



**From Protection to Persecution: Exploring the Impact of Anti-Foreigner Mobilisation  
on Refugee Rights in South Africa**

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## **DEDICATION**

This thesis is dedicated to myself and all the other black girls who have struggled to have their voices heard. Your star is bright. Your ideas are enough. You deserve to hold that space.

To refugee communities, I hope my home starts feeling like home to you too soon.

Don't give up. Never give up.

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## ABSTRACT

This research explores how anti-foreigner mobilisation impedes the rights and lives of refugees in South Africa. This study does this by highlighting the anti-foreigner mobilisation movement, Operation Dudula. Grounded in a qualitative desk review, the study examines the systemic, social and economic impacts of xenophobia on the refugee communities. Many of the rights of refugees, who have legal rights to protection under international conventions, including the 1951 Refugee Convention and domestic laws such as the Refugees Act of 1998, are being violated. These violations take the form of violence, economic exclusion and social exclusion, usually enabled by scapegoating and misinformation.

This research explores the need for multifaceted interventions to mitigate anti-foreigner mobilisation and its negative implications among refugee communities in South Africa. The South African administration must respond to the structural motivators of xenophobia and fortify the legal protections that come with the status of refugees through the implementation of constitutional ideals and international obligations. Addressing the root causes of forced displacement, such as conflict and poverty, requires a human rights-based approach that emphasises prevention, protection and empowerment. In conclusion, this study highlights the importance of collaboration between state and non-state actors, as well as local and international entities, to ensure a rights-based approach to refugee protection, in line with the highest international standards. Through decisive action, South Africa is able to reaffirm its position as a beacon of human rights and solidarity in the region.

*Key Words: xenophobia, refugees, anti-foreigner mobilisation, Operation Dudula*

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## CHAPTER 1 INTRODUCTION

With its history, South Africa's path to democracy is one of remarkable progress, specifically in promoting the human rights of its citizens. With the rise in nationalist sentiments, it is imperative that these rights are protected (Neocosmos, 2010:19). This introductory chapter foregrounds an examination of the impact anti-foreigner mobilisation movements have on the lives and rights of refugees in the country. The first section of this chapter provides a background on South Africa's history of xenophobia, therefore introducing the concept of anti-foreigner mobilisation in the country. The second section of this chapter introduces the problem statement for this study; in this section, questions about the adequacy of legal protections and access to justice for refugees and asylum seekers are highlighted. This is followed by detailing the significance of the study and presenting the research question and objectives of this research in the third and fourth sections, respectively. Lastly, this chapter will provide a detailed outline of the structure of this research paper.

### 1.1 Background

The protection and promotion of an individual's human rights is known to be one of the most critical goals in international law (Dugard, 2011:320). This goal is important as it ensures human dignity, specifically in circumstances that inhibit individuals from fully realising their human rights. South Africa, characterised by its diversity and multicultural society, emphasises this phenomenon by fostering a compassionate, democratic environment that is guided by the doctrine of *Ubuntu* - a Nguni term denoting "humanness" (Shabangu, 2017:4). Under this doctrine, every South African citizen's rights and responsibilities are implied and arguably, highlighted. As this may be, in some instances, some of these citizens infringe on the rights of others, which is reflected through certain derogatory acts, such as the case of xenophobia<sup>1</sup> (Williams & Graham, 2020: 512).

In South Africa, xenophobia is a well-documented phenomenon. Some scholars argue that its historical roots may be traced back to the colonial and Apartheid eras (Paalo, et.al., 2022:7). According to Landau (2010: 221), the apartheid government implemented segregation and exclusionary policies that ensued a legacy of distrust and division into the post-apartheid era.

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<sup>1</sup> A global phenomenon that defines a profound aversion, hatred, or fear directed towards individuals perceived as outsiders (Tafira, 2011:114).

The evolution of the country's democracy brought hopes of an egalitarian and inclusive society despite the persisting socio-economic challenges. The emergence and recognition of human rights and political freedoms at the end of the apartheid era significantly influenced migration patterns within and across the country's borders. Due to the country's porous borders and location, South Africa is a "magnet" for individuals seeking refuge, usually based on various forms of conflict, poverty, persecution and economic challenges faced in neighbouring states such as the Democratic Republic of Congo, Mozambique, Zimbabwe and others (Crush, 2008).

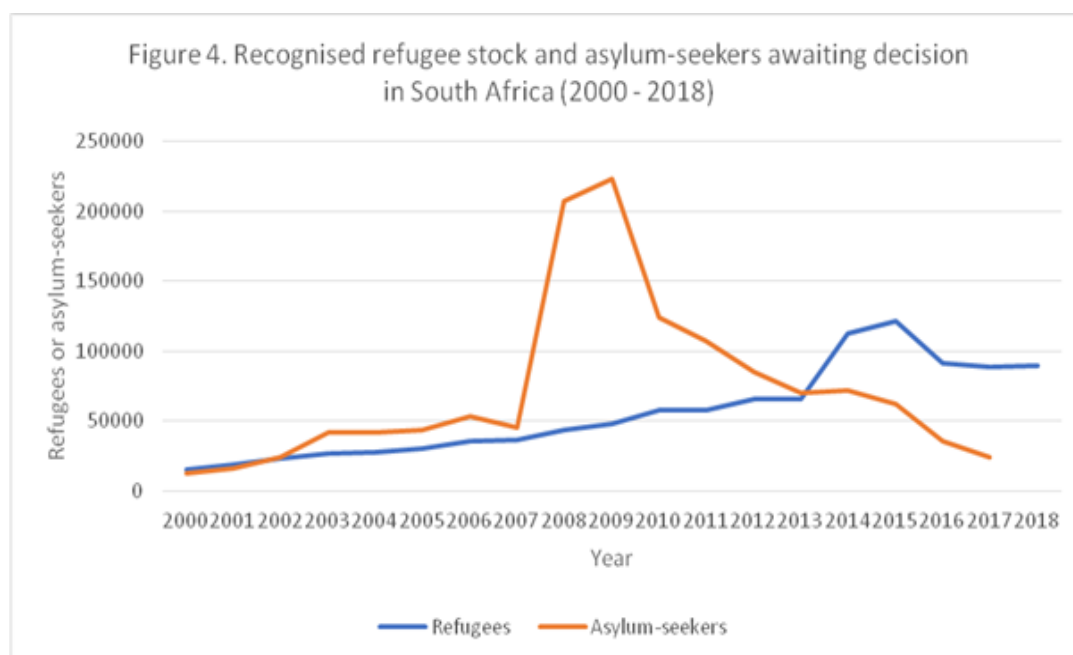


Figure 1: Recognised refugees and asylum seekers in post-apartheid South Africa.<sup>2</sup>

Figure 1 shows that post-Apartheid South Africa has long been a prospective destination for refugees and asylum seekers, specifically across the continent (Helen Suzman Foundation, n.d). Many studies have attributed this to the country's perceived economic stability and existing democratic government (Landau, 2010:221). However, as previously stated, the country's socio-economic challenges remained and ensued anti-foreigner rhetoric towards refugees and asylum seekers in the country, leading to cases of violence and discrimination

<sup>2</sup> Figure sourced from Helen Suzman Foundation Brief on *Interpreting The Data On South African Migration*. <https://hsf.org.za/publications/hsf-briefs/interpreting-the-data-on-south-african-migration>.

(Peberdy, 2001: 17). For the purpose of this study, this violence and discrimination will be referred to as xenophobia.

The early 2000s saw a surge of violence directed at foreign nationals, resulting in the displacement of over a hundred thousand (100 000) people, approximately 62 fatalities and many severe injuries (Crush & Ramachandran, 2009:13). The South African government faced some criticism over this period, where the *Human Rights Watch* identified the administration's infringement of the 1951 Convention Relating to the Status of Refugees<sup>3</sup> (Simpson, 2008). In subsequent years, the country has witnessed a significant rise in this anti-foreigner rhetoric as there has been an emergence of anti-foreigner movements such as *Operation Dudula* (an isiZulu term for “push back” or “fight back”). The Soweto-born vigilante group lobbies on their concern about the country's persisting socio-economic challenges, such as crime, unemployment and social exclusion by scapegoating foreign nationals (Kucera, 2022:ii). This group acts as a trusted custodian of xenophobic activities in Soweto and across the country.

This research paper aims to interrogate the impact that anti-foreigner mobilisation, i.e., such movements, have on refugee rights in South Africa. This study will bring into question whether patriotism can co-exist with human rights protections in contemporary South Africa. Furthermore, this paper aims to explore qualitative findings to identify areas of improvement in public policy in pursuit of reducing xenophobia in South Africa.

## **1.2. Conceptualising Xenophobia: A Literature Review**

One of the key foundations of human rights law is dignity for every individual. On this basis, International Human Rights Law notes that every refugee and asylum seeker has the “right to enjoy” asylum (United Nations, 1951) in their new communities. This phenomenon has been one of the most controversial in South Africa since the early 2000s, as many refugees began moving into the country for reasons of safety and opportunities (Edwards, 2005:297). This chapter introduces a conceptual framework and explains xenophobia as a phenomenon while exploring its historical foundations and theories, in order to get a comprehensive understanding of the subject matter.

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<sup>3</sup> The 1951 Refugee Convention Relating to the Status of Refugees (United Nations General Assembly 1951, 19)2, stipulates that refugees have the right to enjoy asylum, i.e., socio-economic rights, provided in their host states.

### **1.2.1 Conceptual Framework: Xenophobia**

The conceptual framework for this research explores the concept of xenophobia as the basis of understanding the impact of anti-foreigner mobilisation on refugee rights in South Africa. This concept is imperative as it assists in outlining the broader socio-political context within which refugees live. Furthermore, this concept aims to foreground the analysis of anti-foreigner mobilisation movements in South Africa.

The protection of human rights dates back to the beginning of time, as it represents a powerful community for every living individual. Within the South African context, this is displayed through the doctrine of Ubuntu. It can be argued that contemporary life has diminished this ideal as the demonisation of refugees and immigrants is increasingly becoming a regular feature in our society (Chuma, 2022:7). This demonisation can be explained as a sociocultural phenomenon known as xenophobia. Xenophobia has permeated migration discourse globally, allowing for the term to be widely used to define violent attacks on foreign nationals (Tarisayi and Manik, 2020:1).

Heywood (2013:115), amongst other scholars, defines xenophobia as an irrational fear, hatred and hostility towards foreigners. Masenya (2017:81) expands on this definition as, “attitudes, prejudices and behaviours that reject, exclude and anathematise people based on the perception that they are foreign to a community, society or national identity”. However, some scholars have argued the definition and scope of this phenomenon by stating that xenophobic attitudes vary globally, according to the location. This is attributed to the nature of intensity and character of the xenophobic incidents (Dodson, 2010:15).

According to Shoyisa and Illesanmi (2021:220), xenophobia can be presented in various forms, namely: cultural (based on differences in cultures) and societal (based on membership of a certain group in society). Cultural xenophobia may include discrimination on the basis of language, traditions, clothing and music associated with a specific group. In contrast, the latter, i.e. societal xenophobia, may include discrimination on the basis of religion, nationality and culture. In agreement, Kucera (2022:18) highlights this and presents an argument that racialism and xenophobia often coincide with beliefs of nationalism and cultural homogeneity, which are advocated for on the grounds that different groups should not mix.

Tarisayi and Manik (2020:2) affirm this theory by presenting an argument that xenophobia has elucidated a new perspective on violent outbreaks that are specifically targeted at black foreign nationals, specifically in South Africa, suggesting the existence of racial undertones to xenophobia. In understanding the nuances presented by xenophobic attacks in South Africa, some scholars have suggested the use of the term “xenophobia-Afrophobia” as an ongoing description of the phenomenon, therefore, emphasising the distinct targeting of African natives in comparison to Western or European immigrants (Mbuyisa, 2021: 72). This study will not explore this term and its critical race theory<sup>4</sup> foundations but will use Afrophobia and xenophobia interchangeably to emphasise these nuances.

*(a) Origins of xenophobia*

Since the beginning of time, humans have been moving for safer environments and better opportunities. According to Ilo (2021:37), early human migration can be traced back to the 1800s, therefore making it a natural occurrence. In contemporary times, some natives accept immigration while others are less accepting of foreign nationals in their countries. Studies show that cases of xenophobia can be traced back to the early 19th century (Shoyisa & Illesanmi, 2021:220). Towards the end of this period, the world saw a rise in xenophobia with an American campaign aimed at driving Chinese labourers out of the country through mob-led violence and thereafter judges, lawyers and other professionals, resulting in the *Chinese Exclusion Act of 1882* (National Archives, 2023).

On the African continent, African nationalism can be traced to the B.C. era when a sense of liberation away from foreign interference existed (Ilo, 2021:35); for this reason, history, culture and traditions are disseminated past national borders on the African continent. Despite this fact, there are misconceptions that xenophobia is a contemporary phenomenon across Africa. However, research indicates instances of xenophobic attacks dating back to 1914 (Peter et al., 2024:20). Xenophobia on the continent has profound historical roots and is affected by factors such as identity and nationality, familiarity with diverse people in their communities, and socio-economic conditions.

In recent years, instances of xenophobia persist as a result of globalisation, which has ushered widespread inequality across the continent. Cases of aggression against foreign-born Africans

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<sup>4</sup> Usually abbreviated as CRT, critical race theory is the study of the relationship between race, racism, and power (Delgado & Stefancic, 2023:3)

can be seen in Angola, Côte d'Ivoire, Nigeria, Kenya, Cameroon, Mozambique, Ghana and South Africa (Illo, 2021:39). Some scholars have contended that political leaders in these countries have, historically, been responsible for exacerbating tensions between locals and foreign nationals through insincere commentary and denialism (Peter et al., 2024:21).

*(b) Theories of xenophobia*

Similar to many phenomena, xenophobia is underpinned by various theories that provide an understanding of the socio-economic and socio-psychological mechanisms that prompt xenophobic attitudes and behaviours. For the purpose of this study, the literature will expand on the Scapegoat Theory, the Relative Deprivation Theory, and the Realistic Group Conflict Theory. These theories emphasise how economic instabilities, a lack of resources, and socio-political narratives contribute to advancing tensions amongst locals and foreign communities (Classen, 2017:3).

*Scapegoat Theory*

The scapegoating theory reflects an increasing global anti-foreigner sentiment that can be observed in many countries today. Mlambo and Mkhwanazi (2021:127) present this theory on the basis of a sociological study on social transition and transformation. This theory posits that individuals and communities facing adversity often blame vulnerable out-groups, typically those lacking societal protections or political influence (Holland, 2024).

Mlambo and Mkhwanazi (2021:127) draw parallels to xenophobic sentiments globally, citing European and American contexts where migration is framed as the cause of rising crime and economic decline. In South Africa, this narrative extends to foreign nationals from other African countries such as Nigeria and the Democratic Republic of Congo, who are said to have a distinct appearance, clothing and language, making them easily identifiable and vulnerable to scapegoating (Kaziboni et al., 2022).

Furthermore, foreign nationals in South Africa are often accused of exacerbating unemployment and crime rates despite little to no empirical evidence to support these claims. According to Mbuyisa (2021:19), failed political promises, particularly during election seasons, leave communities disillusioned, prompting them to redirect their grievances to accessible targets - often immigrants. Similarly, Chikohomero (2023:4) highlights those

informal settlements, characterised by poverty and housing shortages, amplify tensions, as locals perceive migrants as competitors for already scarce resources.

In this context, the scapegoat theory emphasises how xenophobic beliefs diminish intricate socio-economic challenges into simplified ideologies, attributing fault to a visible “other”. This has fuelled the rise of anti-foreigner movements, as frustration over systemic issues is redirected into exclusionary practices against foreign nationals.

#### *Relative Deprivation Theory*

The relative deprivation theory expands on the role of perceived inequalities in promoting xenophobia. This theory suggests that individuals or groups who feel deprived relative to others, whether in terms of economic opportunities, social resources, or political rights, are more likely to develop resentment and hostility (Smith et al., 2012:204). In the South African context, this resentment is often directed at foreign nationals, who are seen as symbols of the perceived unfair distribution of resources. This was exhibited in the instance of the 2015 Durban xenophobic attacks against foreign-owned businesses based on perceived responsibility for high unemployment and economic challenges (BBC News, 2019).

According to the World Economic Forum (2017: 107-109), the rapid influx of migrants into urban areas places further pressure on already strained services, i.e., housing, healthcare and education. This exacerbates feelings of deprivation among local communities who perceive themselves as being unfairly disadvantaged. Relative deprivation creates a sense of injustice, fostering a belief that foreign nationals are prospering at the expense of locals.

This theory is particularly relevant in understanding the dynamics of anti-foreigner mobilisation in informal settlements where competition for scarce resources is most intense. As Misango et al. (2017:30) argue, the visible presence of foreign nationals in these contexts amplifies perceptions of inequality, leading to heightened tensions and, in some cases, violence.

#### *Realistic Group Conflict Theory*

The realistic group conflict theory highlights the role of competition over tangible resources in fostering intergroup tensions. According to this theory, conflicts emerge when groups contend for access to limited resources such as jobs, housing and social services (Davies,

2024:2). This competition enables hostility, particularly when one group perceives the other as infringing on their economic or social environment.

In the South African context, this theory is displayed in the framing of immigrants as economic rivals who “steal” employment opportunities and deplete state resources (Mmadi, 2021:18). Machinya (2022) argues that such narratives are perpetuated by political leaders and media outlets, further ingraining anti-foreigner attitudes in the layman. The theory further emphasises the significance of structural inequalities in shaping these perceptions. For example, systemic unemployment and poverty create fertile ground for competition, with foreign nationals often occupying informal economic sectors that are highly visible to the locals (Hewitt, 2020:7).

### 1.3 Problem Statement

South Africa is known as a sanctuary for many refugees fleeing conflict, persecution and economic challenges around the central and southern parts of Africa (Landau, et al., 2005: 19). However, in recent years, this sanctuary has shown to be under threat as a result of the rise of anti-foreigner mobilisation and movements such as *Operation Dudula*. Operation Dudula has become notorious for driving nationalist and anti-foreign rhetoric, usually through acts of violence and intimidation (Mthombeni, 2022:70). This increasing wave of xenophobia undermines the country’s social cohesion, governance and refugee protection efforts.

Asylum seekers and refugees within the South African borders are becoming increasingly vulnerable to discrimination, violence, and socio-economic exclusion, despite the country’s adherence to international law<sup>5</sup> (Misago, Freemantle & Landau, 2015: 20). These violations perpetuate cycles of marginalisation and insecurity for refugees. Moreover, due to a lack of adequate systematic research on the motivations, actions and consequences of xenophobia, the impact of anti-foreigner mobilisation on the rights of refugees in South Africa, remains poorly documented and understood (Solomon & Kosaka, 2013: 12). Furthermore, there is inadequate information on the South African government’s responses to the risks posed by anti-foreigner mobilisation in the country.

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<sup>5</sup> South Africa is party to, and has ratified the 1951 Refugee Convention and its 1967 Protocol

Consequently, questions persist about the adequacy of legal protections, access to justice, and essential services for refugees. For effective policies and interventions that promote refugee rights and social cohesion in South Africa to be developed, it is imperative that a comprehensive understanding of these challenges is undertaken.

#### **1.4 Significance of Study**

This research is important as it aims to address the balance between national interests and refugee protection in South Africa. By providing a detailed analysis of the impact of anti-foreigner mobilisation on refugee rights, this research aims to fill critical gaps in the current knowledge and policy formulations.

The significance of this research lies in its potential to inform policy and contribute to the development of more inclusive and protective refugee frameworks in South Africa. This will be achieved through a multidisciplinary analysis that incorporates insights from international law, sociology and political sciences. Furthermore, this research will contribute to a more nuanced understanding of the challenges facing refugees in South Africa and inform the development of policies and interventions that uphold human rights while addressing national concerns.

By examining the intricate relationship between xenophobia, social cohesion and refugee rights, this research will provide insights into the effectiveness of the current government's responses and the adequacy of legal protection and services for refugees. It aims to develop strategies that will enhance social cohesion, reduce xenophobia and protect the rights and dignity of refugees in the country.

#### **1.5 Research Objectives and Questions**

This research paper seeks to understand the impact of anti-foreigner mobilisation on refugee rights in South Africa by addressing knowledge gaps and identifying various areas of improvement for inclusive and protective policies for refugees and native South Africans alike. Using Operation Dudula as a case study, this research aims to answer the question of what impact anti-foreigner mobilisation has on refugee rights in South Africa. This research question will be answered with the aim to:

- a. Examine the origins and motivations behind anti-foreigner mobilisation
- b. Assess the effects of anti-foreigner mobilisation on refugee rights and safety in South Africa
- c. Analyse the role of the South African government and other stakeholders in responding to anti-foreigner mobilisation
- d. Identify best practices and policy recommendations to mitigate the risks posed on refugee rights.

## 1.6 Structure of Research Paper

This research begins with the **first chapter**, where the topic is introduced, foregrounding the importance and significance of the study. It will also include a literature review, which will consist of the conceptual framework on xenophobia. This section will be followed by an outline of the research methodology in the **second chapter**. This chapter will detail the research methods used in this paper, explaining the rationale behind the chosen methods, i.e., human rights law indicators to measure impact, and thematic coding to aggregate insights and develop new themes. Chapter Three will examine recent developments on xenophobia in South Africa, outline the normative framework and introduce anti-foreigner mobilisation as a key concept in the research. The **fourth chapter** will present a case study on Operation Dudula to support the notion of anti-foreigner mobilisation as a key concept. This chapter will examine the organisation's background, actions, ambitions and impact on refugee populations. Moreover, the **fifth chapter** of this research paper will discuss the findings, exploring new themes and advocating for policy changes on this issue. Finally, the **sixth chapter** will provide concluding recommendations and summarise research findings for the study on the impact of anti-foreigner mobilisation on refugee rights in South Africa.

## 1.7 Conclusion

To conclude, this chapter establishes the foundation for an in-depth examination of the impact of anti-foreigner mobilisation on refugee rights in South Africa by contextualising and providing the history of xenophobia in South Africa, while highlighting the rising nationalist sentiments that may act as a barrier to refugee protection in the country.

## CHAPTER 2

### METHODOLOGY

#### 2.1 Introduction

This chapter is key to this research as it outlines the research process and methodology used to explore the impact of anti-foreigner mobilisation on refugee rights in South Africa. To achieve this, this research paper specifically focuses on the right to non-discrimination as a human rights indicator. This right, as stipulated in international human rights statutes and other South African legal frameworks, i.e., the Constitution of the Republic of South Africa, 1996, is paramount to ensuring equality and dignity for all people living in South Africa regardless of nationality or legal standing (the Constitution of the Republic of South Africa, 1996). This research paper, thus, aims to emphasise the significance of centering the experiences and perspectives of refugees and asylum seekers in the research process (UNHCR, 2003).

Furthermore, this research aims to critically analyse the socio-political motivations behind anti-foreigner movements, notably Operation Dudula, and their subsequent impact on the rights and daily lives of refugees in South Africa. To execute this, the methodology for this research is designed to align with the research objectives and questions stated in the first chapter, enabling the adoption of a robust and multidisciplinary research process that is grounded in qualitative analysis. This research aims to answer the main research question of what impact anti-foreigner mobilisation has on refugee rights in South Africa. This question is answered based on the following research objectives:

- a. To examine the origins and motivations behind anti-foreigner mobilisation
- b. To assess the effects of anti-foreigner mobilisation on refugee rights and safety in South Africa
- c. To analyse the role of the South African government and other stakeholders in responding to anti-foreigner mobilisation
- d. To identify best practices and policy recommendations to mitigate the risks posed to refugee rights.

This methodology chapter outlines the research design in the first section, this is followed by an outline of data collection methods in the second section. The third section of this chapter

will then expand on the data analysis strategies used throughout this study. This will be followed by an outline of ethical considerations and possible limitations to the study in the final section. Each of these sections presents how the employed approaches align to unveil the systemic violations of refugee rights while contributing to a more nuanced understanding of the human rights implications of anti-foreigner mobilisation in South Africa.

## **2.2 Research Design**

This research study adopts a qualitative research design that enables an in-depth and contextual examination of the critical and multifaceted factors surrounding the anti-foreigner rhetoric and mobilisation, and its implications for refugee rights in South Africa. According to scholars, Bharadwaj, Howard, and Narayanan (2021:10), qualitative research is effective in fostering an understanding of the realities of marginalised groups in our society, the socio-political mechanisms used to drive exclusionary practices, and the intersection of these phenomena with legal and policy frameworks.

Furthermore, this study employs a case study design with Operation Dudula - a popular anti-foreigner mobilisation movement- as the focal point of the case study. Case studies allow for a nuanced assessment of specific instances while situating them within the larger socio-political and legal context, therefore presenting both direct and generalisable findings (O'Mathúna & Iphofen, 2022: 196). In focusing on Operation Dudula, the study examines the specific dynamics and broader implications of such movements in South Africa. This movement is an exemplary case as its actions, rhetoric, and societal influence encapsulate an array of challenges encountered by refugees in South Africa.

This study also includes a human rights-based design with a core analytical focus on the right to non-discrimination as stipulated in both international and domestic legal frameworks, i.e., the 1951 Refugee Convention, the African Charter on Human and Peoples' Rights, the South African Constitution, and the Refugee Act 130 of 1998. This human rights-based approach is rooted in the principle that human rights are universal, indivisible and interdependent (UNHCR, 2016). By employing this approach, the study recognises refugees as rights-holders whose rights are safeguarded under international and South African law, as opposed to being passive recipients of state action. Moreover, this approach incorporates an examination of the duties of the South African government as the primary duty-bearer. This is achieved through an evaluation of the government's responses (or lack thereof) to anti-foreigner movements

under the right to non-discrimination (Choane et al., 2011:137). This approach acts as a bridge between academic research and advocacy, contributing to more expansive measures in ensuring accountability and justice for refugees and asylum seekers in South Africa.

### **2.3 Data Collection Methods**

Data for this study will be collected through secondary qualitative data (desktop research), derived from open and publicly available sources. By employing this data collection method, the study will be able to explore the socio-political and legal contexts of anti-foreigner mobilisation in South Africa and its implications for refugee rights, where substantial evidence in the form of academic research, policy and media reports, and legal documentation exists. Furthermore, this method will enable an array of perspectives on anti-foreigner movements, specifically Operation Dudula. This section will detail the specific data collection methods employed to gather relevant material and provide references to support this approach.

As briefly mentioned, this study draws on diverse secondary sources to enable a comprehensive analysis of the research. The first component of the secondary sources is academic literature. The literature review of this study foregrounds the data collection process, which includes the examination of academic literature related to xenophobia, refugee rights, anti-foreigner movements, and other socio-political dynamics in South Africa. This secondary qualitative data source is presented in the form of:

- Peer-reviewed journal articles
- Academic books
- Reports from reputable organisations, i.e., The United Nations High Commissioner for Refugees (UNHCR) and Human Rights Watch.
- Other scholarly research.

The use of these resources is imperative in providing theoretical and empirical insights into the systemic drivers of discrimination and the broader socio-political implications of anti-foreigner mobilisation, specifically in South Africa. According to Babbie (2020), a comprehensive literature review is essential to contextualising research findings and providing a theoretical framework that aligns with the study's objectives. The literature for this study will focus on the following key areas:

1. The historical context of xenophobia, wherein the development of xenophobic attitudes in South Africa is examined. This part of the literature review focuses on the impact of Apartheid, colonialism and socio-economic challenges faced post-1994 in South Africa.
2. The legal framework on refugees, wherein the literature examines both domestic and international statutes such as the 1951 Refugee Convention and its 1967 Protocol, the Refugee Act 130 of 1998, as well as the South African Constitutional commitment to non-discrimination, to understand the legal protections offered to refugees.
3. Anti-foreigner mobilisation, where the literature highlights movements such as Operation Dudula and their goals, ideologies and methods. The literature review on this area critically analyses the tensions between such movements and the protections afforded to refugees. Furthermore, the literature review examines the perceptions of foreign nationals in South African communities (Misago et al., 2021:29).

The second form of secondary sources used in this study is media and public reports. Given the role of the media in influencing public opinion, specifically around contentious issues such as xenophobia, this research examines news articles, editorials, social media posts and other online media platforms. This study will include an analysis of media coverage related to anti-foreigner mobilisation in South Africa, specifically the activities of Operation Dudula. López-Rabadán (2022:12) notes that media representations are a powerful tool in developing the discourse around marginalised groups. Furthermore, scholars Chouliaraki and Stolic (2017: 12) emphasise the role of social media in enabling movements to mobilise and disseminate their views to a wider audience. The selection and analysis of media sources will provide valuable insights into the public perspectives and discourse around anti-foreigner movements to aid in contextualising the socio-political environment in which refugees are contested in South Africa.

Lastly, the secondary data will take the form of legal and policy documentation. The analysis of these legal and policy documents is a critical component in the data collection process as it provides the framework for understanding state obligations and responses to human rights violations. The key legal documents examined in this study include:

- The 1951 Refugee Convention and the 1967 Protocol
- The 1966 International Covenant on Civil and Political Rights

- The Constitution of the Republic of South Africa of 1996
- The Refugee Act 130 of 1998
- Prevention and Combating of Hate Crime and Hate Speech Act 16 of 2023

This study will analyse these documents to gain an understanding of South Africa's legal obligations to refugees and evaluate the alignment of the legal framework against human rights standards. From this evaluation, it will be determined whether the state is meeting its obligations and providing adequate support to refugees and asylum seekers in the face of anti-foreigner mobilisation. Furthermore, case law related to refugee rights, in this context, is included in the analysis. The use of this data collection method will present a comprehensive and critical understanding of the existing strengths and shortcomings that may allow for refugee rights violations in the context of anti-foreigner mobilisation.

#### **2.4 Data Analysis Strategies**

This study employs thematic coding analysis as a primary data analysis approach. The thematic analysis will aid in identifying, analysing and reporting patterns and themes for this study. According to Castleberry and Nolen (2018), a thematic analysis is a critical method for qualitative data analysis as it allows for a comprehensive examination of patterns that relate to the research question in the data. The data for this study will be analysed to reveal recurring patterns and themes that relate to the socio-political drivers of anti-foreigner mobilisation, with a particular focus on the human right to non-discrimination. By employing this data analysis method, a nuanced understanding of how anti-foreigner mobilisation affects refugee rights in South Africa will be explored.

The first step in this analysis process includes data familiarisation through reading and assessing the secondary data. This initial engagement with the data is important as it ensures a more comprehensive understanding of the data, enabling a coding process to ensue. The data coding for this study will be segmented into varying units where themes will be identified and grouped based on the data's relevance to the research questions. Following this process, the identified themes will be analysed in the context of the theoretical and legal frameworks discussed earlier in this study. This analysis will enable the contextualisation of the findings within broader discourses around xenophobia, refugee rights and state obligations under international and domestic laws. Furthermore, this analysis will focus on the implications of these themes on the rights, safety and dignity of refugees in South Africa.

<b>Coding categories</b>	<b>Reason</b>	<b>Objective</b>
Socio-political motivators of anti-foreigner sentiment	Assists in the understanding and analysis of xenophobia and anti-foreigner mobilisation.	The analysis aims to explore how socio-political factors can lead to anti-foreigner mobilisation movements.
Impact of anti-foreigner mobilisation on refugee rights	Focuses on legal protections on the right to non-discrimination and understanding the lived experiences of refugees in South Africa.	The analysis aims to explore how refugee safety, dignity and equality before the law are affected by existing movements.
Government response	Highlights documented government responses and whether they align with South Africa's human rights obligations.	The analysis aims to investigate whether adequate measures for refugee rights (i.e., the right to non-discrimination) are employed by the South African government.
Best policy practices	Similarly, assesses documented government responses and their alignment with human rights obligations in South Africa.	The analysis aims to propose recommendations for mitigating the risks faced by refugees in South Africa.

**Figure 2: Thematic coding outline**

In addition, the data will be synthesised to produce a more comprehensive understanding of the relationship between anti-foreigner movements and refugee rights in South Africa. A comparative analysis of the legal and policy frameworks will be used to evaluate existing gaps between the country's legal frameworks and the lived experiences of refugees to provide an assessment of the systemic barriers that may exist.

## 2.5 Ethical Considerations

Ethics in research is critical, specifically when examining marginalised groups such as refugees, who are often subjected to violence, exclusion, and prejudice (McAreavey & Das, 2013). Despite the sole use of secondary data, this research prioritises research ethics and the protection of human dignity throughout its process. This entails that the existing literature, media and legal documents for this research will be used and presented in a way that ensures that ethical standards are upheld. This study will do this by following these principles:

### (a) Considerations for Human Rights and Dignity

This research adheres to the ethical principles outlined in the *Declaration of Human Rights* and South Africa's *National Research Ethics Guidelines*. Paramount to this study is the protection of human rights, particularly refugee rights, as stipulated in the 1951 Refugee Convention, the African Charter on Human and Peoples' Rights, and domestic South African law, notably the Refugee Act 130 of 1998. Since this study makes use of secondary data analysis, the key ethical challenge arises around ensuring that the data sources used are credible, respectful and include diverse ideas. Furthermore, further challenges arise in managing sensitive subjects such as xenophobia and refugee rights, which elicit strong political opinions.

### (b) Avoiding Harm

One of the key ethical principles guiding this research is the obligation to "do no harm". This includes ensuring that the research does not further stigmatise refugees, nor exacerbate the harm already inflicted upon them by anti-foreigner movements. The findings of the study should aim to contribute to positive change, raise awareness of refugee rights, and advocate for policy recommendations that protect vulnerable populations from harm.

### (c) Transparency and Integrity

Transparency in the research process is essential. This includes consistently referencing the secondary data sources, acknowledging potential biases in the selection of data, and acknowledging the limitations of the study. Furthermore, this research will ensure that the findings are presented without distortion or selective reporting, ensuring the integrity of the research process.

#### (d) Ethical use of secondary sources

The secondary sources used for this study, i.e., media articles and legal documents, will be used ethically by ensuring that they are accurately presented and cited. Furthermore, this study will engage these sources critically to ensure that any bias or false reporting in the original data, specifically in media data, is acknowledged and addressed in the analysis.

By adhering to these ethical guidelines, this research will contribute to the scholarly understanding of anti-foreigner mobilisation without compromising the integrity of the study or the dignity of the individuals and communities involved.

### **2.6 Research Limitations**

As previously highlighted, this study primarily relies on secondary qualitative data, in the form of academic literature, media reports, legal documents, and policy papers. While research offers a broad overview of anti-foreigner mobilisation in South Africa, several limitations must be observed. One of the main limitations of this data collection method is the absence of direct insights from South African refugees themselves. Although secondary data is able to provide a rich exploration of the topic, it fails to capture the complexity of individual lived experiences. Furthermore, the reliance on secondary data presents the risk of presenting biases as media and academic research may be sensationalised and influenced by the political and ideological perspectives of the authors. To mitigate this, the study employs a diverse range of sources, including peer-reviewed journals, reports from human rights organisations, and media coverage, ensuring a balanced representation of perspectives. However, the study remains mindful of the limitations inherent in the sources chosen. Lastly, as this study makes use of the case of Operation Dudula as a case study, the case study may not fully encompass the diverse anti-foreigner sentiment and movements that exist in South Africa.

### **2.7 Conclusion**

This chapter outlined the methodology framework and research processes adopted to explore the complex connection between anti-foreigner mobilisation and refugee rights in South Africa, with a primary focus on the right to non-discrimination. Anchored in a qualitative research design, this study integrates secondary data sources (including academic literature, media analyses, and legal and policy documents) to provide a comprehensive,

multidisciplinary understanding of the socio-political and legal dynamics that underpin xenophobic mobilisation, such as Operation Dudula. By foregrounding these methods, the study ensures a robust exploration of both the structural drivers of xenophobia and the lived experiences of refugees in South Africa.

Additionally, this chapter has critically engaged with the ethical dimensions of the study and reflected on its inherent limitations. Adhering to South Africa's National Research Ethics Guidelines, the research design prioritises the principles of justice, non-maleficence, and respect for persons, while acknowledging the methodological constraints posed by reliance on secondary data. These reflective considerations strengthen the academic integrity of the study and ensure its contribution to broader discourses on human rights and social justice.

The forthcoming chapter focuses on Operation Dudula, a case study central to this research. This chapter will critically examine the movement's origins, ideological motivations, and operational strategies, situating them within the historical and contemporary contexts of xenophobia in South Africa. Furthermore, the chapter will assess the direct and systemic implications of this movement on refugee rights, analysing its role in shaping public attitudes and influencing state responses to migration and refugee protection. By bridging theoretical inquiry with practical implications, the next chapter seeks to deepen the understanding of the socio-political mechanisms driving anti-foreigner mobilisation and their broader human rights ramifications.

## **CHAPTER 3**

### **A CRITICAL ANALYSIS OF THE NORMATIVE FRAMEWORK TO PROTECT REFUGEES FROM XENOPHOBIA AND THE IMPACT OF ANTI-FOREIGNER MOBILISATION IN SOUTH AFRICA.**

#### **3.1 Introduction**

This chapter outlines a normative framework that focuses on the right to non-discrimination for refugees in South Africa, looking at the existing legal frameworks used to safeguard this right. This chapter then introduces the theory of anti-foreigner mobilisation as a product of xenophobia. Here, the literature explores the application of xenophobia in South Africa and identifies gaps in the literature that will be used as a foundation to advance this study. This chapter will then conclude with a brief summary of literature findings.

### **3.2 Normative Framework: The right to non-discrimination for refugees in South Africa.**

According to Misago et al (2021: 28), South Africa maintains a progressive refugee policy. However, implementation is experienced to be continually insufficient, leaving refugees vulnerable to xenophobic violence and further, perpetuating their marginalisation (Klotz, 2013:149). Alternatively, Machinya (2022: 60) highlights that South Africa's immigration policy in the early 21st century adopted a restrictive and exclusionary approach that sought to distinguish between lawful immigrants, refugees, asylum seekers, and 'illegal' immigrants, with the intention of excluding and deporting the latter, albeit with limited success. The South African legal framework, entrenched in the 1996 Constitution of the Republic of South Africa (The Republic of South Africa, 1996), enshrines rights to equality and protection from discrimination that all individuals, regardless of nationality, are entitled to. Furthermore, this legal document emphasises the rights to dignity and security within the South African borders (The Republic of South Africa, 1996:7).

Moreover, South Africa has ratified international and regional human rights frameworks that obligate the state to protect foreign nationals in their country (United Nations, 1948). This normative framework analyses the legal and policy instruments relevant to the protection of refugee rights, with a specific focus on *the right to non-discrimination*. This section studies international, regional and domestic legal frameworks, providing an analysis of their implementation through the use of examples and case law. By following this, this section aims to demonstrate how anti-foreigner mobilisation may violate refugee rights and undermine the state's legal obligations.

#### **3.2.1 International Legal Frameworks**

##### *(a) The Universal Declaration of Human Rights (UDHR)*

The UDHR is an important legal instrument that foregrounds the principle of the right to non-discrimination for individuals. Article 2 of the UDHR expands on this by stipulating that every individual has the right to enjoy the rights and freedoms outlined in the declaration without any distinction, including their nationality (United Nations, 1948). This principle underpins international human rights laws and is directly applicable to refugees and asylum

seekers. In the South African context, the Universal Declaration of Human Rights principles are evident in Section 9 of the South African Constitution, which highlights equality and prohibits unfair discrimination; however, violations persist. An example of this is presented in the recent *Lindela Repatriation Centre* case, where the institution has faced criticism for detaining asylum seekers under inhumane conditions, reflecting its failure to uphold the UDHR's protections in practice (Republic of South Africa, 2024).

*(b) The 1951 Refugee Convention and its 1967 Protocol*

Article 3 of the 1951 Refugee Convention, ratified by the South African government, prohibits discrimination against refugees by highlighting their legal entitlement to basic rights such as education and employment. Furthermore, Article 33 of the Refugee Convention emphasises the principle of non-refoulement, prohibiting the return of refugees to their countries of origin (Refugee Convention:1951). Despite these legal obligations, anti-foreigner mobilisation is often targeted at refugees, preventing their access to basic human rights. The *Scalabrini Centre vs Minister of Home Affairs (2013 (3) SA 531 (SCA))* case serves as an example of this, as the court ruled against the closure of refugee reception offices by emphasising the government's obligation to uphold the Convention.

*(c) The International Covenant on Civil and Political Rights (ICCPR)*

Article 26 of the ICCPR denies discrimination and assures equal protection under the law for all individuals (International Covenant on Civil and Political Rights, 1966). Article 2(1) obligates states to guarantee these rights to all individuals within their jurisdiction. In South Africa, these legal responsibilities are undermined by systemic challenges, such as refugees encountering barriers to accessing justice due to language barriers or inadequate legal representation. This is shown in the case of *Moyo v Minister of Justice and Correctional Services (2019 ZACC 40)*, where the Constitutional Court reinforced the significance of procedural justice as well as access to legal recourse.

*(d) The International Covenant on Economic, Social and Cultural Rights (ICESCR)*

The ICESCR's requirements on the right to education, healthcare and work, in accordance with Article 6, are notably applicable to refugees in South Africa. While South Africa ratified this legal instrument in 2015, implementation gaps are observable. For example, there have been reports of refugees being denied healthcare in Johannesburg, due to xenophobic

sentiments amongst staff members, and violation of this legal instrument amongst others (Sonke Gender Justice, n.d).

### 3.2.2 Regional Legal Frameworks

#### (a) *The African Charter on Human and Peoples' Rights*

The African Charter on Human and Peoples' Rights emphasises the rights to equality and non-discrimination in Articles 2 and 18, respectively. The laws stipulated in these articles are imperative in addressing the socio-political challenges experienced by refugees in Africa. An example of this is the *Khosa and Others v Minister of Social Development (2004 (6) SA 506 CC)*, where the Constitutional Court relied on the African Charter on Human and Peoples' Rights to affirm non-citizen's right to access social security services, concluding that the exclusion of refugees from this right violated the principle of human dignity (Chirwa, 2006:43).

### 3.2.3 Domestic Legal Frameworks

#### (a) *The Constitution of the Republic of South Africa, 1996.*

As previously highlighted, Section 9 of the South African Constitution ensures non-discrimination based on nationality. Furthermore, Section 27 of this legal instrument extends socio-economic freedoms to *everyone*, including refugees and reinforces the country's commitment to inclusivity. Despite these legal stipulations, refugees in South Africa continuously experience systemic exclusion. The case of *Union of Refugee Women and Others v Director, Private Security Industry Regulatory Authority (2006 (4) SA 395 (CC))* shows that the court ruled that excluding refugees from the private security industry was discriminatory and inconsistent with constitutional principles (Kganticoe, 2021: 22).

#### (b) *The Refugee Act 130 of 1998.*

The Refugees Act 130 of 1998 operationalises constitutional rights, ensuring refugees' legal status and access to services as any other individual living in South Africa (The Refugee Act, 1998). Despite this legal instrument, implementation challenges, i.e., delayed asylum adjudication, impede its effectiveness. In the case of *Somali Association of South Africa v Limpopo Department of Economic Development (2014 (1) SA 1515 (SCA))*, the court

emphasised discriminatory licensing practices against Somali shop owners, highlighting their rights under this Act (Law Library.org, n.d).

*(c) Prevention and Combating of Hate Crimes and Hate Speech Act 16 of 2023.*

The Prevention and Combating of Hate Crimes and Hate Speech Act reflect South Africa's growing commitment to confronting the manifestations of xenophobia and hate-based discrimination. This Act does this by explicitly identifying xenophobia as a hate crime, in line with the constitutional right to non-discrimination. The case of *AfriForum NPC v Economic Freedom Fighter and Others (2022 (4) SA 267 (SCA))* serves as an example of this Act in practice. Here, the court emphasised the limits of freedom of expression in the context of hate speech. Although this case involved racial discrimination, its reasoning applies to xenophobic contexts.

While South Africa's normative framework is comprehensive, its implementation is hindered by systemic barriers and social attitudes. Case law in South Africa further demonstrates the judiciary's role in addressing discrimination, despite being undermined by xenophobia. Addressing these challenges requires strengthening enforcement mechanisms, improving public education on refugee rights and fostering political accountability in the country. Without these measures, the legal framework will remain ineffective in combating anti-foreigner mobilisation. The next section introduces anti-foreigner mobilisation, foregrounded by xenophobia in South Africa.

### **3.2 Xenophobia in South Africa: A Precursor to Anti-Foreigner Mobilisation in South Africa**

As briefly stated in the previous chapter, the end of Apartheid in South Africa made the country an attractive destination for other Africans from various countries, including but not limited to, Ethiopia, Ghana, Nigeria Somalia and Zimbabwe (Tarisayi & Manik, 2020:1) The intersection between xenophobia and anti-foreigner mobilisation in South Africa is becoming an increasingly significant challenge, notably involving the rights and lives of refugees and other foreign nationals in the country (Kaziboni, et al., 2022:6). As previously stated, these dynamics can be traced to South Africa's colonial and Apartheid legacies that have shaped attitudes towards non-South Africans in contemporary times (Hewitt, et al., 2020:3). Furthermore, in recent years, anti-foreigner sentiments have intensified cultivating an

environment that is often antagonistic and unsafe for foreigners in the country. This section explores the causes of xenophobia in South Africa, examining its political, social and economic foundations, in addition to how this sentiment has developed into organised anti-foreigner mobilisation and subsequently, movements.

### *3.2.1. A historical perspective on xenophobia in South Africa*

In South Africa, xenophobia is outlined by its colonial and Apartheid legacies where the invention of racial classifications and the marginalisation of Indigenous African people, in endorsement of European settlers, bore the foundation for the hierarchical treatment of diverse racial and ethnic groups (Kganticoe, 2021:19). Foreign nationals in South Africa, particularly African foreign nationals, were perceived as competitors for already insufficient resources, i.e., employment opportunities, land, and political power, cultivating an environment that facilitates the development of xenophobic sentiments that are heightened by social and economic inequalities that persist past the legal ending of Apartheid in 1994 (Ibrahim, et al., 2019).

The post-Apartheid era, despite being marked by political transformation and democratic values, continued to exhibit high unemployment rates, economic disparities, and insufficient social services, which placed substantial pressure on communities (Classen, 2017:2). In the context of anti-foreigner mobilisation, foreign nationals, specifically refugees and asylum seekers, have become scapegoats for the nation's economic challenges, therefore exacerbating xenophobic views across South Africans (Misago et al., 2015:36).

### *3.2.2. Anti-foreigner mobilisation as modern xenophobia in South Africa*

As previously mentioned, economic disparities, high unemployment and increasing levels of inequality in South Africa have ushered frustrations over perceived competition for employment, housing and social service opportunities among locals, usually directed towards foreign nationals in the country (Kerr, et al., 2019:4). According to Landau (2008: 3), the inflow of refugees and other African immigrants into the country can be directly linked to the emergence of anti-foreigner mobilisation.

The 21st century observed a period of escalating xenophobic sentiments exemplified by violent attacks against foreign citizens (Kerr et al., 2019:10). These attacks left a large number of individuals deceased and others displaced. These attacks further emphasised the

resounding xenophobic perspectives exhibited by South Africans towards asylum seekers, refugees and other immigrants (Moyo, 2017:84). The most notable xenophobic incidents occurred in 2008, 2015 and subsequent years, where waves of attacks against foreign nationals spread across South Africa (BBC News, 2019). The March 2008 xenophobic attacks targeted African immigrants and refugees in urban areas such as Johannesburg, Cape Town and Durban, where these attacks were characterised by excessive violence, including looting, physical assault, and even murder (Monson, 2015:17).

In response to these attacks, various grassroots movements have emerged, often portraying themselves as “defenders of South Africa’s scarce resources and employment opportunities” (Ilo, 2021: 30). These movements have mobilised locals under the guise of protecting local residents from the plausible threat posed by foreign nationals. The increasing visibility and impact of these movements have presented the promotion of national discourse that continually positions the presence of foreign nationals in South Africa as an existential threat to South African identity and prosperity (Misago et al., 2015:38).

Moreover, the rise of these mobilisation movements has been an explicit result of the societal frustration and disaffection felt by numerous South Africans. Another critical element that enables xenophobia within these movements is, the perception that the South African economic, social and political resources are being seized by foreigners (Tarisayi, 2024:51). This perception is heightened by the characterisation of foreign nationals throughout the media as illegal or undeserving beneficiaries of social welfare, further influencing xenophobic rhetoric.

#### *Political and economic motivators of anti-foreigner mobilisation*

Several political and economic factors contribute to the continuation of xenophobia in South Africa. The South African government’s post-Apartheid economic evolution has been impaired by structural inequalities, with increased levels of unemployment and poverty existing in historically disadvantaged communities (Van der Westhuizen & Swart, 2015: 734-739). In these communities, competition for employment, housing and social services is rife. Additionally, the South African government’s failure to comprehensively incorporate refugees and asylum seekers into the social and economic fabric of the nation has cultivated an environment that is conducive to anti-foreigner mobilisation. Foreign nationals,

particularly those from poorer African countries such as Zimbabwe, the DRC and Somalia, often work in informal sectors, where they are vulnerable to exploitation and abuse (Kganticoe, 2021:21).

### *Anti-foreigner mobilisation ideologies*

Anti-foreigner mobilisation in South Africa is based on the foundational ideologies that represent immigrants as threats to state security, economic stability and cultural identity (Neocosmos, 2010:8). These principles are continually articulated through narratives that emphasise an “us versus them” paradox with foreign nationals. Furthermore, this ideological framework is strengthened by political leaders, media platforms and civil society groups that exploit the financial and social pressures of the local populace to earn support for anti-foreigner causes. An example of this is the 2024 National Elections, where politicians such as now Minister Gayton McKenzie and opponent, Herman Mashaba, boldly took stances in support of anti-foreigner mobilisation causes (Human Rights Watch, 2024).

A critical element of the anti-foreigner rhetoric is the sentiment that migrants, refugees and asylum seekers are responsible for “stealing” employment opportunities from South Africans, exacerbating unemployment rates, and draining public resources. According to Misago, Landau and Monson (2009:33), the narrative of economic competition is paramount to the anti-foreigner mobilisation in South Africa, with foreign nationals being held accountable for the nation’s socio-economic difficulties, including poverty, criminality and the deterioration of public services. This narrative is notably most prevalent in metropolitan regions where immigrants, particularly from other African states, are seen as occupying informal sectors of the economy, usually at the expense of South African-born labourers (Organisation for Economic Co-operation and Development, 2018:101).

Moreover, anti-foreigner campaigns in South Africa often position immigration as a threat to national identity and cultural integrity (Neocosmos, 2010:113). As Tarisayi (2024:49) argues, the fear of cultural dilution is a critical component of anti-foreigner ideologies, as opponents of migration claim that foreign nationals, particularly from African countries, pose a danger to the nation’s cultural values and way of life. This narrative often intersects with racial and ethnic tensions, with migrants from certain regions or countries being depicted as culturally incompatible with South African society (Chiyangwa & Rugunan, 2024:5). The use of

derogatory names such as ‘amakwerekwere’ is a critical example of this theory. These principles contribute to the demonisation of migrants, refugees and asylum seekers, suggesting them as “others” who are fundamentally foreign and unwelcome.

### *Methods of anti-foreigner mobilisation*

Anti-foreigner mobilisation in South Africa takes a myriad of formations, ranging from violent protests and attacks to more nuanced forms of discrimination and exclusion. One of the most common methods used by anti-foreigner movements is brutality, including physical assaults, arson, and looting (Misago, et al., 2009:23). The 2008 xenophobic attacks, for example, were characterised by widespread violence against foreign nationals, with shops and homes belonging to foreign nationals being looted by local residents who claimed that foreigners were taking away their livelihoods and causing social instability (Pierre, 2010:52).

In addition to violent protests, anti-foreigner movements in South Africa also employ non-violent forms of mobilisation, including public demonstrations, marches, and media campaigns. These movements often use social media platforms to disseminate their messages, mobilise supporters, and call for action against foreign nationals (Classen, 2017:16). The role of social media in facilitating anti-foreigner mobilisation has been particularly significant in recent years, with platforms like Twitter and Facebook being used to organise protests and spread xenophobic rhetoric (Chouliaraki & Stolic, 2017:12). These social media platforms allow anti-foreigner movements to bypass traditional media channels and directly communicate with a wider audience, thus amplifying their message.

Finally, as previously mentioned, political actors, including local politicians and community leaders, play a crucial role in anti-foreigner mobilisation in South Africa. Many of these actors use anti-foreigner rhetoric to gain support from voters, particularly in marginalised communities where unemployment and poverty are high. In some cases, politicians have been accused of inciting violence against foreign nationals by using inflammatory language and framing migrants as a threat to national security and economic stability. This political exploitation of anti-foreigner sentiments is often seen in election periods, when political parties seek to capitalise on public frustrations to secure votes (Machinya, 2022).

### *The role of the media in shaping anti-foreigner sentiments*

The media plays a crucial role in shaping public opinion on migration and refugees in South Africa. As a powerful tool for communication, the media can either reinforce or challenge xenophobic attitudes. Research has shown that media coverage of migrants and refugees in South Africa is often negative, focusing on issues such as crime, unemployment, and the strain on public services (López-Rabadán, 2022:12). This negative portrayal of migrants in the media contributes to the stigmatisation and dehumanisation of foreign nationals, reinforcing the ideologies of anti-foreigner movements.

The sensationalised coverage of xenophobic violence in the media also contributes to the normalisation of anti-foreigner sentiments. According to Chouliaraki and Stolic (2017), media coverage of xenophobic attacks often portrays these events as isolated incidents rather than as part of a broader pattern of systemic discrimination against foreign nationals. This selective reporting helps to obscure the underlying causes of anti-foreigner mobilisation, such as economic inequality, racial tensions, and political exploitation. By focusing on the violence itself, rather than on the root causes of xenophobia, the media inadvertently legitimises anti-foreigner movements and contributes to the normalisation of anti-foreigner discourse (Chouliaraki & Stolic, 2017:12).

### *The human rights implications of anti-foreigner mobilisation*

The human rights implications of anti-foreigner mobilisation are profound, particularly concerning the protection of refugees' rights. As movements gain traction, foreign nationals face not only physical violence but also psychological and social alienation (Harris, 2001). The stigma associated with being a foreigner in South Africa leads to discrimination in housing, education, and employment. Xenophobic rhetoric has also found its way into political discourse, with some political leaders openly endorsing anti-foreigner policies, thus eroding the legal protections for migrants.

Human rights organisations and advocacy groups have condemned the rise of anti-foreigner mobilisation, emphasising the need for robust legal frameworks that protect vulnerable populations (United Nations, 1948). The consistent pattern of xenophobic violence and discrimination against migrants violates South Africa's obligations under international law,

including the 1951 Refugee Convention, to which it is a signatory. This legal framework guarantees the rights of refugees and asylum seekers to live free from discrimination and harm (United Nations High Commissioner for Refugees, 1951:18). However, the persistence of xenophobia in the country undermines these protections, leading to a violation of the right to non-discrimination and the right to seek asylum.

### **3.3 Gaps in the understanding of the nuances of xenophobia**

While existing literature offers valuable insights into the dynamics of xenophobia and its socio-political foundations in South Africa, significant gaps remain in understanding the nuances of anti-foreigner mobilisation and its impact on refugee rights. Crush and Tawodzera (2014) present an argument that South African immigration laws and policies are inherently exclusionary, fostering environments where xenophobia is normalised, and legal structures fail to adequately protect refugees and asylum seekers. However, their work focuses predominantly on economic migrants, with limited exploration of the distinctive vulnerabilities faced by refugees, particularly in the face of anti-foreigner movements such as Operation Dudula.

Landau (2010) emphasises the role of the state in perpetuating this xenophobic violence, suggesting that inadequate government responses embolden perpetrators. While this perspective highlights the existing structural shortcomings, it fails to sufficiently interrogate how grassroots anti-foreigner mobilisation systemically undermines the rights to safety, equality and largely, non-discrimination for refugees. The intersection of these localised movements with the broader legislative and institutional frameworks requires further analysis.

Scholars, Dodson and Crush (2015) explore the theory of migration governance in the Southern African region, noting significant disparities in how refugee rights are implemented across different countries. Although their work highlights challenges on a regional level, it inadequately compounded the effects of regional migration policies and domestic anti-foreigner movements in South Africa. Furthermore, the attributing socio-economic factors rarely examine how anti-foreigner movements directly exacerbate the precarity of refugee livelihoods in South Africa. For instance, campaigns led by the Operation Dudula

movement are often represented by organised, community-level discrimination that is inadequately captured in literature.

This literature review reveals an imperative need for research dedicated to investigating how localised anti-foreigner mobilisation movements systemically violate refugee rights within the South African law context.

### **3.4 Conclusion**

This chapter explored the complex historical, social and political dimensions involved in shaping anti-foreigner mobilisation and its implications on refugee rights in South Africa. The literature reveals that xenophobia is deeply rooted in the country's colonial and apartheid legacies, further exacerbating anti-foreigner sentiments. This chapter further foregrounds the study and provides the basis for further exploration of the topic. The chapter that follows will highlight Operation Dudula as an anti-foreigner movement in South Africa

## **CHAPTER 4**

### **ANTI-FOREIGNER MOBILISATION IN PRACTICE: THE CASE OF OPERATION DUDULA.**

The previous chapter explored the complex dimensions included in shaping anti-foreigner rhetoric and mobilisation. This chapter, on the other hand, aims to present the case of Operation Dudula, as a popular anti-mobilisation movement in recent years. This chapter will introduce the organisation and further outline the origins of the organisation. Furthermore, this chapter will analyse the various methods and approaches employed by Operation Dudula in the next section, while the next section highlights the role of the media and explores legal, government, political and civil responses to the organisation. This will then be followed by an analysis of the movement through the lens of the Hate Speech Act of 2023. Finally, this will be followed by a conclusion to this chapter.

### **4.1 Introduction**

According to Kaziboni et al. (2022:6), the intersection between xenophobia and anti-foreigner mobilisation in South Africa presents challenges that are underpinned by ideologies that portray immigrants as threats to the country's security, economic stability, and cultural identity (Neocosmos, 2010:8). Operation Dudula emerges as a noteworthy example of grassroots anti-foreigner mobilisation in South Africa. Founded in 2021, in the township of

Soweto in Johannesburg, this movement was formed in response to the socio-economic inequalities in the area by positioning foreign nationals as threats to South Africans' welfare and socio-economic freedom (Ndaba, 2023:72).

More formally, this movement positions itself as advocates for the economic rights of South African citizens by targeting undocumented immigrants, including documented refugees and asylum seekers. However, the groups's rhetoric and actions have been met with critique, as they fuel xenophobia and infringe on the constitutional and human rights of all individuals within the South African borders, despite their legal status (Republic of South Africa, 1998; Machinya, 2022:62). This chapter will explore the origins and evolution of Operation Dudula, focusing on its ideological foundations, and its impact on refugees and asylum seekers. The examination provided in this chapter is informed by media sources, scholarly analyses, as well as policy analysis. By analysing this movement within the broader South African socio-political landscape, this chapter aims to illustrate the complexities of existing challenges and presents opportunities for addressing xenophobia while defending the human rights of marginalised groups, i.e., refugees and asylum seekers.

#### **4.2 The origins of Operation Dudula**

According to Neocosmos (2010:8), in post-1994, the "Rainbow Nation" narrative, endorsed by leaders such as Nelson Mandela, sought to foster reconciliation and Pan-Africanism in South Africa. However, the socio-political environment rapidly deviated from this narrative as economic inequalities heightened, and the objectives of Ubuntu and Pan-African solidarity were surpassed by nationalist and exclusionary discourses (Machinya, 2022:65). As briefly mentioned in the previous section, Operation Dudula emerged as a response to longstanding socio-economic grievances and heightened anti-foreigner sentiments in South Africa (Ndaba, 2023:72). This movement, and others alike, have leveraged anti-foreigner rhetoric to advocate for the removal of foreign nationals from public spaces, informal settlements, and businesses, attributing to socio-economic challenges such as poverty, high unemployment and increasing crime rates (Parker, 2019).

This anti-foreigner rhetoric did not emerge in a vacuum. Kazibone et al. (2022:3) highlight that during the 2019 National and Provincial elections, several prominent political figures made inflammatory statements that further increased anti-foreigner sentiment, attributing it to the socio-economic challenges in the country. According to Machinya (2022: 59-65),

statements such as “this is not xenophobia” were strategically used to legitimise exclusionary policies. During this time, these political statements coincided with violent outbursts towards foreign-born truck drivers, further exacerbating this negative narrative (Human Rights Watch, 2019). In subsequent years, movements such as Operation Dudula rose to prominence, appealing to many South African-born citizens.

The movement’s name, *Dudula*, is an isiZulu word denoting “to push back”, aligning with the group’s objective of pushing foreign nationals out of the country. The movement has expanded beyond Soweto into multiple branches across South Africa, with similar movements such as the *Dudula Movement* (not to be confused with Operation Dudula) - a movement based in Alexandra Township, Johannesburg - echoing the same sentiments (Mthombeni, 2022:64). In 2020, crime statistics showed an increase in violent crimes, highlighting a 4.9% rise in murders and 2.7% rise in armed robberies, which movements such as Operation Dudula used to further advance their argument that immigrants were responsible for the increasing crime in the country (Kazibone et al., 2022:3).

According to Hewitt et al. (2020), such socio-economic challenges have made marginalised groups, i.e., immigrants, asylum seekers and refugees, easy targets for scapegoating. Furthermore, these researchers highlight the role of leadership in influencing public opinion on xenophobia suggesting that the political responses to these challenges are capable of exacerbating or alleviating anti-foreigner sentiments; in other words, these authors have found that leadership responses to socio-economic challenges and immigration have a significant influence on how the public perceives foreign nationals and their role in the South African society (Hewitt et al., 2020:1).

### **4.3 Approaches and Methods**

The founding ideology of Operation Dudula has evolved beyond a socio-economic lens and has begun to move towards explicit xenophobic and violent agendas. In 2022, Operation Dudula members conducted door-to-door campaigns in Johannesburg, demanding proof of legal residency from every individual suspected to be foreign-born (Machinya, 2022:6). A study conducted by Africa News (2024) shows that this incident left many African immigrants, refugees and asylum seekers living in fear of the anti-foreigner mobilisation movement. This is one of the many anti-foreigner mobilisation practices employed by

Operation Dudula against foreign nationals in South Africa. Other methods employed by the movement include but are not limited to (Mthombeni, 2022:64):

- (a) Forceful evictions of foreign nationals from their homes and businesses
- (b) Intimidation and threats against foreign-owned tuckshops
- (c) Social media campaigns endorsing xenophobic sentiments
- (d) Protests and marches calling for the mass deportation of foreign nationals.

This section expands on the movement's methods under these four key groupings to provide a more comprehensive overview of anti-foreigner mobilisation in this context.

*(a) Forceful evictions of foreign nationals from their homes and businesses*

Forceful expulsions of foreign nationals are a defining characteristic of Operation Dudula's activities. This often involves the removal of foreign nationals from their homes and businesses, carried out without legal authorisation. Members of the movement explain these measures as reclaiming resources for South African citizens (BBC News, 2019). For example, several South African migrants were forcibly displaced from their residential properties in Soweto, accused of being undocumented. These activities are carried out under the guise of defending public interests while explicitly infringing on the constitutional rights, equality and security of refugees and asylum seekers (Tarisayi, 2024:37). The socio-political implications of these removals are nuanced as they reflect the discontent and frustrations of marginalised South African-born citizens while aggravating existing social divisions and human rights infringements for foreign-born citizens.

*(b) Intimidation and threats against foreign-owned tuckshops*

In addition to forceful evictions, the Operation Dudula movement uses intimidation and threats against foreign-owned tuckshops and spaza shops, accusing these businesses of unfairly competing with local businesses. Migrant shopkeepers are often labelled as tax evaders or entities avoiding regulatory frameworks to undercut local prices (Zulu, 2022). Members of the movement issue ultimatums for tuckshop closures, destruction of property, and in some cases, physical harm. In Diepsloot, for example, several vendors were provided 48 hours (2 days) to evacuate their premises, citing looting and property destruction as consequences for non-compliance (eNCA, 2023). These actions disrupt township economies

and deny residents affordable goods, further weakening relations amongst South African-born citizens and foreign entrepreneurs. These methods violate basic human rights, compounding the vulnerabilities of migrant retailers while inflaming local tensions.

*(c) Social media campaigns endorsing xenophobic sentiments*

Scholar, Dratwa (2023:1), examines the momentous evolution of anti-foreigner mobilisation in South Africa, specifically during the COVID-19 pandemic. As numerous activities necessitated a transition to online communication, xenophobic activism also acclimated, thus evolving and gaining more visibility in the digital sphere. Social media platforms have become critical instruments for Operation Dudula as they amplify its message and mobilise support (Machinya, 2021:64). The movement continually utilises social media platforms such as X (formerly Twitter) to disseminate xenophobic sentiments that portray foreign nationals as a danger to South Africa's sovereignty and economic stability (Tarisayi, 2024:50). Campaigns often feature hashtags such as #PutSouthAfricansFirst and #OperationDudula, paired with provocative or misleading content. These sentiments legitimise the movement's actions, enable public outrage and recruit new members for activities such as protests and evictions. Shown below is an example of the 2021 June 16th protest, circulated on social media -with the use of these hashtags- under the guise of "cleaning" Soweto (Dratwa, 2023:23).



Figure 3: Anti-foreigner pamphlet by the group 'Operation Dudula', calling for a march on 16 June 2021 to 'clean' Soweto (Image obtained from the media section of the Operation Dudula page on X, in September 2024).

Moreover, the emergence of online communities such as the 'Put South Africans First' campaign has amplified xenophobic sentiments, ultimately normalising xenophobic statements such as "Why should Africa unite in our country?", "Go home, we have enough problems", etcetera, and further played a role in inciting violence against foreign nationals (Dratwa, 2023:23).

*(d) Protests and marches calling for the mass deportation of foreign nationals.*

Public protests and marches mobilised through a messaging that calls for the mass deportation of foreign nationals illustrates another cornerstone of Operation Dudula's methods. These protests are often characterised by large gatherings mandating stringent immigration enforcement, as well as, the removal of undocumented immigrants (Mthombeni, 2022: 71). Protestors often hold placards with xenophobic catchphrases, reinforcing harmful stereotypes about migrant communities (Tarisayi, 2024:39). While seemingly harmless, these protests oftentimes escalate into violence, as seen during a march in Hillbrow, where demonstrators vandalised foreign-owned businesses and fought with law enforcement

(Simelane, 2022). The image below shows members of the movement at the Durban branch in July 2022.



Figure 4: Operation Dudula members outside the Diakonia Council Offices in Durban, South Africa (Adopted from Nkateko Mabasa/*Al Jazeera*, 2023).

These demonstrations polarise locals, resulting in immigrants, refugees and asylum seekers feeling secluded and fearful (Mthombeni, 2022:70). Furthermore, these protests undermine constitutional principles of equality and non-discrimination, while pressuring policymakers to adopt more exclusionary immigration policies.

Scholars such as Tarisayi (2024) and Zulu (2022) contend that the movement's focus on immigration deflects from the known challenges of governance failure. Zulu notes that "Operation Dudula's focus is on the expulsion of migrants rather than the systemic challenges that impede economic growth in South Africa, i.e., corruption, underinvestment in infrastructure and inability to create jobs for enough South Africans." (Zulu, 2022). Zulu highlights that these actions could further marginalise foreign nationals, leading to a cycle of violence and instability. In addition, Tarisayi (2024) further criticises the movement for engendering vigilante justice, as this reinforces a negative narrative. Tarisayi explains that by labelling immigrants as the source of social and economic ills, Operation Dudula diverts

attention away from real policies that could address socio-economic challenges effectively (Tarisayi, 2024:42).

#### **4.4. The role of the media**

The anti-foreigner mobilisation movement gained substantial media attention and backing for its call for the expulsion of undocumented immigrants from South African communities (Tarisayi, 2024:37). Media misrepresentation of transnational migration often plays a significant role in portraying immigrants as societal threats. Chuma (2022: 15) highlights how terms such as “illegal” and “undocumented” are often used in South African media to describe foreign nationals. The media’s inability to distinguish between refugees, asylum seekers and economic migrants further reinforces negative stereotypes about immigrants. This anti-foreigner propaganda aligns with international trends where immigrants are continuously labelled with derogatory terms such as “massive invasion” or “illegal immigration” (Human Rights Watch, 2024). The use of this derogatory language not only misrepresents the realities of migration but also justifies the marginalisation and mistreatment of migrants in South Africa.

On the 24th of March 2022, Operation Dudula member and then-leader, Nhlanhla Lux, was apprehended and charged with housebreaking, theft and malicious damage to property linked to Operation Dudula activities (Tarisayi, 2024:37). Nhlanhla Lux’s arrest was observed as a legal challenge and, inversely, a symbolic moment for the movement (Tarisayi, 2024). While his arrest temporarily interrupted the movement’s activity in Soweto, it further highlighted the underlying challenge of vigilantism, specifically in informal settlements (Chikohomero, 2023:4). The media’s portrayal of the movement varied, with some media houses framing the mobilisation group as a necessary corrective measure to immigration, while others criticised the movement as a xenophobic vigilante organisation that diverts attention from the existing systemic socio-economic challenges in South Africa (Chuma, 2022:16). Andile Zulu (2022), as published in the *Mail & Guardian*, argues that the portrayal of foreign nationals as the root cause of South Africa’s socio-economic challenges is simplistic and diverts attention away from the country’s deterioration, corruption and systemic inequalities, which are often perpetuated by the South African government.

Furthermore, Zulu (2022) highlights the lack of tangible solutions within the movement’s ideologies by presenting a question of whether a migrant-free South Africa would indeed

solve the country's systemic issues. This is supported by Tarisayi's (2024: 39) analysis, which argues that accusing foreign nationals of South Africa's challenges is a distraction from more pressing challenges, such as mismanagement by political leaders and elites.

Moreover, Chuma highlights that the media's misrepresentation of migrants extends to criminal activities, where crimes involving foreign nationals are often sensationalised (Chuma, 2022: 16). Furthermore, Chuma (2022) advances an argument that the narratives portrayed by the media conflate crime with immigration and perpetuate an environment of fear and hostility in the country, further justifying Operation Dudula's activities (Chuma, 2022: 27).

#### **4.5 Responses to Operation Dudula: Government, Political and Civil Leaders**

The South African government has issued a condemnatory stance towards Operation Dudula and similar anti-foreigner movements. However, some prominent political leaders have been offering varying public views regarding xenophobia and the treatment of foreign nationals in the country (Mabasa, 2023). These responses underscore the complexity of reconciling national security concerns with the constitutional rights of all people irrespective of their immigration status. While politicians have condemned the movement for exacerbating xenophobia, others have suggested that there are valid points to be raised about the socio-economic impact of foreign nationals on local South Africans (Machinya, 2022:67).

The African National Congress (ANC)-led South African government has since expressed various public condemnatory statements against the violent approaches employed by Operation Dudula. In 2022, the then-Minister of Home Affairs, Aaron Motsoaledi, denied that the government condoned vigilante justice; he claimed that the power to enforce immigration law and to deport foreign nationals rested only with the state (Khoza, 2022). Operation Dudula's actions were illegal, and Motsoaledi proclaimed that the state would use legal channels to redress any breach of South Africa's immigration legislation (Ndaba, 2023: 75). However, despite these statements, critics say the government has been lethargic when it comes to ending anti-foreigner movements. These movements often find a space to proliferate due to a deficient political will to address the root causes of xenophobia, like high unemployment and extreme economic inequality (Kazibone et al., 2022:7).

Furthermore, opposition parties such as the Democratic Alliance (DA) and the Economic Freedom Fighters (EFF) have expressed varying sentiments regarding migration in South Africa. Though the EFF has explicitly supported refugees' and asylum seekers' rights, the party has also passed the blame to the leading party for its failure to manage immigration (Machinya, 2022: 68). In contrast, the DA has not publicly opposed some of the sentiments expressed by movements like Operation Dudula but rather placed its emphasis on the legality of immigration. As such, the political discourse on immigration fluctuates between being strong on immigration and the need for compassion, as well as the consideration of South Africa's constitutional human rights obligations (GroundUp, 2024).

Some political leaders have called for the enforcement of immigration laws amidst the rise of Operation Dudula. The ANC's reluctance to move against Operation Dudula's activities has been interpreted by some as a tactic to keep political support from local South African communities embattled by economic inequality. However, as illustrated by scholars like Kazibone et al. (2022: 7), this approach is more likely to further increase anti-foreigner sentiments and contribute to immigrants, refugees and asylum seekers experiencing fear and violence in their local environments.

Furthermore, the South African government has failed to tackle deeply rooted xenophobic sentiments that underpin movements like Operation Dudula. These rhetorics are often expressed by politicians who blame foreigners, especially undocumented migrants, for South Africa's high crime rates and economic troubles (Tarisayi, 2024:40). Such sentiments have been criticised by human rights organisations, stating that anti-foreigner rhetoric scapegoats vulnerable groups without taking any action to rectify the underlying causes of South Africa's socio-economic problems. For instance, the South African Human Sciences Research Council (HSRC) has advocated for comprehensive immigration reform that presents a middle ground between national security concerns and migrant and refugee rights (Machinya, 2022: 65).

Moreover, some critics argue that the government's ambivalence towards Operation Dudula and similar groups is symptomatic of wider political challenges, including the challenge faced by the ruling ANC to retain its political base in the face of high unemployment and rising inequality (Machinya, 2022:65). This has been particularly evident in the context of elections where political leaders use inflammatory language about foreign nationals in a bid to win the vote of disenfranchised South African citizens.

The South African government is faced with several challenges, one key challenge being the gradual emergence of functional legal structures to combat the surge of anti-foreigner movements (Mlambo et al., 2023:126). Although South African constitutional and statutory frameworks are committed to ensuring human dignity, equality and non-discrimination, the legal system has been slow in addressing vigilante justice and xenophobic violence. As noted by Hewitt et al. (2020: 4) and the persistence of xenophobic rhetoric in the public sphere, the government's reluctance to firmly oppose these movements has, ironically, permitted the orthodoxy of xenophobia to flourish. This has fostered an environment in which foreign nationals, especially refugees and asylum seekers, have begun to fear for their safety and sense of belonging in the country.

Civil society organisations, on the other hand, have expressed fears that political leaders are doing little to safeguard the rights of refugees and asylum seekers. The Refugee Social Services (RSS) and South African Human Rights Commission (SAHRC) have on numerous occasions urged the government to employ more stringent measures to safeguard foreign nationals against violence and discrimination (Republic of South Africa, 2017). The SAHRC has further denounced the illegal actions of Operation Dudula, specifically the forceful expulsion of foreign nationals from their homes and businesses and has called for the immediate cessation of these actions (Tarisayi, 2024: 40).

The South African public remains divided on the matter of foreign nationals in the country. There is much support for the protection of refugees and asylum seekers under international law, as well as widespread frustration among segments of South Africans that their economic opportunities are being undermined by the presence of foreign nationals. This divide is exacerbated by a political and media narrative, which often positions foreign nationals as a threat to the country's economic and social stability. How the government is going to handle this convoluted issue will play an important role in whether Operation Dudula and similar anti-foreigner movements will grow any further (Helen Suzman Foundation, n.d).

#### **4.6 Legal Responses**

Operation Dubula's revelations, both in relation to its words and actions, have attracted considerable public attention in South Africa due to their xenophobic ideologies, as well as for their outright subversion of enclosed constitutional standards and human rights. A recent legal case highlighted this dynamic when the South African High Court dismissed Operation

Dudula's application to intervene in a case around the termination of the Zimbabwe Exemption Permits (ZEPs).

On 10 February 2023, the High Court of South Africa (Gauteng Division) ruled against Operation Dudula's application in a legal case brought forth by the Helen Suzman Foundation (HSF) against the Department of Home Affairs (DHA) regarding the termination of the ZEPs. It ruled that there was no merit for Operation Dudula to be part of the matter because it did not have legal standing, their application was not a substantive basis for the courts to intervene in the matter, and it went against the principles of equality and non-discrimination as outlined in the Constitution. The ruling also made reservations about the group's disruptive and prejudicial conduct in legal proceedings (High Court of South Africa, 2023).

This recent legal victory for the judicial arm of the state against Operation Dudula serves as a stark reminder of an important constitutional truth: judges are guardians of the Constitution, which, if taken over by the lawless, it would deprive the citizens vulnerable to brutalities. Not only were the All-Truck Drivers Forum and Allied South Africa (ATDFSA) permitted to join in the same case, but the exclusion of Operation Dudula reaffirmed that their actions and aims are in stark contrast to the structures of the law that protect refugee and migrant rights in South Africa (GroundUp, 2023).

#### **4.7 Hate Speech and Hate Crimes: The Actions of Operation Dudula**

The behaviour and discourse of Operation Dudula can be reasonably characterised as hate crimes and hate speech in terms of South African legislation. The Prevention and Combating of Hate Crimes and Hate Speech Act, 2023, criminalises the conduct of inciting hatred, discrimination, or violence against individuals based on nationality or other protected characteristics. Many of the campaigns by Operation Dudula are characterised by public demonstrations, social media campaigns and physical harassment of non-nationals, with a focus on refugees and asylum-seekers, while perpetuating negative stereotypes of foreigners and inciting public hostility. The group's motto, "Put South Africans First", is often followed by inflammatory rhetoric that claims foreign nationals are to blame for unemployment, crime and social instability. These narratives not only obfuscate socio-economic realities; they also stir up a climate of hostility that has actualised in xenophobic violence and forced displacements. Such conduct is consistent with the legal description of hate crimes, as it seeks

to intimidate and harass targeted categories of people based on their nationality, but does not seem to manifest itself as a physical bodily force.

Looking at the impact of Operation Dudula on society, one cannot avoid seeing the loss of social cohesion that their activities create, the violation of constitutional protections, and how their mere presence creates fear for foreign nationals. A blanket rejection of hate crimes laws in this context legitimises the most abusive of acts and reinforces a culture of impunity while eroding the rule of law itself.

#### **4.8 Conclusion**

Operation Dudula is a stark embodiment of the rising anti-foreigner sentiment in South Africa. With itself as the protector of South African economic rights, this movement has taken a full swing force in the political and social arena of the nation. By using hateful rhetoric and violent measures, by engaging in social media campaigns, Operation Dudula has contributed to the marginalisation of foreign nationals, refugees and asylum seekers alike, creating a culture of fear and exclusion.

The governmental response to Operation Dudula has included statements of disapproval as well as political inertia. Though the government has publicly denounced vigilante justice and urged enforcement of immigration laws, little has been done to curb the movement's activities. Their reluctance to tackle the fundamentals of xenophobia, which include economic inequality and unemployment, has emboldened anti-foreigner movements even further.

The implications for refugees and asylum seekers are enormous. Operation Dudula has increased their vulnerability, driving them deeper into economic and social margins. The South African state's failure to effectively protect refugee rights has demoralised the country's commitment to human rights and its obligations under international law. The chapter that follows will analyse the data presented in the previous chapters, and present findings according to a thematic analysis.

## CHAPTER 5

### ANTI-FOREIGNER MOBILISATION AND ITS IMPACT ON REFUGEE RIGHTS IN SOUTH AFRICA

Anti-foreigner movements such as Operation Dudula have shown that their existence has consequences for refugees and asylum seekers in South Africa. The environment of fear and hostility created by such movements has contributed to the disenfranchisement & increased danger for the already marginalised. Many of the refugees and asylum seekers fled persecution and violence in their countries of origin, and now face different kinds of insecurity in their host country. Instilling fear through forced evictions, harassment, and destruction of businesses and livelihoods worsens the plight of refugees in South Africa.

One of the more pernicious effects arising from Operation Dudula's activities has been the increased anxiety faced by refugees and asylum seekers regarding their legal standing and their capacity to live and work in South Africa. Refugees, who typically are entitled to legal status under international and domestic law, have become the target of vigilante groups, such as Operation Dudula, which do not differentiate between refugees and undocumented migrants. Similarly, Mthombeni (2022: 68) highlights how this type of broad-brush approach used in shaping anti-foreigner sentiment fails to distinguish between migrants in different categories, thereby inducing an atmosphere of fear within which even those with legal status run the risk of discrimination and violence.

Operation Dudula has not only subjected refugees and asylum seekers to physical violence but has further enabled a myriad of socio-economic challenges for them due to the anti-foreigner conduct instigated by this organisation. Many refugees work in small businesses like spaza shops, street vendors, and hair salons, which are more in the sights of groups like Operation Dudula. These businesses provide essential goods and services to local communities, but often get destroyed or forced to close, further aggravating the economic fragility of refugees.

Furthermore, due to displacement and xenophobia, refugees and asylum seekers often have high levels of anxiety and trauma. South Africa had represented safety and refuge for many refugees; however, groups such as Operation Dudula destroyed that notion and feeling of security. Many refugees live in constant anxiety and uncertainty due to the fear of deportation, violence or forced displacement (Palmary, 2002).

Operation Dudula's methods have led to a breakdown of *Ubuntu*, a principle that has been a central part of the South African identity for generations. The movement's emphasis on exclusion as opposed to inclusion is at odds with the hospitable and faithful solidarity to those who flee violence and persecution that has underpinned the country when it comes to refugees and asylum seekers. These xenophobic acts go against the ideal of the African united community that South Africa professed to uphold following apartheid, as Machinya (2022: 65) highlights that the dynamic treatment of refugees in South Africa signifies tension between the country's obligations to human rights and the realities of social integration amid growing economic disparity. This chapter will explore this under the themes of anti-foreigner mobilisation and legal insecurity, socioeconomic marginalisation and economic rights, psychological trauma, legal and policy gaps, and psychosocial implications.

### **5.1 Anti-Foreigner Mobilisation and Legal Insecurity**

The interplay between anti-foreigner movements and the legal security of refugees in South Africa highlights significant issues in refugee protection, both at the legal and practical levels. Legal insecurity is a primary concern, as refugees are placed in situations where their rights are under constant threat due to the actions of anti-foreigner groups, governmental inaction, and social hostilities. This section will provide a discussion on anti-foreigner mobilisation and its effects on refugee rights in South Africa.

#### *Legal Distinctions are Blurred*

An important underlying problem in refugees' legal insecurity in South Africa is the confusion of distinctions between different categories of foreign nationals. Comments directed at refugees, asylum seekers, and undocumented migrants often portray them as indistinguishable and fall under the same banner of groups like Operation Dudula. These movements are also oblivious to the legal category of refugees prescribed by South Africa's Refugees Act of 1998, nor the range of international law to which South Africa is a party and from which it has derived certain obligations (for instance, the 1951 Refugee Convention and its 1967 Protocol affirming distinct protection for refugees, including the principle of non-refoulement (Kavuro, 2022:72-74)).

Operation Dudula and similar groups have targeted individuals based on a knee-jerk categorisation of foreigners as a dashboard collective "threat." This gross over-simplification of migration dynamics can have calamitous implications for people with legal refugee status.

The South African government has been criticised for not enforcing its own legal distinctions between refugees and undocumented migrants. As Landau (2005) has observed: ‘If a country cannot protect legal refugees from xenophobic violence, it does double damage: It undermines a legal structure intended to protect them, and it casts doubt on the country’s record and expectations about human rights.’ Refugees, lacking knowledge of all aspects of their rights, with no means of realising them due to the failings of bureaucracy, are trapped in this legal twilight zone, where their status is contested and frequently ignored.

This ambiguity not only renders refugees vulnerable to violence and discrimination, but it also fuels a cycle of mistrust in the state’s ability to protect their legal rights. International law governs the protection of refugees, but hostile environments reduce this status to empty law as soon as it is confronted by vigilante actions of movements such as Operation Dudula.

#### *Consequences of Pending Asylum Applications*

Compounding this problem is the long asylum process in South Africa, leaving the refugees with all their claim requests pending and in backlog status for several months. Within six months, the Refugees Act purportedly grants refugees asylum or refugee status after applying, yet refugees often find themselves waiting for years until a decision has been taken (Mthombeni 2022: 69). This bureaucratic bottleneck not only limits their access to work, social services and education but also leaves them more vulnerable to violence and exploitation.

The operation of refugee camps or reception offices, often overcrowded and poorly resourced, only exacerbates the sense of legally being in limbo. These delays serve to further marginalise, as people feel like prisoners in an environment which refuses to acknowledge their legal status or give them a way forward to integrate. The lack of work permits, identification, healthcare access, etc., puts refugees in a vulnerable position where their right to reside and work can be threatened at any time.

#### *The Role of Law Enforcement*

The state’s uneven response to anti-foreigner violence and the collapse of law-and-order practices is another important facet of legal insecurity. Though the South African law theoretically protects refugees, its provisions are frequently poorly enforced. Officers in these services who are required to uphold the Refugees Act and its accompanying international

legal instruments may themselves be complicit in anti-foreigner rhetoric or actions. However, a major problem is the failure or refusal by police to investigate crimes against refugees or to prosecute perpetrators of xenophobic violence. At times, law enforcement has been reported to disregard refugees' claims, creating a sense of alienation among the refugees and furthering their legal insecurity (Chikanda, 2019: 125).

A case in point is when refugees operating spaza shops are attacked or their homes invaded by anti-foreigner groups; the reluctance, or ineffectiveness, of law enforcement to intervene sends a clear message to refugees that they are unprotected. In the slaughter of violence, the law of refugees becomes meaningless, which erodes not only the South African Constitution, which guarantees human dignity, but also undermines the human rights framework that South Africa is obliged to uphold by international law.

## **5.2 Socio-economic Marginalisation and Economic Rights**

### *Economic Exclusion through Xenophobic Violence*

Anti-foreigner mobilisation has a lot of socio-economic marginalisation impact on our society. Restricted access to formal employment and the absence of adequate documentation often force refugees into the informal economy. Street trading is one form of self-employment and one of the few means through which refugees in South Africa can make a living; many have small businesses, such as operating spaza shops or street-vending or providing informal services (UNHCR, 2020). However, these businesses are prime targets for anti-foreigner groups, especially those who want to clamp down on what they see as “unfair competition” in the country’s local economy. Beyond economic matters, this is a human rights violation because the right to make a living is guaranteed by international conventions and South Africa’s own Constitution (Section 22).

Claiming that South Africans should be prioritised on economic opportunities, groups like Operation Dudula have been linked to violent attacks on foreign-owned businesses. The informal businesses run by refugees are their main source of income, and such actions have grave consequences on their livelihood. Consequently, refugees must generally discontinue their businesses, compromising their source of income, and with no available alternative stream of income (Kalitanyi et al., 2010). Such economic marginalisation makes them poorer and rely on the state or charitable institutions that cannot provide them with basic needs.

In addition, the economic marginalisation is aggravated by the lack of a conducive environment created by the South African government that enables refugees to formalise in the economy. Even those refugees who have permits can have barriers to formal employment as they may have less documentation or a work permit that restricts their access to some types of employment. By failing to encourage self-sufficiency among refugees, they make them more vulnerable to exploitation and miss out on any possible ways for refugees to contribute to the economy apart from the informal economy.

#### *Competition for Resources Amid Social Tensions*

The economic rivalry between local South African citizens and refugees in the informal economy deepens pre-existing societal divisions. Like many other nations, South Africa suffers crippling unemployment and skewed wealth distribution, and foreigners, specifically refugees, have often been singled out as transcendent scapegoats for these ills. Xenophobic rhetoric soars in low-income regions where resources are scarce, but the competition for jobs and wealth is deeply experienced. Furthermore, refugees who already face systemic barriers to labour market access become prime scapegoats in these communities.

This narrative also plays into the rhetoric of groups such as Operation Dudula that blame foreigners for South Africans not having jobs. In this way, refugees, who flee violent conflict, persecution, or economic conditions in their home countries, come into direct conflict with the local population and an individual “us and them” mentality. It contributes to a vicious cycle of social exclusion and economic disparity, entrenching the impoverished circumstances of those lucky enough to escape poverty.

#### *Impact on Refugee Children and Education*

Refugees are also economically marginalised, and this includes access to their children receiving an education. As refugees struggle to find stable sources of income, they risk being unable to pay for school fees or secure housing. Education is critical for social integration and upward mobility; if refugee children cannot avail of quality education, whether because of the cost or because their parents can't get stable jobs, it can have lasting socio-economic repercussions (UNHCR, n.d).

### **5.3 Psychological Trauma and Impact**

The psychological meaning of anti-foreigner mobilisation is another critical area of concern. Refugees in South Africa, many of whom have already faced the trauma of being forcibly displaced from their homes and communities, are subjected to some additional stresses relating to xenophobic violence and discrimination. The combined impact of this trauma is destructive.

#### *Anxiety, Depression, and PTSD*

Studies on the effect of trauma and displacement indicate that asylum seekers are the most vulnerable to mental health disorders, including depression, anxiety and post-traumatic stress disorder (PTSD). The tension of swimming in an atmosphere of xenophobia and threats of violence is a magnifying glass for pre-existing psychological conditions or an incubator for others. Refugees will find themselves living in a cycle of anxiety disorders due to the trauma of being displaced and the enduring fear of violence. (Javanbakht & Grasser, 2022:8) The anxiety of possible strikes, lack of clarity regarding their legal standing, and the restiveness of not having socio-tech stability cause an exacerbation in mental stability.

The ambivalence toward refugees and migrants in South African society, illustrated by the growth of anti-foreigner movements like Operation Dudula, adds to refugees' isolation and makes it harder for them to access mental health support. Not only do refugees experience stigma as foreigners, but they may also be stigmatised as people perceived as unworthy of support and protection. This rejection by society ultimately compounds the alienation felt by this group and can exacerbate ongoing mental health difficulties.

### **5.4 Discrimination in the context of social structures**

One of the deepest effects of anti-foreigner mobilisation is the way refugees are socially subordinated into South African society. Refugees are often victims of xenophobic violence and discrimination, which also prevents them from socially, economically, and politically integrating into society at large. There is the existential isolation of refugees to consider, both in urban settings and in pockets of rural communities where negative stereotypes about foreigners are widespread, nurtured by anti-foreigner groups such as Operation Dudula. In actions and rhetoric, these groups engender a climate of distrust and hostility that dramatically limits refugees from engaging with the South African public.

The marginalisation of refugees is not only economic but also social, addressing the local community and cultural spaces. Refugees are seldom allowed to engage in local social networks such as community initiatives, cultural programs, and casual social interaction (Landau, 2005: 51), despite many of them being entitled to protection and asylum in the host country. This perception of refugees as free riders reinforces their marginalisation, amplifying their sense of otherness. It is this social exclusion that denies the possibility for refugees to form meaningful social bonds, which are important for emotional support, economic survival and well-being.

### *Cultural Displacement and Exclusion*

This frames refugees as culturally alien or incompatible with South African values, which can only lead to their further alienation, and is the rhetoric employed by anti-foreigner groups. For members of xenophobic groups, narratives also include ideas of refugees as not deserving to be integrated into the society, and thus in turn alienating them further from the rest of the South African society. Refugees are forever viewed as outsiders, no matter how many years they have lived in the country; they are referred to as a 'threat' to cultural purity or national identity, and that is used to justify exclusion.

In addition, the growing stigmatisation and marginalisation of refugees in South Africa leave them with no opportunity to access the cultural sub-spaces in understanding and integrating. When it comes to the media and local initiatives to bridge cultures, refugees are often ignored. Instead, their experiences are mostly overlooked or misrepresented, allowing stereotypes to run riot. As a result, their sense of belonging and empowerment reaches only to add meaning for South Africans in the support they can provide; evermore is purely cultural suicide.

### *Social Media and the Public Discourse*

Social media platforms have amplified anti-foreigner movements in South Africa, where stories about refugees and migrants are circulated and regurgitated. Twitter, Facebook, and WhatsApp have all been vehicles for xenophobic discourse, with many South Africans venting their frustrations at refugees in often furious, inflammatory ways (Machiya, 2022). Online mobilisation of anti-foreigner anger then goes offline through aggravated violent attacks, leaving refugee men and women with the impression of being 'attacked' both in the real and the digital world. This particular form of digital exclusion potentiates refugees'

social exclusion and vulnerabilities, stunting engagement in more positive interactions with the South African general populace.

The ubiquity of these xenophobic messages serves to both actualise public hostility toward refugees and perpetuate misinformation about refugee contributions and needs. Greedy refugees are cast as the enemy who compete with locals for resources, ignoring the socio-political and economic realities that drive people out of their countries in the first place. The demonisation on the web greatly affects the refugee community struggling to break the walls of loneliness, as this material perpetuates the negative public image given to them, preventing opportunities for the local population to interact with this group.

### **5.5 State Response and Responsibility**

#### *The Government's Mixed Response to Attacks on Foreigners*

The South African government's approach to anti-foreigner mobilisation and violence has been criticised for its inconsistency and lack of decisiveness. Despite South Africa eagerly signing up to a suite of international instruments that offer a framework for the protection of refugees, including the 1951 Refugee Convention and the 1967 Protocol, a global response to xenophobic violence has seldom been forthcoming. Violence, eviction, and economic exclusion persist, despite laws that guarantee protection for refugees, such as the 1998 Refugee Act.

Those protections have been criticised for not being effectively enforced by state actors, most notably law enforcement. Several reports have emerged of police officers ignoring violence against refugees or actively participating in discriminatory acts themselves. In some cases, members of the police actively aid refugees in being expelled from informal settlements or do not take up reports of xenophobic violence (Freeman et al., n.d). This failure to protect refugees has resulted in accusations that the state is either indifferent to the plight of refugees or complicit in the anti-xenophobia climate that exists in sections of the population.

Meanwhile, the state may issue occasional public denunciations of anti-foreigner violence, but its complaints seldom lead to meaningful reforms to address the social and economic roots of xenophobia. Rather than introducing substantial refugee integration programs or strengthening the legal framework to protect refugees, in general, the government has been

reactive. This passivity ensures insecurity and fear for refugees and erodes their rights to protection, dignity and justice.

### *The Role of South Africa's International Commitments*

South Africa's international obligations to protect refugees are clear, but their domestic policies too often do not reflect these commitments. As a state party to the 1951 Refugee Convention, South Africa is obliged under international law to provide refugees with key protections, including the right to non-refoulement and the right to work. However, the government's hesitance to use its full power in supporting these rights, especially as public antipathy toward foreigners is on the rise, has expanded the gap between these international commitments and what is the domestic reality. In its Constitution, South Africa has a well-defined human rights framework that provides the expected protection to refugees, although, in practice, this protection is not uniformly applied.

The continued lack of accountability for perpetrators of xenophobic violence in South Africa further undermines the credence of South Africa's international human rights standing. Failure to establish an effective national system for mechanisms for refugee protection, particularly in regions with high levels of anti-foreigner mobilisation, indicates systemic failure to protect refugees. However, the failure of the state to harmonise its international commitments with things happening on the ground detracts from the credibility of South Africa's position in the international human rights sphere.

## **5.6 Effects on Refugee Protection Systems**

### *Breakdown of Faith in Civil Service Institutions*

Mobilisation against foreigners and the violence that follows contribute to a serious weakening of the refugee establishment's confidence in state institutions. Refugees experiencing xenophobic violence report a perception that the state ignores their needs and that state institutions, such as the courts, police or immigration offices, are often unhelpful or complicit in their suffering (Sibanda, 2020: 94). This contributes to further alienation of refugees from these structures in the regions they inhabit and represents a significant weakening in the capacity of refugees to effectively pursue redress or justice related to their claims and grievances.

The state's inability to properly deal with the fundamental causes of xenophobic violence leads to a growing number feeling dissociated from the legal and political institutions in South Africa. They often see the state as prioritising appeasing the xenophobic segments of society over its obligations under international law to protect refugees. This image of South Africa undermines the legitimacy of institutions in South Africa and creates a culture in which refugees are less able to seek legal redress or interact with the state's legal systems, as they fear they will not be treated fairly.

### *Undermining Refugee Rights*

Rising anti-foreigner sentiments directly violate the fundamental rights of refugees, such as their right to safety, dignity, and freedom from violence. This is a grave threat to the very concept of asylum, one of the cornerstones of international human rights law. The behaviour of groups such as Operation Dudula is not only a violation of these rights but promotes ethnic intolerance and exclusion. Refugees who are consistently subject to harassment, violence, and economic exclusion cannot lead fulfilling or dignified lives.

Furthermore, considering the legal and socio-cultural hurdles refugees encounter in South Africa, it can be argued that the refugee protection system is failing in terms of policy as well as the enforcement of policies. Those state failings encourage xenophobic violence, and when those acts occur, the refugee protection frameworks that should provide a shield from them fail when the state fails to prevent violations. Consequently, the most basic rights of refugees that should be afforded to them under South African law and international human rights law are regularly violated, with refugees being the never-ending victims of a system that leaves them in constant vulnerability and fear.

## **5.7 Legal and Policy Gaps**

### *Weaknesses in the Refugee Protection System*

Legal frameworks such as the Refugees Act of 1998 and the Constitution of South Africa (1996) have numerous gaps in the refugee protection system that impact the very essence of protecting refugees from violence and discrimination as a result. Although South Africa is a signatory to international conventions on the protection of refugees, the domestic legislation that flows from this is sometimes not fully realised, particularly within an environment of increasing anti-foreigner sentiment.

A major gap is the enforcement of refugee rights. Although South African law guarantees the right to asylum, it also renders many refugees vulnerable to arbitrary detention and forced deportation. Asylum permit refugees usually face bureaucratic delays in making their decisions regarding their applications, which expose them to exploitation, harassment, and violence. This absence of an intelligible, efficient process leaves refugees with practically no means to obtain the legal status to which they are entitled, and anti-foreigner groups take advantage of the resulting delays, using them as an avenue to source harassment and violence against refugees.

In particular, the policy and practice of indefinite detention of asylum seekers while their claims are processed creates further vulnerability. Such prolonged uncertainty and lack of a clear time frame for resolution can leave refugees in a seemingly endless limbo, with limited access to social services, and in many cases, vulnerable to exploitation in the informal economy. For those who have been traumatised by violence and persecution in their home countries, the lack of transparency can only compound their fear of the asylum-seeking process. This feeling of uncertainty gives rise to a breeding ground for xenophobic groups, exploiting the cracks in social cohesion.

#### *Inconsistent Immigration Enforcement*

One legal gap is the inconsistent enforcement of immigration laws in South Africa. The country has on paper well-defined measures for managing illegal immigration, but immigration enforcement is often rife with inconsistencies and discriminatory practices. Immigration officials and law enforcement agencies have been accused of targeting particular communities, particularly informal workers or refugees in low-income neighbourhoods, while overlooking wider structures that enable irregular migration. The focus on “illegal” foreigners frequently will lead to raids that disproportionately impact refugees, even those who have legal status, without the kind of nuanced interpretation that would allow people to be treated according to their legal protections.

This uneven application of immigration laws not only deepens the vulnerability of refugees but also emboldens xenophobia among civilians. Categorising all foreign nationals as the same as undocumented migrants, including refugees with legal status, is a significant hindrance to the proper protection of refugees’ rights. The fact that refugees legally recognised by the South African government are still subjected to violence and harassment

under the pretext of immigration enforcement speaks of the failure of the system to guarantee their rights.

Furthermore, policy changes (or the threat thereof) to refugee status or asylum procedures can compromise the rights of refugees. Proposing changes to the Refugees Act and to the Asylum system as a whole would limit the protection available to individuals or create hurdles to qualifying for asylum.

## **5.8 The Psycho-social Impact on Refugees**

### *Family Separation and Stigma*

The psychological impact of xenophobic violence reverberates within the family unit as well. Further sources of trauma among South African refugees are family separation in the event of brutal attacks, displacement and fears of deportation. This separation compounds the pain and trauma of refugees, many of whom are children who have already seen or experienced violence in their country of origin.

As a result, refugees are frequently stigmatised in their societies, exacerbating mental health complications. Anti-foreigner movements further bolster the rhetoric around refugees by painting a negative image of the group, leading to reduced refugees' self-esteem and sense of belonging. Such an attitude can lead to a feeling of undeservingness, where refugees internalise such sentiments and start believing that they do not deserve the protection or the resources they are entitled to by law. And this kind of social stigma further isolates them and lowers their dignity.” As a result, many refugees are shamed and ostracised, with a detrimental impact on their psyche and prospects of thriving in South African society (Nyikadzino, 2023:407).

### *Impact on the Next Generation: Long-Term Consequences*

The long-term psychological toll of anti-foreigner violence on refugees also has consequences for the next generation. They risk obstacles to development (including mental health disorders or social integration) where xenophobia is the norm. The fear and distress of living in a climate of hostility can undermine children’s ability to adjust to new environments, excel in school and build healthy social bonds.

Moreover, regular prejudice or violence can make refugee children internalise xenophobic attitudes. This early exposure to discrimination causes long-term psychological damage, often resulting in low self-esteem, depression, and other behavioural problems. Refugee children are less likely to become fully integrated members of South African society in this atmosphere of fear and exclusion, and this disintegration can lead to cycles of poverty, marginalisation, and psychological dysfunction across generations (Nyikadzino, 2023).

## **5.9 Conclusion**

Through the conduct of Operation Dudula, this chapter has examined the various implications of anti-foreigner mobilisation for the rights and existence of refugees in South Africa. Legal and policy gaps that inadequately protect refugees and psychosocial impacts from living in a climate of fear and hostility reflect the deep vulnerabilities confronting refugees, as identified in the discussion. The legal framework for protection exists, but implementation is patchy or insufficient, particularly against a backdrop of escalating xenophobic violence.

The social isolation and financial marginalisation of refugees contribute to a broader climate of exclusion, which hampers their immediate well-being but also undermines South Africa's commitments to human rights. The government's failure to rise to the challenge of adequately responding to the needs of refugees and the dearth of political will to address the root causes of xenophobia persist; this leaves refugees vulnerable to exploitation and violence.

This chapter has also illustrated the dire mental health consequences of anti-foreigner violence, assets who have experienced trauma, anxiety, and depression. Cultural alienation, stigmatisation, and family separation create additional barriers for refugees to begin to recreate their lives. The death of refugees and the misery of the refugees in non-camp settlements speak volumes for the required comprehensive reforms of refugee protection policies and the need for an urgent change in attitude towards refugees in society in general.

On a larger scale, these findings have extensive implications, not just for the refugees but for the aspiration of refugee protection in South Africa. The South African state must take specific steps to protect the rights of refugees, to break down prejudices and to foster an environment of inclusion and support. Only then will South Africa be able to fulfil its international obligations and offer refugees the safety and dignity they deserve.

## 6. CONCLUSION AND RECOMMENDATIONS

This paper has considered the multi-dimensional effects of anti-foreigner mobilisation on the protection of refugees' rights and livelihood in South Africa, specifically the implications of xenophobia, state accountability and social justice. The findings show that xenophobia is more than a societal bias; it is a structural challenge that is ingrained in institutions, policies and public discourse. This analysis highlights the gap between equality and the right to non-discrimination, as enshrined in the progressive South African legal framework and the realities in practice for refugees, who are left endangered by systemic exclusion, violence and social alienation.

The legislative framework for South Africa, which includes the Constitution, the Refugees Act 130 of 1998 and the recently signed Prevention and Combating of Hate Crimes and Hate Speech Act of 2023, provides a strong basis for alleviating xenophobia. The practical take-up of such protections has been limited due to implementation failures, institutional inertia and societal push-back on inclusivity. *Cases like Union of Refugee Women and Others v Director, Private Security Industry Regulatory Authority (2006) and Somali Association of South Africa v Limpopo Department of Economic Development (2014)* demonstrate judicial willingness to uphold the rights of refugees; however, they also reveal the limitations of systemic reform.

Through a thematic analysis of the research findings, this dissertation has identified three key themes: (1) The normalisation of xenophobic violence, exacerbated by populist sentiments and insufficient policing, (2) The role of institutions in perpetuating discrimination, displayed through barriers to accessing public services and socio-economic participation, and (3) the resilience of refugees, who have navigated precarious conditions while continuing to assert their rights and dignity. Findings also suggest that this is reflective of the increasing need for an approach to protecting refugees that goes beyond legal commitments to address societal attitudes and institutional practices.

Against this backdrop, the argument can be made that South Africa needs to not only fight xenophobia but to ensure that all refugee rights are realised in order to uphold its constitutional and international obligations. The following policy recommendations provide a roadmap to help achieve these goals.

## ***Recommendations***

### **(a) Enhancing Law Enforcement and Accountability**

Law enforcement reform must be a key component of efforts to eliminate xenophobic violence. The specialised hate crime units in the South African Police Service (SAPS) already have the ability to investigate and prosecute offences committed as part of a broader pattern of hate. Greater independence in oversight mechanisms should also be empowered to ensure law enforcement and other government agencies are held accountable for breaches in refugees' and asylum seekers' protection.

### **(b) Improving Public Awareness Campaigns**

Public educational initiatives should be comprehensive in focus in order to counteract xenophobia and create social cohesion. Campaigns must reach schools, workplaces and community spaces, highlighting and celebrating the contributions of refugees to South African society and reinforcing values of inclusivity, equality and human dignity. These efforts could be amplified through partnerships with civil society organisations and the media.

### **(c) Overhauling the Refugee Programme**

The Department of Home Affairs needs to clear systemic bottlenecks in determining asylum and expand access to documentation for refugees. Efficiency could also be improved through the implementation of digital case management systems and additional capacity for staff at refugee reception offices. On the other hand, giving officials training on refugees' legal rights can help eliminate discriminatory practices in the bureaucracies of the state.

### **(d) Expanding avenues for socioeconomic integration**

Dedicated efforts for the social and economic inclusion of refugees are crucial. Such initiatives could include skills development programmes, entrepreneurship funding access, and partnerships with the private sector to encourage inclusive hiring practices. Broader public-private partnerships can help break down barriers to employment and education for refugees.

(e) Normalising Early Warning and Response Mechanisms

The South African government must establish early warning systems to detect and respond to anti-foreigner mobilisation. This includes monitoring for signs of hate speech and incidents of violence, coordinating responses among key stakeholders, and ensuring that adequate resources are devoted toward proactively addressing asperity before it devolves into violence.

(f) Enhancing Regionalisation and Regional Cooperation

For us to address the root causes of forced migration, South Africa needs to step up its engagement with the AU (African Union) and the UNHCR (United Nations High Commissioner for Refugees) to provide adequate assistance. Such partnerships could centre around regional stability, equitable burden-sharing between states, and establishing pathways to safe and dignified migration.

***Closing Remarks***

The overarching message from this dissertation is that xenophobia is not just a violation of human rights law, but a deep failure in South African law and constitutional ideals of equality and dignity. The systematic exclusion of refugees violates the transformative promises of the Constitution and risks cycles of violence, marginalisation and social fragmentation.

These recommendations can help South Africa to take seriously its international and domestic obligations when it comes to protecting refugees, while also addressing some of the institutional and societal drivers of xenophobia in society. Achieving this will demand not only ongoing political will but the active participation of all role players and a determination to create a society in South Africa where refugees are welcomed as part of society.

These interventions would provide South Africa with an opportunity to reaffirm its moral and legal leadership on the issue of refugee protection and to engage meaningfully in the global discussions that shape human rights and migration justice.

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