



## ***Refugee Digest 95***

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### **Migrants, Refugees and Displaced Persons**

In recent weeks we have witnessed yet another spike in xenophobic activity, especially with regard to what is now called medical xenophobia. Simply put, certain groups organise around the prevention of access to health services by foreign nationals, irrespective of status. This is happening despite court orders, clarification of provisions in the Constitution, and political reassurances. The core idea is that foreigners are crippling the public health-care system, thus denying South Africans such services. These attitudes and actions are sadly becoming entrenched in South Africa's political and social culture. The recent round of xenophobic behaviour started in Gauteng but has moved to Kwazulu-Natal and beyond. We noted strongly before in our other publications that this is aided and abetted by widely-spewed political narratives.

South Africa's Constitution is clear. Section 27(1)(a) affirms that everyone has the right to have access to health care services. Neither the Constitution nor the jurisprudence that has emerged around these sections refers to 'citizens only' or only to 'those with specific, valid documentation'. It is clear that public health-care services are for everyone unless they are on medical aid or similar schemes, or have entered the country with the sole purpose of seeking medical care. There is an abundance of case law in this regard. The Constitutional Court ruled in *Soobramoney v Minister of Health (KwaZulu-Natal)* that this right must be progressively realised, but that certain basic services, especially emergency and essential care, cannot be arbitrarily denied.

The basic fact is that the sentiments expressed in the protests are clearly based on prejudice, misinformation and untruths. It is increasingly clear that much of this activism is fuelled and even legitimised by political narratives. As the article below shows, the strategy of checking documentation and then carrying out debarring activities means that these activists have taken over the work of border officials, which is clearly illegal.

<https://www.southernafricalitigationcentre.org/clinics-for-health-care-access-not-border-posts/>

This wave of xenophobic activity has been ratcheted up and now, in addition to protests, hindering, blocking and screening patients, people have taken to entering medical premises, castigating and directly interfering with personnel, removing people from facilities and setting up unofficial screening processes. Besides this being frightening, illegal and destructive of any social cohesion, it also threatens to increase the burden on these facilities. If patients are denied treatment and medication they will deteriorate, later requiring more complex and expensive attention.

<https://www.youtube.com/watch?v=lUe8UIQSQDU> and <https://tinyurl.com/56u7byhy>

As an example of the interplay of populist action and political rhetoric, Action SA has called for closer collaboration between the Department of Home Affairs and health facilities to ensure that once non-citizens have been helped, supposedly at the expense of citizens, they can be deported or refused further help. The party also indicated support for compulsory payments by foreign nationals, as the health budget is already underfunded. Likewise, it suggests that employers who take on foreign nationals as part of the work force should be liable for their medical expenses.

<https://tinyurl.com/ydme7r7h>

An interesting survey conducted by the Runnymede Trust in the UK between 2019 and mid-2024 concluded that the use of language about race and immigration by media and politicians has helped shape “the increase in reactionary politics and backlash against antiracism which has emboldened the far right in this country”. The survey took into account 52 900 articles and 319 debates in the House of Commons. It found that ‘illegal’ was the most commonly linked word to migrants in parliamentary debates, which the researchers said reinforced the perception of migration as inherently unlawful. The study also claims that since 2014, “hostile environment” immigration policies have worked to “expand and normalise the surveillance state” through legislation, reporting measures, and data sharing. Very clearly, this process of normalising derogatory words is happening across the globe.

<https://tinyurl.com/k4rpxxat>

It is disturbing that the groups carrying out these xenophobic operations flout the law further by deliberately conflating the situation of undocumented and documented foreign nationals; thus, in a way, inflicting on them a kind of collective punishment.

[https://m.youtube.com/watch?v=z\\_zrmeEXQnY](https://m.youtube.com/watch?v=z_zrmeEXQnY)

Operation Dudula has also marched to the offices of what it terms ‘unpatriotic organisations’ such as the Socio-Economic Rights Institute, the Helen Suzman Foundation, and the South African Human Rights Commission – organisations which Dudula claims are unpatriotic because they “protect illegal foreigners at the expense of South Africans”. These organisations have responded by saying that the campaigns are misplaced.

<https://tinyurl.com/4p6hdp3m>

The government set out South Africa’s position in these words: “Government has, in a statement on Saturday, called on all communities to uphold the rule of law, respect human dignity, and continue to work together to build a united and inclusive South Africa. Section 27(1) of the Constitution of the Republic of South Africa, 1996, clearly provides that everyone has the right to have access to health-care services. This right is not subject to an individual’s nationality or immigration status. Denying individuals health-care based on their origin is a violation of our laws and values as a nation.”

<https://www.sanews.gov.za/south-africa/blocking-foreign-nationals-healthcare-services-concern>

The SAHRC also issued a statement underlining the right of all, irrespective of status, to receive basic medical treatment, especially but not only in emergencies. The right also extends to reproductive health, pregnant women and lactating mothers.

<https://tinyurl.com/jftpjd2w>

While riding the wave of xenophobic attacks in the medical space, Operation Dudula has yet again begun protesting at schools, accusing various authorities of favouring the admission of undocumented children at the expense of South African children.

<https://m.youtube.com/watch?v=K9CKk2qHtS4>

This final article explores the seeming contradiction in some sectors – such as construction, infrastructure and logistics – where there is a shortage of readily available local workers with the necessary skills, but which struggle to import skilled foreign workers. The article notes that the tension should be framed in an understanding that, even while foreign workers are being hired, there will be rapid training programs for locals. Likewise, that contractual arrangements, especially with regard to the length of contracts, should also be an indication of the temporariness of the hiring, so as to reduce tension.

<https://tinyurl.com/4u2ess58>

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