



# **DA IMMIGRATION PLAN**

**15 October 2018**

# DA's immigration plan will secure our borders and stop illegal immigration

## Introduction

Under 24 years of ANC government, the issue of immigration has become a powder-keg in South Africa, primarily because of the failure of the ANC to provide leadership on the issue. Our borders are left unsecure, there are insufficient human and technical resources of the SANDF and we have a shambolic Department of Home Affairs; riddled with corruption and incapable of addressing the monumental challenges facing the country. At the root of all these problems is a lack of leadership and political will to make the decisions that will keep South Africa safe and ensure our prosperity. This is not what we were promised in 1994.

South Africa should be a beacon of hope, freedom, fairness and democracy to the world. Instead, under the ANC government we have watched our economy decline, our fiscus decimated, and our international stature sink lower and lower. Nowhere is this more evident than in the area of immigration.

Today, the Democratic Alliance would like to present to the South African people an alternative to the disastrous state of immigration under the African National Congress. Before we do this, we need to take stock of where we are.

## The current state of immigration

The following barriers are characteristic of the country's approach to immigration and the decay of the rule of law under the failing ANC:

- a) Poor border control systems that are unable to accurately and efficiently record all movement of persons and goods in and out of our borders;
- b) Porous borders as a result of the insufficient human and technical resources of the South African National Defence Force, as well as collapsed physical infrastructure;
- c) An overburdened, under-resourced asylum system plagued by persistent backlogs;
- d) Lack of progressive and efficient policies to attract tourists, skilled labour and capital as well as adequately trained personnel to implement those policies;

- e) Corruption and inefficiency at all levels impeding the fair and timeous finalization of visa and asylum applications, increasing the cost and difficulty of doing business in South Africa, as well as victimizing vulnerable asylum seekers; and finally
- f) The scourge of xenophobic violence with devastating costs to the victims primarily, and to our economy and social cohesion more generally.
- g) The lack of critical data on immigration has serious consequences for the ability of governments at all levels to determine the capacity of our state institutions to adequately provide services not only to our own citizens, but to all who find themselves within our borders legally.

The failure of the Department of Home Affairs to attend to our border control systems as well as border security collapse means that we are unable to ascertain reliable numbers of immigrants entering the country. Estimates have ranged from hundreds of thousands to millions.

### Consequences of failed border management.

#### Rule of law

The single greatest casualty of the ANC's administrative and governance failures has been the rule of law. From this problem flow all the rest. We cannot effectively combat crime. We cannot deliver on the civil and socio-economic rights enshrined in the Constitution. The Department of Home Affairs is notoriously corrupt. The department is therefore simply unable to implement policy and fulfil their mandate. Similarly, they are also hampering the ability of other departments to execute their mandates.

#### Crime

Law abiding citizens and residents cannot feel safe in South Africa because we cannot be confident that our law enforcement agencies have a handle of the scale of cross-border crime. We know that there are problems with the illicit flow drugs and other contraband as well as human trafficking. Certain areas have more pronounced problems with cattle raids or hijacking syndicates.

But how many more crimes go undetected because of an under-capacitated SANDF Operation Corona and dilapidated physical infrastructure? South Africa's landward border stretches around 4800 kilometers. We currently have only 15 of the necessary 22 SANDF sub-units to patrol the

border. By the government's failure to fully capacitate Operation Corona, they are setting the SANDF up to fail in their duty to secure our landward borders.

The proliferation of companies, farms and criminal syndicates that prey on desperate illegal immigrants also contributes to the association between crime and undocumented immigrants even though many of these immigrants may be legal work-seekers, asylum seekers or victims of trafficking and exploitative work circumstances concealed from authorities by workplaces. The victims become the target of angry citizens because our state apparatus is powerless to address the real criminals – those who prey on vulnerable immigrants.

### Service delivery

Our Constitution is celebrated worldwide for its progressiveness. Our constitutionally enshrined Bill of Rights includes socio-economic rights which the state is obligated to make available, many of those rights being afforded to all within our borders regardless of citizenship. South Africa remains a nation devoted to the values of ubuntu, equality and respect for the dignity of everyone. Services including health and education are necessary conditions for human thriving. It is however impossible to make adequate plans for service delivery with no reliable data on which to base decisions concerning budget allocations.

The recent National Council of Provinces report on the effects of migration in Gauteng province paints a grim picture of the state of service delivery in the province. The DA continually shines a light on poor administration, collapsing infrastructure and corruption across departments and throughout the country. It is irresponsible to blame immigrants for these issues. They fall squarely in the lap of the failed ANC government.

It is equally unhelpful to ignore the ways in which migration affects an already broken system. The point of highlighting this is not to advocate for the denial of services to immigrants. It is to focus attention on the critical need for accurate data which will guide decision-making on resource allocation. This will enable departments to provide the services they are mandated to provide, to maintain existing equipment and infrastructure, and to invest in additional capacity where necessary.

## Economic development

The signing of the African Continental Free Trade Area (AfCTA) agreement in July this year represents a ray of hope for economic development through the increased ease of movement of people and goods from across Africa. The impediment to the realisation of this goal is the inefficiency of the Department of Home Affairs.

Acquiring permanent residence status can take anywhere from 30 days to five years - with no real explanation as to how the duration of the process can differ so drastically on a case by case basis. It is also nearly impossible to find out what the status of an application is, even for officials themselves. Similar problems plague the system in relation to all visa types for access to the country.

These problems affect the ease of doing business in South Africa. They also cripple our ability to attract the critical skills we need. In a globalised world, nations are forced to compete for skilled labour as people are able to migrate with relative ease. A critical function of the immigration framework is to counter the effects of the brain-drain by making South Africa a desirable destination that offers an easy process to prospective migrants.

The success of AfCTA will depend on our ability to open our country for business while keeping control over the system. Tight control and effective management strengthen the rule of law which in turn makes the country more desirable for trade, tourism and investment. The failure of the ANC government to establish and maintain control makes the efficacy of AfCTA questionable.

## Human Rights

Inefficiencies in our immigration service result in only a small number of asylum applications being processed in any given year. Those which remain unprocessed simply add to a growing backlog of applications.

These inefficiencies together with rampant corruption in the asylum system make it extremely difficult for those foreign nationals who are making genuine attempts to gain legitimate documentation. They therefore often remain undocumented and branded 'illegals' even though they have followed all due process once in the country.

This is a breach of our international and moral obligations to refugees. Instead of providing a haven to vulnerable people fleeing for their lives, we are fostering a system riddled with abuses. Many of those revictimized by the asylum system will then find themselves at Lindela Repatriation Centre awaiting deportation. The conditions at this facility are not in keeping with our Bill of Rights.

Despite numerous civil society organisations working tirelessly to bring these conditions to our attention, the ANC government has failed to address the situation. No action is taken against officials who commit horrific abuses. This follows a pattern of impunity that is identified everywhere the ANC goes.

A further problem stemming from the failure of Home Affairs to prevent, detect and correct undocumented migration is that thousands of undocumented migrants have been living in South Africa for long periods of time. They have families here, they have work and businesses here, and they are knitted into their communities. We must consider what justice requires as we address this issue. Mass deportation is not only fiscally prohibitive, it may very well be unjust to the immigrants in questions, and harmful to their communities. The ANC government has no clear programme for fairly addressing this category of immigrants.

### Corruption

The Department of Home Affairs has been incapable of dealing with issues pertaining to immigration due to a highly ineffective and inefficient system and, more critically, rampant corruption.

Corruption is a continued problem at South Africa's borders. In May 2016, 15 people, including a deputy director at the department of Home Affairs, were arrested on charges of fraud and corruption. Similarly, in March 2017, a further 18 people were arrested in connection with fraud and corruption at the Ficksburg border - including 10 Police officers and 5 Home Affairs officials. Both instances are illustrative of a much broader problem at the country's border posts in terms of corruption.

It is important to note though that corruption is not just a problem endemic to border posts but also affects the implementation of migration policy once foreign nationals are in the country. A Corruption Watch report states that the two most significant forms of corruption occur when

officials at Home Affairs demand bribes to issue documents, and when police officers, or private security, illicit bribes for entry to Refugee Reception Offices. The report mentions a broad amount range for bribes with a median report of approximately R5000.

Corruption is the word that encapsulates the way the world views us. Until this is rectified, we will not attract investment, we will not attract skilled workers who want orderly lives and have no need to expose themselves to victimisation by our system. Those who do approach us and are turned away for refusal to give in to corruption are losses to us and to our economy. And yet beyond the economic, the most profound impact of corruption is the delegitimization of our immigration administration in the eyes of South Africans. This shows up starkly in the reaction to immigrants in many communities across the country.

### Social cohesion

The cumulative result of these many failures of border control and security is a general perception amongst South Africans that because there are many immigrants, many may have entered the country illegally and unfairly take jobs from poor South Africans or commit crime. We have seen the horrific results of these perceptions as unskilled, skilled, legal and illegal foreign nationals have become victims of prejudicial harassment, exploitation, violence and crime. Victims of the violence have been both documented and undocumented at the time that they were attacked, and almost exclusively from the rest of Africa.

It is clear that public opinion as to how well our borders are managed determines whether foreign nationals are viewed as being in the country either legitimately or not. It is critical that our government restores confidence in the country's border security, border control and migration policy implementation. South Africans ought to have assurance that foreign nationals in the country are here legally, in that they have gone through a fair process to acquire the right documentation, and that the law is enforced fairly for all who live our country.

We acknowledge that xenophobia is a greater problem than the supposed causes of xenophobic violence – undocumented immigrants looking for a better life in our country. We believe that the scourge of xenophobia can be addressed through properly fixing, patrolling and securing our borders (and training those who do so); preventing corruption and inefficiency at the Department

of Home Affairs and in the police service; and ultimately, creating certainty around number and legal status of foreign nationals living and working in South Africa.

### The big picture

Having witnessed 24 years of ANC government failure on this critical national function, South Africans cannot afford to wait any longer for a progressive, efficient system capable of providing legal certainty to those who would contribute to our nation, and peace of mind to our people. South Africans have lost faith in the ability and willingness of the ANC government to restore law and order, to keep us safe, and to put in place a policy framework that will make South Africa an attractive destination to the skilled labourers we desperately need.

The DA has a plan to turn this situation around.

### The DA's Principled Approach to Immigration:

What South Africa needs now more than ever is an approach to migration which:

- Openly rejects all anti-immigrant sentiment, “build a wall” paradigms;
- Prevents porous borders through creating key entry points at border posts that provide proper support to asylum seekers and those wanting to do business in South Africa;
- Ensures economic migrants within the Southern African Development Community (SADC) region and eventually across Africa are processed and welcomed through the *African Union's Free Movement Protocol* being implemented throughout Africa.
- Deals decisively with the poor border management and weak implementation of migration policy using research and data from a well-capacitated Statistics South Africa and other research bodies;
- Truly and meaningfully extends constitutional rights to all who live in our country and those who visit or live legally in the country for extended periods;
- Tackles anti-immigrant sentiment and fosters sustainable solutions for those individuals who currently live in the country undocumented (especially children and those whose parents have died while in the country);
- Fairly and efficiently departs those who have entered the country illegally and returns them safely to their home countries;



- Makes use of crime intelligence to combat all cross-border crime committed by foreign nationals or South Africans, and prevents bribery and corruption by regular and irregular migrants and Home Affairs officials;
- Attracts high levels of skilled immigration and investment as part of a targeted points-based development plan; and
- Prevents the evident brain-drain in South Africa where highly educated, skilled and successful South Africans relocate overseas to build and conduct business or undertake important research.

### The DA's Goals on Immigration:

Our policy on regular and irregular migration will be premised on the following approaches:

- We will **build a better migration bureaucracy** that helps South Africans to travel and do business and assists those wanting to live and work in South Africa legally.
- We will **assist, support and care for legitimate and law-abiding refugees and asylum seekers** to live and work in South Africa or to return safely to their home countries through repatriation.
- We will **ensure that undocumented migrants are regularised** or assisted in leaving the country if they do not meet criteria for remaining in the country, such as being a registered tax-payer. We will ensure the few traders who enter the country to do business and receive supplies, are regularised to ensure continued business in both 'country of origin and country of business'.
- We will **make legal entry and residence easier for skilled immigrants and businesses** from all countries, especially from within Africa.
- **Our national borders must keep the country safe and secure** while also attracting and allowing in foreign nationals who want to contribute to our country's economic and social progress and remaining being empathetic with the plight and struggles of asylum seekers and refugees.

## The DA's plan to secure our borders and stop illegal immigration:

A DA-led national government will act immediately to secure our borders and stop illegal immigration by:

### 1. Strengthening our border posts

Through proper control and order, we can create corruption-free and effective border security and control. This will be done through:

- a) revamping and improving border management and governmental coordination.
- b) reviewing the number and size of border posts and their management to increase points of legal entry and exit, prevent criminal activity and secure inter-border transregional business.
- c) Training and equipping immigration officials and police officers to carry out their duties with diligence and integrity to ensure the best possible service to all foreign nationals entering this country.
- d) ensuring that border management results in a continuous decline in cross-border crimes within our country and between the borders of our country and our neighbouring states.

There are approximately 18 government departments and entities that play some role in either border security or control. These include the Department of Home Affairs (DHA), the South African Police Services (SAPS) and the South African Revenue Services (SARS).

The coordination of these institutions is the responsibility of the *Border Control Operational Coordinating Committee* (BCOCC) which is largely considered to have failed in terms of its mandate of eliminating illicit trade, stopping illegal immigration, fighting crime syndicates related to illegal immigration and combatting cross-border poaching.

A survey conducted at three of the country's land border posts revealed that the majority (combined total of 73%) of police officers who took part felt that were inadequately trained. Beyond the inability to monitor and control the flow of human traffic across the borders, there are numerous other failures in terms of achieving other goals of border management. Significant delays at borders hamper the flow of goods and adds significant non-tariff costs to trade in the region. Causes of

delays at the Beit Bridge crossing, for example, have been noted to include the lack of a dedicated commercial lane for trucks, power failures on both sides of the border, poor ICT infrastructure, and crime.

The proposed solution of the ANC government comes in the form of the Border Management Authority bill. The bill rightly seeks to address the fragmentation of border management. The problem with the bill is that it is not based on a sound diagnosis of the problem. It therefore fails to provide a solution that will work. All it does is create another level of government bureaucracy which will add massive strain to an already burdened fiscus while solving nothing.

The DA government will take a different approach:

**Rather than creating a single agency, a DA-led national government would address the issues at the borders through:**

Creating comprehensive policy and institution guidelines and by appointing a lead agency called the ***South African Migration Agency***, which should oversee co-ordination and co-operation.

Key performance areas for such a lead agency would be:

- a) development and implementation of coherent policy;
- b) facilitating co-operation and co-ordination;
- c) improving working relations between border stakeholders;
- d) facilitating effective and efficient information sharing between stakeholders; and,
- e) facilitating joint operations between stakeholders.

**We will also redivert South African National Defence Force (SANDF) funding to a new border management plan called *Operation Isango* (meaning gate in isiZulu)**

This will ensure that the number of companies deployed along our borders can gradually increase from 15 to at least 20 to assist irregular migrants crossing and direct them to border posts. Units tasked with repairing and maintaining our border fences will be trained to combat stock theft and poaching whilst assisting those entering the country through regular or unsafe irregular migration.

This will help to prevent and stop illicit trade, wildlife poaching, drug and human trafficking, migrant smuggling, organised crime, terrorism, stock-theft, and unchecked irregular immigration.

The focus here will also be on increasing the funding available to build new border posts in areas that experience high volumes of illegal migration. This will be critical to ensuring that the movement of people between South Africa and neighbouring states only occurs through designated border posts.

## **2. Eradicating the corruption and inefficiency endemic to Home Affairs and ensuring that policy related to migration is properly implemented**

This includes ensuring that the corruption and inefficiency endemic to DHA is eradicated. This will involve initiating a once-off investigation into corruption in the Department led by a reformed Hawks. Any officials found guilty of corruption and/or fraud will be blacklisted and prevented from working for any state agency or government department. To address inefficiency, the DA would enhance and improve the systems and technology, capacity, and competency levels through adequate training to officials at Home Affairs.

The DA government will:

### **1.1.Uphold the Constitution and human rights:**

Our national government, much like our metro governments, will engage with civil society to ensure the rights of undocumented immigrants are upheld. We will ensure safe passage for undocumented immigrants back to their home countries. Those found to be or committing crime will be prosecuted or deported in accordance with our laws.

### **1.2.Greatly improve inter-state collaboration on preventing irregular migration and asylum seekers:**

The DA will work to reform diplomacy and ensure diplomats and ambassadors work with other countries, notably in Africa, to prevent national crises that led to large scale cross-border immigration or many suffering refugees seeking asylum and assistance from South Africa. We will work to democratise Africa, hold dictatorships accountable and prevent human rights abuses, warfare, genocide, famine and economic recession. We will create skills-led and business- or

academia-orientated immigration partnerships with other African countries and the rest of the world.

### **1.3. Deal with inefficiency, corruption, and the abuse of immigrants:**

To effectively combat these problems, we need to:

- Explore the options available to hold an amnesty for undocumented foreign nationals (who meet specific criteria) in order to regularise and legitimise their status rather than focusing on deportation, as this would hugely be costly to the fiscus and in some cases disproportionately disruptive to the lives of thousands who have built families and livelihoods in this country for an extended period of time
- Blacklist officials who have been found guilty of involvement in immigration corruption and fraud from working for any state agency or government department
- Ensure that there is coordination and cooperation between the policy approach of the single lead agency in charge of border management and the actions of the Department of Home Affairs in dealing with processes/actions related to immigration
- Implement e-planning systems to enhance the efficiency of a range of processes (such as fingerprinting).
- Initiate a once-off investigation into corruption in the Department led by a reformed Hawks, and stop all forms of bribery and corruption notably at asylum seeker centres and the Lindela holding facility itself
- Ensuring all resources are provided for and accounted for (through regular audits of border posts), and prevent poor contracting, tender fraud and undue influence in employment processes
- Investigate and drastically improve conditions and treatment at Lindela holding facility for those arrested or awaiting deportation, and prevent undue arrests, human rights violations, and poor treatment of irregular migrants
- Enhance and improve the systems and technology, capacity, and competency levels at Home Affairs (and at holding facilities), in order to prevent claims against the state costing our country millions every year.
- Prevent the abuse of irregular migrants at all workplaces, companies and farms. Inspections by Home Affairs supervisors will prevent abuse and exploitation of foreign workers and allow for non-compliant employers and criminal syndicates to be investigated by police and the

NPA. Furthermore, it will reveal which 'illegal' immigrants can remain in the country (dependent on certain criteria) or be requested to leave the country within a period of three months.

#### **1.4. Upskill, train, assist and hold accountable immigration supervisors:**

- We will ensure effective performance management and bi-annual training and development for all
- Officials must ensure that business visas are processed and provided to those who require them in shorter timeframes
- We will work with SADC countries to ensure a streamlined process for those wanting to travel and do business within the region, and ensure a uniformity of process and procedure for those wanting to do business in the country

#### **1.5. Improve tracking and support provided to irregular migrants:**

- We will ensure the effective and efficient tracking and deportation of illegal immigrants and workers through streamlined and incorruptible administrative, service provision and taxation systems along with regular research and analysis on communities known to harbour immigrants committing crime.

### **3. Attracting Skills and Expertise into South Africa**

To increase the number of skilled foreign nationals working in South Africa, the DA would support the following initiatives:

1. We will **improve registration and visa-application processes** to serve as a reduction in red tape
2. We will move to a **points-based skilled migration system**, as opposed to a skills-demand system, as the points-based system has proven to be more attractive to aspiring skilled migrants. Migrants who have skills that fall into the South African critical skills list should be afforded more points, rather than having to find employment prior to moving to South Africa.
3. The **critical and scarce skills lists will be updated and based on labour intelligence** reports to attract skilled immigrants as well as establishing whether illegal immigrants can be

classified as skilled individuals required by a particular sector due to national skills and competency deficiencies.

4. The process of **verifying international qualifications will be simplified to speed up the approval process.**
5. **Adopt the *African Union Free Movement Protocol*** to enhance diplomacy, trade, investment, tourism and movement of skilled South Africans and fellow Africans for work, academia and business reasons.
6. **We will enhance the ease of receiving a work or business Visa in** order to attract scarce skills, but also to ease the risk of doing business.
7. We will implement a programme of action which must include **educating communities about the benefits of integration and social cohesion** with those from other countries.

## Conclusion

The DA believes we can regulate regular and irregular migration more successfully by eliminating corruption, poor leadership and policy uncertainty. South Africa can better meet our international obligations to asylum seekers and refugees through an efficient immigration bureaucracy free from corruption.

Skilled immigrants and business people must be welcome in our country. We need to attract highly skilled immigrants to fill our skills gaps and allow them to build businesses and create jobs.

We need to train and equip immigration officials and police officers to execute their duties with diligence and integrity to ensure the best possible service to all foreign nationals coming into this country, and the highest degree to South Africans of their safety and security.

We must ensure that border management results in a continuous decline in cross-border crimes occurring within our country and between the borders of our country and our neighbouring states.

Xenophobia and discrimination cannot be allowed to hold back or hamper the progress of our economy and our people, or harm economic integration and social unity in Africa.

The DA has not only a vision but a plan of action to ensure that we realise our goal of building One South Africa for all who live within our borders.