

Nsabimana, Aimable; Pleace, Michelle; Gisselquist, Rachel M.

**Working Paper**

## Legal identity and access to the state in South Africa

WIDER Working Paper, No. 2024/54

**Provided in Cooperation with:**

United Nations University (UNU), World Institute for Development Economics Research (WIDER)

*Suggested Citation:* Nsabimana, Aimable; Pleace, Michelle; Gisselquist, Rachel M. (2024) : Legal identity and access to the state in South Africa, WIDER Working Paper, No. 2024/54, ISBN 978-92-9267-516-5, The United Nations University World Institute for Development Economics Research (UNU-WIDER), Helsinki,  
<https://doi.org/10.35188/UNU-WIDER/2024/516-5>

This Version is available at:

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WIDER Working Paper 2024/54

## **Legal identity and access to the state in South Africa**

Aimable Nsabimana,<sup>1</sup> Michelle Pleace,<sup>2</sup> and Rachel M. Gisselquist<sup>1</sup>

September 2024

**Abstract:** Legal identity is an important aspect of securing access to public services, such as education, healthcare, and social protection services, including child support grants. In the South African context, in the post-apartheid period, many poor South Africans benefited from well-organized civil registration services thanks to the systematic use of identity documents (ID), which reflect citizen registration in the country. South Africa today is considered to be a model in this area, with comparatively high levels of birth registration (near 90%). On the other hand, some populations in South Africa remain unregistered and without the necessary documentation. In particular, since the 1990s, South Africa has received major inflows of refugees, asylum seekers, and job-seeker migrants from other African countries and outside the continent. Using various survey datasets and reports, this paper documents the nature of legal identity and access to public services by migrants, and identifies plausible challenges they face in obtaining these resources.

**Key words:** access to public services, migration, South Africa

**JEL classification:** F22, I38, J15, J61

**Acknowledgements:** We are grateful to Southern Africa—Towards Inclusive Economic Development (SA-TIED) for funding this project. All errors and views expressed in this paper are those of the authors. They do not necessarily represent the views of UNU-WIDER or the University of Pretoria.

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<sup>1</sup> UNU-WIDER, Helsinki, Finland; <sup>2</sup> University of Pretoria, Pretoria, South Africa; corresponding author: [aimable.nsabimana@wider.unu.edu](mailto:aimable.nsabimana@wider.unu.edu)

This study is published under the UNU-WIDER project [Addressing group-based inequalities](#).

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ISSN 1798-7237 ISBN 978-92-9267-516-5

<https://doi.org/10.35188/UNU-WIDER/2024/516-5>

Typescript prepared by Gary Smith.

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Katajanokanlaituri 6 B, 00160 Helsinki, Finland

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## 1 Introduction

The importance of ‘legal identity for all including free birth registrations’ is underscored in the UN Sustainable Development Goals, under target 16.9, as crucial to the achievement of peaceful and inclusive societies and access to justice for all. Among the least controversial targets adopted (Manby 2021), the right to legal identity has longstanding emphasis in international discussions (Dunning et al. 2014; Manby 2018). The significance of birth registration, in particular, has been recognized since the 1989 UN Convention on the Rights of the Child (Article 7) as ‘the foundation for the fulfilment of other rights’.

Legal identity, including documentation of citizenship or other legal status and the right to reside in a particular country, is a prerequisite for formal engagement with the state, to participate in its politics, and to access various state-provided services and discrete benefits (Harbers 2020; Hunter 2019; Hunter and Sugiyama 2014; Kidd 2017). Registration also forms an essential element of the informational or statistical capacity of the state, important for evidence-based policy-making and evaluation. Indeed as Szreter (2007: 1) notes, ‘the modern state seems almost to have become a registering machine, with the act of registration replacing taxation as the citizen’s most common encounter with the state’. By extension, deficiencies in registration reflect weaknesses in state capacity which are striking in many contemporary countries, with far-ranging implications for well-being and development. Recent estimates suggest that approximately one billion individuals in the world lack any proof of identity, with particular concentrations in lower income countries in Africa and Asia (Desai et al. 2018).

South Africa has been considered as a model in this area, with comparatively high levels of birth registration at near 90% (Straaten and Metz 2019). On the other hand, some populations in South Africa remain unregistered and without necessary documentation. In particular, since the 1990s, South Africa has received major inflows of refugees, asylum seekers, and job-seeker migrants from other African countries and outside the continent. Drawing on survey data and reports, this paper examines how legal identity impacts migrants’ access to public services in South Africa and delves into the difficulties they encounter in securing these resources.

This paper discusses South Africa’s advancement in registering individuals, achieving significant progress in birth registration (reaching 90%) and maintaining high levels of death registration since 1997. Legal identity is an important aspect for accessing state resources. This study examines public service access by citizens, highlighting that migrants have worse access compared to South Africans. Specifically, non-South African nationals face challenges such as paying for healthcare services and high costs (ZAR2.5 million) to obtain a business permit, in addition to xenophobia driven by perceptions of job theft, resource strain, and increased crime. Employing the available data to discuss these issues, this paper also documents how data constraints impede analysis and evidence-based policy-making in this area.

## 2 Civil registration and migration in South Africa

Identity registration has been declared as a human right by the United Nations (Szreter 2007). Governments need to register all individuals within a country to obtain an accurate estimate of population numbers for the provision of public goods (Van der Straaten 2019). Legal identity is important for citizens to vote and access state resources and socioeconomic provisions such as income grants (Harbers 2020). Indeed, the significance of legal identity is recognized within the Sustainable Development Goals (Harbers 2020). Registration and the related compilation of demographic data also allow the state to assess and support the needs of marginalized populations (Van der Straaten 2019). South Africa is widely

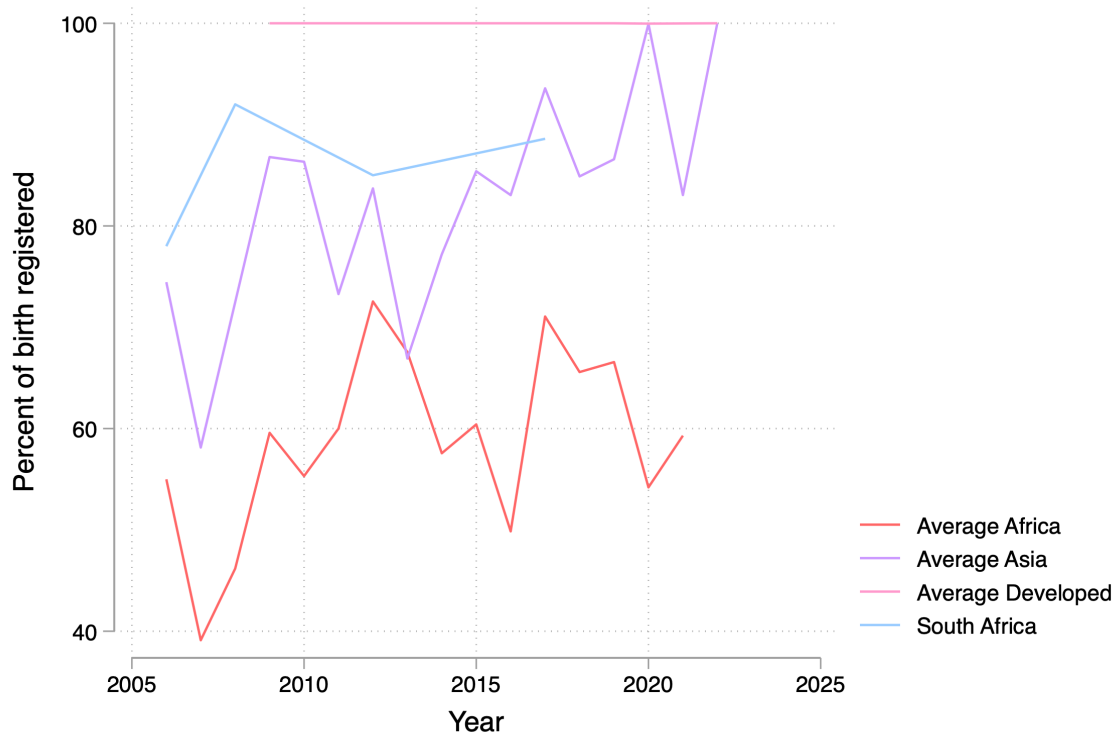
considered a success case with regard to civil registration, which has in turn improved the coverage of its social service system.

## 2.1 South Africa's approach to ID registration

South Africa has made great strides in registering vital events promptly, given that developing countries struggle with civil registration due to financial and technological constraints. The country aims for birth registration of a newborn within 30 days after birth, and obtaining a birth certificate is free for all citizens within this period (Van der Straaten 2019).

Figure 1 documents South Africa's levels of birth registration compared to the averages for Africa and Asia, and for developed countries. There is a persistent gap between South Africa's levels of birth registration and those of high-income countries; however, improvements have been made since 2011. This progress is highlighted by the country's impressive birth registration rates compared to other African countries.

Figure 1: Percentage of all births registered by region



Source: authors' computation using World Bank data (World Bank 2024).

Post-apartheid, the civil registrations database was improved to ensure that all race populations were registered. Access to national identity documents and birth certificates is important, especially for individuals hoping to access income grants. Due to the use of a digital database to capture civil registrations, the Department of Home Affairs and Department of Social Development can easily work together to verify South African citizens' status and provide these individuals with the necessary social grants. South Africa continues to prioritize civil registration, with 81% of all staff employed at the Department of Home Affairs tasked with processing documents related to vital events, such as national identity documents, passports, immigration and border controls, and marriage, birth, and death certificates. Despite this, the country still struggles to register all individuals as penalty registration fees apply to individuals who register their newborn more than 30 days following the birth, and families may not be able to afford these fees. Therefore, some children remain without a birth certificate. Also, children may not reside

with their biological parents, and their caregivers may not have access to the relevant documents to register their births (Van der Straaten 2019). South Africa has improved civil registration by having the identification services integrated into the healthcare sector, which includes having identification services mobile units at hospitals to make birth registration easier. The country also provides a clear incentive for individuals to register themselves and their children to obtain any social grants. Further, South Africa continues to allocate a sufficient budget to civil registration (Van der Straaten 2019).

## 2.2 Migrants in South Africa

Gaps in civil registration nevertheless remain, and migrants are a population of particular concern. Since the early 1990s, South Africa has become a destination for numerous migrants, especially African nationals in search of employment, driven by structural failures in their home countries (Hiropoulos 2020; Wotela and Letsiri 2015). For example, many Zimbabweans no longer view South Africa as a place for temporary economic migration, but rather as their new home (Crush et al. 2015).

Nonetheless, the nation grapples with xenophobia, where foreign nationals are frequently blamed for exacerbating unemployment by purportedly ‘stealing’ jobs from South Africans and being implicated in crime (Crush and Ramachandran 2014). The media and politicians often portray migration to South Africa as a crisis, highlighting the strain on government services and competition for jobs (Hiropoulos 2020). Immigrants are seen as consuming scarce resources, including income and healthcare, needed by South Africans (Crush and Ramachandran 2014), leading those in disadvantaged socioeconomic positions to adopt negative views towards immigration (Ruedin 2019). In addition, it is noteworthy to mention that recently there has been an increase in xenophobic attacks. In mid-January 2022, a surge of these attacks coincided with the start of Operation Dudula, an organization whose name means ‘force out’ in Zulu. This group advocates for the removal of illegal immigrants from the country and organizes protests that prevent migrants from accessing medical facilities by turning them away from hospitals. They also inspect informal businesses for identity documents. These protests have sparked riots and the looting of businesses in Johannesburg (Guardian 2023).

Ngcamu and Mantzaris (2019) suggest that South African media contribute to xenophobia through sensationalist headlines that shape public perception. The situation may be worsened by ineffective immigration policies and an increase in the number of immigrants in recent years (Hiropoulos 2020; Ngcamu and Mantzaris 2019). Migrants report a lack of efforts from the South African government and police to curb the violent treatment directed at foreigners (Crush et al. 2017). In 2008, xenophobic riots erupted in major cities such as Johannesburg, Cape Town, and Durban (Hiropoulos 2020), marking the beginning of a concerning trend in violence against foreign nationals. Immigrants have stated that they face new problems in South Africa, such as loss of peace, democracy, and freedom (Gebre et al. 2011). Ethiopians residing in Durban have reported a lack of social interactions with South Africans beyond business dealings, citing a feeling of being misunderstood. They have also described experiencing unfair treatment by South African police officers and claim that officials at the Department of Home Affairs expect bribes when dealing with foreigners (Gebre et al. 2011).

In the formal sector, immigrants generally enter jobs in high-growth sectors, leveraging their advanced education. Nevertheless, as the education levels of the South African population have improved, there has been a reduction in the demand for highly educated workers in South Africa broadly (i.e. including immigrants). Despite the negative attitudes surrounding immigration, non-South African nationals can have a positive effect, including contributing to higher incomes for South Africans, leading to an increase in GDP per capita. Additionally, immigrants pay more taxes, which positively impacts the state’s fiscal balance (Organisation for Economic Co-operation and Development 2018).

Vermaak and Muller (2019) observe that immigrants, compared to South Africans, typically earn lower incomes, often working in the informal sector where pay may be less than in the formal sector. However,

immigrants tend to display a survivalist mentality, which underpins their contribution to the economy despite the challenges they face. Wotela and Letsiri (2015) note that when immigrants in South Africa are no longer earning enough income to send home to their families in the form of remittance, they are likely to encourage their families to join them in South Africa. Yu (2022) states that there is an increase in emigration rates by skilled South Africans, and therefore the South African government should loosen immigration rules for skilled immigrants to fill the skills gap and increase the capacity of the economy. Further, due to high unemployment rates, the country should focus on encouraging immigrants to start businesses (Yu 2022). Entrepreneurship can be encouraged by reducing the amount required as an investment in the country in order to obtain a business visa (van Lennep 2019).

### **3 Descriptive overview**

Under the apartheid regime, not all South Africans were registered with the state. In response, democratic South Africa upgraded its registration systems to encompass all individuals, formalizing the requirement for all citizens to be registered. Individuals must be registered with the state promptly to ensure that those eligible for child grants can access funding as soon as the child is registered and the parents have obtained a birth certificate. Similarly, deaths should be registered in a timely manner to prevent the state from continuing to provide pension support or other financial assistance to deceased individuals. Additionally, having accurate data on the number of South Africans in the country aids the state in making informed decisions regarding budgets for social protection.

#### **3.1 Birth registration**

From Table 1 we note that the majority of the birth registrations before 2001 are late registrations (that is, not new births). During this time, the government was catching up with all birth registries. We note that men and women have a similar rate of late birth registrations, alluding to the importance of registering all individuals, regardless of their gender. After 2001 there was a shift towards registering individuals at birth, moving away from the practice of late registrations. By 2013 the rate of late registrations stabilized at below 10%, indicating that the state had managed to address the backlog of unregistered individuals. The proportion of delayed registrations was consistent across genders.

It is noteworthy that all provinces within South Africa follow a similar trend to that in Table 1. The Western Cape experienced the best coverage over this time, with the lowest level of late registrations between 1998 and 2003. Similarly, the Western Cape has the highest rate at which births are registered between 1998 and 2006; thereafter, other provinces converge to the high registration obtained by the Western Cape (91.03%), with only Mpumalanga (90.02%) and Kwa-Zulu Natal (88.89%) lagging in 2020. Children born in South Africa to non-South African parents can have their births registered to obtain birth certificates. To register their child, both parents need to have a valid passport and visa or asylum documentation; in the case of illegal immigrants, the child's birth is not registered (Sonke Gender Justice 2022).

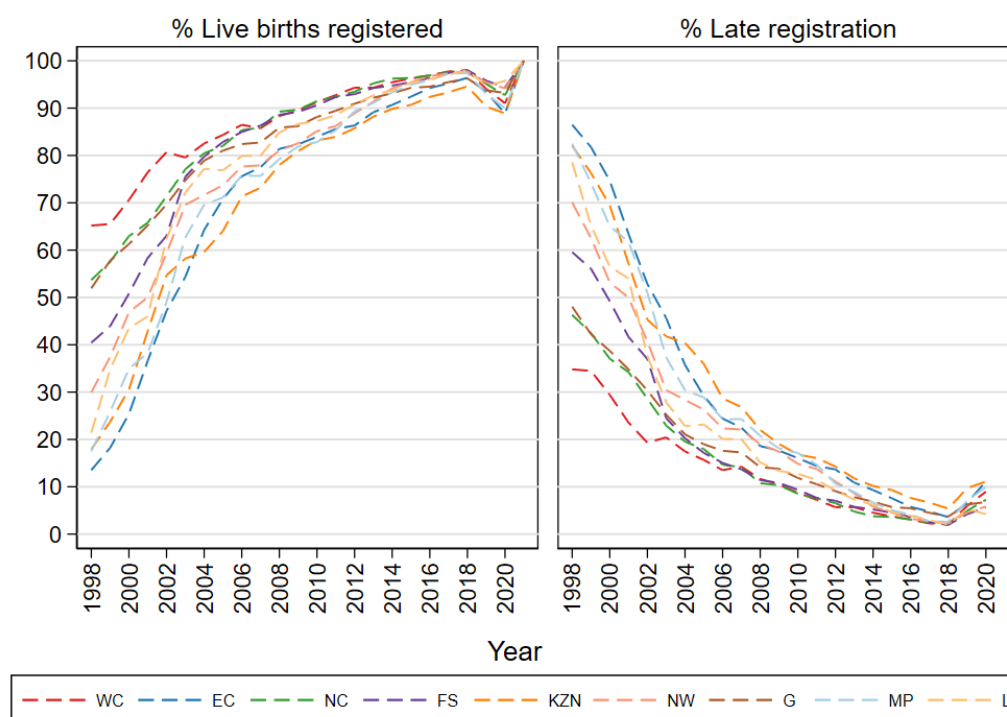
Table 1: South African birth registration (1998–2020)

Year	All		Male		Female	
	% live births	% late	% live births	% late	% live births	% late
1998	30.05	69.95	30.25	69.75	29.85	70.15
1999	36.68	63.32	36.76	63.24	36.60	63.40
2000	43.64	56.36	43.81	56.19	43.47	56.53
2001	51.17	48.83	51.32	48.68	51.02	48.98
2002	60.50	39.50	60.63	39.37	60.37	39.63
2003	66.84	33.16	67.07	32.93	66.60	33.40
2004	71.43	28.57	71.57	28.43	71.30	28.70
2005	74.43	25.57	74.60	25.40	74.26	25.74
2006	78.42	21.58	78.50	21.50	78.34	21.66
2007	79.28	20.72	79.34	20.66	79.22	20.78
2008	83.08	16.92	83.07	16.93	83.09	16.91
2009	84.64	15.36	84.65	15.35	84.63	15.37
2010	86.37	13.63	86.43	13.57	86.31	13.69
2011	87.70	12.30	87.69	12.31	87.71	12.29
2012	89.51	10.49	89.51	10.49	89.50	10.50
2013	91.30	8.70	91.31	8.69	91.30	8.70
2014	92.71	7.29	92.70	7.30	92.71	7.29
2015	93.90	6.10	93.92	6.08	93.88	6.12
2016	94.91	5.09	94.88	5.12	94.94	5.06
2017	95.89	4.11	95.89	4.11	95.89	4.11
2018	96.65	3.35	96.63	3.37	96.67	3.33
2019	93.30	6.70	93.33	6.67	93.26	6.74
2020	91.68	8.32	91.69	8.31	91.67	8.33

Note: 'all' represents all births from 1998 to 2020. '% live births' shows the percentage of individuals registered in the year they were born. '% late' represents the percentage of individuals registered after the year they were born.

Source: authors' computation using birth registration data from Statistics South Africa (2022).

Figure 2: Birth registration by South African province (1998–2020)

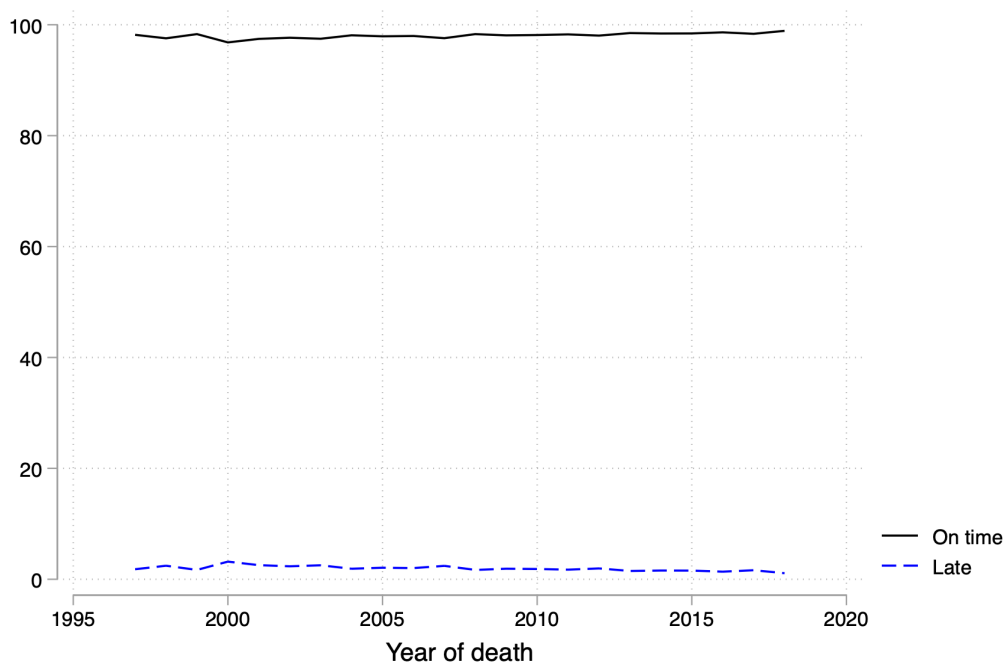


Source: authors' computation using birth registration data from Statistics South Africa (2022).

### 3.2 Death registration

Since 1997, death registrations in South Africa have been prompt, with most deaths being registered within the year they occurred. The data suggest that only a very low number of deaths are registered late, meaning they are recorded in the year following the actual occurrence. Over this period, the highest number of late registrations was 3.18% in 2000; however, this percentage decreased to 1.09% in 2018 (Figure 3).

Figure 3: Percentage of deaths registered



Source: authors' computation based on data from Statistics South Africa (2021).

## 4 Public services and requirements

During the post-apartheid era, the new South African regime committed to providing inclusive public services. To do so, the country set up various policies that would govern the provision and access of those public services. The policies further ensure that each citizen has full access to those public services. Household access to basic services such as drinking water, electricity, sanitation, and refuse removal has increased over the last three decades (Statistics South Africa 2018), although some households still do not have access to these services. Coupled with this, the country has also been embracing an increasing number of migrants, which has increased pressure on those local basic services. Below we consider various public services and their access by citizen status, including healthcare, education, business regulation, public utilities, social grants, and law and order (reporting a crime).

### 4.1 Access to public services by citizenship status

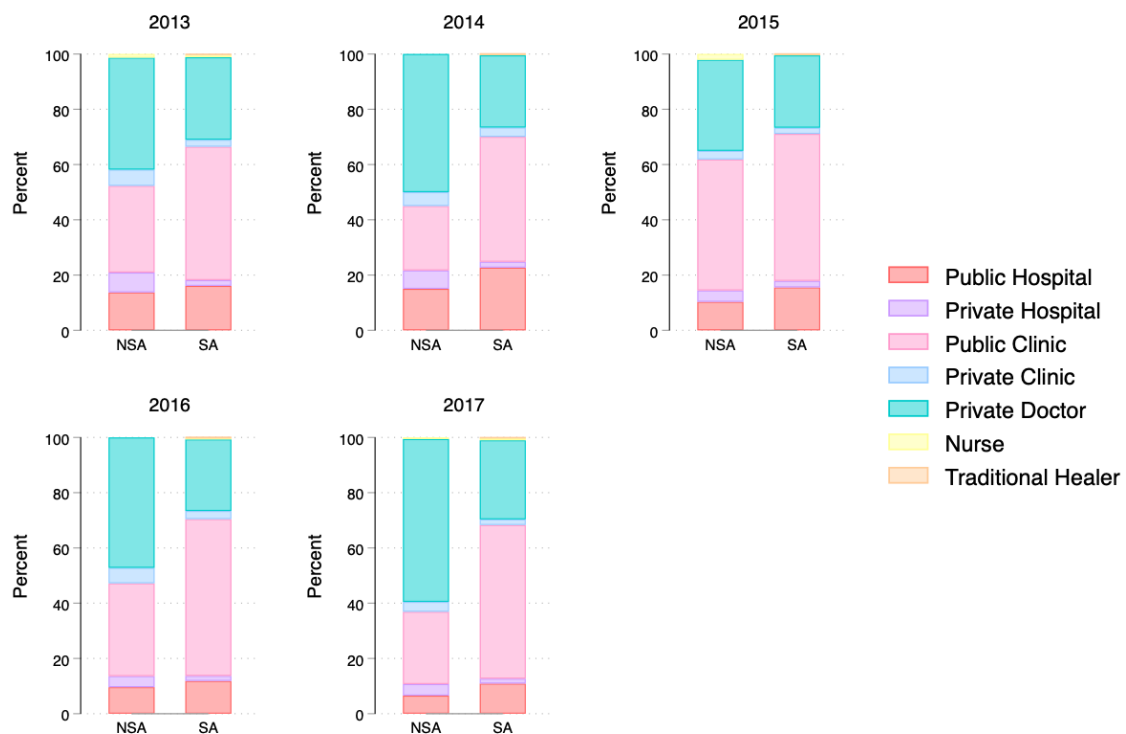
#### *Healthcare*

According to National Health Care Act No. 61 of 2003, all South Africans have access to healthcare, except those individuals with private medical insurance. South Africans accessing healthcare from a public institution may have to provide a form of identification. The cost of accessing public healthcare

services is determined by the Health Minister and the Finance Minister: ‘The Minister, after consultation with the Minister of Finance, may prescribe conditions subject to which categories of persons are eligible for such free health services at public health establishments as may be prescribed’ (National Health Care Act No. 61 of 2003: 9). In reality, pregnant women and children younger than six years old can access free healthcare from a public institution. Other patients receive a subsidy of up to 40% of the medical costs. A means test is used to determine the cost of medical care that patients can afford to pay (International Insurance 2023). Non-South African nationals and undocumented migrants from countries within the Southern Africa Development Community (SADC) have access to basic healthcare services at public institutions, but if a higher level of medical care is needed then migrants must undergo a means test to verify their ability to pay for these services (Vanyoro 2023).

From Figure 4 it can be seen that foreign-born citizens experience varied access to healthcare compared to South Africans. Non-South Africans utilize a smaller share of public clinics and public hospitals relative to South Africans. Additionally, it is noted that non-South African nationals use private hospitals to a greater extent than do South Africans, which may be attributed to non-nationals being required to pay for healthcare services.

Figure 4: Access to healthcare by citizenship status (2008–17)



Note: NSA refers to ‘non-South African’ and SA refers to ‘South African’.

Source: authors’ computation using the National Income Dynamic Survey (Southern Africa Labour and Development Research Unit 2018).

Crush and Tawodzera (2014) highlight ‘medical xenophobia’, characterized by healthcare professionals’ prejudiced attitudes and behaviours towards migrants and refugees, including the denial of healthcare to migrants, in contravention of South Africa’s Bill of Rights. Migrants may face denial of medical services due to lacking proper documentation. Furthermore, undocumented migrants frequently avoid public hospitals and clinics for fear of arrest and deportation by police. Through in-depth interviews with healthcare workers in the Musina region of Limpopo, Vanyoro (2019) discovered that despite institutional challenges, frontline workers provided healthcare services and HIV treatment to African

migrants, who often face xenophobia and violence, by finding creative ways to work around the rigid healthcare system.

### *Education*

The South African Schools Act No. 84 of 1996 (Republic of South Africa 1996) mandates that all children in South Africa have the right to education, with schools and their governing bodies authorized to set fees. Individuals may apply for fee exemptions to enable free access to education; such exemptions are granted at the discretion of school management. While management cannot deny access for unpaid fees, they are permitted to withhold grade reports (Legal Resources Centre 2023). Consequently, both South African and non-South African children are entitled to equal educational access, including fee exemptions, provided parents submit the required documents, such as identification and work permits for non-South African nationals (Scalabrini Centre of Cape Town 2019).

Both South African and non-South African children must provide specific documents with their school applications: an identity document for parents or legal guardians, or a passport for non-South Africans; proof of home or work address; the child's birth certificate; and a clinic card as proof of vaccinations for children enrolling in Grade 1. Additionally, migrants are required to include a work permit, permanent residence permit, or study permit (Gauteng Provincial Government 2019). Access to education for immigrants in South Africa may face restrictions in the coming years. The Home Affairs Minister stated: '[South Africa] does not have the resources to grant the socio-economic rights envisaged in the 1951 Convention' (Human Rights Watch 2023). Consequently, the Department of Home Affairs is considering proposals that could limit migrants' access to education and employment in the near future (Human Rights Watch 2023).

Using data from the 2009 Migration Household Survey, we observe that only 43.77% of children of school-going age are attending school in Gauteng. This figure shows a slight improvement in Limpopo, where 51.30% of children of school-going age attend school, as indicated in Table 2.<sup>1</sup> Given the high percentage of children not attending school in Gauteng and Limpopo, it is plausible that socioeconomic factors may be deterring these children from attending, such as a lack of information about educational opportunities for migrant children or insufficient resources to support their attendance.

Table 2: Access to education for migrants' children

Province	Access to school	
	Attending (%)	Not attending (%)
Gauteng	43.69	56.31
Limpopo	51.30	48.70

Note: only children aged 5–19 were included in this calculation.

Source: authors' computation using the Migration Household Survey (World Bank 2009).

### *Starting a business*

In the formal sector, all South African businesses must register with the Companies and Intellectual Property Commission (CIPC), and the registration must be signed and approved by all directors and/or incorporators. Additionally, companies need to register with the South African Revenue Service (SARS) (Companies and Intellectual Property Commission (CIPC) nd). Non-South African nationals must obtain a business permit to start a business, with a requirement that migrants invest ZAR2.5 million (US\$138,400) in the business startup. Regulations are less stringent in the informal sector, where individuals must obtain an informal trade licence. Applicants for this licence must provide their identity

<sup>1</sup> The Migration Household Survey does not include information on whether migrants have permanent residency or work permits.

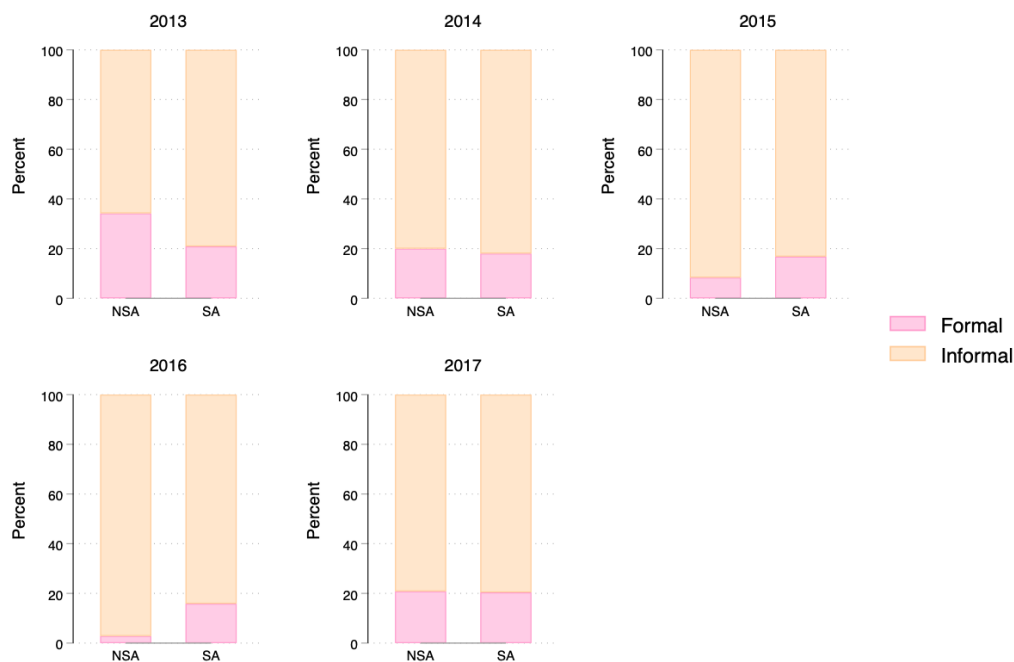
document, details about the trading site, and access to sanitation facilities near the site. Additionally, they are required to pay application fees upon document submission. Depending on the municipality in which the business operates, individuals must adhere to specific municipal by-laws (Hodgson and Clark 2018).

In 2013, ‘Operation Hardstick’ specifically targeted Ethiopian and Somali informal traders in Musina. The South African Police Services (SAPS) shut down over 600 businesses, mainly run by refugees and asylum seekers, for allegedly lacking licences. They confiscated equipment and stock, and arrested traders and their employees. Some traders had valid permits, but other migrants claimed they were denied licences because the municipality in Limpopo only issued them to South African citizens (Hodgson and Clark 2018).

The informal business sector has seen increased tension between migrants and South Africans, where migrants are pushed out of this sector through the use of violence by South Africans (Human Rights Watch 1998). Related to this, Gordon (2019) finds that anti-immigrant hate is centred around the idea that foreign nationals are creating a competitive business environment and reducing the income that South Africans can obtain. However, Piper and Charman (2016) find that additional businesses entering a sector is not competitive but rather complementary, and that business competitiveness is not only seen in sectors where there are foreign-owned companies.

In Figure 5 we observe that the rate of formal business ownership by non-South Africans decreased from 2013 to 2017, whereas the rate of formal business ownership by South Africans remained relatively consistent, hovering around 20% throughout the period. A study indicates that from 1996 to 2011, the self-employment rate among immigrants was 25%, compared to 16% for local workers. This suggests that each immigrant entrepreneur could potentially create two jobs for local South Africans. Even businesses within the informal sector, such as retail, could contribute to income support in areas desperate for employment opportunities (Hovhannisyan et al. 2018).

Figure 5: Type of business ownership by citizenship status (2013–17)



Note: NSA refers to ‘non-South African’ and SA refers to ‘South African’.

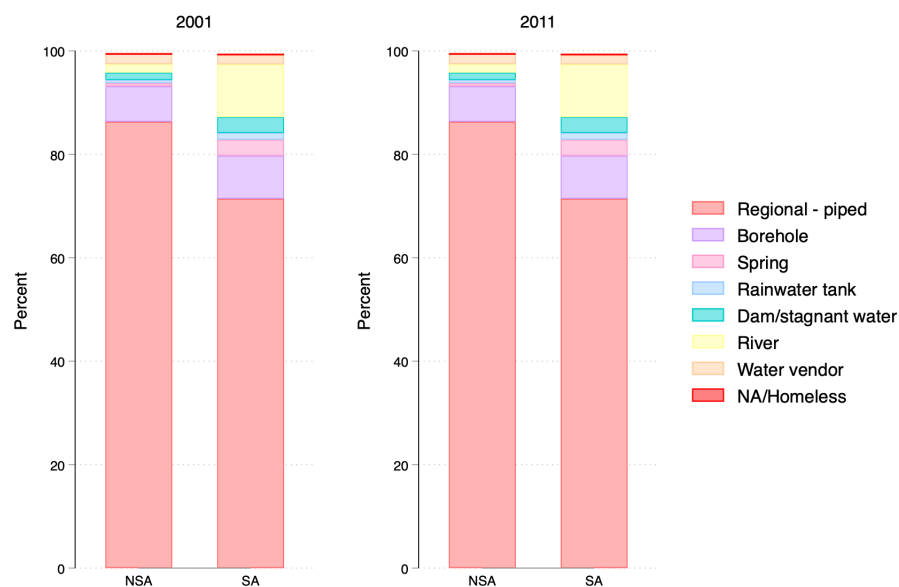
Source: authors’ computation using the National Income Dynamic Survey (Southern Africa Labour and Development Research Unit 2018).

### Access to utilities

All individuals have access to water and electricity provided by the local municipality, subject to a fee. Anyone can apply for these services by submitting their identity documents, lease agreements, or title deeds of their property, along with a completed application form for water and electricity access.

From Figure 6 it can be seen that non-South Africans have better access to piped water compared to South Africans. However, this might represent an upper bound estimate, as these values may underrepresent migrants living in rural areas and illegal immigrants in South Africa. Table 3 illustrates the limited access to basic utilities among surveyed migrants. Only 47.35% have access to safe water, with the remaining 52.65% lacking such access. Sanitation services are even less accessible, with only 41.92% of migrants having access and a significant 58.08% without access. Access to electricity is slightly better, though still insufficient, with 48.45% of migrants having electricity and 51.55% not having it. Compared to national figures for South Africa (Figure 6), these values indicate that migrants' access to utilities is markedly lower. These statistics highlight the severe challenges migrants face in securing essential services, emphasizing the urgent need for targeted interventions to improve their living conditions.

Figure 6: Access to drinking water by citizenship (2001 and 2011)



Source: authors' computation using census data Statistics South Africa (2011).

Table 3: Access to utilities for migrants (%)

	Access	No access
Safe water	47.35	52.65
Sanitation	41.92	58.08
Electricity	48.45	51.55

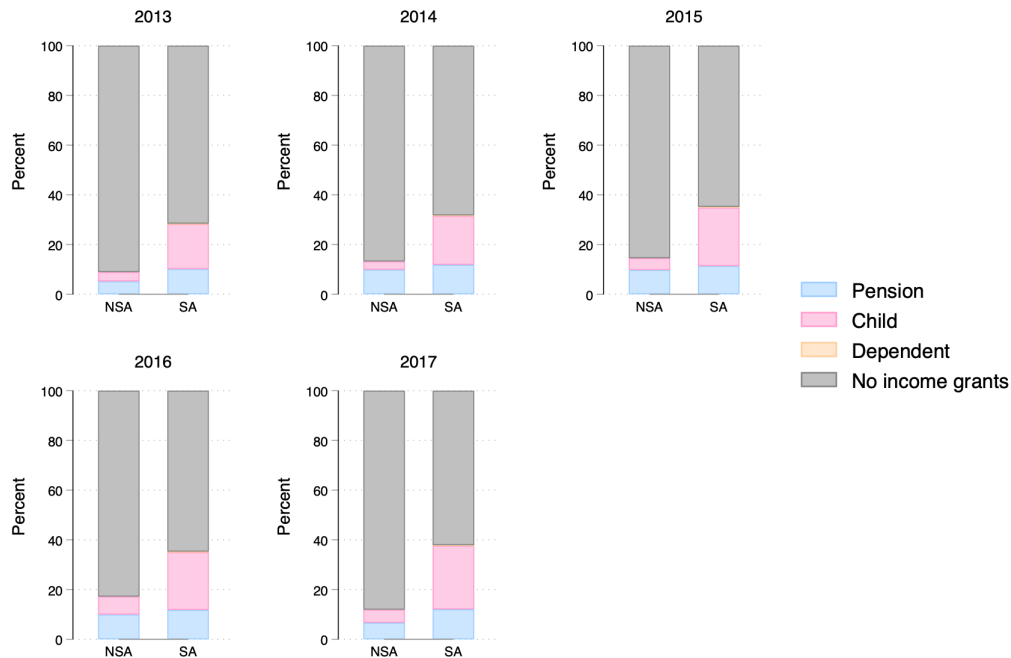
Source: authors' computation using the Migration Household Survey (World Bank 2009).

### Access to social grants

Only South African individuals or those with permanent residency or refugees have access to social grants (Statistics South Africa 2023). For immigrants to obtain permanent residency in South Africa they need to enter South Africa with the necessary visas/permits and remain in the country for at least two years. According to Statistics South Africa (2023), the percentage of individuals with permanent residency claiming access to social grants has increased from 0.26% in 2015 to 0.33% in 2023. In contrast, the percentage of refugees accessing social grants has seen a slight decrease, from 0.054%

in 2015 to 0.046% in 2023. From this report, the Old Age Grant and the Child Support Grant are the most commonly claimed, accounting for 60% and 34.5% of the total grants in 2023, respectively (Figure 7).

Figure 7: Access to grants by citizenship status (2008–17)



Note: NSA refers to 'non-South African' and SA refers to 'South African'.

Source: authors' computation using the National Income Dynamic Survey (Southern Africa Labour and Development Research Unit 2018).

### Reporting a crime

Individuals can file a police report at any station, with equal access for all, regardless of citizenship status. However, it is possible that some migrants may have concerns about contact with the police, in connection with their own legal status. Immigrants also express other concerns about reporting crimes, alleging misconduct by the SAPS, including bribery and theft (Mutandiro 2022). For instance, in 2019, owners of informal businesses who were foreign nationals experienced looting and destruction of their enterprises. These victims reported the incidents to the police, who took three days to respond. This situation escalates tensions, with mob behaviour stemming from accusations by South Africans that foreigners are usurping their jobs and increasing crime rates. Additionally, foreign nationals have observed that their establishments are more frequently targeted for counterfeit goods raids by the police than those owned by South Africans. During such operations, non-nationals have reported being subjected to physical violence by the police (Human Rights Watch 2020).

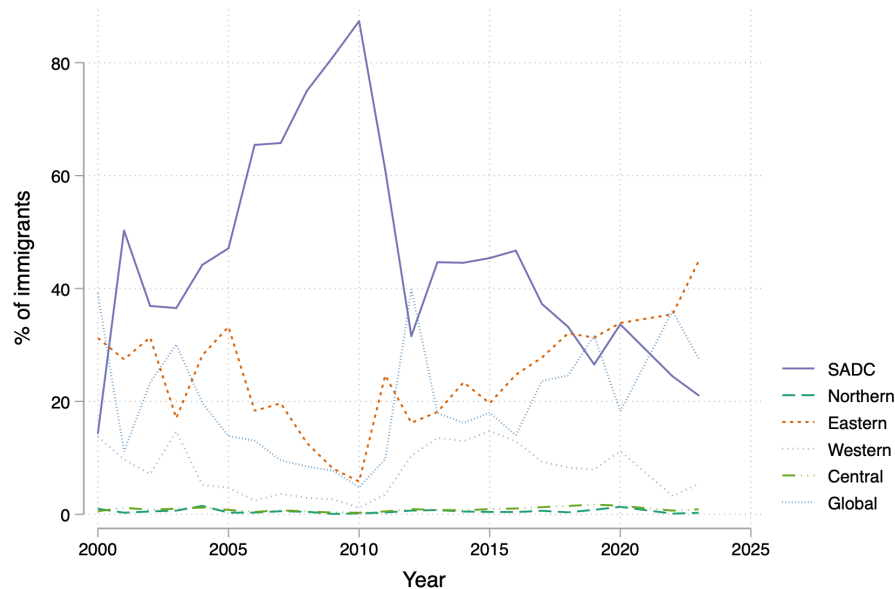
## 5 Migrants as a vulnerable group

### 5.1 Immigration trends

South Africa is a popular destination for many African immigrants, particularly those from the SADC region (Figure 8). Between 2001 and 2017, immigrants from neighbouring countries such as Zimbabwe were most common. Economic downturns in these countries have driven individuals to seek employment

in South Africa, where the economic climate is stronger. Generally, South Africa has a low level of immigrants from Northern Africa. As countries in Northern Africa are a distance away from South Africa, it is possible that individuals may migrate to other countries nearby, such as Nigeria.

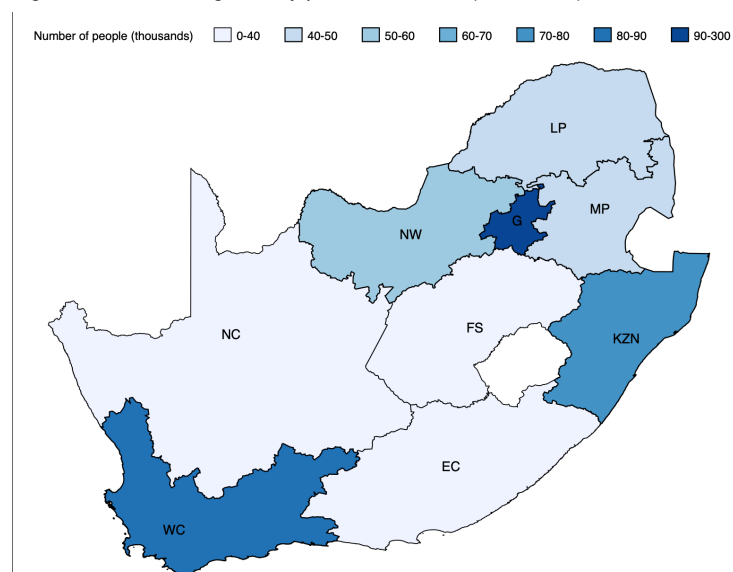
Figure 8: Immigrants by region (2000–23)



Source: authors' computation using International Migrant Stocks data (International Organization for Migration 2021).

Figure 9 clearly shows that Gauteng province has the largest inflow of migrants, likely because it is the economic hub of South Africa, offering abundant employment opportunities in both formal and informal sectors. Its proximity to the SADC region, where the majority of immigrants originate, further contributes to its popularity as a destination. The Western Cape and KwaZulu-Natal also attract significant numbers of migrants, ranking behind Gauteng as bustling urban centres with ample job opportunities.

Figure 9: Inflow of migrants by province in 2015 (thousands)



Note: full province names are: EC: Eastern Cape, FS: Free State, G: Gauteng, KZN: KwaZulu-Natal, LP: Limpopo, MP: Mpumalanga, NC: Northern Cape, NW: North West, WC: Western Cape.

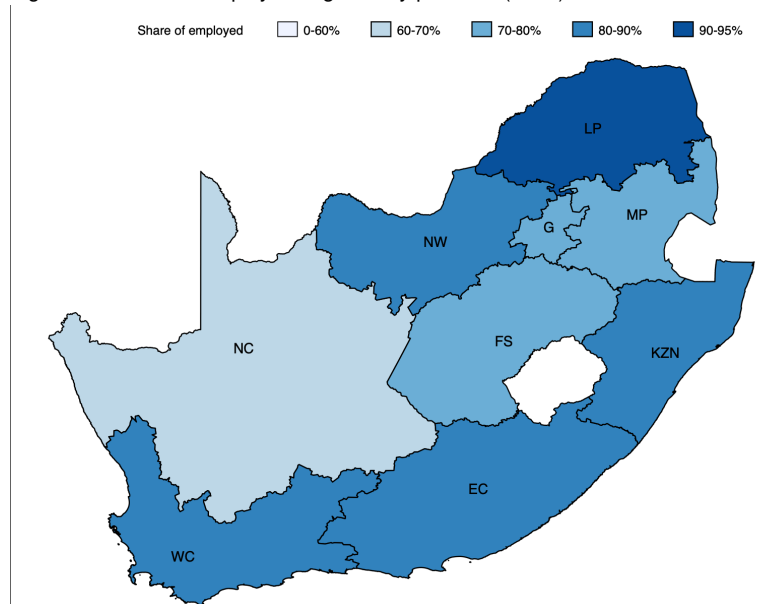
Source: authors' compilation using International Organization for Migration (2021).

## 5.2 Profile of migrants

As was indicated in Figure 8, the majority of migrants come from the SADC, including Zimbabwe and Mozambique. According to Hovhannisyan et al. (2018), half of the migrants in South Africa are considered poor, with one-third of migrant-led households falling below the national poverty line. Additionally, 63% of migrants report securing employment in the formal sector.

From Figure 10, it can be largely observed that migrants settling in Limpopo enjoy the highest employment rate among migrants. This trend is likely due to the extensive farmlands in the region, which offer numerous job opportunities within the agricultural industry. Following Limpopo, the North West, Western Cape, Eastern Cape, and KwaZulu-Natal also demonstrate high employment rates. Notably, three of these provinces are coastal, which may contribute to bustling holiday seasons that create additional employment opportunities, potentially within both the informal sector and formal job markets. Conversely, Gauteng exhibits a lower employment rate among migrants even though the province has the highest inflow of migrants.

Figure 10: Share of employed migrants by province (2017)

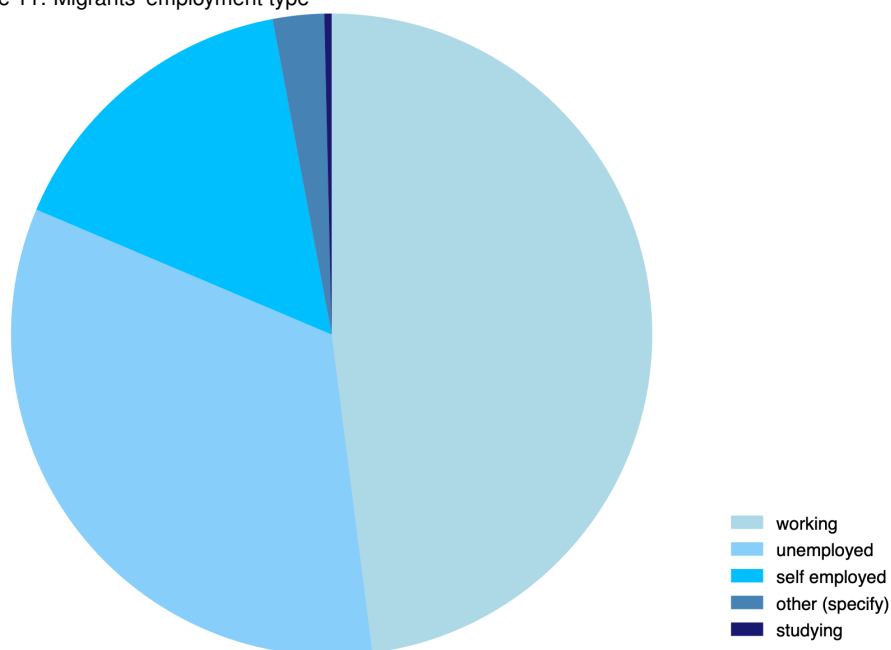


Note: the full province names are: EC: Eastern Cape, FS: Free State, G: Gauteng, KZN: KwaZulu-Natal, LP: Limpopo, MP: Mpumalanga, NC: Northern Cape, NW: North West, WC: Western Cape.

Source: authors' compilation using International Organization for Migration (2021).

From Figure 11 it is evident that migrants are more likely to find employment as employees, with 47.97% falling into this category, compared to 15.68% who are self-employed. The rate of unemployment among migrants exceeds that of self-employment, suggesting that enhancing access to self-employment could be beneficial. For instance, reducing the costs associated with entering the informal sector, such as waiving fees for informal trade licences, might increase self-employment rates. The high percentage of unemployed migrants is particularly concerning, given that the primary reason for migrating to South Africa is to find employment. As the second-largest economy in Africa, South Africa attracts individuals from regions where job opportunities are scarce. This motivation is supported by findings from the World Bank (2009), which indicate that the predominant reason for migration to South Africa is employment, as detailed in the right-hand panel of Figure 12.

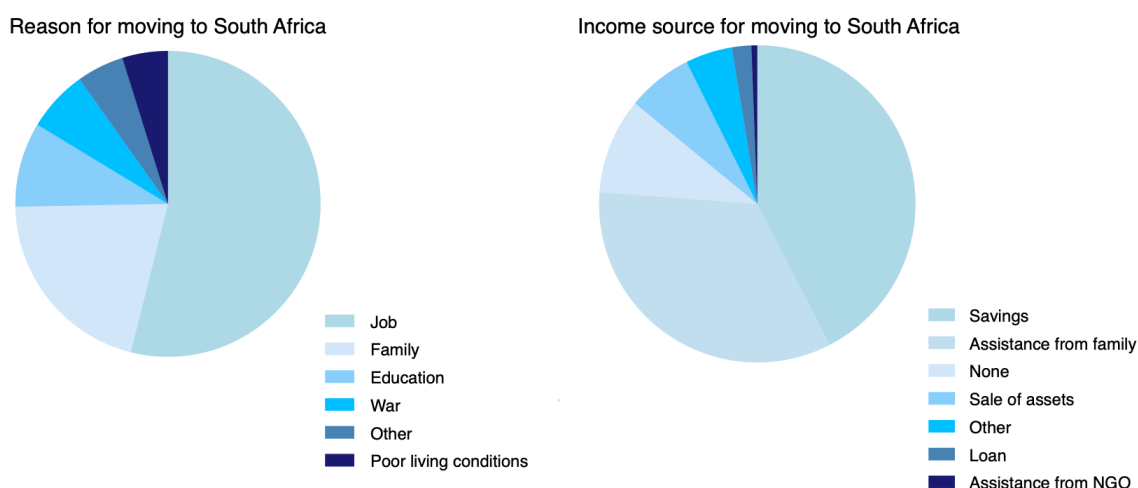
Figure 11: Migrants' employment type



Source: authors' computation using the Migration Household Survey (World Bank 2009).

Figure 12 shows that the primary reasons migrants enter South Africa are closely linked to economic opportunities, such as seeking employment and education. These motives play a significant role in improving individuals' standard of living. Family reunification is another key factor, as often one family member might have relocated to South Africa earlier to find employment, leading others to follow to maintain family ties and to provide better educational opportunities for their children. The decision to move to South Africa for family reunification suggests that migration to South Africa is not just a temporary solution for economic betterment; rather, it becomes a new permanent home for many, prompting them to bring their families to join them.

Figure 12: Motives and means: moving to South Africa



Source: authors' computation using the Migration Household Survey (World Bank 2009).

The right-hand panel of Figure 12 illustrates that individuals often use their savings to immigrate to South Africa, emphasizing the significance of relocating in pursuit of better employment prospects. This investment of personal savings underscores the importance and urgency of their migration decision. Additionally, it is common for individuals to receive financial support from family members to facilitate their move. Once they have successfully relocated and potentially secured employment, these

individuals are then in a position to bring the rest of their family to South Africa, enabling family reunification.

### **5.3 Illegal immigrants**

Clifford (2024) approximates that around 3.9 million foreigners are living legally and illegally in South Africa.

Since 1998, political parties in South Africa have called on the government to take stronger measures against undocumented migrants. They argue that illegal migrants place strain on services and jobs, for which there is an insufficient supply for all citizens. These parties have propagated the notion that illegal immigrants are seizing services and jobs meant for South Africans, which has led to a spike in xenophobic attacks (Human Rights Watch 1998). In South Africa's 2024 election year, political parties continue to leverage the crackdown on illegal migrants as a political campaign strategy to increase the likelihood of South Africans obtaining jobs (Ngwenya 2024).

Wotela and Letsiri (2015) state that immigrants enter South Africa illegally due to social and economic conditions in their home countries. Due to limited economic opportunities and the inability to earn income in other African countries, many individuals migrate to South Africa in search of better prospects. This move allows them to support themselves and their families without the fear of being arrested in South Africa.

## **6 Discussion**

The research underscores the importance of legal identity in securing access to a wide range of state services and social protection mechanisms in South Africa. The nearly 90% birth registration rate presents a model of civil registration that other nations could emulate. However, the challenges associated with late registrations, particularly among marginalized populations, highlight areas for improvement. This not only facilitates social inclusion but also ensures that communities, especially marginalized ones, receive adequate public services by enabling the state to accurately estimate population distributions. South Africa has experienced an influx of migrants since the 1990s, driven by socioeconomic instability in their home countries, bringing to the forefront the complex dynamics between xenophobia, public service access, and the economic contributions of migrants. Migrants experience xenophobia as they are accused of stealing jobs and public services from South Africans in an already struggling economy. However, despite facing systemic and societal barriers, migrants contribute positively to the South African economy through entrepreneurship, creating jobs for South Africans, especially in the informal sector (Crush and Ramachandran 2014).

We hypothesize that limited access to public services for migrants in South Africa reduces the potential pressure on the country's resources. South Africans predominantly utilize public hospitals, as immigrants are required to pay for healthcare services. Additionally, only legal migrants are eligible for fee exemptions in the public school system, despite their contributions to the economy. Furthermore, access to social grants for migrants is contingent upon obtaining permanent residency, which mitigates their economic impact.

The findings illuminate critical gaps in the legal and socioeconomic inclusion of migrants. The discussion around xenophobic sentiment, fuelled by media portrayal and political rhetoric, underscores an urgent need for policy interventions that address both the perception and reality of migration impacts. Future policies could benefit from a nuanced understanding of migrant contributions, aiming to harmonize economic needs with social cohesion efforts.

The recent investigation by the Special Investigating Unit (SIU) and the Hawks highlight cases of plausible corruption and maladministration within the Department of Home Affairs, affecting migrants throughout South Africa. This practice may not only delay the processing of legitimate asylum seeker permits, but also facilitates the issuance of fraudulent permits, which are then used to secure permanent residence and citizenship. Such practices lead to further challenges for migrants seeking legal documentation. Addressing these administrative and legal constraints is essential to mitigate the negative impacts on migrants and to restore trust in the immigration system (Special Investigating Unit 2024). This suggests a need for policy change to strengthen the enforcement and execution of migration laws. This includes deploying skilled personnel in refugee and immigration positions, improving the effectiveness of appeal bodies, and reducing bureaucratic inefficiencies (Government of South Africa 2023).

It is also important to highlight the study limitations. First, because of limited access to granular datasets, it was not possible to carry out empirical investigations such as regression analysis. However, using various alternative data sources, such as existing surveys and reports, we characterize the legality and access to public services by migrants in South Africa. The most recent surveys specifically targeting migrant populations date to 2009, underscoring the need for recent and detailed data collection of such migration surveys. Gathering updated, comprehensive information on migrants is crucial for developing a clearer understanding of their experiences and the factors impacting their lives in South Africa. The latter will also assist policy-makers and other stakeholders, such as the UNHCR, with effective planning.

## 7 Conclusion and implications

The recent extant literature underlines the importance of identity documentation and civil registration in low-income countries as a critical step to achieving social inclusion and effective delivery of public services. It is further highlighted that the adoption and promotion of proof of identity, such as citizen ID cards and birth, death, and marriage certificates, in all service provision is at the core of the country's effective demographic management and full social protection of its citizens. In this study, we document the leading attributes of legal identity in the context of South Africa, a country that has made remarkable progress in terms of civil registration over the last two decades. At the same time, we also highlight the issues associated with civil registration and access to the state, especially for migrants, whose numbers have been systematically increasing over the last two decades, placing social and economic pressure on public services in the country.

Based on different administrative data sources, we note that South Africa has made enormous progress in recording robust and inclusive civil registrations since the post-apartheid period, and nearly 92% of its newborns were registered at birth by 2020, up from 51% in 2001. Initially the country started with birth registration with already-born people to ensure all its citizens are registered. This increase in civil registrations also accounts for children born in South Africa to non-South African parents, subject to the parents having a valid passport and visa or asylum documents. However, the newborn cannot be registered in the case of illegal immigrants, leading to the possibility of having stateless children with limited access to public services that require civil certification.

Furthermore, as a source of identification, civil registration plays an important role in accessing public services in South Africa. However, it was found that non-South African nationals use private hospitals to a greater extent than South Africans, which may be attributed to the fact that non-nationals are required to pay for healthcare services. It is important to mention that non-South Africans utilize a smaller share of public clinics and public hospitals than South Africans. We tentatively associate this trend with the fact that access to healthcare in public institutions requires identity documents that some of the non-citizens may not necessarily have. Concerning social grants in the country, we find that some non-South African nationals benefit from most social grants programmes, such as pension, child, and Unemploy-

ment Insurance Fund grants, provided that those individuals have permanent resident status. We also showed that the country is a top immigration destination of many migrants, mostly from neighbouring and other African countries.

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