

Labour migration policy an acid test after the SONA

By Theo Boshoff

In last month's column, I used these pages to share some thoughts on the State of the Nation Address. In that column, I commended the President's pragmatic approach to supporting business and creating an enabling environment for businesses to grow the economy. I did, however, caution that policy is not only made at the top level of government and that the message was as much an appeal to the President's colleagues in Cabinet as it was designed to instil confidence within the business sector. Roughly a month later, this theory will be put to the test.

On 28 February, the Minister of Employment and Labour published the draft National Labour Migration Policy for public comment. It comes at an important time as the employment of foreigners in South Africa is close to reaching boiling point. With unemployment at record levels, many South Africans have directed their anger at foreign nationals. Our logistic network, the lifeblood of our economy, experienced significant disruptions in February as xenophobic elements took to intimidating foreign truck drivers. In cities across the country, citizens tried taking the law into their own hands and harassed foreign nationals under the banner of 'Operation Dudula'. In a country founded on the rule of law, vigilantism can never be justified but these incidents reflect a growing sentiment that policymakers cannot ignore.

On the other side of the coin, our economy needs critical skills to sustain economic growth and where these skills are not available in South Africa nor can they be acquired within a reasonable time, there must be a mechanism to import these skills. A failure to do so will hamper our economic recovery and stifle the ability to create additional jobs. There must be a balance.

The fact that South Africa has such a complex and convoluted regulatory system does not help. Immigration falls within the mandate of the Department of Home Affairs but the employment of foreign nationals is also informed by policy instruments under the control of the Department of Employment and Labour. To employ foreign nationals, a company needs a corporate permit issued by the Department of Labour but the employee still needs to have the legal right to be in South Africa. This can take the form of a general work visa or a critical skills visa for highly qualified professionals. On the other end of the scale, political or economic refugees are permitted to be in the country through an asylum-seeking permit or the Zimbabwe Special Permit, a special dispensation for Zimbabwean nationals which was recently extended by the state. The underlying reasons for granting these permits, and inevitably also the contribution which these holders make to the South African economy, differ dramatically but they are often grouped when the anti-immigrant sentiment rears its head. This is a gross over-simplification and it makes it difficult for businesses who have a legitimate need to source critical skills to navigate through this bureaucratic minefield.

It is therefore high time that South Africa looks at labour migration holistically, objectively and completely. This is exactly what the draft Labour Migration Policy seeks to do. With the anti-immigrant sentiment running high on the ground, it would be easy to follow a populist route but this simply has to be resisted. South Africa needs highly skilled and highly motivated people to rebuild the economy. Where we do not have sufficient skills available locally, there must be a mechanism to source these skills abroad. The African Continental Free Trade Area (AfCFTA) also looms large. There is a real push to establish Africa as the world's largest common market. Whilst South Africa happily accepts the trade opportunities that this may offer, we should also remember that it includes the freedom of movement for business people and entrepreneurs to operate across country boundaries.

If South Africa is serious about improving the regulatory environment for businesses, the draft Labour Migration Policy may just be our first real test.

Finally, the most important element we should not lose sight of as a country is compassion. Immigration is about more than business or job opportunities, it is about lives and it is about families. If we are to do justice to our Constitution and human rights culture, then the policy must place lives as well as livelihoods at its centre.