

South Africa Detention Profile

- » [Detention policy](#)
- » [Detention infrastructure](#)
- » [Facts and figures](#)

A key destination country for migrant labourers from across Africa and Asia, South Africa's relationship with immigrants has been marked by turmoil in recent years. In mid-2008, simmering xenophobia exploded into violent riots that rapidly spread throughout the country, targeting black immigrants and asylum seekers from a number of African countries (Misago 2009).

According to a report by the South African Human Sciences Research Council (HSRC), although poverty and a sense of relative deprivation among the country's poor have been key causes of xenophobia, also important are two factors closely related to the country's apartheid past: a feeling of superiority among both white and black South Africans toward their neighbours and a belief in the exclusivity of their nation. The HSRC report asks, "How does South African nationalism, which has been promoted after apartheid to create social solidarity in a fractured society, ensure that it is open to the diversity of peoples from the region who will continue to be attracted to South Africa?" (HSRC 2008, p. 15).

Detention policy. South Africa has struggled in its efforts to redefine its immigration policy, which under apartheid rule "was a naked instrument of racial domination" and "the official definition of an immigrant was that he or she had to be able to assimilate into the white population" (Crush 2008). According to the Pretoria-based Lawyers for Human Rights (LHR), the country adopted the **Immigration Act** in 2002 in an effort to bring about "a more progressive, less exclusionary, immigration policy." However, numerous human right groups, including LHR, have noted serious deficiencies in both the act itself and its implementation, including the act's focus on preventing unauthorized immigration and the failure of appropriate authorities to follow through with provisions regarding deportation and detention (HRW 2007; LHR 2008). Section 2 of the Immigration Act highlights as one of its primary objectives "detecting and deporting illegal foreigners."

One of the more notable features of South Africa's contemporary immigration policy, according to LHR, has been the continued use of detention as the "primary tool of immigration enforcement in a democratic South Africa" (LHR 2008, p. 2). The group contends that although detention is governed by a legal framework provided in the Immigration Act, key provisions of the act have yet to be fully implemented. In addition, "As the South African Human Rights Commission and several human rights organisations have noted, arbitrary and unlawful detentions of illegal foreigners happen with regularity and in contravention of international and domestic human rights guarantees. These abuses are exacerbated by the difficulties involved with monitoring the various locations where foreigners are detained, including prisons, airports, police stations, an old dilapidated sports hall on a military base ... and the infamous Lindela Holding Facility" (LHR 2008, p. 2).

Section 34 of the Immigration Act establishes the grounds and procedures related to the detention and deportation of "illegal foreigners." It authorizes only immigration officers, who are part of the Department of Home Affairs (DHA), to detain illegal foreigners for the purpose of deportation. It provides that such detention shall be at a place "under the control or administration" of DHA. Detainees must be notified in writing that they have been detained for the purposes of deportation, and upon request must be provided with confirmation that he or she has been issued a court warrant. If this is not provided within 48 hours, the detainee is to be immediately released. People detained for the purposes of deportation can be held for no longer than 30 days, a period that can be extended for 90 additional days upon issuance of a court warrant stating "good and reasonable grounds" for the extension. People detained for immigration reasons other than deportation can not be held for more than 48 hours.

Asylum seekers and refugees, whose status is governed by the 1998 Refugees Act, are not officially subject to detention. The Refugee Act provides that there should be no proceedings against irregular non-citizens if they have applied for asylum or are recognized refugees. However, according to LHR, immigration officers "routinely ignore the provisions of the Refugee Act in favour of the Immigration Act's less burdensome procedures," which has resulted in cases of prolonged

detention of asylum seekers (LHR 2008, p. 3).

Detention infrastructure. Migrant detainees are held in a range of facilities across South Africa, including police stations, ad hoc facilities run by the police service, prisons, and one dedicated migrant detention center, the Lindela Holding Facility.

The **Lindela Holding Facility** (also known as the Lindela Repatriation Centre), located 30 kilometres from Johannesburg, is a privately run facility established in 1996 by the DHA and the Dyambu Trust—an organization established by the African National Congress women's league—as an experimental centre for undocumented immigrants slated for deportation that aimed to relieve overcrowding in nearby Gauteng prison (Berg 2000, p. 75; Special Rapporteur on Racism 1999; Landau et al 2005, p. 30). The centre is located on the site of a former camp for South African miners, and its facilities were initially converted huts that could hold some 1,000 people (Special Rapporteur on Racism 1999). The center, which is now run by the private company Bosasa, has grown considerably since its founding, with press reports claiming that it has a capacity of up to 6,500 (SAPA 2005). A 2009 report by the Consortium for Refugees and Migrants in South Africa claims that some 50,000 non-nationals are detained at Lindela annually (CORMSA 2009). According to the U.S. State Department's 2008 human rights report, "There were allegations of corruption and abuse of detainees by officials at the overcrowded Lindela Repatriation Center, the country's largest detention facility for undocumented immigrants. Officers from Lindela were among those convicted by the DCS [Department of Correctional Services] of corruption or abuse" (U.S. State Department 2009).

In the town of Musina, located near the border with Zimbabwe, the South African police service runs the **SMG Detention Centre**, which the Global Detention Project codes as an "ad hoc" detention site because the police detain people there without proper authorization from immigration authorities (Cote 2009; Venter 2008). SMG (or the Soutpansberg Military Grounds) was initially little more than an exposed, fenced-in camp. After public outcry, detainees were placed in the camp's former sports facility (Cote 2009). In late 2008, the Department of Home Affairs pulled its staff, leaving the South African Police Service, which is not legally authorized to detain for deportation undocumented foreigners and asylum seekers, to manage the site (Cote 2009; Venter 2008). According to some reports, as many as 15,000 people in a single day have been deported from Musina (Cote 2009). In May 2009, a court ordered that the centre be closed. However, according to a June 2009 NGO report, the "response to this order has been mixed. The facility is now being used to shelter suspected 'illegal foreigners' prior to transportation to the DHA, despite the fact that the facility's continued operation is unlawful" (CORMSA 2009).

Two prisons run by South Africa's Department of Correctional Services (DCS) are regularly used to confine unauthorized immigrants on warrant from the DHA, **Westville Prison** in Durban and **Pollsmoor Prison** in Cape Town (Cote 2009). Typically, detainees at these prisons are held for less than a week, until immigration officials are able to transport them to Lindela or they are released (LHR 2008, p. 11). There are reports of asylum seekers being detained and deported from these prisons (USCR 2008; LHR 2008). There have also been reports of severe overcrowding and other problems at the prisons. For example, according to a media report about a 2007 investigation undertaken by a regional correctional services commissioner, "Westville Prison was alleged to have a high level of corruption and malpractice. The prison's Medium B cells had 4,337 prisoners, but had been designed to accommodate 2,137. In addition, its C1 block, which holds illegal immigrants awaiting trial or deportation, held 63 inmates when it was only meant for 19" (Naidoo 2007).

Police stations and border posts across the country are also regularly used to confine suspected "illegal foreigners" (Landau 2007; Cote 2009). People detained by police or border officials and confined at these facilities are typically held for less than 24-48 hours, until an immigration official has had the opportunity to investigate immigration charges (Cote 2009; LHR 2008, p. 11). A lawyer who represents detained immigrants told the Global Detention Project that in many instances, authorities at these locations summarily deport people back across the border or refuse to hold immigration detainees because they do not have the budget to feed them and they take up space that otherwise must be used to hold criminal suspects (Cote 2009).

There have been reports of a number of abuses being committed at police station lock ups, including summary deportation of asylum seekers, physical abuse, long term detention, the detention of minors, inadequate food provisions, among other allegations (HRW 2007; LHR 2009; Cote 2009). Detention at police stations and border posts is not considered ad hoc when a person is detained under warrant from the DHA, or when the length of detention for suspected immigration violations (without warrant from DHA) is less than 48 hours, the amount of time given authorities to investigate allegations under the Criminal Procedures Act (Cote 2009). Police stations that have reportedly been used to hold suspected unauthorized foreigners in recent years include those in Cape Town, Durban, Musina, Atterdreville, Mokhado,

Polokwane, Komatipoort, Nelspruit, Parkview, and Garsfontein (HRW 2007; LHR 2009).

Facts and Figures. South Africa is the destination for immigrants and asylum seekers from many parts of the globe, though neighbouring countries make up by far the largest percentage. The Migration Policy Institute reports, “The 2001 census, the latest date for which figures are available, showed that the migrant stock included 687,678 migrants from other Southern African developing countries (SADC) countries and 228,318 from Europe. ... Other source areas of growing importance included the rest of Africa (41,817) and Asia (40,889). In all, immigrants made up 2.3 percent of South Africa's total population in 2001” (Crush 2008).

The country has seen a surge in asylum claims in recent years, especially as the situation in neighbouring Zimbabwe has grown increasingly dire. According to Human Rights Watch, as of early 2009, there were well over one million Zimbabweans in the country, many of whom had made asylum claims (HRW 2009). The UN High Commissioner for Refugees reports that the total number of pending asylum claims by the end of 2007 was 170,865 (UNHCR 2008).

The Department of Home Affairs keeps statistics on deportations, though its website provides limited access to these figures. The latest figures available on its website (as of April 2009) were from January-August 2006, during which time the country deported 165,270 people (DHA website). Countries with the highest numbers of deportees included Zimbabwe (81,249), Mozambique (69,533), Lesotho (6,658), Malawi (3,990), and Swaziland (2,304).

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List of Detention Sites

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Name	Status (Year)	Location	Facility Type	Security	Authority	Management	Capacity Reported	Segregation Population
Lindela Repatriation Centre (Lindela Detention Centre)	In use (2009)	Krugersdorp (near Johannesburg), Gauteng Province	Migrant detention centre	Secure	Department of Home Affairs / Immigration Service Branch	Bosasa		Gender segregation (2008)
SMG Detention Centre (Musina Detention Centre)	In use (2009)	Soutpansberg Military Grounds, Musina, Limpopo Province	Ad hoc - Military base	Secure	Police	Police		Gender segregation (2008)
Westville Prison	In use (2009)	Durban, Kwazulu-Natal Province	Prison	Secure	Department of Home Affairs / Immigration Service Branch	Department of Correctional Services		
Pollsmoor Prison (Pollsmoor Maximum Security Prison)	In use (2009)	Tokai (near Cape Town), Western Cape Province	Prison	Secure	Department of Home Affairs / Immigration Service Branch	Department of Correctional Services		Legal segregation (2008)

Sources

(This is only a partial list. More detailed information is available upon request.)

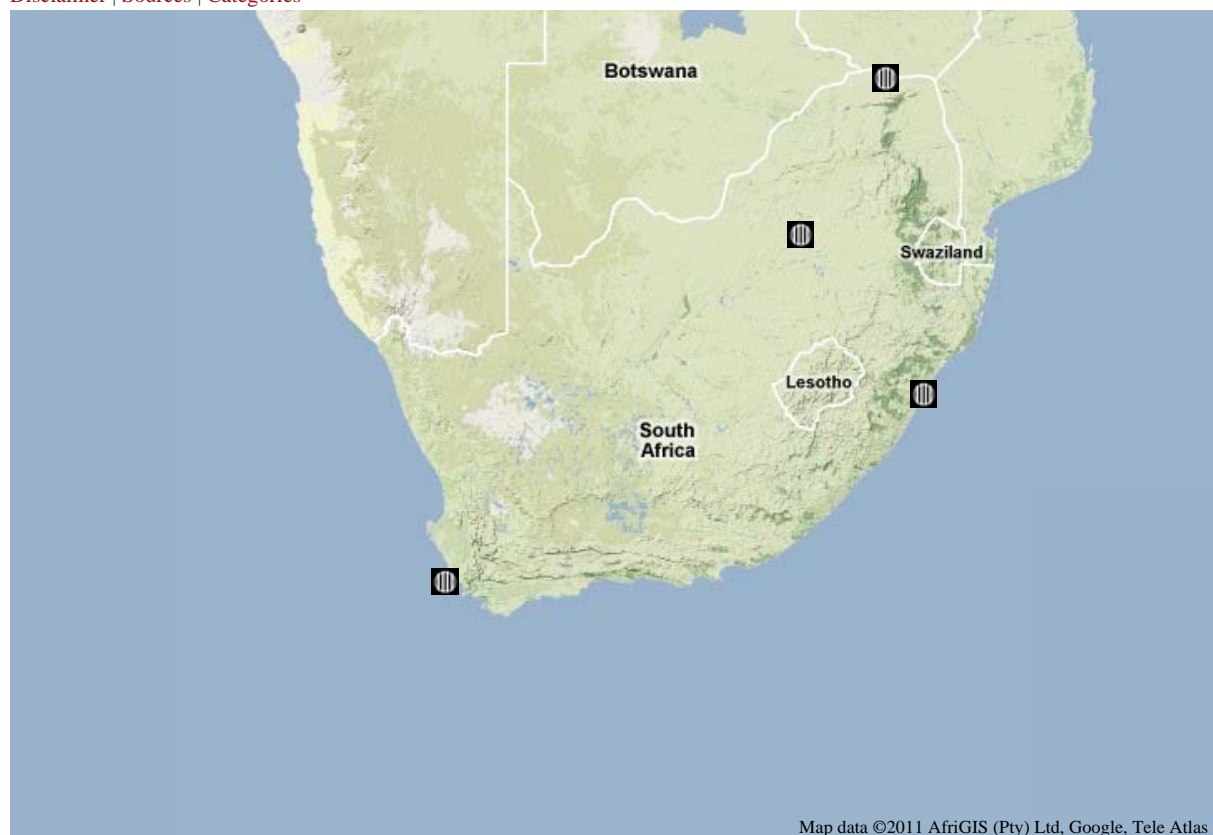
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South Africa Detention Profile

Map of "In Use" Detention Sites

For more detailed information, see the complete [List of Detention Sites](#).

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Country View

1. Lindela Repatriation Centre (Lindela Detention Centre)
2. Pollsmoor Prison (Pollsmoor Maximum Security Prison)
3. SMG Detention Centre (Musina Detention Centre)
4. Westville Prison

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South Africa Detention Profile

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