health care, including reproductive services, and basic services for children and persons in detention. It is also explicit that no one may be refused emergency medical treatment. The Refugees Act (1998) entitles refugees to the same health care as citizens. A 2007

<sup>30</sup> Lawyers for Human Rights, *Costly Protection: Corruption in South Africa's Asylum System* (A Report by Lawyers for Human Rights in collaboration with Corruption Watch and Scalabrini Centre of Cape Town, 2020); Khathutshelo Matshela et al., 'Impediments to the Prevention of Corruption in the Department of Home Affairs: The Case of the Counter Corruption Unit', *African Journal of Governance and Development* 12, no. 2 (2023): 161–81.

<sup>31</sup> Undocumented Children's Right to Birth Registration Eastern Cape High Court, Grahamstown, Case No. CA 319/2018, 19 May 2019, CA 319/2018, (Eastern Cape High Court May 2019).

<sup>32</sup> Sally Gandar, '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. (Sonke Gender Justice, 2019), file:///Users/rebeccawalker/Downloads/They-treated-me-as-if-I-was-nothing.pdf; Ekambaram et al., 'Why Women in Rural Communities Continue to Be the Face of Statelessness in South Africa: Citizenship Rights in Africa Initiative', Citizenship Rights in Africa Initiative, 2023.

<sup>33</sup> Lawyers for Human Rights, 'Press Statement | Home Affairs Practice of "ID Blocking" Declared Unconstitutional', – Lawyers for Human Rights, 2024.

<sup>34</sup> Jean-Andre Deenik, 'Court Challenge over Massive Delays in Childbirth Registration | LRC', The Legal Resource Centre, 18 June 2025; Ekambaram et al., 'Why Women in Rural Communities Continue to Be the Face of Statelessness in South Africa: Citizenship Rights in Africa Initiative'.

<sup>35</sup> Roni Amit and Norma Kriger, 'Making Migrants "Il-Legible": The Policies and Practices of Documentation in Post-Apartheid South Africa', *Kronos* 40 (November 2014): 269–90.

<sup>36</sup> Roni Amit, *Queue Here for Corruption: Measuring Irregularities in South Africa's Asylum System* (Lawyers for human Rights, 2015); Lerato Mutsila, 'Home Affairs Minister Launches New Body to Combat Corruption at SA's Borders', Daily Maverick, 25 March 2025,

<sup>37</sup> PMG, 'Migrant Issues, Opening of Refugee Offices, Statelessness: Stakeholder Engagement, with Ministry; Electoral Amendment Bill: Summary of Public Input | PMG', Parliamentary Monitoring Group, 2022.



Department of Health circular confirmed that these protections also extend to asylum-seekers.<sup>38</sup> In 2023, the Gauteng High Court reaffirmed that all pregnant and lactating women, as well as children under six years, are entitled to free public health services, regardless of nationality or documentation.<sup>39</sup>

Despite these protections, many facilities continue to demand documentation as a condition for opening files, providing admission, or even delivering emergency care. These practices are employed as tools of delay, intimidation, or an opportunity to elicit bribes. Migrants, already vulnerable due to precarious or lacking documentation, often avoid challenging such abuses for fear of retaliation or being reported to the DHA.<sup>40</sup>

South Africans dependent on government services face a public health system debilitated by chronic underfunding and inequality. Especially in rural areas and informal settlements, there are widespread staff shortages, medicine stockouts, broken equipment, and collapsing infrastructure.<sup>41</sup> Long waits, high indirect costs such as transport to facilities, having to take leave from work, and poor quality of care exacerbate exclusion.

Maternal and mental health services are especially neglected.<sup>42</sup> Mistreatment, verbal abuse, neglect, are widely reported, particularly in maternity wards. While both South Africans and migrants face often hostile conditions, migrants - and even South Africans from other provinces - are targeted with xenophobic abuse: called derogatory names, blamed for “overburdening” the system, or deliberately pushed to the back of queues.<sup>43</sup>

### 3.3 Education

SA’s Constitution guarantees everyone the right to basic education. Policy frameworks - including the Admissions Policy for Ordinary Public Schools (1996, updated 2021), Department of Basic Education circulars (2019 and 2021), and the Basic Education Laws Amendment Act (2024) - explicitly prohibit the exclusion of undocumented learners. Courts have consistently affirmed that documentation is “immaterial” to a child’s right to education.<sup>44</sup>

Despite legal protections, many schools continue to demand birth certificates or IDs for enrolment or matric exams, excluding undocumented learners. This denial extends to fee exemptions, school feeding schemes, and social grants. Refugee and asylum-seeking parents, though legally eligible for exemptions, often face rejections, while undocumented parents are barred from applying altogether.<sup>45</sup> Overcrowded classrooms, teacher shortages, and unsafe facilities - especially in provinces like Eastern Cape and Limpopo - leave children

<sup>38</sup> SAHRC, ‘Media Advisory’.

<sup>39</sup> SAHRC, ‘Media Advisory’.

<sup>40</sup> Rebecca Walker and Jo Vearey, ‘Punishment over Protection: A Reflection on Distress Migrants, Health, and a State of (Un)Care in South Africa’, *Health and Human Rights*, Distress Migration and the Right to Health, vol. 26/2, no. 8 (2024): 87–90.

<sup>41</sup> Tim de Maayer and Ashraf Coovadia, ‘Advocacy in a Collapsing Public Healthcare Sector’, *Wits Journal of Clinical Medicine* 6 (March 2024): 35–38.

<sup>42</sup> Rebecca Walker and Jo Vearey, ‘“Let’s Manage the Stressor Today” Exploring the Mental Health Response to Forced Migrants in Johannesburg, South Africa’, *International Journal of Migration, Health and Social Care*, ahead of print, 2022.

<sup>43</sup> T Chekero and Fiona Ross, ‘“On Paper” and “Having Papers”: Migrants Navigating Medicinal Xenophobia and Obstetric Rights in South Africa’, *Somatosphere*, 2017; Walker and Freemantle, ‘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.

<sup>44</sup> Undocumented Children’s Right to Access Basic Education Reference: Case No. 2840/2017 (High Court, Grahamstown 12 December 2019); Anjuli Maistry and Cecile Van Schalkwyk, ‘Litigating the Right to Basic Education for Undocumented Children in South Africa: The Role of the Courts in Advancing Access to Schools’, *African Human Rights Law Journal* 24, no. 1 (2024): 229–63.

<sup>45</sup> Undocumented children’s right to access basic education Reference:



learning in inadequate and dangerous conditions, exemplified by the 2014 death of five-year-old Michael Komape in a pit latrine.<sup>46</sup>

Together, these barriers illustrate how documentation and systemic neglect combine to deny children their Constitutional right to education and health. *Migrants and poor South Africans face overlapping struggles, showing that exclusion based on documentation deepens inequalities for all.*

## IV. Movement Building for Migrants Rights: Learning from Others

The two case studies outlined here - the *Sans Papiers* in France and the UDF under Apartheid- illustrate how fragmented communities have managed to mobilise collectively against racialised oppression and exclusion.

### 4.1 “We are not illegals. We are only looking for a paper”: the *Sans Papiers*

The *Sans Papiers* (“without papers”) movement gained prominence in 1996 when hundreds of undocumented migrants occupied a church in Paris to protest restrictive immigration policies. Though forcibly removed, the action sparked global attention and prompted one of France’s largest regularisation exercises. Over time, *Sans Papiers* collectives spread across many French cities and advocated for regularisation, labour rights, and protection from detention and deportation.<sup>47</sup> In 2018, the movement evolved into the *Gilets Noirs* (Black Vests).<sup>48</sup> Key strategies and legacies include:

- i. **Reframing Narratives:** A key strategy of the *Sans Papiers* movement was rejecting the state-imposed label of “illegal immigrant”. Members reframed themselves as workers, neighbours, and long-term residents entitled to rights.<sup>49</sup>
- ii. **Building a Broad Base:** The movement brought together rejected asylum-seekers, refugees, overstayers, and immigrant workers of different nationalities, while forging alliances with trade unions, anti-racist groups, intellectuals, and civil society organisations. These alliances amplified demands, pooled resources, and rooted the movement in both local and national struggles.<sup>50</sup>
- iii. **Symbolic Occupations:** The *Sans Papiers* used visible public occupations to force recognition as political actors. Their slogan, “*nothing about us without us*,” encapsulated their insistence on autonomy. This guarded against co-option but also created tensions with external funders and allies, underscoring the challenge of balancing autonomy with the need for financial resources to sustain the movement.<sup>51</sup>
- iv. **Colonial Legacies and Global Connections:** The movement situated its struggle in colonial histories and the exploitation of migrant labour drawing parallels with revolutionary *sans-culottes* (a radical working-class movement during the French Revolution). Later formations like the *Gilets Noirs* (Black Vests) linked

<sup>46</sup> SAHRC, *South African Human Rights Commission Report: Eastern Cape Investigative Report on Sanitation in the Eastern Cape*, Investigative Report (2025).

<sup>47</sup> Abdoulaye Gueye, ‘The Colony Strikes Back: African Protest Movements in Postcolonial France’, *Comparative Studies of South Asia, Africa and the Middle East* 26, no. 2 (2006): 225–42.

<sup>48</sup> Emma Wallis, ‘Black Vests: Fighting for the Rights of Undocumented Migrants in France’, *InfoMigrants*, 2019.

<sup>49</sup> Sara Keel, ‘The Interactive Achievement and Transformation of a “Revolutionary Category” – the “sans-Papiers” – during Public Press Conferences’, *Journal of Language and Politics* 16, no. 1 (2017): 59–82, <https://doi.org/10.1075/jlp.16.1.04kee>.

<sup>50</sup> Simon Behrman, ‘On the Creation and Accommodation of the Misery of the World: The Case of the Sans-Papiers’, *Refugee Watch* 49 (2017).

<sup>51</sup> Keel, ‘The Interactive Achievement and Transformation of a “Revolutionary Category” – the “sans-Papiers” – during Public Press Conferences’.

their activism to France's *Gilets Jaunes* (Yellow Vests) and global racial justice movements such as Black Lives Matter, showing how migrant struggles resonate with wider fights against inequality and exclusion.<sup>52</sup>

The *Sans Papiers* demonstrate how migrants, often portrayed as powerless, can assert agency, demand recognition, and shift national debates through narrative reframing, disruptive visibility, and coalition-building.

#### 4.2 “Apartheid divides, UDF unites”: The United Democratic Front

Apartheid rigidly classified South Africans by race, granting so-called “Coloured” and Indian communities limited privilege in comparison to black Africans to undermine and fragment resistance. Yet, shared experiences of dispossession and exclusion fostered fragile but vital cross-racial alliances that became central to dismantling apartheid.<sup>53</sup> Key dynamics of movement-building included:

- i. **Unity across divisions:** Solidarity required continuous renewal. Leaders emphasised common grievances - forced removals, disenfranchisement, and economic exploitation - anchored by the Freedom Charter (1955), which framed liberation as a collective, non-racial struggle.<sup>54</sup>
- ii. **Shared risk and mobilisation:** Mass actions such as strikes, boycotts and student uprisings succeeded when members of all communities participated and were seen to share the risks of arrest, imprisonment, and state violence.<sup>55</sup> This joint sacrifice weakened apartheid's divide-and-rule logic and built trust amongst different groups.
- iii. **Women's organising:** Women's alliances, such as the Durban and District Women's League (1952) and the Federation of South African Women (FEDSAW) demonstrated the importance of cross-cutting leadership in campaigns against pass laws and economic exploitation, culminated in the famous Women's March to the Union Buildings in 1956.<sup>56</sup>
- iv. **From symbolic to institutional unity:** Building on a range of early symbolic acts and alliances, in 1983, the UDF brought together over 400 civic, youth, women's, trade unions, and religious organisations. Its inclusive leadership deliberately spanned racial, class, gender, and regional divides, countering apartheid propaganda of division and projecting unity to the world.<sup>57</sup> After successive states of emergency and sweeping restrictions placed on both the UDF and COSATU, the movement effectively recomposed itself as the Mass Democratic Movement: while maintaining much of its internal coordination, it was harder to pin down and target for the apartheid regime.<sup>58</sup>
- v. **International solidarity and fundraising:** After 1985, South African church partners, including Archbishop Desmond Tutu, helped to set up the Kagiso Trust as the conduit for the European Community's Special Programme for the Victims of Apartheid, moving official aid into civic, legal-aid and development projects.<sup>59</sup> Legal-defence pipelines were anchored by the International Defence and

<sup>52</sup> Behrman, 'On the Creation and Accommodation of the Misery of the World: The Case of the Sans-Papiers'; Keel, 'The Interactive Achievement and Transformation of a "Revolutionary Category" – the "sans-Papiers" – during Public Press Conferences'.

<sup>53</sup> Goolam Vahed, 'The Making of "Indianess": Indian Politics in South Africa During the 1930s and 1940s', *Journal of Natal and Zulu History* 17, no. 1 (1997): 1–36.

<sup>54</sup> Nigel Worden, *The Making of Modern South Africa: Conquest, Apartheid, Democracy* (John Wiley & Sons, 2011).

<sup>55</sup> SA History Archive, 'Professor Fatima Meer | South African History Online', 2025.

<sup>56</sup> Skylar Jayes, 'Federation of South African Women', South African History Online, 2015.

<sup>57</sup> SAHA, 'UDF Resolution on Women', United Democratic Front (UDF), 1983.

<sup>58</sup> Martin Plaut, 'The Political Significance of COSATU', *Transformation: Critical Perspectives on Southern Africa* 2 (1986): 62–72.

<sup>59</sup> Kagiso Trust, *Launch of Socio-Economic Development*, 2025.

Aid Fund which raised and covertly funnelled large sums into SA to pay lawyers and sustain thousands of activists through prolonged repression.<sup>60</sup> The Canon Collins scholarships enabled anti-apartheid organisers to study law, education and related fields in SA and abroad.<sup>61</sup> The British Anti-Apartheid Movement turned public campaigning into money and pressure.<sup>62</sup>

Together, these alliances demonstrate that building solidarity under conditions of systemic division required intentional movement-building, careful political analysis, constant effort, inclusive leadership, shared risk, and vital international financial and political support.

### 4.3. Ways Forward

The two case studies of the UDF under apartheid and *Sans Papiers* in France, along with the data from the workshops and the previous *Research Briefs*, show that effective movements are not spontaneous – they are built through deliberate strategies of solidarity, vision, and resistance. Both case studies underscore that exclusionary politics can only be countered by bridging divides, insisting on inclusivity, and situating local struggles within broader global trajectories of justice.

Migrant rights movement-building in SA today requires reframing the narrative to expose scapegoating as a distraction from systemic failures, while highlighting how migrants and poor South Africans face shared struggles in housing, health care, and education. Building cross-community solidarity is essential to counter vigilante groups' divide-and-rule tactics, alongside forging strategic coalitions with health workers, teachers, unions, and rights-based organisations to defend Constitutional protections. For migrant rights advocates, the priority is to resist fragmentation, critically interrogate narratives of scarcity, and anchor collective mobilisation - of both citizens and migrants - as the foundation for justice. Based on this research, the following components emerge as key foundations of movement building for migrant rights:

- i. **Leadership and vision:** Movement-building requires consensus on a common goal and leadership structures that are inclusive, strategic and equitable, whether co-led, rotating, or representative. Immediate service and protection needs must be linked to a broader vision of systemic change, ensuring that campaigns are pro-active and transformative. Developing a collective “Freedom Charter 2.0” or anchoring advocacy in frameworks such as the *Batho Pele* principles could unite diverse demands under a shared vision.
- ii. **Alliances and coalitions:** Effective mobilisation depends on building alliances beyond migrant-focused organisations. Partnerships with labour unions, gender justice groups, human rights advocates, and service delivery campaigns could help expand reach and legitimacy. Regionally, connecting with continental networks and engaging both sending and receiving states as allies could strengthen the movement's political analysis, influence and resilience.
- iii. **Capacity and autonomy:** Strong movements require investment in leadership development, particularly among youth and those who can bridge across communities. Autonomy and equitable decision-making are critical for avoiding co-optation, while a diversified resource base would reduce

<sup>60</sup> SAHO, ‘The International Defence and Aid Fund (IDAF) | South African History Online’, 2025.

<sup>61</sup> CCT, ‘Our Story’, *Canon Collins Trust*, 2025.

<sup>62</sup> Matthew Graham and Christopher Fevre, “‘Mandela’s out so Apartheid Has Finished’: The British Anti-Apartheid Movement and South Africa’s Transition to Majority Rule, 1990-1994”, *Contemporary British History* 36, no. 3 (2022): 323–54.

dependency on external donors and enhance sustainability. Building organisational resilience ensures that mobilisation can continue even amid funding cuts or political backlash.

- iv. **Narrative power:** Political education and collective memory must be embedded in organising and reminding communities of shared histories of resistance and solidarity. Strategic use of disruptive visibility - through protests, occupations, and media campaigns - should always be paired with clear demands that reframe debates around rights and justice. Engaging strategically with adversaries in government and building relationships with journalists and the media would allow advocates to challenge exclusionary narratives and reshape public discourse.

Together, these strategies emphasise that movement-building is not simply about defending migrant rights but about advancing a broader vision of social justice. Just as cross-racial alliances in the anti-apartheid struggle and the *Sans Papiers* in France reframed exclusion into a demand for recognition, SA's migrant rights movement today can draw on these lessons to build solidarity, confront scapegoating, and insist on collective liberation as the only durable path forward.

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## V. Conclusion

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The struggle for migrant rights in SA takes place at the intersection of inequality, collapsing services, and rising xenophobic populism. Documentation, health care, and education are not just service delivery issues but battlegrounds where Constitutional equality is contested. Vigilante groups show how frustrations are weaponised against migrants, masking governance failures, while government ambivalence legitimises exclusionary politics. Civil society resists, but within conditions of scarce resources and mounting risks.

Case studies of *Sans Papiers* in France and the UDF in apartheid SA show that fragmentation can be overcome through common goals, reframing narratives, inclusive leadership, and solidarity across divides. For today's movements, this means exposing scapegoating, anchoring struggles in shared risk, and linking local contestations to global resistance. Reframing migrant rights as a collective struggle for all marginalised communities is essential to counter exclusionary populism and revive the promise of equality and dignity.

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