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African Human Mobility Review

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ARTICLES

Xenophobia, Price Competition and Violence in the Spaza Sector in South Africa

Laurence Piper∗ and Andrew Charman∗∗

Abstract

The last decade has seen growing awareness of violent attacks against foreigners in South Africa. This includes attacks against foreign traders in the townships where they are portrayed as 'taking over' by out-competing South African traders on price. Central to township trade are neighbourhood grocery or convenience stores colloquially known 'spaza' shops. Drawing on evidence from surveys with over 1000 spaza shopkeepers from South Africa's three main cities, this article makes the case that business competitiveness does not correspond simply with being foreign or South African. While Bangladeshi and Somali shops were, on average, cheaper than South African shops, Zimbabwean and Mozambican shops were actually more expensive. Further, there is also no easy correspondence between being foreign or South African and the experience of violent crime. Some nationalities report levels lower than South Africans, and some higher.

However, there does seem to be a correlation between reported levels of violent crime and economic competitiveness: the nationalities whose shops are more expensive reported lower levels of violent crime, while those whose shops are cheaper reported higher levels. This suggests that the chance of being violently targeted is less about nationality, and more about whether you keep prices low and (presumably) profits high. However, the reality is more complicated as the nature of the crime experienced by the more successful shopkeepers differs by nationality. Hence, Somali shopkeepers endure much more violent crime than Bangladeshi shopkeepers. Not only do these findings challenge the myth that all foreign spaza shops are more competitive than South African shops, but also the assumption that all foreign shopkeepers experience the same levels and, especially, forms of violence.

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Introduction

The last ten years has seen growing public awareness of violent attacks against foreign shopkeepers in South Africa, especially those who run spaza shops. Notably, most xenophobic attacks have occurred in poor, black urban settlements called townships that were created as dormitories for cheap labour under apartheid (Fauvelle-Aymar & Segatti 2011), and which remain the first point of settlement for most migrants into the city, including those from the rest of Africa. As the most densely populated and often poorest areas in the country, townships have high levels of unemployment and significant levels of informal economic activity. Central to the informal economy of the township is the spaza shop, or neighbourhood grocery or convenience store, which is the second most common form of informal micro-enterprise in South African townships after alcohol retail establishments known as 'shebeens' (Charman et al. 2013).

In the last ten years, the spaza sector has witnessed the rise of foreign ownership, principally by migrants from the rest of Africa, but also by Bangladeshi and other South Asian migrants (Charman et al. 2012). This change of ownership has impacted on township life in several ways, and is often cited as one reason behind the xenophobic attitudes and attacks evident in South Africa, especially since 2008. Hence, popular explanations of violence against foreigners include allegations that foreign migrants are taking jobs, women, state grants and other social opportunities that rightly belong to South Africans only. After the large-scale attacks on more than 100 small businesses in Port Elizabeth in 2013, the *Global Post* reported that 'many people accuse "foreigners" of taking their jobs, or of putting South African shopkeepers out of business by undercutting their prices' (Conway-Smith 2013). Similarly, in 2012, the *Somaliland Press* reported that mobs tell Somalis to leave South Africa, in part because they 'fear that they will take their jobs, townships, businesses and eventually their country' (Hussein 2012).

Claims that foreigners are illegitimate competitors for scarce resources are made frequently around the world. This is currently evident in the UK, from UKIP (UK Independence Party) and the reaction by the Conservative Party on the immigration issue. Other examples abound, from countries including

Belgium (Zagefka et al. 2007), Israel (Pedahzur & Yishai 1999; Semyonov et al. 2002), Germany (Wimmer 1997), Turkey (Zagefka et al. 2007), the United States (Citrin et al. 1997) and South Africa (Crush 2008 & Everett 2011). Notably, although often dismissed as not the real or main reason behind xenophobic attacks both internationally (Wimmer 1997) and in South Africa (Hickey 2014), there is evidence that foreign traders have impacted on the local informal economy of the urban township and informal settlements. This impact is manifest both in the increasing number of foreign-run shops, but also by competition with South African shopkeepers on price (Africa Unite 2007; Department of the Premier 2007). Hence, a number of studies (Charman et al 2012 & Gastrow & Amit 2013) have identified competition on price as a central reason for the rise of the Somali spaza owners and the decline of South African-run shops.

This development is important economically as competition on price is not a practice historically embraced by South African township traders (Charman & Petersen 2007), whose motivations for trading are not necessarily 'reducible to the idea of "maximisation of profit"' (Neves & Du Toit 2012: 131). In addition, this development is important politically in that it forms a point of potential social conflict that can be used to justify xenophobic attacks. For example, in a recent article in *The Star* on 13 June 2014, Landau and Freemantle (2014) describe how xenophobic attacks are motivated by a discourse that blames a group for an individual's alleged crimes. They cite the case of 'marauding groups' making their way through Mamelodi, and forcing foreigners, especially foreign shopkeepers, to leave the township 'largely unencumbered by resistance from the police or residents.' Landau and Freemantle (2014) point out that these mobs often escalate out of banal conflicts between individuals, a practice they liken to 'Sippenhaft', a term popularised during the Nazi regime that literally means 'kin liability', and holds a whole group of people responsible for an individual's purported crime. The point is that the increase in foreign-owned spaza shops, ostensibly at the expense of South African shopkeepers, can form an issue on which this kind of xenophobic discourse can fixate, and around which mobilisation and violence can occur (Hickel 2014).

Notably, Landau and Freemantle (2014) point out that the possibility of this kind of xenophobic mobilisation exists due to institutional failure on the part of the state, not least around formal policing. Further, this institutional failure is exacerbated by the reluctance of the police to take the

problem of xenophobia and xenophobic attacks seriously. Writing on *Politicsweb* on 19 June 2014, Peter Fabricius argues that the 'South African government mostly dismisses xenophobic violence as "ordinary criminality." Perhaps that explains why it now seems to be becoming routine in South Africa – almost accepted as an inevitable part of the South African way of life, like other violent crimes.'

Consequently, what follows in this article takes great care to interrogate carefully, systematically, and in ways well supported by evidence, claims about price competition and violent crime in the spaza sector and their relationships with nationality. What emerges is a picture very different from popular discourse in at least two respects. First, the notion that the 'foreign' shopkeeper out-competes the South African shopkeeper is largely inaccurate. If one compares spaza shops on price then South Africans are actually slightly cheaper on average than Mozambicans and Zimbabweans, although more expensive than Bangladeshi and Somali shopkeepers. Further variation is evident by area and by product. Second, the idea that foreign shopkeepers bear the greatest burden of violent crime is also not sustained by the evidence. Once again we found that reported levels of violent crime for shopkeepers varied by nationality where South Africans reported higher levels of crime than Mozambicans and Zimbabweans, but less than Somalis and Bangladeshis. Again, more variety is introduced by area and form of violence. Lastly, where there is a correlation between price and violent crime, the nature of the crime differs significantly by nationality, suggesting that variables other than price also matter.

Methodology

The data used in this article comes from surveys conducted with over 1050 spaza shopkeepers nationwide. More specifically, the data comes from eleven local-area censuses conducted in townships and informal settlements in Cape Town, Gauteng and Durban by the Sustainable Livelihoods Foundation (SLF) from 2011-2013[1]. In each of the eleven sites, a team geo-located each identifiable business on each street, and conducted semi-structured surveys with all the traders from each of the main business types, including spaza shops. The surveys were conducted by the SLF team in English, or in the language of the respondent where possible (the team included isiXhosa, Afrikaans, Isizulu and Somali speakers). Across the whole

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[1] See http://livelihoods.org.za/informality/micro-enterprises/

sample, the survey revealed shopkeepers from the following countries: Angola, Bangladesh, Burundi, DRC, Egypt, Ethiopia, Lesotho, Mozambique, Namibia, Pakistan, Rwanda, South Africa, Tanzania and Zimbabwe. Figure 1 is an example of the entire census for one area, Ivory Park, in Gauteng. The spaza shops are highlighted in Figure 2. The areas and number of spaza shops by nationality are described in Table 1 below.

If one examines Table 1, it is clear that Ivory Park accounts for the highest share of the overall sample (20.7%), followed by Delft South (17.1%) and Phillipi (16.0%). Vrygrond accounts for the lowest share (0.2%), followed by Overcome Heights (2.1%) and Seawinds (3.1%). Looking at the South Africans only, it is interesting that Ivory Park no longer accounts for the largest share, but it is rather KwaMashu (22.0%), followed by Phillipi (20.4%) and Delft South (17.8%). In contrast, looking at the foreigners only, the Ivory Park share is the highest (27.0%), followed by Delft South (16.5%) and Tembisa (15.3%). In terms of row, it is notable that the South African share is clearly dominant in KwaMashu (88.9%), Sweet Home Farm (79.1%) and Phillipi (61.9%). However, the foreigners' share is more dominant in Vrygrond (100.0%, note that there are only two respondents), Imizamo Yethu (88.3%), Capricorn (79.1%) and Ivory Park (67.0%).

Table 1: Distribution of spaza shops in the sample[2]

	Number			Row total			Column total		
	South African	Foreign	Total	South African	Foreign	Total	South African	Foreign	Total
Delft South, CCT	91	89	180	50.6%	49.4%	100.0%	17.8%	16.5%	17.1%
Imizamo Yethu, CCT	7	53	60	11.7%	88.3%	100.0%	1.4%	9.8%	5.7%
Ivory Park, JHB	72	146	218	33.0%	67.0%	100.0%	14.1%	27.0%	20.7%

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[2] The price tables 1 to 4 were generated by Dr Yu or Economics at UWC as part of our drafting an article on spaza prices and nationality, forthcoming as Piper & Yu. 2016. Deconstructing 'the foreign': The limits of citizenship for explaining price competition in South African spazas. *Development Southern Africa*.

KwaMashu, DBN	112	14	126	88.9%	11.1%	100.0%	22.0%	2.6%	12.0%
Overcome Heights, CCT	9	13	22	40.9%	59.1%	100.0%	1.8%	2.4%	2.1%
Phillipi, CCT	104	64	168	61.9%	38.1%	100.0%	20.4%	11.8%	16.0%
Seawinds, CCT	18	15	33	54.5%	45.5%	100.0%	3.5%	2.8%	3.1%
Sweet Home Farm, CCT	34	9	43	79.1%	20.9%	100.0%	6.7%	1.7%	4.1%
Tembisa, Ekurhuleni	49	83	132	37.1%	62.9%	100.0%	9.6%	15.3%	12.6%
Vrygrond, CCT	0	2	2	0.0%	100.0%	100.0%	0.0%	0.4%	0.2%
Capricorn, CCT	14	53	67	20.9%	79.1%	100.0%	2.7%	9.8%	6.4%
	510	**541**	**1051**	**48.5%**	**51.5%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Source: authors

Notably, while the data for each site is SLF census data, and therefore is representative of the site, the collation across the eleven sites does not constitute a representative national sample. Thus, while the sheer size and spatial spread of the sample is suggestive, as are the recurring spatial patterns in respect of business types (for example spaza shops are always evenly spread across a settlement), it is not a basis from which to generalise statistically to the rest of the country. Hence, while we can have near absolute levels of confidence in the claims in respect of each site, we cannot have the same confidence when speaking of the country as a whole.

The key data used in this article is not spatial data but rather the data collected from surveys with over 1050 shopkeepers across the eleven sites. This data is linked to two main variables: prices of key products and experiences of violent crime. In terms of prices we asked each shopkeeper the price of their 12 most common products, namely: 1 litre milk, 6 eggs, a loaf of

white bread, a half loaf of white bread, 250g sugar, 500g sugar, 340ml Coke, 1.5 litre Coke, Jive, Double O, premium cigarettes and economy cigarettes. These items form the basis of a price comparison across site and by nationality that allow us to interrogate the claim that foreign shopkeepers are more price competitive than South Africans. In terms of violent crime, we asked each shopkeeper to list each incident of the following for the previous five years: murder, attempted murder, armed robbery, theft, assault, arson and harassment. This data forms the basis of analysis of levels of violent crime across the sample and by nationality too.

Three key assumptions inform the subsequent analysis. The first assumption is that foreign shop keepers are first generation migrants. While we did not ask this in the surveys, we are confident that this is overwhelmingly the case both from our experience in the field, but also from the fact that, due to the racist policies of the apartheid era, migration into South Africa's townships from the rest of Africa only began on any scale in the late 1990s. The second assumption is that shops with cheaper prices will not only outcompete more expensive rivals in terms of attracting more customers, but also be more profitable due to higher turnover. Indeed there is strong qualitative evidence to this effect from both Somali and South African shop keepers in a previous study (Charman et al. 2012: 66-7). The third assumption is that reporting on experiences of crime is the same across all types of respondents. While there are problems with this, as some foreign shop keepers may feel more vulnerable than locals and thus be less likely to report issues, we attempted to counter this by using Somali surveyors for Somali respondents, and by verifying mull reports of crime with the neighbours of the shopkeepers.

Unpacking Spaza Competitiveness

In what follows the article unpacks the sample of shopkeepers spatially and by nationality, demonstrating both that South Africans constitute the single largest nationality in the sample, and that very different nationalities are found in each of the three cities. This is the first way in which the 'foreign' can be disassembled in terms of spaza shops in South Africa. Second, the article examines the amount of stock found in spazas by nationality, demonstrating that some nationalities (Zimbabweans and Mozambicans) hold less stock than South Africans, suggesting fewer resources, while others hold more. Further, the article compares the average price of products, demonstrating that for a basket of the top 12 goods Somali and Bangladeshi shopkeepers are the cheapest, but that Zimbabweans and Mozambicans are more

expensive than South Africans. Both these insights further disassemble the foreign/South African distinction. Indeed, the only products on which all foreigners out-compete South Africans on average price are 6 eggs and economy cigarettes. Notably, against the mainstream view, South Africans out-compete most foreigners on prices of 1l milk and the loaf of white bread.

a. *Nationality and spatiality*

To begin with the nationality of shopkeepers, Figure 3 demonstrates that 510 of the 1051 (48.5%) respondents are South Africans, and the remaining 541 (51.5%) are foreigners. Taken as a whole then, the sample is divided roughly 50:50, South African to foreign, but actually there are more than double the number of South Africans shopkeepers than the 236 Somali shopkeepers, who constitute the second most common nationality. Furthermore, as revealed in Figure 4, when unpacked spatially, the distribution of nationalities varies tremendously by city where 220 of the 236 (93%) Somali shopkeepers are found in Cape Town, 103 of 149 (70%) Ethiopian shopkeepers are in Gauteng, as were 38 of 46 (83%) of Bangladeshi shopkeepers. Therefore, the identity of 'foreign' shopkeepers differs quite profoundly from area to area, and is of little use in identifying the actual nationalities involved in any city. Thus, 'foreign' shopkeepers in Johannebsurg are very different nationalities from 'foreign' shopkeepers in Cape Town.

b. *Spaza stock*

While spaza shops stock a wide variety of goods, we identified the 12 most common products from our survey. Moreover, if one analyses the extent to which shopkeepers have these 12 items in their shops, and break this down by nationality as in Table 2 and in Figure 5, then once again the South African versus foreign contrast quickly breaks down. Instead, we find that South Africans are more likely to have a half loaf of white bread on their shelves than most other nationalities. Conversely, Somalis and Ethiopians are more likely to stock sugar than most other nationalities, and Mozambicans and Bangladeshis almost always have eggs in their stores. Further, if one treats the 12 products as a basket of goods, then South Africans generally have more stock than Zimbabwean and Mozambican shopkeepers but less than other nationalities. Also notable, the Somali and Bangladeshi – and perhaps the Ethiopian – shopkeepers have significantly more on the shelves than other nationalities.

Table 2: Number and proportion of shopkeepers reporting stock by nationality and product

	South African (n=510)	Foreign						Foreign total (n=541)
		Ethiopian (n=149)	Somalian (n=236)	zambican (n=48)	ngladeshi (n=46)	nbabwean (n=28)	Other (n=34)	
1 litre milk	284 55.7%	90 60.4%	208 88.1%	12 25.0%	32 69.6%	9 32.1%	20 58.8%	371 68.6%
6 eggs	426 83.5%	140 94.0%	222 94.1%	47 97.9%	45 97.8%	25 89.3%	23 67.6%	502 92.8%
Half loaf of white bread	260 51.0%	44 29.5%	169 71.6%	19 39.6%	19 41.3%	7 25.0%	18 52.9%	276 51.0%
Full loaf of white bread	62 12.2%	60 40.3%	58 24.6%	19 39.6%	27 58.7%	17 60.7%	12 35.3%	193 35.7%
250g sugar	338 66.3%	134 89.9%	197 83.5%	44 91.7%	42 91.3%	23 82.1%	22 64.7%	462 85.4%
500g sugar	408 80.0%	137 91.9%	217 91.9%	47 97.9%	44 95.7%	26 92.9%	25 73.5%	496 91.7%

340 ml Coke	220 43.1%	94 63.1%	134 56.8%	9 18.8%	43 93.5%	6 21.4%	13 38.2%	299 55.3%
1.5l Coke	233 45.7%	37 24.8%	203 86.0%	5 10.4%	8 17.4%	4 14.3%	22 64.7%	279 51.6%
Jive	81 15.9%	31 20.8%	122 51.7%	2 4.2%	7 15.2%	3 10.7%	14 41.2%	179 33.1%
Double O	80 15.7%	13 8.7%	106 44.9%	4 8.3%	6 13.0%	2 7.1%	12 35.3%	143 26.4%
Premium cigarette	419 82.2%	139 93.3%	210 89.0%	43 89.6%	44 95.7%	25 89.3%	24 70.6%	485 89.6%
Economic cigarette	166 32.5%	65 43.6%	148 62.7%	27 56.3%	21 45.7%	14 50.0%	9 26.5%	284 52.5%
Average	48.7%	55.0%	70.4%	48.3%	61.2%	47.9%	52.4%	61.1%

Source: authors

c. Pricing

At the centre of the claim that foreign shopkeepers out-compete South Africans is the idea of price competition, specifically the claim that foreign shopkeepers have lower prices than South Africans. This appears to be confirmed by Figure 6, where foreign prices are slightly cheaper than South African, with the exception of Coke. However, once one disaggregates this by product and nationality, the contrast breaks down. Hence, as can be seen from Table 3, only on eggs and economy cigarettes are all foreign traders cheaper on mean price than South Africans, but South Africans are cheaper on 1l milk and a loaf of white bread than almost all other nationalities. Perhaps more tellingly though, on 24 of a total of 72 prices, South Africans are cheaper than all others, suggesting that the real difference on average prices is not large.

This claim is confirmed by Figure 7 which compares the mean price per product between South African shopkeepers and those of other nationalities. Here the difference in mean price on a basket of goods is significant, with Somalis being the cheapest by over R4. Critically however, South Africans are mid-table, with only Somali, Bangladeshi and other smaller nationalities being cheaper. Somewhat remarkably, given the common discourse, Ethiopian spaza shopkeepers are more expensive across a basket of goods, with Mozambicans and Zimbabweans at the bottom of the list at over R1 more per basket.

Table 3: Difference between mean foreign price and mean South African price (in cents)

	Ethiopian	Somalian	Mozambican	Bangladeshi	Zimbabwean	Other
1 litre milk	183.89*	-153.76*	176.95	196.22*	211.67	-109.72
6 eggs	-83.46*	-83.69*	-86.98*	-89.32*	-73.72*	-86.28*
½ loaf of white bread	15.79	-25.61*	67.84*	26.79	65.14	-40.02*
Loaf of white bread	-23.55	28.68	-82.60*	-55.79	-60.15	34.95
250g sugar	-5.30	-25.04*	18.97	-28.62*	2.85	-18.99
500g sugar	-45.78*	-69.94*	12.78	-31.24*	30.23	-45.69*
340ml Coke	-14.85	-42.73*	75.08	8.49	-33.25	-23.63
1.5l Coke	37.67*	3.76	-2.60	-32.60	-32.60	10.59
Jive	24.17	-2.96	-20.99*	-35.27	12.35	-10.27
Double O	-16.25	-12.00	-16.25*	0.42	-16.25*	-28.75
Premium cigarette	-10.24*	-25.70*	11.92*	-4.24	19.47*	-15.38*
Economic cigarette	-12.35*	-15.59*	-17.15*	-15.03*	-17.89	-19.00*
Total	49.74	-424.58	136.97	-60.19	107.85	-352.19

Source: authors

* The mean price difference is statistically significant at α = 5%.

This picture is confirmed by a comparison of the difference between South African and other nationalities on median price per product, as in Table 4. The key point here is that there is no difference on median price by nationality for 40 of the 72 possible prices, or 56% of all price comparisons. Indeed, if one removes milk and bread, the remaining median price differences are less than 50c. In sum, price differences are generally small, and those that do exist, do not follow the South African/foreign divide. Hence South Africans sell the cheapest milk and Bangladeshi's sell the cheapest Coke.

Table 4: Difference between median foreign price and median South African price (in cents)

	Ethiopian	Somalian	Mozambican	Bangladeshi	Zimbabwean	Other
1 litre milk	350	-50	300	425	450	-50
6 eggs	0	0	0	0	0	0
Half loaf of white bread	0	0	100	50	100	-25
Full loaf of white bread	-100	50	-100	-100	-100	50
250g sugar	0	0	50	0	0	0
500g sugar	-50	-50	0	0	0	-50
340ml Coke	0	-50	50	0	-25	0
1.5l Coke	0	0	0	-50	-50	0
Jive	0	0	0	0	0	0
Double O	0	0	0	0	0	0
Premium cigarette	-10	-10	40	-10	40	-10
Economic cigarette	0	0	0	0	0	0

Source: authors

Note: It is only possible to test whether the foreign price is statistically significant from the South African price at the mean (see Tables 5 & 6), but **not** at the median.

In conclusion, our analysis suggests that Somalis and Bangladeshis have the most stock, and are cheaper on average than others, whereas Zimbabweans and Mozambicans have the least stock and are more expensive on average. Overall though, price differences are small as suggested by the convergence on median prices. The one partial exception to this may be Somalis who are relatively more competitive than Mozambicans and Zimbabweans. So there is an asymmetry in the data that may be worth further exploration – especially given the findings of the following section.

Unpacking Violent Crime

In this section the article unpacks the reported levels of violent crime against spaza shopkeepers in the last five years. It is critical to note that most shopkeepers had not been in the shop for all of the preceding five years, so actual levels of crime will be under-reported rather than over-reported. Nevertheless the levels of crime reported across our seven categories (theft, armed robbery, assault, arson, attempted murder, murder and harassment) were high. Hence, some 747 of a possible 1054 spaza shops, or 71%, had experienced at least one incident of crime in the preceding five years. Furthermore, of our seven types of crime, only theft can be argued not to

involve the exercise of violence or the threat of violence. Hence, some 470 of 1054 or 45% of shops reported a violent crime in the preceding five years. This distinction will become important when considering the difference between Somali and Bangladeshi shopkeepers below. When unpacking all these incidents as per Figure 8 it is clear that theft is the most common crime, affecting over 25% of all shops, with armed robbery affecting nearly another quarter. In short, robbery, armed or not, constitutes nearly the majority of reported crimes from spaza shops, and is thus the greatest single risk that spaza shopkeepers face.

d. *Spatiality and violent crime*

Aside from these generalisations, the experience of crime by spaza shopkeepers varies dramatically by area and nationality. Thus, as revealed in Table 5 and Figure 9, there is a significant difference in the extent of crime across our eleven sites, with Sweet Home Farm reporting 49 incidents at 43 spaza shops in the last five years (114%) and Seawinds coming in as the safest with just 24%. Further, this difference does not seem to correspond to settlement type as Overcome Heights is also a smaller informal settlement like Sweet Home Farm and had the second lowest crime rate at 41%. Perhaps there is some convergence in the larger townships, with Ivory Park, KwaMashu, Phillipi and Tembisa close to the 70% mark. Lastly, it seems clear that theft and robbery make the most important difference to these overall figures, as the top three sites of Sweet Home Farm, Imizamo Yethu and KwaMashu report combined theft/robbery figures of 67.5%, 63.3% and 62.7%, and the bottom three of Capricorn, Overcome Heights and Seawinds report combined figures of 31.3%, 36.4% and 18.2%.

Table 5: Any incident of crime in previous five years by location

	Delft South	Imizamo Yethu	Ivory Park	KwaMashu	Overcome Heights	Phillipi	Seawinds	Sweet Home Farm	Tembisa	Vrygrond	Capricorn	Total
Yes	116	53	152	105	9	130	8	49	90	3	32	747

%	64.40	88.30	69.70	83.30	40.90	77.40	24.20	114.00	68.20	75.00	47.80	70.90
Total Shops	180	60	218	126	22	168	33	43	132	4	67	1053

Source: authors

e. Nationality and violent crime

In addition to these spatial differences, Figure 10 reveals similarly divergent experiences of crime by nationality. Thus, in descending order, Bangladeshi, Somali and Ethiopian shopkeepers reported rates of 111%, 92% and 74% respectively, whereas the lowest affected groups were Zimbabwean, Mozambican and other foreign at 54%, 46% and 44%. South Africans are right in the middle at 62%. Immediately there is an obvious and suggestive correlation with the rank order of violent crime and the rank order of price competitiveness. First however, it is important to unpack more of the differences between Bangladeshi and Somali experiences of violent crime.

Table 6: Any incident of crime in previous five years by nationality

	South African	Somalian	Ethiopian	Mozambican	Bangladeshi	Zimbabwean	Other	Total
Incidents	315	401	309	140	28	66	20	23
%	61.8	171.4	207.4	291.7	60.9	235.7	51.3	2.2
Shops	510	234	149	48	46	28	39	1054

Source: authors

Bangladeshi shopkeepers reported higher crime levels than all other nationalities in the categories of theft, armed robbery, arson and harassment. Thus 37% of Bangladeshi shopkeepers report theft (South Africans are the next highest at 28%), 41% report armed robbery (Somalis are the next highest at 33%), 7% report arson (Ethiopians are the next highest at 2%) and 20% report harassment (Zimbabweans are the next highest at 18%). In contrast, Somalis are first in the categories of assault at 9% (Ethiopians are

second at 5%), attempted murder at 11% (Ethiopians are second at 5%) and murder at 4% (South Africans are second at 1%). Hence, as confirmed in Figure 11, the nature of the violent crime experienced by the two most vulnerable groups, Somali and Bangladeshi, is quite different, with Somalis being exposed to significantly more extreme forms of violence. Indeed, as illustrated by Figure 12 which compares global murder rates per 100 000 (6.2), to the country (33.2), to all spaza shopkeepers in our sample (1518), to Somali shopkeepers (3913), it is clear that running a spaza shop is dangerous. The risk of murder increases to 46 times the national average, and for Somali shopkeepers to over 100 times higher than the national average.

In sum, the risk of violent crime does not subscribe to the South African/foreign divide often invoked in popular discourse, but varies by area, nationality and type of crime. The analysis suggests that cheaper, and presumably more profitable, shops are more likely to experience crime than more expensive profitable shops. However, this needs further research, given the significant difference in types of crime experienced by the more successful Bangladeshi and Somali shopkeepers. Other factors clearly impact on this relationship.

Conclusion

The main conclusion of this article is that speaking of spaza shops as foreign conceals more than it reveals, both in terms of business competition and in terms of violent crime. It simply is not true that foreign shops are out-competing South African shops, and conversely, that South African shopkeepers experience less violent crime than foreign shopkeepers. To make the point another way, accurate claims can only be made when they refer to some combination of nationality, area and product/form of violent crime. Further, it is notable that the cheaper shops do tend to report more crime than the expensive shops, suggesting an economic motive for most violent crime experienced by spaza shops. However, this correlation needs further exploration as the nature of the crimes experienced by Somali and Bangladeshi shop keepers differs significantly, with Somali shopkeepers enduring higher levels of violence. Perhaps this has something to do with business practice and violent entrepreneurship (Charman & Piper 2012; Liedeman 2013), or the spatial location of businesses, or perhaps with other

factors like social integration (Gastrow & Amit 2012; Gastrow 2013). We simply do not know.

Lastly, and very importantly, the claim of a correlation between spaza price and violent crime is not a causal claim. In fact, it is not even a proper correlation as it is yet to be tested statistically. At best it is suggestive of a line of further research – albeit one that makes intuitive sense as one would expect shops perceived to have more money to be more targeted by criminals. Even more importantly, the claim of a correlation between spaza prices and violent crime is not to be confused with the claim that xenophobic attacks are motivated by economic reasons. Our unit of analysis in this study was the spaza shop not the xenophobic attack, and so we have not explored the latter at all, and hence are not claiming any relationship between xenophobic attacks and economic interests. This is a crucial distinction often lost in the discourse around spaza shops, xenophobia and xenophobic attacks, both on the side of the state and on the side of refugee rights groups. Rather, as noted in the introduction, the concern of this article is the way in which mundane daily conflicts between individuals can be seized upon by xenophobes and incorporated into xenophobic discourse to motivate and justify xenophobic violence.

References

Africa Unite. 2007. Masiphumelele small business survey: A study for the Department of the Premier. Cape Town: Provincial Government of the Western Cape.

Citrin, J, Green, DP, Muste, C. & Wong, C. 1997. Public opinion toward immigration reform: The role of economic motivations. *The Journal of Politics*, 59: 858–881.

Charman, A. & Petersen, L. 2007. Informal economy study: Trade component. Micro economic development strategy. *Research Report*. Cape Town: Provincial Government of Western Cape.

Charman, A. & Piper, L. 2012. Xenophobia, criminality or violent entrepreneurship? Violence against Somali shopkeepers in Delft South, Cape Town, South Africa. *South African Review of Sociology*, 43(3): 81-105.

Charman, A, Petersen, L. & Piper, L. 2012. From local survivalism to foreign entrepreneurship: The transformation of the spaza sector in Delft, Cape Town. *Transformation*, 78: 47–73.

Charman, A, Petersen, L. & Piper, L. 2013. Enforced informalisation: The case of liquor retailers in South Africa. *Development Southern Africa*. 7 Aug. From <http://bit.ly/2a1FJrr> (Retrieved 23 June 2016).

Conway-Smith, E. 2013. Not Wanted Somalis in South Africa. *Global Post*. From <http://bit.ly/1dgyIbx> (Retrieved 23 June 2016).

Crush, J. (Ed). 2008. The perfect storm: The realities of xenophobia in South Africa. *Southern African Migration Project*. From <http://bit.ly/2aiRf2p> (Retrieved 23 June 2016).

Department of the Premier: Western Cape, 2007. Documenting and evaluation report: Masiphumelele conflict intervention, August 2006–March 2007. Cape Town: Provincial Government of the Western Cape.

Everett, D. 2011. Xenophobia, state and society in South Africa, 2008–2010. *Politikon*, 28(1), 7-36.

Fabricus, P. 2014. 'Is xenophobia becoming part of the SA way of life?' *Politicsweb*, June 19, 2014. From <http://bit.ly/2aeIaox> (Retrieved 23 June 2016).

Fauvelle-Aymar, C. & Segatti, A. 2011. People, space and politics: An exploration of factors explaining the 2008 anti-foreigner violence in South Africa. In: Landau, L. (Ed). *Exorcising the Demons Within: Xenophobia, Violence and Statecraft in Contemporary South Africa*. Johannesburg: Wits University Press.

Gastrow, V. & Amit, R. 2012. Elusive justice: Somali traders access to formal and informal justice mechanisms in the Western Cape. *ACMS Research Report 38*. From <http://bit.ly/2a2v2nN> (Retrieved 23 June 2016).

Gastrow, V. & Amit, R. 2013 Somalinomics: A case study on the economics of Somali trade in the Western Cape. *ACMS Research Report 42*. From <http://bit.ly/2adkZyh> (Retrieved 23 June 2016).

Gastrow, V. 2013. Business robbery, the foreign trader and the small shop: How business robberies affect Somali traders in the Western Cape. *SA Crime Quarterly,* 43: 5-16.

Hickel, J. 2014. 'Xenophobia' in South Africa: Order, chaos, and the moral economy of witchcraft. *Cultural Anthropology*, 29(1): 103-127.

Hussein, Q. 2012. From <http://bit.ly/2aeI3t9>. *Somaliland Press.* (Retrieved

23 June 2016).

Landau, L. & Freemantle, I. 2014. 'Mob Justice that's Based on Nationalisty', *The Star*, 13 June. From <http://bit.ly/2a1G8Km> (Retrieved 23 June 2016).

Liedeman, R. 2013 *Understanding the internal dynamics and organisation of spaza shop operators: A case study of how social networks enable entrepreneurialism among Somali but not South African traders in Delft South, Cape Town*. MA Thesis, Political Studies. C a p e T o w n : University of the Western Cape.

Neves, D. & Du Toit, A. 2012. Money and sociality in South Africa's informal economy. *Africa*, 82(01): 131-149.

Pedahzur, A. & Yishai, Y. 1999. Hatred by hated people: Xenophobia in Israel. *Studies in Conflict & Terrorism*, 22(2): 101-117.

Semyonov, M, Raijman, R. & Yom-Tov, A. 2002. Labor market competition, perceived threat, and endorsement of economic discrimination against foreign workers in Israel. *Social Problems*, 49(3): 416-431.

Wimmer, A. 1997. Explaining xenophobia and racism: A critical review of current research approaches. *Ethnic and Racial Studies*, 20(1): 17-41.

Zagefka, H, Brown, R, Broquard, M. & Martin, S.L. 2007. Predictors and consequences of negative attitudes toward immigrants in Belgium and Turkey: The role of acculturation preferences and economic competition. *British Journal of Social Psychology*, 46: 153-1

Figure 1:

Distribution of micro-enterprises by enterprise category
Ivory Park, June 2012

Map legend
Enterprise category and
count of enterprises

	Enterprise category	Count
●	Liquor sales	623
⚑	Street trading	293
●	Spaza	230
✕	Hair salon	143
🍴	Take aways	140
♣	Green grocer	138
⚑	Recycling	103
▪	House shop	89
✎	Mechanical repair	65
⊣	Manufacturing	55
⌄	Building services	52
≐	Appliance repair	44
✷	Health services	39
☎	Phone shop	39
▣	Business services	36
●	Educare	36
▭	Specialist store	35
❗	Tailoring	31
⚑	Shoe repair	30
▬	Religious services	24
♟	Hawker	24
—	Car wash	17
🍶	Gambling	15
⚑	Community resources	13
⚑	Personal services	11
▪	Transport	9
◣	Agriculture	7
▬	Butchery	7
❓	Tuck shop	6
✎	Art and craft	5
▲	Drug dealer	4
◢	Entertainment	3

Ivory Park

0 ⟶ 0.3831
kilometers
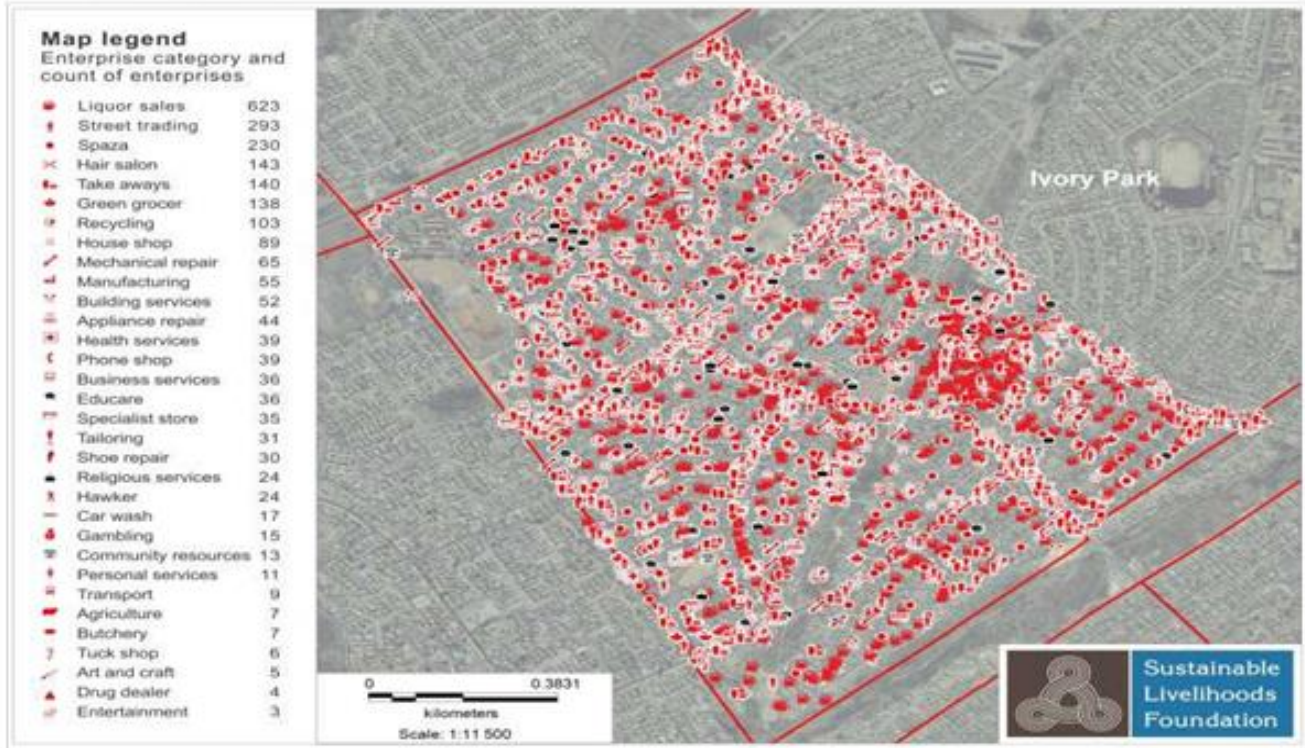Scale: 1:11 500

Sustainable
Livelihoods
Foundation

Figure 2:

Distribution of spaza shops in context of all identified micro-enterprises Ivory Park, June 2012
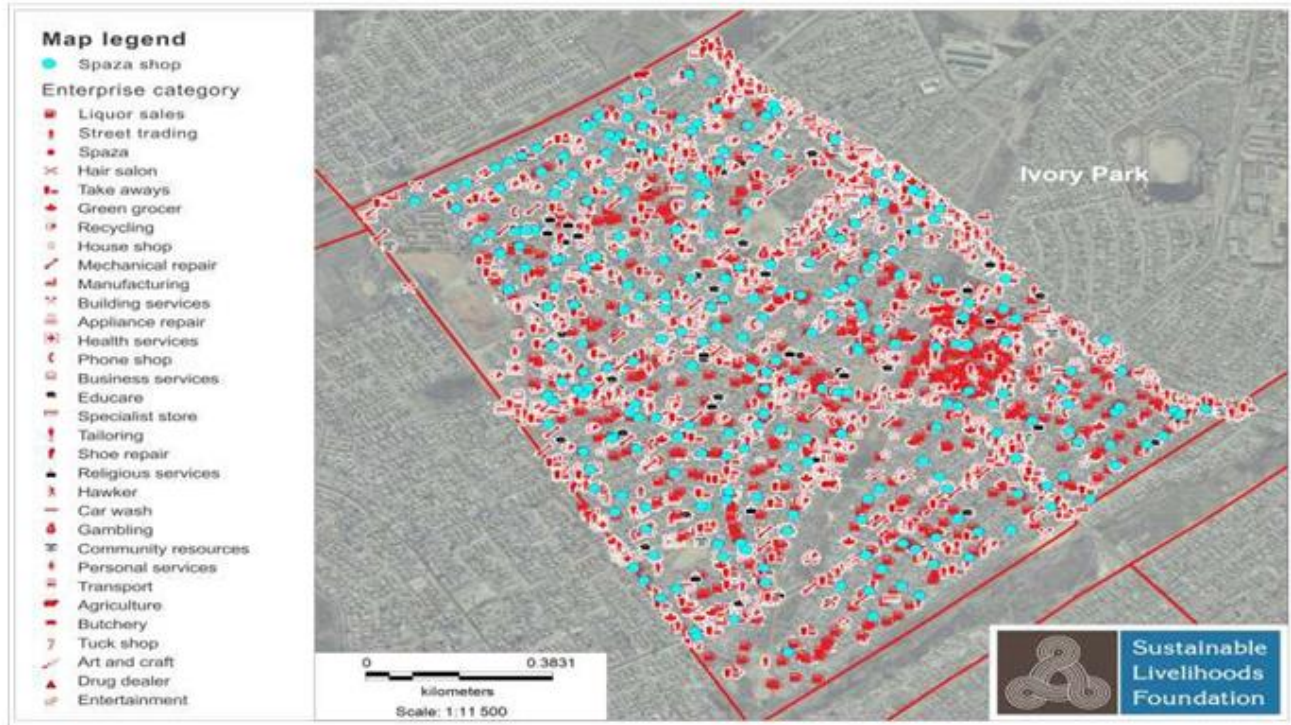
Figure 3:
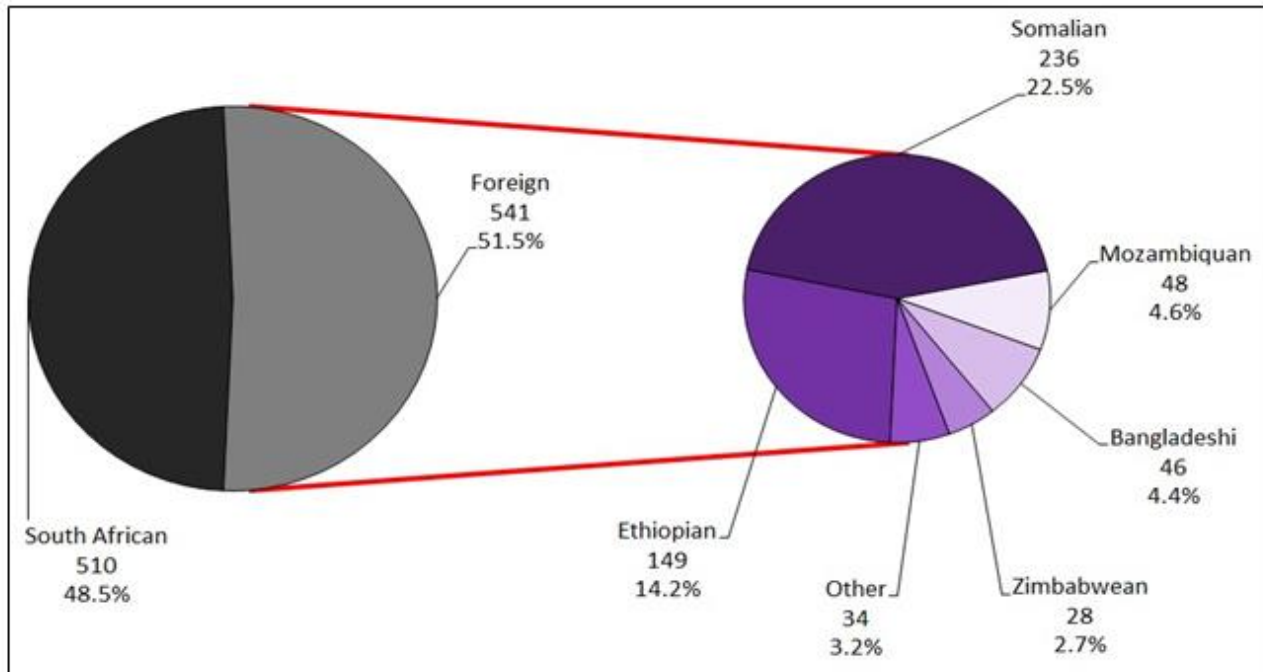Nationality of the spaza shop keepers in the sample

Foreign
541
51.5%

South African
510
48.5%

Somalian
236
22.5%

Mozambiquan
48
4.6%

Bangladeshi
46
4.4%

Zimbabwean
28
2.7%

Other
34
3.2%

Ethiopian
149
14.2%

Figure 4: Nationality of spaza shop keepers by the three cities
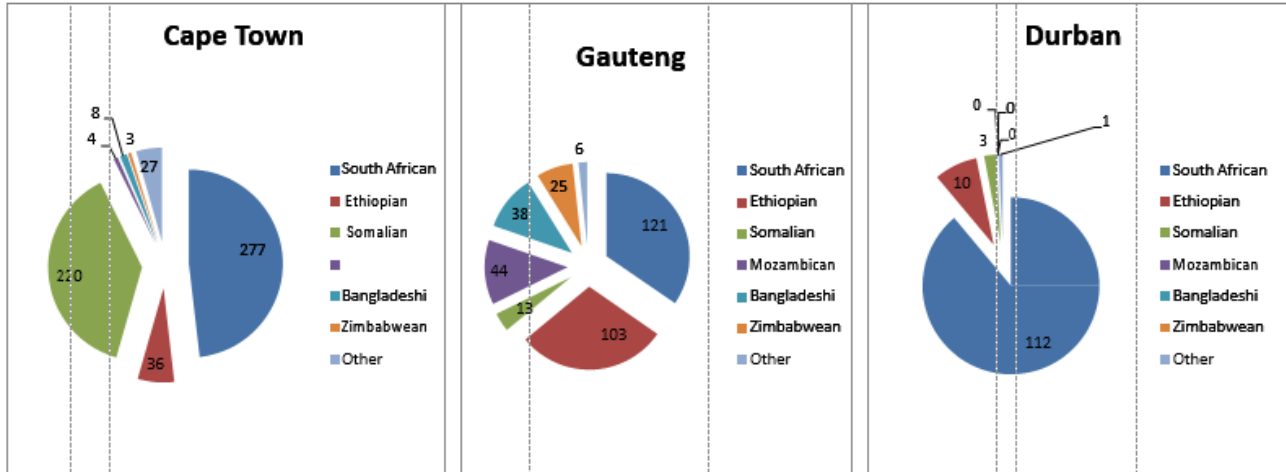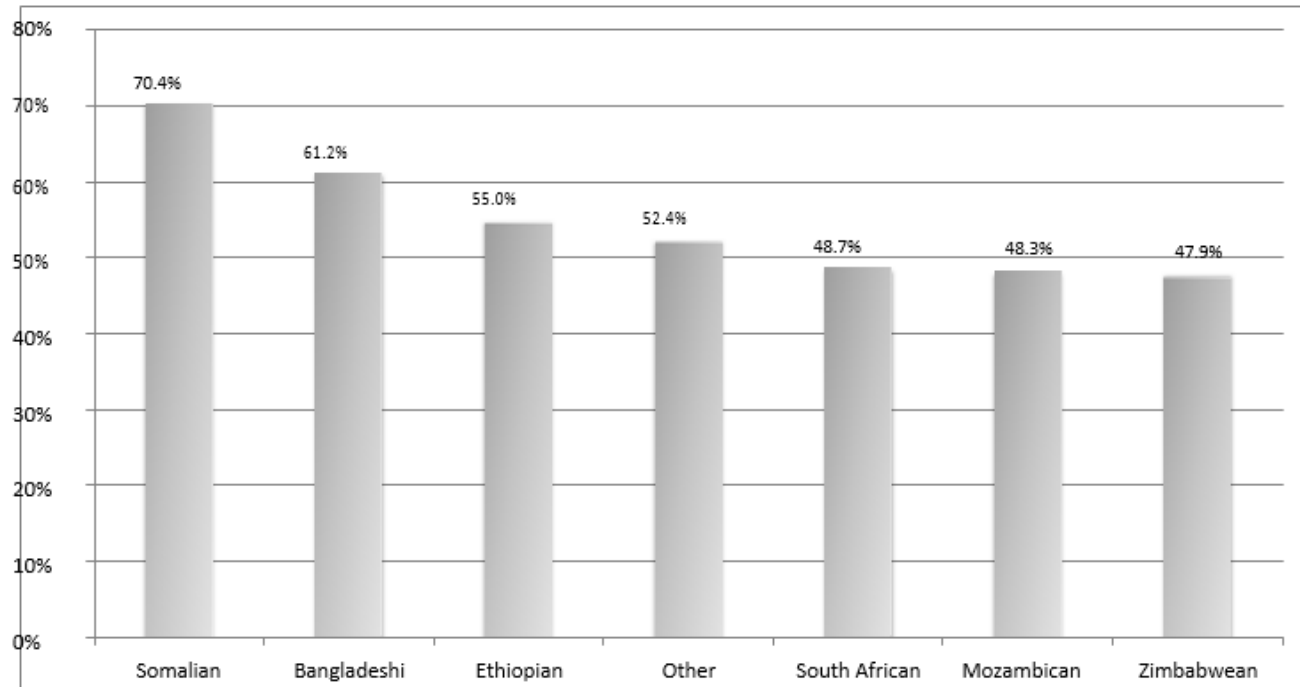
Figure 5:
Percentage of top 12 products by nationality

Figure 6:
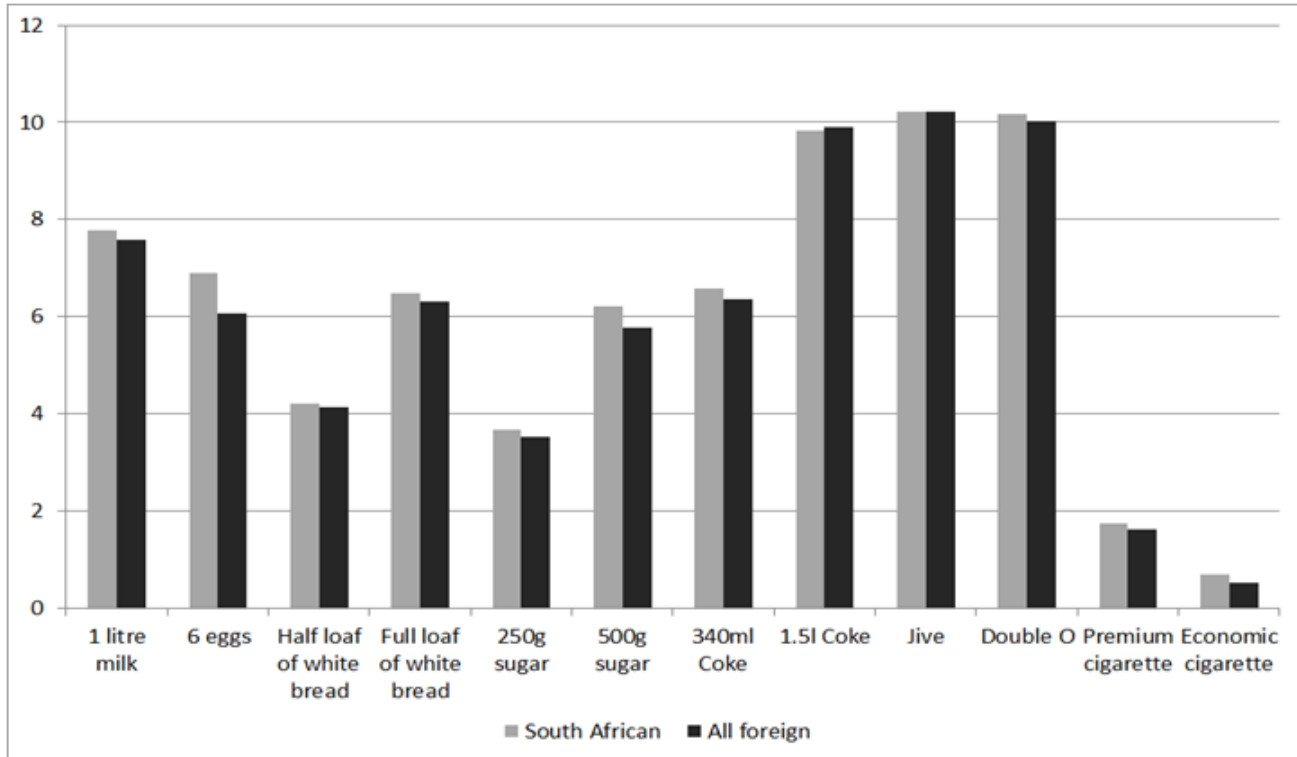Average price per product, South African-Other Nationality

Figure 7:
Total difference in mean price (in cents) on basket of goods, South African-Other Nationality
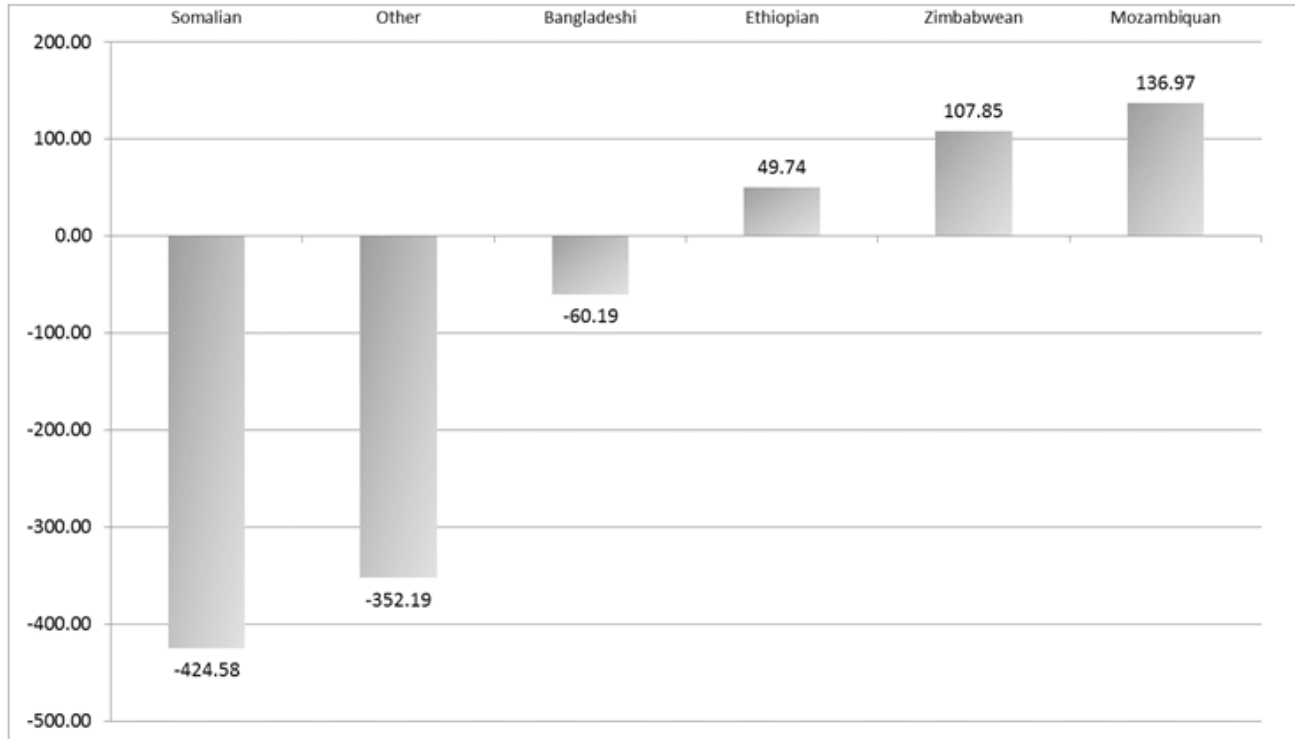
Figure 8:
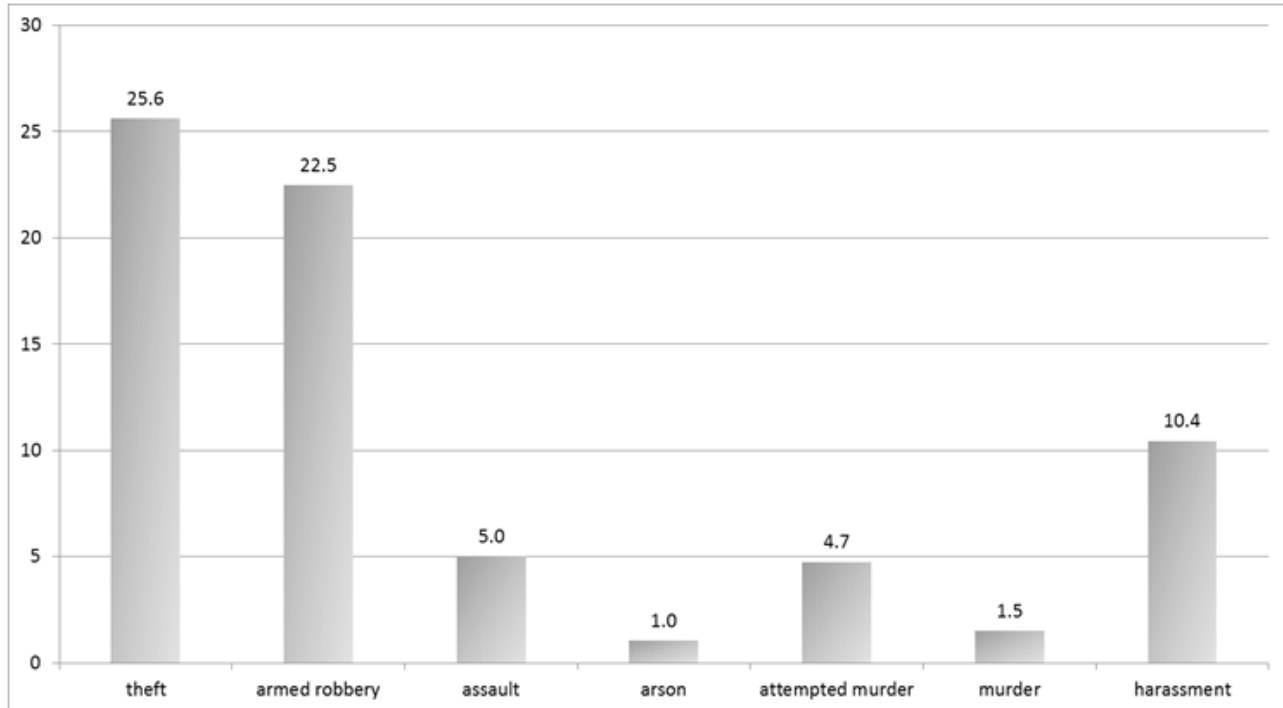Percentage (%) crime by category in the preceding five years

Figure 9:
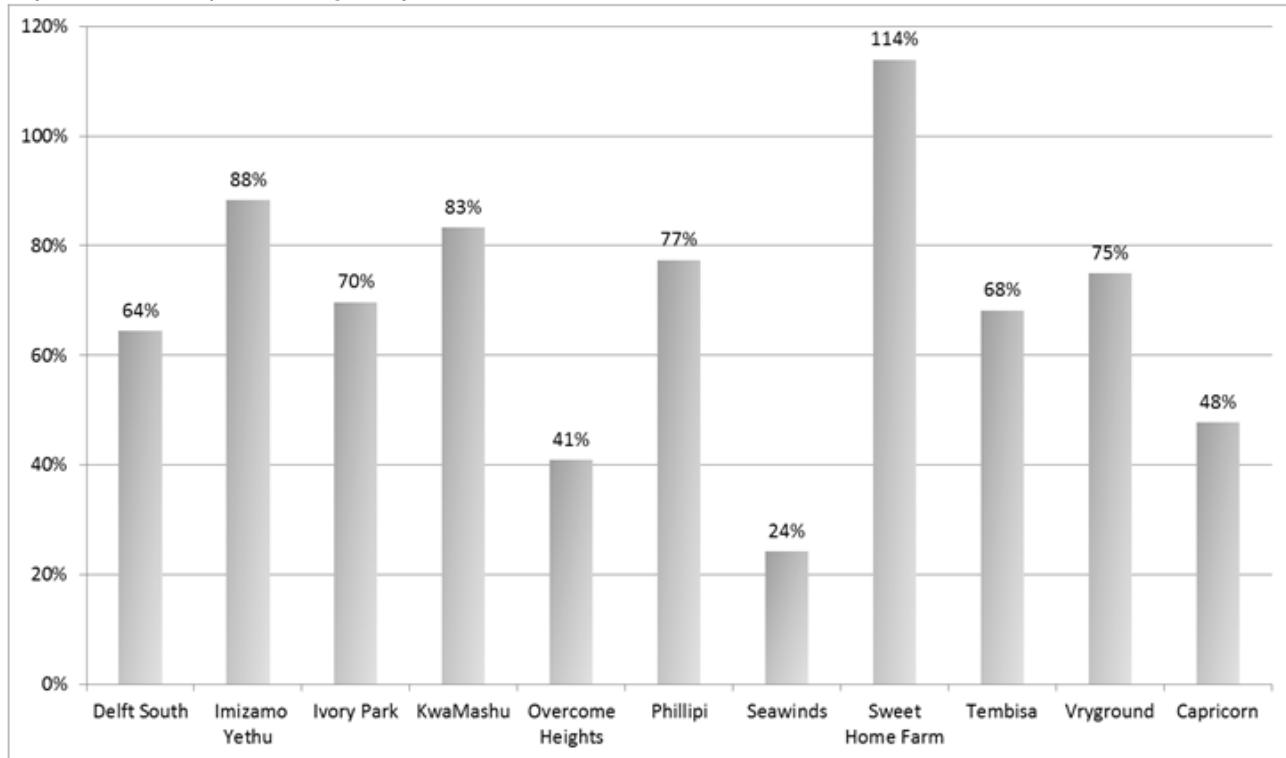Any incident crime in previous five years by census area

Figure 10:
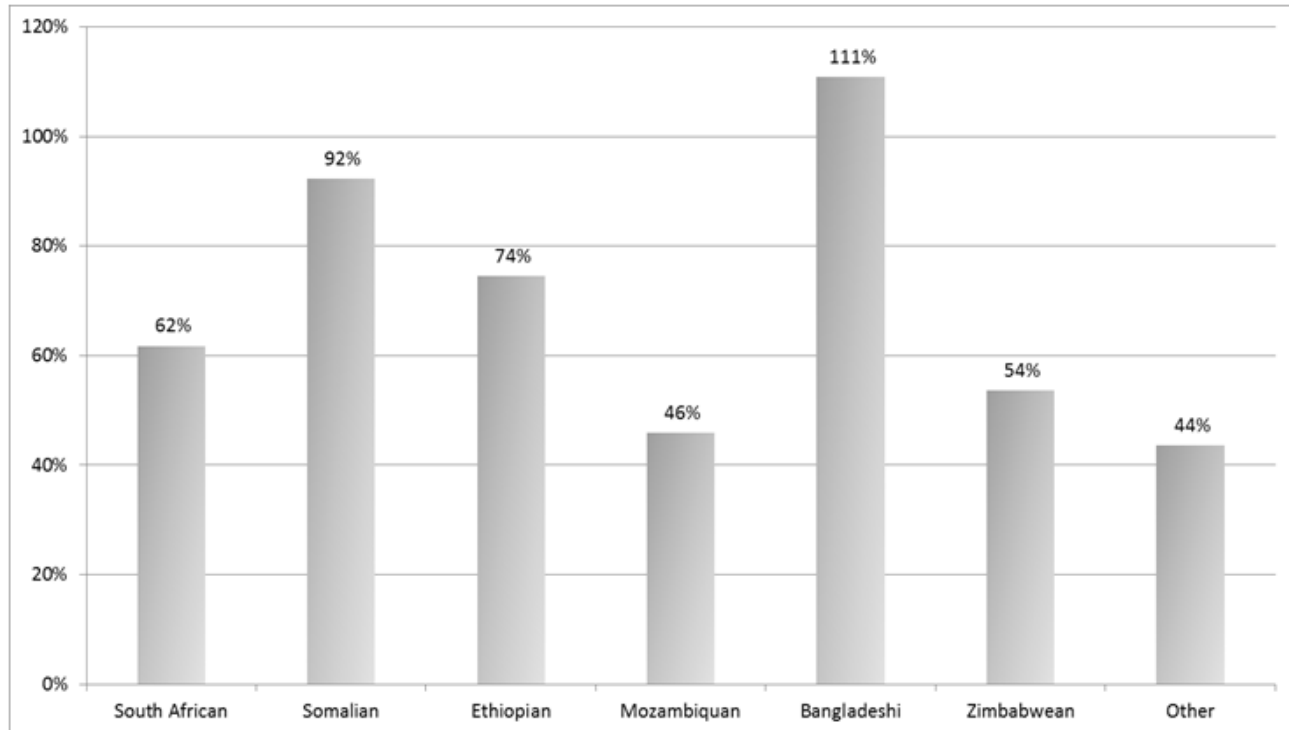Any incident crime in previous five years by nationality

Figure 11:
Breakdown of violent crime by category, Bangladeshi versus Somali
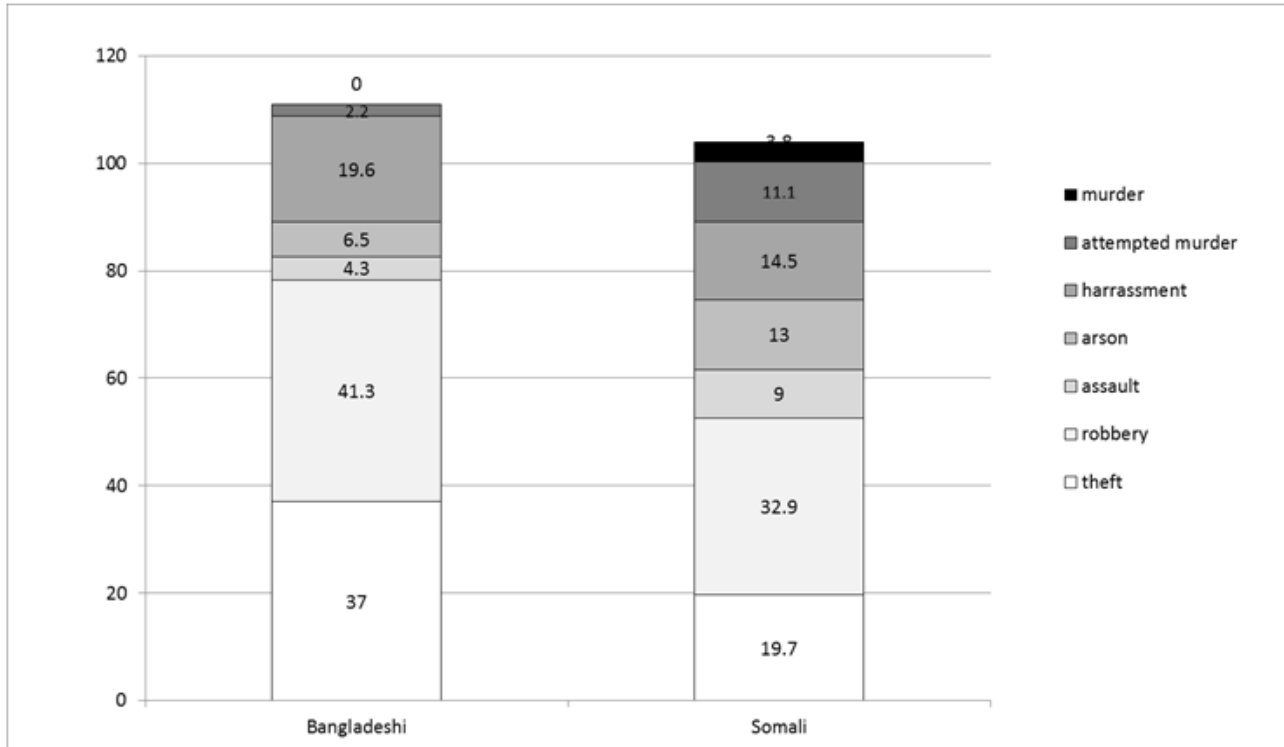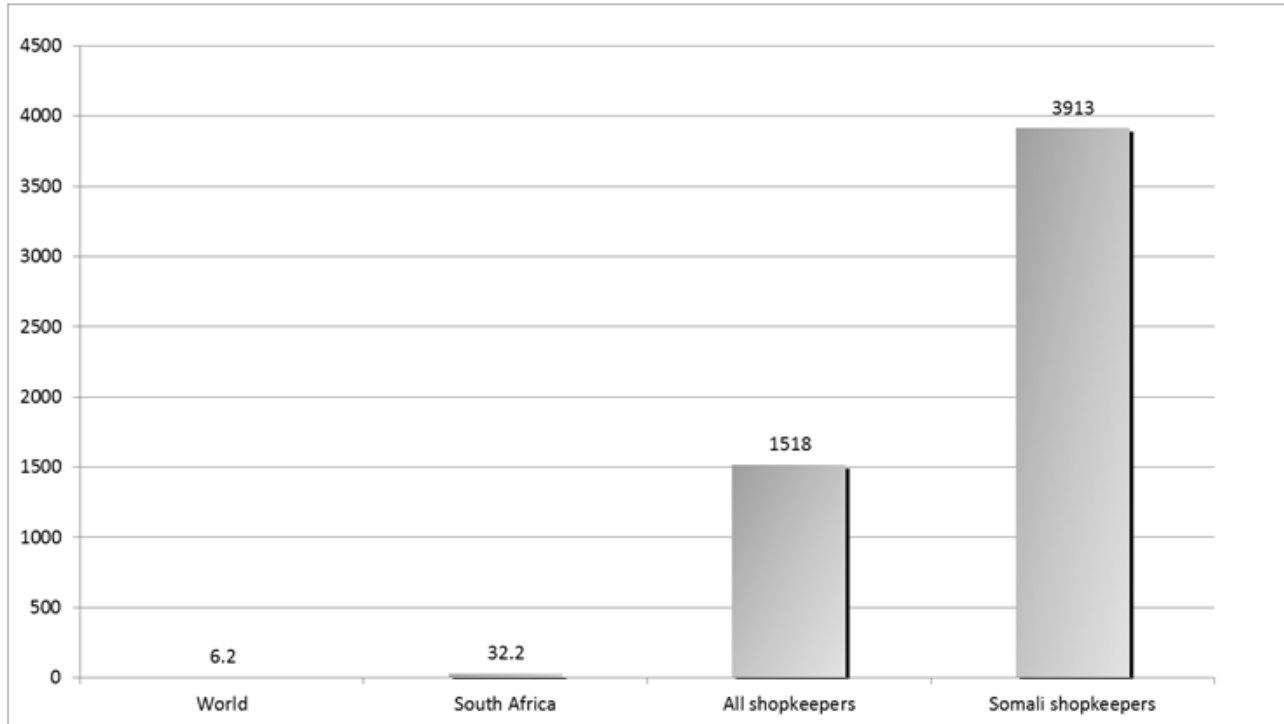
Figure 12
Murder rates per 100,000. Global, National, Spaza Shopkeeper, Somali Spaza Shopkeeper

Angolan refugees in South Africa: alternatives to permanent repatriation?

Sergio Carciotto[*]

Abstract

For almost twenty years, voluntary repatriation has been considered by the international community the preferable, durable and fitting solution to refugee situations. However, the numerous range of socio-economic and political factors which caused protracted refugee situations in the countries of asylum and the reluctance of refugees to return have raised doubts regarding the effectiveness of these programmes. The existing body of literature on return migration focuses on migrants' decision-making processes to return and on the challenges encountered upon their return including post-return reintegration and identity crises, but a limited number of studies address the issue of refugees facing repatriation to post-conflict areas. This article seeks to contribute to the available literature on repatriation by examining the case study of Angolan refugees in South Africa, the implementation of the cessation of refugee status and its consequences on the decision-making process. Findings revealed that the lack of options to acquire permanent residence in the country of asylum represented a major block to transnational mobility. The article addresses the urgent need to reshape the notion of return in the context of refugee repatriation towards more flexible forms of return involving periods of dual residence and back and forth movements.

Keywords Angolan refugees in South Africa, voluntary repatriation, temporary return, cessation of refugee status.

Introduction

The article discusses the process of repatriation of Angolan refugees from South Africa to Angola after the South African government's declaration of

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cessation of refugee status for Angolans in 2013. The purpose of the study is to understand the reasons why Angolan refugees in South Africa refused voluntary repatriation and the factors that influence decision-making.

The life of a refugee can be divided according into the following stages: perception of threat, decision to flee, a period of extreme danger and flight; reaching safety; camp behaviour; repatriation, and settlement or resettlement (Stein 1981: 320). The last three steps are considered 'durable solutions' to refugee problems. When compared to resettlement and local integration voluntary repatriation is presented as the most desirable of the three durable solutions for the refugees' problems and defined as the return of refugees to their country of origin, based upon a free and informed decision, in and to conditions of safety and dignity, and with the full restoration of national protection United Nations High Commissioner for Refugees (UNHCR 1996).

In the African continent massive voluntary repatriation movements between neighbouring countries have occurred during the 1990s. It is estimated that between 1992 and 2000 over 8 million refugees have repatriated, including 236,000 refugees who returned to Liberia and 195,000 to Sierra Leone (UNHCR 2002). During the same decade, due to the resolution of protracted armed civil conflicts, the acquisition of independent statehood and the successful transition to democracy, the cessation of refugee status for *ceased circumstances*[3] was invoked five times for the following African countries: South Africa (1995), Namibia (1995), Mozambique (1996), Malawi (1996) and Ethiopia (1999) leading to the return of more refugees (Bonoan 2001). More recently, in 2012, the UNHCR recommended countries to invoke the cessation clause for all Angolan refugees[4].

Return decisions are complex and influenced by a series of structural determinants including adverse socio-economic and political conditions both in the country of asylum and in the country of origin (Rogge and Akol 1989). Structural factors such as the length of time spent in the host country, language

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[3] Article 1C(5) of the 1951 Convention Relating to the Status of Refugees, paragraphs 6(A)(e) and (f) of the UNHCR Statute and Article I(4)(e) of the 1969 Organization of African Unity Refugee Convention. The cessation of refugee status based on the 'ceased circumstances' provision was applied under UNHCR mandate on 21 occasions between 1973 and 1999.

[4] Article 4 of the *Implementation of the Comprehensive Strategy for the Angolan Refugee Situation,* including UNHCR's recommendations on the applicability of the ceased circumstances cessation clause states that: 'UNHCR recommends that States continue to implement all aspects of the cessation of refugee status during the first half of 2012'.

barriers for refugee children born in exile, deteriorated living conditions, loss of income-generating activities and a politically hostile environment upon return can explain, on the one hand, why refugees are forced to remain in their country of asylum for a protracted period of time and, on the other, why they cannot return home as the causes of flight still persist.

The body of literature on the determinants of repatriation decision-making processes and likelihood to return have grown over the past fifteen years. Prior to that, very little was known about 'why refugees return home' as opposed to 'why refugees do not want to go back'. In Africa, a growing body of research on repatriation has emerged following the massive return of refugees to their home countries during the 1990s.

The article is divided into four sections. The first section explains how structural forces and migrants' agency can determine voluntary and involuntary movements and reviews the literature on refugee decision-making processes, the second section provides information on the case study, the third section explains the methodology used and the fourth section discusses the results and provides the conclusion.

Analytical Frame: Structure–Agency Impasse

One of the many questions underlying the concepts of *migration* and *return* is why individuals and households decide to move and whether their decisions are the result of individuals' rational choices or rather depend on the unavoidable constraints of social structures which disable agents' decisions. For decades, the social sciences have been grappling to better understand the relationship between structure and agency posing to migration scholars the challenge of determining how the micro and macro level of analysis interact and can be integrated. The limitation of not having a theoretical framework able to reconcile structure and agency might, in fact, not only result in the *ex-post* application of migration theories to validate the findings of the empirical research, but also prevent the formulation of 'robust concepts and hypotheses concerning the interaction of these concepts' (Bakewell 2010: 5).

The challenge to recompose this fracture has been sharpened by the migration studies' traditional dichotomy of *voluntary* (economic migrant) versus *involuntary* (refugee) movements which has placed in contrast migrants' agency of taking informed decisions, on the one hand, and the structural constraints that force people to move, on the other. This separation is

misleading because decisions to move are influenced by individuals' choices as well as by external constraints.

Drawing from Giddens's (1984) structuration theory, Richmond (1988, 1993) attempted to move beyond this dual dichotomy by introducing the notion of *proactive* migrants in contrast with *reactive*. The former are migrants whose decisions are made within a 'rational choice framework', the latter are those whose decisions are constrained by socio-economic, political and environmental events. As he pointed out in explaining the differences between *proactive* migrants and *reactive* behaviours:

Under certain conditions the decision to move may be made after due consideration of all relevant information, rationally calculated to maximise net advantage, including both material and symbolic rewards. At the other extreme, the decision to move may be made in a state of panic facing a crisis situation which leaves few alternatives but escape from intolerable threats. Between these two extremes, many decisions made by both 'economic' and 'political migrants' are a response to diffuse anxiety generated by a failure of the social system to provide for the fundamental needs of individual, biological, economic and social (Richmond 1988: 17).

Richmond's approach enables blurring of the distinction between *economic migrants* and *refugees* by placing their decisions on a spatial continuum ranging from individuals' choice behaviour and structural constraints, however, its limitation lies, on one hand, in the lack of 'attempting to integrate it with a larger domain of migration theory' (Rosenblum and Tichenor 2012: 40) and, on the other, on the fact that is not fully 'capturing the interaction between agency and structure' (Bakewell 1996: 52).

Amongst the researchers who attempted to bridge the gap between refugee studies and broader migration theories, de Haas (2010) proposed a convincing theoretical framework to solve the structure–agency impasse. His migration system, applicable to different forms of migration, both voluntary and involuntary, is based on the tension between *structural forces* (i.e. socio-economic and political factors) and *migration capabilities*. The latter are defined as 'the social, human and material capital individuals are able to mobilize in order to migrate' (de Haas 2010: 16) and together with migrants' *aspirations* can determine how individuals make their choices. As he explained:

If we conceive migration as a response to spatial opportunities rather than mere economic differentials, it is possible to achieve a more inclusion migration theory covering most forms of migration instead of contending with the current state of migration characterized by a rather artificial distinction between voluntary (economic) and forced migration. Rather than applying such dichotomous classification, it is more appropriate to conceive of a continuum running from low to high constraints, in which all migrants deal with structural constraints, although to highly varying degrees (de Haas 2010: 18).

By assuming that all individuals, including displaced people and refugees, need certain *capabilities* and access to 'positive freedoms' (de Haas 2011: 19) in the form of social, human and material capital to be able to flee their countries, this analytical model questions the boundaries between voluntary and forced migration. In essence, all different forms of migratory movements, with the exception of slavery and deportation, involve structural constraints as well as the autonomy of the agency.

It is beyond the scope of this article to critically review all theoretical approaches which have tried to mitigate the existing fracture between agency and structure. Here the aim is rather twofold: firstly to present refugee repatriation as one form of return migration by overcoming the nuanced distinction between voluntary and involuntary movements and secondly, to 'analyse refugees' return decisions alongside other migratory decisions (Harpviken 2014: 58). For the purpose of this article refugee repatriation is placed along the same side as other forms of return migration which are the result of both structural forces and individual choices and are subject to the theoretical scrutiny of migrations studies. From a conceptual perspective, blurring the dichotomy between voluntary and involuntary movements will allow the exploration of the implications of migration theories such as transnationalism to the case of refugees (Al-Ali et al. 2001: 616) making irrelevant the separation between refugee and migration studies.

Refugee Repatriation and the Decision-Making Process

The concept of voluntary repatriation moves from the belief that all refugees intend to return to their home country, an externally conceived assumption 'which has not been subjected to independent examination' (Harrell-Bond 1989: 43). The belief that refugees will return home when conditions in their

countries of origin have changed and the cause of flight is no longer in place is the core of the mantra of voluntary repatriation. As Bakewell pointed out:

Repatriation is often seen as the optimum outcome for refugee situations as if by definition and the obvious thing for refugees to do. The fact of their wanting to return is taken for granted so their motivation for repatriating does not necessarily arise as a question (1996: 15-16).

Scholars (Harrell-Bond 1989; Rogge & Akol 1989) have widely debated the principle of voluntary repatriation and in particular 'the suggestion that refugees should be encouraged to go back to countries from which they were once forced to escape has inevitably aroused passionate disagreement and discussion' (Crisp 1986: 163). There are, in fact, circumstances when return is impossible and not desirable (Long and Crisp 2010: 56) and even when conditions are conducive for refugees to repatriate, problems might arise due to the challenges of reintegration in the country of origin (Bascom 2005; Cornish et al. 1999; Omata 2013; Setrana & Tonah 2014). In this regard, Harrell-Bond (1989) argued that there are no empirical evidences to support the idea that reintegration into the sending countries would be more successful than into the host community.

Other studies (Harrell-Bond 1989; Hathaway 2006; Zieck 2004) pointed out how voluntary repatriation has been deliberately used by host governments and refugee agencies to terminate refugeehood situations by promoting repatriation when durable and fundamental changes of conditions in the country of origin have not occurred. Stein (1997:4) referred to 'premature repatriation' as a particular form of return under duress and the resulting 'lack of asylum which comes when both the country of origin and the refugees are not ready for the return'. A number of empirical studies (Bascom 1994; Koser 1997; Rutinwa 1996) suggested that refugees repatriate spontaneously and without any assistance when conditions in their home countries improve, but also that self-repatriation movements might be caused by hostile socio-economic and environmental conditions in the country of asylum (Ighodaro 2006) and by deliberate pressure on refugees from 'host governments, local communities, militia forces and other actors with the specific intention of inducing refugees to go back to their homeland' (Crisp 2000: 17).

Safety in the country of origin is also considered to be a pivotal determinant of the decision-making process as returnees are more likely to return to their country of origin when they perceive that safety and security are fully restored

(Kifleyesus 2010: 55). Even when conditions in the country of origin have changed and peace is restored, refugees may still be reluctant to return. There are numerous reasons why return is not a desirable option for refugees including: the lack of access to reliable information on the conditions in the country of origin (Koser 1997), the presence of social networks in the country of asylum (Karooma 2014), the notions of 'home' and 'identity' (Chowdhory 2012; Malkki 1995) which are subjected to a reconceptualization during exile and the lack of economic opportunities in the country of origin (Kunz 1981). Continued insecurity was mentioned by Crisp amongst the main reasons for Ugandan refugees resisting repatriation from Sudan. As he analysed:

Given the various forms of violence and intimidation that returnees could expect in West Nile, it was hardly surprising that few decided to go home. In fact, there is evidence to suggest that many of those who did choose to return had a false impression of the security they would enjoy (Crisp 1986: 172).

Kibreab (2003) argued that what makes return an interesting option is not only the conditions in the country of origin but rather a combination of factors occurring both in the country of asylum and in the country of origin. His theory challenges the simplistic assumption that refugees should return to their actual homes and communities from which they were uprooted. While in exile, in fact, 'refugees go through a process of transformation which enable them to create new social networks transcending ethnic and religious boundaries and weakening their attachment to the place of origin' (Kibreab 2003: 33). The geographical context also plays a pivotal role as refugees originating from the same country and living in different places react differently to repatriation. Refugees who are hosted in the 'global north' can access a wide range of civil, social and economic rights and have the opportunity to conduct employment and self-employment activities and this has a strong influence on their decision to return. Those who are living in less developed countries generally enjoy fewer socio-economic rights and are more inclined to repatriate. This leads to the conclusion that foremost are 'the conditions in countries of asylum that influence the decision of refugees to stay put or return' (Kibreab 2003: 45).

The Angolan Case

Angola was devastated by a long civil war which began in 1975 after the country's declaration of independence in 1961 and was fought between two strongly opposed political factions; on one side the ruling Popular Movement

for the Liberation of Angola (MPLA) and, on the other side, a rebel movement known as the National Union for the Total Independence of Angola (UNITA⁵). The war ended after the killing of UNITA's leader, Jonas Savimbi, when a Peace Agreement was signed in Luena in April 2002.

Almost thirty years of brutal war destroyed most of the country's infrastructures and left an estimated one million people dead and four million internally displaced (IRIN 2005). Since the end of the civil war the UN's refugee agency has been involved in the repatriation of Angolan refugees residing in neighbouring countries such as Zambia and the Democratic Republic of Congo (DRC). During the first phase of repatriation, between 2002 and 2007, an estimated 400,000 refugees of a total of 600,000 have returned to their area of origin, as the majority of the 4 million displaced did (UNHCR 2007).

At present, Angola is experiencing a period of peace and tranquillity after the suffering and destruction which was inflicted on the population during the civil war and the government has made efforts to rebuild the country through massive development projects. The Gross Domestic Product (GDP) reached 4.1% in 2013 (World Bank 2013) and political elections were held peacefully under the new constitution. Despite the remarkable improvements, a large number of the 24 million inhabitants are still living in abject poverty (Carciotto 2014).

Although the government of Angola has expressed a desire and a strong commitment to support the return of all individuals in exile, research (Kaun 2008) highlighted that the reintegration process which followed the first phase of repatriation was challenged by the lack of available resources, investment and commitment offered by government in addition to the valuable but insufficient efforts made by aid agencies and international

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⁵ UNITA was a pro-Western organization in Angola formed in 1966 by Jonas Savimbi. Together with Holden Roberto's National Front for the Liberation of Angola (FNLA), it opposed the Popular Movement for the Liberation of Angola (MPLA) under Agostinho Neto in the Angolan civil war of the 1970s. South Africa supported UNITA and the FNLA by sending SADF* troops into Angola in the hope of decreasing the danger of Marxist infiltration into South Africa and maintaining a hold over the administration of South West Africa. But Russian support of the MPLA, including Cuban troops and sophisticated weaponry, meant that South Africa had to back off and the MPLA took over the government of Angola in 1975. Thereafter the SADF continued its support of UNITA, launching a number of offensives against the MPLA and SWAPO* on both sides of the Angolan/Namibian border in the 1980s until 1988 and the independence of Namibia two years later http://bit.ly/1G2MQu1 Accessed 20 March 2015.

donors. During the second phase of repatriation the Angolan government's made valuable efforts to provide returnees with *bilhete de identidade* (identity and birth registration documents) as well as passports for those who applied for local integration in the former asylum countries.[6]

Since 2002, the UNHCR has entered into tripartite agreements with representatives from a number of African states including the DRC, Congo Brazzaville, Zambia, Namibia, Botswana and South Africa. This facilitated the process of repatriation which took place spontaneously and through programmes of assisted repatriation. Nonetheless in 2011, according to the UNHCR (2012), more than 100,000 Angolans still remained in exile in several countries, including the DRC (74,500), Zambia (23,000), South Africa (5700) and Namibia (1700).

Following the declaration of the cessation[7] of Angolan refugees in 2012 more Angolans have returned home. In 2013, 1,666[8] former Angolan refugees, of whom 35 [9] from South Africa, and the remaining from Zambia (1,161), Botswana (429) and Namibia (40) were repatriated through voluntary repatriation programmes.[10] During the last phase of voluntary repatriation (VOLREP) which resumed in August 2014, 17,027 individuals were repatriated to Angola. Of these, 15,224 (4,719 households) from the DRC, 1,620 (478 households) from Zambia and 182 (79 households) from the Republic of Congo.[11]

In May 2013, following a Cabinet decision, the South African government formally declared the cessation of refugee status for all Angolan refugees;[12] this announcement came in the wake of the 2011 UNHCR declaration (UNHCR 2012) that conditions in Angola had improved and that it was safe for refugees to return and followed the political and economic stabilization of Angola as

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[6] A UNHCR staff member (personal communication, 28 May 2015).

[7] Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees states that 'refugee status may cease due to fundamental changes in the objective circumstances in the country of origin upon which refugee status was based'.

[8] A UNHCR staff member (personal communication, 17 April 2015).

[9] The nationality of 1 of these 1,666 returnees in unknown.

[10] In total 38 Angolans decided to return voluntarily from South Africa; 35 were repatriated in 2013 and 3 in 2014. P. Msizi (personal communication, 26 May 2015).

[11] A UNHCR staff member (personal communication, 28 May 2015).

[12] Section 5(1)(e) of South Africa's Refugee Act No. 130 of 1998.

well as improvements in peace and security in the country over the last few years. As declared by the South African Minister of Home Affairs:

Angola is a country that has decisively put its past behind it and is notching up some impressive developmental statistics. It is one of the fastest growing economies on the continent. It is a country attracting a good deal of foreign investment. The human development index in regard to health, education and income shows that Angola has since 2006 performed above the regional average and, it is a rapidly growing tourist destination (PMG 2013a)

The declaration of Cabinet had two effects: 'firstly, the South African government agreed with the UNHCR recommendation that Angola was no longer a country producing genuine refugees. Secondly, this allows the Department of Home affairs to find durable solutions for those individuals whose refugee status could be reversed by the Standing Committee on Refugee Affairs'[13] (PMG 2013b).

The cessation was meant to be applicable only to Angolans 'who fled their country as a result of the war of independence and the civil war between 1961 and 2002' (UNHCR 2012: 1) and the South African government offered three options to Angolan refugees: for those who wished to voluntary return to Angola assistance was provided by the UNHCR, the South African and the Angolan governments; for those who wished to continue to stay in South Africa a 2-year temporary visa[14] was introduced upon obtaining a national passport from the Angolan diplomatic authorities in South Africa; and finally for those Angolan refugees who wanted to retain their refugee status[15] a provision was made to allow them to apply for an exemption[16] from the cessation regime.

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[13] Section 36 of South Africa's Refugee Act No. 130 of 1998.

[14] The cut-off date for the issuance of passports and visas was initially 31 August 2013 but because the Angolan government was not able to issue passports at time the cut-off date was extended to 15 December 2013.

[15] Only six Angolan refugees indicated their wish to remain under the international protection. A UNHCR staff member (personal communication, 26 May 2015).

[16] Section 5(2) of South Africa's Refugee Act No. 130 of 1998 and Para 5 of the UNHCR, *Guidelines on Exemption Procedures in Respect of Cessation Declaration* (December 2011) states that: 'the 1951 Convention envisions two categories of refugees who should be exempted from cessation. These are (1) refugees who continue to have a well-founded fear of persecution, despite the general positive changes in the country of origin, and (2) refugees who due to compelling reasons arising out of previous persecution cannot be expected to return to their country of origin.

Those Angolans who opted for repatriation of local integration had their refugee status withdrawn[17].

According to the Department of Home Affairs,[18] in 2012, 16,529 Angolan nationals of whom 3,100 had refugee status, were living in South Africa, mainly in the Cape Town metropolitan area (2,635). In the four centres[19] established in Durban, Port Elizabeth, Cape Town and the Tshwane Interim Reception Office, a total of 3,713 Angolans were profiled; approximately 2,200 were integrated locally under the 2002 Immigration Act and received 2-year visas,[20] while 38 were voluntary repatriated to Angola. There were also seven Angolan unaccompanied minors, of whom three were granted with permanent residency and four were issued with alternate permits,[21] which were dealt with by durable solutions beyond the cut-off time of December 2013.

Methodology

The data was collected applying a mix of quantitative and qualitative methods. Information was gathered using a structured questionnaire administered to 131 individuals over a period of three weeks in February 2015. Due to the lack of reliable information about the total number of Angolan households in South Africa, a purposive non-probabilistic method, in which sample units shared similar characteristics, including language, nationality and socio-economic background was applied to the present study. Statistical analysis was used to examine the connection, sequence and tendencies of various variables involved. The synopsis of the data was conducted using statistical software

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[17] Section 5(3) of South Africa's Refugee Act No. 130 of 1998 and Regulation 17 provides that 'when Standing Committee on Refugee Affairs (SCRA) intends withdrawing status from a refugee, it must give the refugee written notice of its intention to do so, including the reasons therefore, and must invite written representations within thirty days. If no representations are received or if the representations do not persuade the SCRA otherwise, it may withdraw the refugee's status. The SCRA bears the burden of proof in respect of the grounds upon which it seeks to withdraw refugee status' (Harvey 2012: 6).
[18] Information was released during a meeting held with the Angolan community in Cape Town on 16 June, 2012.
[19] On 29 May 2013 the South African Department of Home Affairs established so-called 'one stop' services which were staffed by South African and Angolan government officials and UNHCR staff.
[20] Two-year temporary visas for *study, work, business, elderly person or spousal/dependent* were issued relaxing the conditions prescribed by the *2002 Immigration Act* and its *Regulations;* these visas will only be renewable as per regular conditions prescribed by the 2002 *Immigration Act* and its *Regulations*
[21] A UNHCR staff member (personal communication, 26 May 2015).

(STATA) in order to quantify the details and figures gathered. Descriptive statistics were applied to interpret, conceptualize and condense the data set. Members of the Angolan community (9) were selected and interviewed with the assistance of the Scalabrini Centre, a local non-governmental organization, using a snowball sampling technique which took into consideration their different socio-economic backgrounds. Two focus group discussions were also conducted with twenty selected Angolan nationals. In addition, semi structures interviews with representatives from Non-governmental organisations, members of international organizations and civil society were conducted in Cape Town between January and May 2015. Although the small sample cannot be representative of the general population, the mix of both quantitative and qualitative methods of research allowed the development of some relevant considerations around the experience of Angolan refugees in South Africa and their attitude and response to repatriation.

Analysis of Results

a) Reluctance to Return

In the case of Angolans, repatriation from South Africa did not produce the same numeric results of other voluntary repatriation programmes which took place in the region and a low number of individuals, only 38, opted for voluntary repatriation while the majority preferred to remain in South Africa and were given 2-year temporary visas. Before the declaration of the cessation, between 2004 and 2011, a small number of Angolans (104) were repatriated from South Africa[22] with the assistance of the UNHCR, while others were estimated to have returned spontaneously.

The survey asked a series of questions to determine nationality and place of birth of the respondents. All the 131 respondents were of Angolan nationality; 93 respondents (71%) were males and females (29%). The majority of respondents (49.6%) were married, 13% were living with partners, 3.1% were widows/ widowers, 7.6% were divorced or separated and 26.7% never married. In addition, the findings indicated that 46.6% of those interviewed fell within the 36-45 age category, 13.7% were between 26-35, 27.5% were between 46-55, and 9.2% and 3.1% fell in the 10-25 and over 56 age group respectively. A large number of respondents (30.5%) were born in Luanda, while the rest were born in other provinces and outside Angola. Out of the total

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[22] Stakeholders' meeting notes (held in Cape Town on 22 May 2012).

surveyed, 28.2% were born in Uige, 1.5% were born in Benguela, Cabinda (3.1%), Bie (1.5%), Cuanza Norte (1.5%), Huambo (1.5%), Huila (3.8%), Malange (3.8%), Bengo (0.8%), Cuanza Sul (0.8%), while 17.6% were born in the then Zaire and 5.3% were born in other countries.

Despite the lack of opportunity for many Angolans to obtain permanent residence[23] and to secure their legal status in South Africa, of those who were interviewed, none expressed the intention to return permanently to Angola. The reasons for their reluctance to return are complex and determined by a number of factors which refer both to the conditions in their home country as well as in the country of asylum. A large number of respondents have mentioned the lack of adequate healthcare structures and poor service provision amongst the reasons to refuse repatriation. Other explanations that frequently recurred during the interviews were concerns about the lack of democracy, human rights and civil liberties in Angola. These reasons were backed by several statements: 'I was born there [in Angola] but there are no opportunities in the country, hospitals are not good and education is expensive' (P75).[24] 'With the current government in power I cannot return, they are dictators and infrastructures are poor' (P77). 'The main reason not to return is the healthcare system, the second is the education system. People don't have sanitation and medication; they are not working and don't have a house' (P1).

The study confirmed that decisions to return for refugees were determined by a comparison between conditions in the country of asylum and in the home country (Koser 1997: 2) as reinforced by the statements of two respondents: 'Human rights and living conditions are not good; there is no one who can tell me that those conditions can be better than here [in South Africa]' (P7). 'The idea of returning makes me feel bad because my family is here and conditions are bad compared to South Africa' (P114).

b) Life in South Africa

Having lived in South Africa for an average period of eighteen years, Angolans have integrated into South African society. More than 50% of those interviewed were married, with 25% of them either married to or living with

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[23] Section 26(a) of the 2002 Immigration Act states that: 'the Department shall issue a permanent residence permit to a foreigner who has been the holder of a work permit [...] in terms of this Act for five years and has received an offer for permanent employment'.

[24] All open-ended survey questions were coded; 'P' refers to Participant.

a South African spouse. A significant number of interviewees had their family members in the country of asylum and children enrolled in South African schools. For those Angolans who are either married to South African spouses or have children in South African schools, the challenge of integration into Angolan society was much greater because of cultural and linguistic differences. As one of the respondents pointed out: 'My kids are born here and they are receiving an education in South Africa' (P27). Whereas the majority of interviewees still consider themselves as Angolans, almost 25% of the respondents consider themselves as South Africans and 13.7% view themselves as both South African and Angolan. The adoption of a South African national identity was particularly strong amongst the younger generation of former Angolan refugees, especially those who came to South Africa young or were born in South Africa. For all these reasons, and due to the presence of strong social networks in South Africa, respondents have expressed a low interest in repatriation, in line with the affinity hypothesis which states that the higher the density of networks of friends, children and family members in the country of asylum, the lower the probability of repatriation (Boyd 1989; Gurak & Caces 1992). As stated by one the respondents during a focus group discussion:

I have got three kids that were born in South Africa and this is what makes me stay here; they were born here and they are all in school and spent their life here. Even myself I came in South Africa when I was very young, I was 19, and I spent here more than 18 years. Last year I even went to Angola to see if we can get adapted but is very difficult to adapt in that country. My work is here and my children do not know how to write Portuguese as they study in English. Imagine if I take them to Angola how are they going to adapt? Especially to the education system which is very different from the one we have here in South Africa. These are the things that have been keeping me in South Africa for all these years, especially my kids' education. (Focus group interview, February 2015).

c) Is Angola still 'home'?

A large majority of respondents (84%) declared to be in contact with a least one member of his immediate or extended family, while only 16% reported not having any family member left in Angola. The research sought to determine the percentage of participants who have visited Angola after their arrival in South Africa. The frequency of travel to Angola was low and the research data revealed that only 35% of the participants have since visited

Angola, whilst 65% never returned to Angola. Out of the 35% who have visited Angola, 59 % have visited at least once and moreover, 31 respondents indicated that they were last in Angola in 2014. This fact, was not only a confirmation that sourcing information on the socio-economic and political conditions at home played a fundamental role in the decision-making process of repatriation (Koser 1997) but also that some of the interviewed Angolans returned to Angola after the cessation was declared to assess whether permanent repatriation was a viable option and to validate information acquired in South Africa through the media, relatives and friends. As reported by two of the respondents:

Yes, I went [to Angola] to go and check by myself; I don't want others to come and tell me this and that; that's why I went there and I checked by myself and I saw what is better there and what is not better (Personal interview, 15 March, 2015).

I was in Angola in June and again in December 2014 and because of the things I saw I wasn't happy. Most of the people were asking me: 'are you coming back here for good?' I told them: 'no I'm not'. I can come here to visit but not to live (Personal interview, 16 March, 2015).

Some of the respondents expressed their interest in returning to Angola for a short period of time, both for work and to visit but without the intention to resettle, as confirmed by these statements: 'I would consider working in Angola but not staying there' (P14). 'I would only visit Angola, Cape Town is my home' (P11).

Questions to elicit respondents' views on the presence of socio-economic opportunities for returnees in Angola raised conflicting views. Of all Angolans surveyed, 63% did not believe that opportunities existed for them and their families in Angola, 19% were positive about it, while 18% were uncertain. Respondents reported that although some forms of economic opportunities were available due to favourable economic conditions in Angola, there were also several impediments to their return including the lack of jobs for aged and uneducated individuals, language barriers for Angolans who had lived abroad for many years, nepotism and corruption and the challenge of uprooting children from their social environment. These negative views were backed by the respondents' statements: 'There are opportunities in Angola but not for me due to my age' (P18). 'Because I have not studied it would be difficult for me to find work' (P40). 'I would feel happy to see my family again but there

would be barriers for me in getting a job in terms of language' (P41). Amongst those who were positive about the presence of opportunities in Angola the main barrier to return was represented by the social conditions in the country which made repatriation difficult, in particular for those with wives and children in South Africa. As one of the respondents declared: 'Opportunities may exist for the breadwinner but not for the family; social conditions are not good in Angola' (P17).

d) Legal Status

Questions related to legal status and its uncertainty can increase anxiety amongst refugees, hinder transnational practices and reduce their propensity to return home (Al-Ali et al. 2001: 582). The survey asked a series of questions to establish the documentation status of the respondents and findings revealed that 96% of Angolans regularised their stay in South Africa during the time of the refugee cessation, between August and December 2013. Data analysis showed that 89% of the respondents had refugee status permits (Section 24) and 11% held asylum seeker temporary permits (Section 22) prior to the declaration of cessation.[25] The study also indicated that 72% of the respondents moved from Section 22 and Section 24 permits to temporary residency work visas, while 11% did not have valid documentation and therefore remained undocumented.

Although the majority of former Angolan refugees received temporary residence visas, this did not give them any formal right to apply for permanent residence in South Africa regardless of their long stay in the country as refugees.[26]

Temporary visas under relaxed conditions were issued only for a period of two years leaving Angolans in a state of frustration and uncertainty about their future. Those Angolans who are not be able to extend their visas after the initial period of two years will have no choice but to return to Angola, or to remain undocumented in South Africa facing the risk of deportation.

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[25] A Section 22 permit is given to a person who has fled his or her country and is seeking recognition and protection in the Republic of South Africa, and whose application is still under consideration. Refugee status is given to person who has been granted asylum status and protection in terms of Section 24 of the Refugee Act No. 130 of 1998.

[26] The Refugee Act No. 130 of 1998 Section 27(c) allows a refugee to apply for permanent residence after he or she has been recognised as a refugee for five consecutive years, but permanent residence is only granted if a refugee is deemed a refugee 'indefinitely.'

Conclusion

The mantra of voluntary repatriation is based on the underlying assumption that refugees, regardless of the amount of time spent in exile, will return to their countries of origin once the cause of their flight has ceased. However, the case of Angolan refugees in South Africa showed that few individuals accepted voluntary repatriation while the large majority opted for local integration and were given temporary visas by the South African government.

The Angolans' decision to return was influenced by a complexity of factors and entailed a cost-benefit analysis of socio-economic and political conditions in both the country of origin and asylum. For some Angolans the information acquired through personal networks, the media, international organisations and government institutions was insufficient to make a final decision and 'go-and-see' visits to Angola were spontaneously taken to assess whether conditions at home were conducive for return.

The presence of family and other social links, the length of time spent in exile and the possibility of accessing civil, social and economic rights in South Africa have determined a low interest in repatriation amongst former Angolan refugees. Those who expressed an interest in visiting Angola for a short period of time were in favour of flexible and non-permanent forms of return which would allow them to visit their families and to conduct some work but also retain the legal status acquired in the former country of asylum.

The lack of an opportunity to be granted permanent residence or citizenship has hindered Angolans' decision to return and prevented their transnational mobility. Securing a permanent legal status in South Africa would have offered Angolans a fall-back option – in case repatriation failed – and the opportunity for short visits and periods of dual residence. Moreover, those Angolans who will not meet the necessary requirements to extend their temporary visas will not be able to remain in South Africa and will have to return to Angola against their will.

In conclusion, this paper underlined that policies which facilitate transnational mobility, encourage temporary forms of return and offer long-term refugees the possibility to access permanent residence and naturalization in the former country of asylum are preferred to permanent, unwanted and often involuntary repatriation*.*

References

Al-Ali, N., Black, R. & Koser, K. 2001. Refugees and transnationalism: The experience of Bosnians and Eritreans in Europe. *Journal of Ethnic and Migration Studies,* 27(4): 615-634.

Bakewell, O. 1996. Refugee repatriation in Africa: Towards a theoretical framework? *Occasional paper 04/96*. Centre for Development Studies University of Bath.

Bakewell, O. 2010. Some reflections on structure and agency in migration theory. *Journal of Ethnic and Migration Studies,* 36(10): 1689-1708.

Bascom, J. 1994. The dynamics of refugee repatriation: The case of Eritreans in eastern Sudan. In: Gould, W.T.S & Findlay, A.M. (Eds.). 1994. *Population Migration and the Changing World Order.* Chichester: John Wiley and Sons. 225-248.

Bascom, J. 2005. The long, last step? Reintegration of repatriates in Eritrea. *Journal of Refugee Studies,* 18(2): 165-180.

Boyd, M. 1989. Family and personal networks in international migration: Recent developments and new agendas. *International Migration Review,* 23(3): 638-60.

Bonoan, R. 2001. When is International Protection no Longer necessary? The "Ceased Circumstances" Provisions of the Cessation Clauses: Principles and UNHCR Practice, 1973-1999. Working Paper # 8.

Carciotto, S. 2014. Human mobility in Angola. In: Baggio, F. (Ed.). *Africans on the Move: Human Mobility in Ghana, Nigeria, Angola and South Africa*. Cape Town: Scalabrini Institute for Human Mobility in Africa. 117-159.

Chowdhory, N. 2012. Assessing 'belonging' and 'claims' of home among refugees: A note on repatriation in South Asia. *South Asian Journal of Peacebuilding,* 4(1).

Cornish, F, Peltzer, K, & MacLachlan, M. 1999. Returning strangers: The children of Malawian refugees come 'home'. *Journal of Refugee Studies,* 12(3): 264-283.

Crisp, J. 1986. Ugandan refugees in Sudan and Zaire: The problem of repatriation. *African Affairs,* 85(339): 163-180.

Crisp, J. 2000. Africa's refugees: Patterns, problems and policy challenges. *UNHCR Working Paper No. 28.* UNHCR.

De Haas, H. 2010. Migration transitions: A theoretical and empirical inquiry into the developmental drivers of international migration. *IMI Working Paper No*. 24. Oxford: University of Oxford.

Giddens, A. 1984. *The Constitution of Society*. Cambridge: Polity Press.

Gurak, D.T. & Caces, F. 1992. Migration networks and the shaping of migration systems. In: Kritz, M.M., Lim, L.L. & Zlotnik, H. (Eds.). *International Migration Systems: A Global Approach*. Oxford: Clarendon Press. 150-176.

Harrell-Bond, B.E. 1989. Repatriation: Under what conditions is it the most desirable solution for refugees? An agenda for research. *African Studies Review,* 32(1): 41-69.

Harpviken, K.B. 2014. Split return: Transnational household strategies in Afghan repatriation. *International Migration,* 52(6): 58-71.

Harvey, S. 2012. Opinion for the Scalabrini Centre of Cape Town concerning the rights of Angolan refugees in South Africa in the context of the UNHCR Declaration of Cessation. 21 September 2012.

Hathaway, J.C. 2006. Refugee solutions, or solutions to refugeehood? *Lecture delivered to mark the twenty-fifth anniversary of the founding of the Jesuit Refugee Service* in London, October 2006.

Ighodaro. M.E. 2006. *Living the Experience: Migration, Exclusion, and Anti-Racist Practice.* Halifax: Fernwood Publishing Press.

Integrated Regional Information Networks (IRIN). 2005. The Long Journey Home: An IRIN Web Special on the Challenge of Refugee Return and Reintegration. February 2005. From <http://bit.ly/29YpW92> (Retrieved May 25, 2015).

Karooma, C. 2014. Reluctant to Return? The Primacy of Social Networks in the Repatriation of Rwandan Refugees in Uganda. *RSC Working Paper 103*.

Kaun, A. 2008. When the displaced return: Challenges to 'reintegration' in Angola. *New Issues in Refugee Research Paper No. 152.* Geneva: UNHCR.

Kibreab, G. 2003. Citizenship rights and repatriation of refugees. *International Migration Review,* 37(1): 24-73.

Kifleyesus, A. 2010. *Recollections of Return, Resettlement, and Reintegration from Gash Barka in Eritrea.* Addis Ababa: OSSREA.

Koser, K. 1997. Information and repatriation: The case of Mozambican refugees in Malawi. *Journal of Refugees Studies,* 10(1): 1-18.

Kunz, E.F. 1981. Exile and resettlement: Refugee theory. *International Migration Review,* 15(1): 42-51.

Long, K., & Crisp, J. 2010. Migration, mobility and solutions: An evolving perspective. *Forced Migration Review,* 35: 56-57.

Malkki, L. 1995. Refugees and exile: From refugee studies to the national order of things. *Annual Review of Anthropology,* 24: 495-523.

Omata, N. 2013. Repatriation and integration of Liberian refugees from Ghana: The importance of personal networks in the country of origin. *Journal of Refugee Studies,* 26(2): 265-282.

Parliamentary Monitoring Group (PMG). 2013a. Home Affairs: Minister's Budget Vote Speech & Responses by ANC, DA, and IFP. 09 May, 2013. From <https://pmg.org.za/briefing/19009/> (Retrieved 27 April, 2015).

Parliamentary Monitoring Group (PMG). 2013b. Deputy Minister & Department of Home Affairs Briefing on Strategic and Annual Performance Plans 2013. 14 May 2013. From <http://bit.ly/29XNBbX> (Retrieved 27 April, 2015).

Richmond, A.H. 1988. Sociological theories of international migration: The case of refugees. *Current Sociology,* 36(2): 7-26.

Richmond, A. 1993. Reactive migration: Sociological perspectives on refugee movements. *Journal of Refugee Studies,* 6: 7-24.

Rogge, J. & Akol, J. 1989. Repatriation: Its role in resolving Africa's refugee dilemma. *International Migration Review,* 231(2): 184-200.

Rosenblum, M. & Tichenor, D. (Eds.) 2012. *The Oxford Handbook of the Politics of International Migration.* USA: Oxford University Press.

Rutinwa, B. 1996. Beyond durable solutions: An appraisal of the new proposals for prevention and solution of the refugee crisis in the Great Lakes region. *Journal of Refugee Studies,* 9(3): 312-325.

Setrana, M.B. & Tonah, S. 2014. Return migrants and the challenge of reintegration: The case of returnees to Kumasi, Ghana. *A Journal of African Migration,* 7: 113-142.

Stein, B.N. 1997. Refugee Repatriation, Return and Refoulement During Conflict. USAID Conference Promoting Democracy, Human Rights, and Reintegration in Post-conflict Societies. October 30-31, 1997.

Stein, B.N. 1981. The refugee experience: Defining the parameters of a field of study. *International Migration Review,* 15(1/2): 320-330.

United Nations High Commissioner for Refugees (UNHCR). 1996. Handbook on Voluntary Repatriation: International Protection. January 1996. From <http://www.refworld.org/docid/3ae6b3510.html> (Retrieved June 8, 2015).

United Nations High Commissioner for Refugees (UNHCR). 2002. UNHCR Statistical Yearbook 2001. 09 November 2002. From <http://www.refworld.org/docid/52aad29d4.html> (Retrieved June 8, 2015).

United Nations High Commissioner for Refugees (UNHCR). 2007. Repatriation to Angola Officially Ends after 410,000 Refugees Go Home. 26 March 2007. From <http://www.unhcr.org/4607b7d24.html> (Retrieved May 14, 2015).

United Nations High Commissioner for Refugees (UNHCR). 2012. Implementation of the Comprehensive Strategy for the Angolan Refugee Situation, including UNHCR's Recommendations on the Applicability of the 'Ceased Circumstances' Cessation Clauses. 15 January 2012. From <http://bit.ly/1Gyt0Hh> (Retrieved June 10, 2015).

World Bank. 2013. Angola Economic Update – Angola's Economic Recovery and Challenges Ahead. From <http://bit.ly/1BU9E7Z> (Retrieved May 14, 2015).

Zieck, M. 2004. Voluntary repatriation: Paradigm, pitfalls, progress. *Refugee Survey Quarterly,* 23(3): 33-54.

Francophone transnational students, social exclusion and the challenges of adaptation at a South African University of Technology

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Abstract

This article emerges out of qualitative data gleaned through semi-structured interviews with fifteen Gabonese and Congolese students at the Cape Peninsula University of Technology (CPUT) in Cape Town. It draws on theoretical conceptions such as transnationalism, social exclusion and migrant adaptation, to interrogate the social experiences of francophone students and their tactics for dealing with exclusionary practices from peers and staff. Using selected excerpts from the data, this article attempts to analyse characteristics of transnational student life, patterns of social exclusion and the challenges of adaptation experienced by the francophone community in this teaching and learning space. Against this backdrop, the article seeks to make sense of their learning experiences and the implications for the broader challenges of studying in a post-apartheid higher education institution.

Keywords Sub-Saharan Africa, adaptation, social exclusion, transnational students, francophones, post-apartheid South Africa.

Introduction and contextual background

One hallmark of global human mobility is the increasing number of Africans studying in universities around the world. This increase is often attributed to wider conceptions such as neo-liberal transformation of higher education, internationalisation and transnationalization of education (Madge et al. 2014; Giroux 2014; Kim 2011). In South Africa, the urgency to transform and indigenise universities has become even more imperative, especially after the

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demise of apartheid (Mouton et al. 2013; Tshotsho et al. 2015; Kwaramba 2012; Sehoole 2006). This has widened access to higher education for black students and it has changed core curricula and pedagogical approaches. Consequently, new patterns of African migration into post-apartheid South Africa include the influx of transnational students, particularly from francophone sub-Saharan African countries like Cameroon, Gabon, Chad, Republic of Congo, Central African Republic, Democratic Republic of Congo (DRC) and so on. For this category of migrants, South African universities do not only offer a cheaper alternative to acquire internationally recognised qualifications, but also provide a unique opportunity to study in predominantly English-medium institutions, especially given the international status of English. For South African universities, international students are not only a source of revenue for universities, but they also symbolise modern universities' envisions for intercultural education and internationalisation (Sam 2001; Andrade 2006; Ryan & Viete 2009). For example, transnational students bring with them a repertoire of skills that contribute significantly to the scholarship of research, teaching and learning. They also bring unique learning, social and cultural experiences which add value to the rich and unique diversity of South Africa (Mubembe 2012; Maharaj et al. 2011).

However, because migration into South Africa has been shaped by violent forms of social exclusion such as xenophobia, Afrophobia and racism, African student experiences in South African universities include dealing with extraordinary conditions of marginalisation, rejection, psychological and physical victimisation as well as language challenges (Landau 2011; Mubembe 2012; Maharaj et al. 2011). Given that the majority of these students have always spoken English as an additional language, "their discourse knowledge is seen as deficient and their learning is expected to conform to seemingly immutable and often implicit norms laid down by the local academy" (Ryan & Viete 2009: 303). In this article, we use qualitative data gleaned through semi-structured interviews with fifteen Gabonese and Congolese students at the Cape Peninsula University of Technology (CPUT) in Cape Town. It draws on theoretical conceptions such as transnationalism, social exclusion and migrant adaptation, to interrogate the social experiences of francophone students and their tactics for dealing with exclusionary practices from peers and staff. Using selected excerpts from the data, this article attempts to analyse characteristics of transnational student life, patterns of social exclusion and the challenges of adaptation experienced by the francophone community in this teaching and

learning space. Against this backdrop, the article seeks to make sense of their learning experiences and the implications for the broader challenges of studying in a post-apartheid higher education institution.

Description of case study

To understand the unique characteristics of francophone students at CPUT and the reasons for focusing on Gabonese and Congolese students, we provide a brief description of the university. Geographically, CPUT is located in the peninsula of Cape Town in the Western Cape Province of South Africa and it is the largest of the four universities in this province, in terms of student enrolment. According to statistical data from CPUT's Management Information System (MIS), the current student enrolment is approximately 34 176 of which approximately 2355 are African students mostly from sub-Saharan Africa (Pineteh & Ralarala 2014; MIS 2016). The university has six faculties: Business and Management Sciences, Engineering, Health and Wellness Sciences, Informatics and Design, Applied Sciences and Education and these faculties are spread over six campuses (MIS 2016). Of the total number of African students, almost 50% are from francophone sub-Saharan Africa. This is evident from the following statistics: DRC-706; Zimbabwe-370; Angola-358; Namibia-329; Gabon-192; Nigeria-116; Republic of Congo-110; Cameroon-85; Rwanda-45 and Lesotho-44 (MIS 2014 & 2016).

In addition, the statistics show that the majority of CPUT's francophone students are from DRC and Gabon, justifying the choice of participants for this article. Moreover, although CPUT's language of teaching and learning is English, this university remains an attractive choice for francophone students because of affordability, the type of qualifications and the industry-oriented pedagogies. For instance, the majority of these students are undergraduates, enrolled for Business, Information Technology, Sciences and Engineering qualifications and CPUT's tuition fees for these qualifications are generally more affordable if compared with the other provincial universities like the University of Cape and Stellenbosch (Pineteh & Ralarala 2014). However, the findings of Pineteh & Ralarala's (2014) study on international students at CPUT revealed that francophone students encounter similar academic and sociocultural challenges regardless of the country of origin. Therefore, for this project we selected Gabonese and Congolese students from two faculties: Informatics and Design, and Business and Management Sciences, for the simple reason that we had unfettered access to the students.

Literature review and theoretical framework

The challenges of international students globally have been researched extensively from a myriad of perspectives. In fact, the expansive corpus of knowledge on the institutionalisation of higher education globally speaks explicitly to the upsurge of international students in modern universities (Habib et al. 2013; Yim 2011; Lee & Rice 2007). This body of knowledge alludes to international student mobility, pedagogical changes and spatial transformation at universities influenced by the presence of transnational students. There is also a burgeoning scholarly interest in international student academic experiences away from home and associated psychosocial and cultural discomforts such as cultural shock, social exclusion and adaptation (Menzies & Baron 2014; Scharter 2015; Bayaga 2011). The changes in what Madge et al. (2014) refer to as the global eduscape suggest that international students do not only contribute to research, teaching and learning, they "increase the diversity of student populations, add new perspectives to classroom conversations and […] increase our awareness and appreciation of other countries and cultures" (Lee & Rice 2007: 381). Therefore, we should begin to interrogate international student mobility not simply as a transfusion of social capital in a new space but something that has strong implications for higher education pedagogy.

This is essential to our understanding of transnational studentship because experiences of international students are often nested in several challenges associated with cross-border human mobility such as social exclusion, cultural adaption, feelings of isolation, homesickness, prejudices and so on (Yim 2010; Swami et al. 2010). As modern universities transform to accommodate their diverse student communities, these learning spaces have equally become enclaves of new patterns of social exclusion (Kim 2011; Lee & Rice 2007). In the South African context, the often-neglected language difficulties of particularly francophone students tend to play a significant role in their higher education experiences. Here, one of the key determinants of successful socio-cultural and academic adjustment of international students is being proficient in the hegemonic language of the institution (Barratt & Huba 1994: 429; Yeh 2003: 23; Bartram 2008: 666).

Given the contributions of international students to change the global eduscape, transnational migration still evokes feelings of "restlessness, movement, constantly being unsettled, and [is] unsettling to others" with host institutions doing very little "to identify ways of meeting the special needs of

international students" (Madge et al. 2015; Lee & Rice 2007: 386). The host institutions are expected to play a more critical role in socialising international students into the new learning environments, but very often, they are isolated and left alone to deal with physical and emotional burdens of dislocation from their families. To find new ways to adapt, they resort to forging multiple and contested identities "positioning these identities within broader contexts of social, cultural, and economic formations..." (Arthur 2010: xiii). Here, a two-way process of adaption, which is supposed to involve the hosts and the migrants, is reduced to a one-way process (Chhetri 1980; Sonn 2002; Pineteh 2015). For transnational students, it is therefore imperative to maintain ties with homeland either physically or virtually, find solace and companionship in friendship and international student associations (Menzies & Baron 2014).

For example, in their study of international students' perceptions of discrimination, Lee and Rice (2007) argue that the challenges associated with language and cultural adaption increase the psychological and sociocultural distress of international students. These predictors have strong implications for the quality of their social lives and academic performance (Swami et al. 2010: 57). In a university like CPUT where English is the language of tuition, the socialisation of non-English speaking international students into a higher education space depends on their ability to interact with peers and staff. The ability to communicate in English is indeed a useful tactic to handle and mitigate discrimination, and/or negotiate new social relations with local students. As argued in the literature, students who are fluent in English are likely to experience lower levels of acculturative distress such as isolation and low self-esteem (Karuppan & Barari 2011: 78; Swami et al. 2010; Yeh 2003: 23). The quality of life of those with a paucity of English skills tends to fluctuate rapidly as they struggle to adapt in a foreign land. Their higher education experience is reduced to clustering with other students from the same linguistics and cultural background, constantly imagining a return to the homeland after graduation (Pineteh 2015; Brown 2008).

To understand the experiences of francophone students and their challenges of studying in a post-apartheid higher education institution like CPUT, we frame this article around three theoretical conceptions, namely transnationalism, social exclusion and migrant adaptation. For example, transnationalism has become a conceptual frame and social praxis for understanding the asymmetries of global human mobility (Van Hear 1998; Portes et al. 1999; Lazar 2011). The epistemological strength of

transnationalism is that migration is essentially a process of 'living' and 'there' through a seamlessly socioeconomic and political interconnectedness with the migrants' countries of origin (Pineteh 2015; Vertovec 2001). It is a process whereby "members of the group are bound by retained memory of the homeland, partial alienation from the host country [and] an aspiration to return to the homeland" (Van Hear 1998: 5). Although transnational migrants, including students, construct new identities as a strategy to adapt, "these identities are reconfigured and given new meanings in transnational spaces and contexts by merging old identities with the new ones they establish abroad" (Arthur 2010: 55). Along these contours, transnational students are always emotionally and/or physically attached to their roots/kinships and they tend to express these feelings through virtual interactions, sending of remittances, regular home visits and so on.

This emotional and physical attachment with home is often exacerbated by feelings of social exclusion experienced in the host countries. Social exclusion is used here as the "lack or denial of resources, rights, goods and services and the inability to participate in the normal relationships and activities, available to the majority of people in a society, whether in economic, social, cultural or political arenas [which] affects both the quality of life of individuals and the equity and cohesion of society as a whole" (Levitas et al. 2007: 9; ECCV Policy Discussion Paper 2009; Saith 2001; Sen 2000). In the case of post-apartheid South Africa, the social exclusion of transnational migrants like francophone students has been expressed through increasing xenophobic fervours, draconian immigration policies, isolation and discrimination in public spaces such as schools, hospitals and universities (Pineteh 2015; Bayaga 2011; Landau 2011).

However, since migration is transitional and often involves a temporary severance of social networks and relationship with friends and families, there is always the need to adapt or assimilate (Sonn 2002; Berry 1997). In the case of francophone students at CPUT, adaptation is imperative to enable them to complete their studies and for hopeful futures. As a conceptual lens, adaptation in the sphere of cross-border human mobility is premised on the presupposition that "migrations are not isolated events and generally associated with some kind of economic, social and cultural change to which people make an adjustment" (Chhetri 1980: 49). This adjustment process could entail the formation of support systems, cultural integration, and the construction of new acceptable identities and new patterns of social

interaction. Therefore, as people migrate, there is always the expectation to adapt or adjust although the process is always challenging (Jakubowicz 2012; Sonn 2002; Saith 2001). These theoretical conceptions have provided a discursive space to analyse the experiences of francophone students at CPUT.

Research methodology and methods of data collection

This article is based on qualitative interviews conducted with 15 francophone students from DRC and Gabon in the Faculty of Informatics and Design as well as Business and Management Sciences at CPUT, Cape Town campus. The students were selected using a snowballing technique and they were comprised of 9 males and 6 females as well as 8 Congolese and 7 Gabonese, mostly first year students. We decided to focus on first year students because, as newcomers, their experiences are usually more excruciating than those who have been at CPUT for longer. The interviews were conducted in the office of one of the researchers and they lasted for a maximum of 30 minutes. They were semi-structured, which gave the researchers the opportunity to probe emergent issues (Babbie et al. 2001; De Vos et al. 2005). Each interview was preceded by an explanation of the purpose of the project and the interviewee signed a consent form in which the researcher agreed not to disclose any information that could reveal the participant's identity. As such, the participants are cited in this article as participant 1 up to 15. This approach was used to generate responses that can be categorised, analysed and discussed under specific themes (Babbie et al. 2001; Maree 2007). In addition, the interviews gave the researchers an opportunity to probe social experiences such as class discrimination, relationship with locals, CPUT learning environment and other learning challenges. The analysis of the data tried to connect emerging themes to the focus of this article, namely patterns of transnational student life, social exclusion and the challenges of adaptation.

Analysis and discussion of key findings

Modern universities in a neo-liberal dispensation are changing radically from spaces for social change to those with "a dominance of a form of a powerful and ruthless, if not destructive market driven notion of governance, teaching, learning, freedom, agency and responsibility" (Giroux 2014: 87). The transformation of modern universities into corporate- like institutions has reduced students into clients and it has taken away their erstwhile core values as agents of social transformation. Critical aspects such as inclusive education, social cohesion and racial/cultural tolerance as well as the development of

students into critical thinkers are becoming more and more peripheral (Giroux 2014; Pineteh 2014). Although, transformation and social cohesion are the buzzwords at CPUT, the university has done very little to promote the quality of social inclusivity which can respond to its richly linguistic and culturally diverse student population (Hlatshwayo & Siziba 2013; Rawjee & Reddy 2012). It has somehow failed to embrace the idea that "the phenomenon of international students in universities is an opportunity for cultural and indigenous knowledge exchange between people of different nationalities and continents" (Mda 2011: 13). In the following sections, we discuss the experiences of francophone students in three interrelated sections: francophone transnational life, social exclusion, the challenges of adaption and strategies for survival.

CPUT francophone students as transnational students

Migration is always a burdensome experience, which involves spatial dislocation from kinship and familiar spaces. When people migrate they struggle in different ways to deal with the emotional and physical disconnect from families while at the same time trying to adapt to new unfamiliar spaces (Pineteh 2015; Brown 2008). In the context of South Africa, African students including francophones are becoming more and more transnational migrants, especially given the host country's culture of gratuitous violence against foreigners triggered by its own social challenges, xenophobia fervours and the politics of belonging and citizenship (Landau 2011; Hassim et al. 2008). With the francophone transnational students that we interviewed, transnationalism meant regular travels back and forth and reconnections with family networks through virtual communication as well as regularly remitting money back home. For example, Gabonese students, chatted about memories of home, holiday visits and the dreams of an eventual return:

I came here just to study and after my degree I am going home. The way this South African people treat us, I can't stay here even during holidays; I want to be with my family. I only call or whatsapp them during school time and before the university closes, I already buy air-ticket to travel home and I am always going home...I know it is expensive but my parents understand because they see the xenophobia on TV and the know we are not safe here (Participant 10).

Although technological advancement has facilitated the way diasporic communities reconnect with families and friends back home, in the case of this Gabonese student transnationalism is about "regular physical presence [...] in

both the country of origin and settlement" (Mamattah n.d: 4; Vertovec 2001). This transnational pattern, especially amongst Gabonese students, exudes an impassioned attachment to home and excavates memories of homelessness while in exile. For them, migration is about living here and there, illuminating the contested notion of integration and disintegration associated with transnational migration. This often propels exclusionary tendencies because Gabonese students tend to see themselves or areseen by local students as the outsiders. Escaping and finding solace in regular home visits, exemplifies "rejecting aspirations of or claims to membership [… and] distancing themselves from the citizenry" (Landau 2008: 107).

By contrast to Gabonese students who prefer going home during holidays, Congolese transnational students see migrations as a long-term process which could result in permanency despite the perceived discrimination from fellow local students. For instance:

I don't go home a lot because a flight ticket is expensive. Besides family really only need you to send them money rather than coming home. Although it is difficult staying here because of the way we are treated in and outside, you have try fit to in and not run to your parents every time South African treat you badly. There is no need to go home because I can email, whatsapp and even skype my family. What I try to do is work during holidays, make some money and send it home to support my family. They are always happy with me when I send them money (Participant 8).

This interviewee is a Congolese student originally from DRC, who has lived in South Africa for more than 10 years. For him, the diasporic predilection of living here and there should deviate from the essentialist notion that transnationalism entails the "physical presence of the transmigrant on the territory of the country of origin" (Riccio 2001: 597). Despite South African's nativism, which privileges violent exclusion over tactical inclusion, to succeed as a student in post-apartheid in this case means greater interactions with local students and communities (Furnham & Bochner 1986; Zhou et al. 2008: 63). Here, migrant remittance is not simply a source of economic livelihood for migrant families, but a chain of reconnection between exile and home. This perspective of a transnational student is enforced in the following quote:

Yes, but I think my culture is the same as them, I don't have to separate myself from them, It is not like I have to use my particular culture here. Because when I come to a place as a foreigner, I have to respect that place and I have to deal

with that situation but if I have something new, people will learn from me and I will also learn from them, it's not conflict but it's culture that people in DRC don't have. We must improve each other (Participant 4).

Here, the notion of transnationalism in a multicultural learning environment like CPUT is about embracing cultural difference. For them, being moored to native cultural beliefs and values that connect migrants with the country of origin is as important as finding new ways to adapt and tap into the resources of local students. To this, Zhou et al. (2008: 70) argue that "through connections with their compatriots in the host country [francophone students] might learn a series of culturally relevant skills to facilitate their academic success." This transnational trajectory has clear implications for the way francophone students deal with exclusionary tendencies at CPUT.

Patterns of social exclusion in the case of francophone students at CPUT

Generally, higher education exerts enormous pressure on transnational students because they are expected to socialise into a new academic environment and cope with equally new learning demands and expectations. In the case of CPUT-based francophone students, this pressure is worsened by exclusionary tendencies from both their peers and lecturers. The interviews with the participants pointed to three intertwined forms of social exclusion namely language, academic and cultural differences (Talebloo & Baki 2013). Because they are primarily French speaking, interviewees claimed they often experience exclusion because of their inadequate English language skills especially since English is the main medium of teaching and learning at CPUT. One participant commented:

I was now thinking that I am stupid. They do not understand that I don't speak English properly because I am from another country. They were saying that I am stupid and I make many mistakes when I am speaking, for instance during presentations they were laughing because of my accent. I wanted to quit but the counsellor told me that if I pass all my subjects I will prove them wrong. And the entire Gabonese students, all foreigners passed all their subjects. (Participant 3).

In this testimony, the lack of adequate English language to engage in academic activities and local students' responses to this challenge resulted in the student's experience of alienation. Here her intellectual aptitude is compromised because of the inability to communicate in the university's medium of instruction, resulting in a form of rejection. Although local students

who are not first language English speakers encounter similar linguistic challenges, the experience of transnational students is more agonizing because they "are separated from their social and cultural comfort zone" (Menzies & Baron 2014: 84). Instead of embracing diversity and encouraging a culture of collective peer support, local students see their francophone counterpart as the Other, equating their accent and lack of English proficiency to academic incompetence (Errey 1994; Felix & Lawson 1994). In this sense, the attitudes of local students psychologically affect the self-esteem of francophone students and their desires to interact socially in this learning environment. The learning space intimidates and breeds fear in francophone students, fears that are not only socially exclusionary but may force them to shelve or isolate themselves from participating in enriching academic activities (Saith 2001; ECCV Policy Discussion Paper 2009). Using language proficiency to prevent francophone students from active classroom participation pushes them into a 'silent mode' perpetuating the misconception at CPUT that francophone students are "deficient in academic skills such as critical thinking and [are] unwilling participate in class discussions" (Ryan & Viete 2009: 304). This has a direct negative impact on the way their oral and written projects are assessed by academic staff.

This socially intimidating and exclusionary learning space, does not "take into account both the multiple and contested nature of literacy learning in multicultural classrooms and intercultural innovations in meaning and identity making" (Ryan & Viete 2009: 305). Interestingly, this dysfunctional space is not only created by local students but also by local staff. The interviews revealed a general lack of willingness from staff to provide a supportive learning environment to francophone students. In the following quotation, one participant shares their experience:

There are some lecturers when you go to them when you want to know more about the subject or the brief they gave you, they will say no and tell you to go read the brief or you have to ask your friends because they do not have time now. But while I was leaving one of these lecturers' office, one of our class students (a South African) went to the same lecturer and she helped her. When I got my assignment from the lecturer, I failed and she said I did not understand the assignment and my language was bad. They are not supposed to say that to a student. If a student goes to a lecturer it means that he/she does not understand. The lecturer has to freely explain what the brief is talking

about. I think the lecturer does not like us coming from other countries especially us who cannot speak English well… (Participant 3).

From the quotation above, this student is denied access to out of classroom learning support from their lecturer simply because of their foreignness. Although the university expects lecturers to provide regular one-to-one consultation with students, this student is academically excluded from this enriching learning experience because of the lecturer's attitude towards francophone students (Tati 2010; Maharaj et al. 2011; Menzies & Barons 2014). This example shows clearly how "English language proficiency often influences the ways international students are assessed and afforded rights of participation" (Ryan & Viete 2009: 304). Moreover, by tactically blaming the student for their own academic failure, the lecturer does not uphold the responsibility of mentoring and providing an inclusive learning space to "students from diverse cultural backgrounds" (Maharaj et al. 2011: 211) as expected in a richly diverse university like CPUT. Furthermore, the lecturer's actions marginalise, oppress and silence, making the process of academic socialisation more burdensome to this francophone student (Watson 2013).

These classroom experiences expose not only the linguistic but also the cultural differences that shape the learning journeys of francophone students at CPUT. During the interviews students highlighted specific aspects of cultural difference that tend to enforce social exclusion in this academic environment (Ward 1997; Viete & Peeler 2007; Viete & Phan 2007). They mentioned aspects such as showing respect, learning attitudes, social behaviours and so on. For example:

The way we treat lecturers is different here at CPUT. Students call lecturers by their names instead of sir, madam or doctor. I think this is not showing respect because the lecturer is an elder and has studied more than the student, and in my country we respect elders. Also, they are very close to lecturer and these lecturers treat students like their friends, so they disturb in class and even answer their phones during class. For me it is very difficult to make friends with people who do not show respect. That is why you always see me with other foreigners because we are similar (Participant 12).

Although this mode of student/lecturer relationship is very common with the current generation of university students, for this student, it is a marker of cultural difference in terms of the expression of respect. Here an inclusive learning environment is hindered by francophone students' cultural values

and belief systems, which consider lecturers as "founts of all wisdom" (Ryan & Viete 2009: 304). In the quotation, there is a feeling of culture shock and the interviewee represents local students' behaviours, beliefs and values as unacceptable and should be avoided (Li & Gasser 2005; Thomson et al. 2006). This promotes a culture of clustering amongst international students, mitigating opportunities for "developing an understanding of and adaptation to the new culture" (Thomson et al. 2006: 3). By trying not to socialise with local students because of their social behaviours, the process of adaptation becomes more challenging and stressful.

Local students' social behaviours recurred prominently during the interviews, as having visible implication for their attitudes to learning. For francophone students, it was difficult to develop a sense of collective identity because of the values that South African's attach to education and also because of their perceptions about other Africans. They alluded to the culture of xenophobic violence and increasing racialised classroom behaviours as a barrier to social inclusion (Hassim et al. 2008; Neocosmos 2010; Landau 2011). The feeling of a racialised classroom is expressed in the following quotes:

No, it is not the same. There is still discrimination. It means that apartheid is not finished yet. White people sit with white people, coloured people with coloured people and foreigners with foreigners. We are not very open to each other (Participant 15).

When the lecturers give group work, South African students do not want to work with us. When we ask them they will say it is because the want to talk their local language and we are not going to understand. But I think it is because South Africans don't like foreigners […] they think we are going to take their jobs when we finish studying. Like they are always asking us when are we going back home? Are you going back home after you finish? You can see that they don't like us here. We also don't want to work with them because they are lazy; they always have excuses like work, trains, buses, funerals etc. So any group works, we foreigners prefer to work together (Participant 6).

In the above quotation, the learning environment at CPUT is mediated by racial and xenophobic tendencies associated with post-apartheid South Africa. The fear of the foreigner is not only a street level intimation but also a common discourse in an academic space like CPUT where local students perceive this multicultural space as an "exclusively South African domain" (Hassim et al. 2008: 114). In the same token, labelling local students as 'lazy' and 'full of

excuses' reinforces the practice of insulation from South African citizenry perpetuated by migrants who "claim rights to be in South Africa but not part of it" (Landau 2008: 107).

The challenges of adaptation in a new learning environment

From the different characteristics of transnational student life and exclusionary constellations expressed above, it is expected that francophone students would face many challenges adapting to a new learning environment in post-apartheid South Africa. In the interviews, they blamed the challenges of adaptation on the post-apartheid pathologies such as crime, poverty and violence as well as on cultural and linguistic differences. While this blame game featured prominently, francophone students' perceptions about local students have also contributed significantly to the challenges of adaptation (Chhetri 1980; Zhou et al. 2008; Tati 2010; Lazar 2011). As Chhetri (1980) has argued, a process of adaptation is in fact a two-way process which involves migrants and host nationals. Scholarship on transnational migration speaks to spaces of flow, which require movements, adjustments, acculturation, integration and assimilation (Lazar 2011; Sonn 2002; Chhetri 1980). These symmetries of migration by no means suggest that uprootedness and adaptation in an unfamiliar space is less challenging. In the case of the francophone community at CPUT, the challenges of adaptation were linked to length of stay, ethnocentricity, memories of home and the feeling of loss, familiar prejudices about foreigners and local students' attitudes to learning.

Nostalgia is real and yes it happened to me. I remember in my first year calling my father and telling him that I wanted to come back home. My family and friends encouraged me and told me that this bad feeling will go away (Participant 10).

When I just arrived South Africa, it was difficult for me because I missed my family and friends in Gabon. I didn't have any friends, so I spent hours in my room thinking about my parents and some days I would even cry (Participant 5).

This excerpt reinforces the notion that transnational migration in South African is characterised by culture shock and a feeling loss and in the early days in exile, migrants want "to meet social and psychological needs for belonging and relatedness" (Sonn 2002: 10). The culture shock and need for belonging often translates into homesickness and memories of loss, affecting their social relationship with local citizens. These competing forces impeded

francophone students' eagerness to adapt because instead of negotiating new ways of belonging and searching for an "opportunity for developing an understanding of and adaptation to the new culture," they decided to insulate themselves from local students (Thomson et al. 2006: 3). By insulating themselves, they tend to experience cultural and social distress and, as articulated above, resort to reconnection with home and family as a coping mechanism. The feeling of discomfort, dislocation and distress experienced by francophone students exacerbates the challenges of adaptation in that these lived experiences further alienate them from the host community.

In addition to homesickness and memories of home, francophone students at CPUT also alluded to academic discrimination, social boundaries and prejudices as challenges to adaptation in this learning environment. One interviewee commented:

I have learnt that even outside the university people do not interact with each other. Something I realised and what I am still seeing up to now is that people do not get together at the university. Coloured people are with coloured, white people with white and black people with black. Foreigners are acting the same between themselves (Participant 4).

I have noticed that South African people do not get used to foreigners. They are in their corners. In my country, we are different because we are welcoming people and making them feel at home. However, in South Africa, foreigners only chat with fellow foreigners. As foreigners, we usually feel that we are not welcome (Participant 6).

In the above quotations, the classroom dynamics show that student relationships are still fractured along racial, ethnic and cultural lines, constellations "of negative psychosocial consequences for international students which may seriously interfere with their adaptation in the host country and [with] their capacity to achieve optimally in the university setting" (Thomson et al. 2006: 7). The clustering of students along identical racial or nationalistic sentiments prohibit integration and cross-cultural interactions between students, which are "essential for international students to become full members of the learning community" (Ryan & Viete 2009: 305). The experiences of this community of francophone students show that student relationships in this learning space tended to promote even deeper feelings of exclusion and isolation, which reminded them that they do not belong there.

To survive at CPUT and succeed academically, francophone students are expected to circumvent social boundaries and deal with the different forms discrimination on a regular basis. For them, an immediate response to the painful experiences was to establish new social networks with other foreign students in their learning space (Schartner 2015; Warner & Miller 2015). These new social formations were expressed in transnational friendships, study partners, or membership in international students associations on campus because "greater co-national interaction is [often] linked with stronger cultural identity" (Zhou et al. 2008: 70). However, these coping strategies do not only create an imaginary sense of belonging, they further complicate the process of adaptation.

As I said earlier, South African students do not like foreigners, even the lecturers but when you are here, you have to look for ways to survive. In my first year, things were really difficult because I was new, and did not have any friends but now I have friends from other countries like Cameroon; Nigerian because they are like us, so we hang out together. In class I work with other foreigners and it does not worry me anymore that South Africans do want to work with us ...I am also a member of the international student association in Cape Town. When you go there, you meet other foreign students and you feels good (Participant 13).

Francophone students' adaptation in the CPUT learning environment requires sustained academic and social interaction with local South Africa students. These interactions are mutually beneficial because they reduce stress levels and enhance psychological adjustment (Warner & Miller 2015; Zhou et al. 2008). However, because of perceived discrimination and social exclusionary tendencies of local students as well as foreign students' sense of loss and attempts to stay connected to home, successful adaptation in this case has been extremely discomforting. By turning to other foreigners for friendship, comfort and support, francophone students become more resilient to adaptation because the new social networks provide an alternative support system, which help them to cope with discrimination and rejection from local students. They also provided a renewed sense of community and an imaginary sense of belonging (Schartner 2015, Ward & Kennedy 1999; Berry 1997).

Conclusion

Despite the increasing number of transnational students from francophone sub-Saharan Africa, living and studying in post-apartheid South Africa is still a

socially and culturally stressful experience for many of these students (Maharaj et al. 2011; Tati 2010). These students' belief systems, memories of home and the maintenance of family ties while in exile as well as social exclusionary fervours of local students make the adjustment process more challenging than expected. In South Africa, universities have become transnational migratory localities with different academic and sociocultural tensions, which reflect the consciousness of local and international students. These tensions force transnational students to forge new identities which reflect "their multiple and complex cultural heritages, their work ethic [and] commitment to education" (Arthur 2010: 22). In this article, we have discussed patterns of transnational student life, social exclusion and the challenges of adaptation in the case of francophone students at Cape Peninsula University of Technology.

References

Andrade, M.S. 2006. International students in English speaking universities: Adjustment factors. *Journal of Research in International Education*, 5(2): 131-154.

Arthur, J.A. 2010. African Diaspora Identities: Negotiating culture in transnational migration. New York: Lexington Books.

Babbie, E, Mouton, J. Vorster, P. Prozesky, B. 2001. The practice of social science research. Cape Town: Oxford University Press.

Barratt, MF. & Huba, ME. 1994. Factors related to international undergraduate student adjustment in an American community. *College Student Journal*, 28(4): 422-436.

Bartram, B. 2008. Supporting international students in higher education: Constructions, cultures and clashes. *Teaching in Higher Education*, 13(6): 657-668.

Bayaga, A. 2011. Xenophobia and racism-elements defining collegiality: Case of a South African university students. *The Journal of International Social Research*, 4: 534-545.

Berry, J.W. 1997. Immigration, acculturation, and adaptation. *Applied Psychology: An International Review*, 46: 5-68.

Brown, L. 2008. The adjustment journey of international postgraduate students at a university in England. PhD thesis (Unpublished). Bournemouth: Bournemouth University.

Chhetri, R.B. 1980. Immigrant thakalis of Pokhara: An exercise in urban ethnography. MA Thesis (Unpublished). India: University of Pune.

De Vos, AS., Strydom, H., Fouche, CB. & Delport, CSL. 2005. Research at Grass Roots for the Social Sciences and Human Service Professions, 3rd edition. Pretoria: Van Schaik.

ECCV Policy Discussion Paper. 2009. Statewide Resources Centre. Social Inclusion for Migrants and Refugees. Carlton: Victoria.

Errey, L. 1994. Cultural diversity: Or who's who in the university. In: Rust, C. & Pye, J. (Eds.). Diversity Challenge: How to support the learning of an increasingly diverse student body. Oxford: Oxford Brookes University.

Furnham, A. & Bochner, S. 1986. Cultural Shock: Psychological reactions to unfamiliar environments. London: Methuen.

Giroux, H.A. 2014. Neoliberalism's War on Higher Education. Chicago: Haymarket Books.

Jakubowicz, L. 2012. Transnationalism-migration-integration: Migration and nation state in the modern world order through the prism of the concept of transnationalism. *Journal of Police Science and Practice*, 2: 4-18.

Karuppan, CM. & Barari, M. 2011. Perceived discrimination and international students' learning: An empirical investigation. *Journal of Higher Education Policy and Management*, 33: 67–83.

Kim, H.Y. 2011. International graduate students' difficulties: Graduate classes as a community of practices. *Teaching in Higher Education*, 16: 281-292.

Kwaramba, M. 2012. Internationalisation of higher education in Southern Africa with South Africa as a major exporter. *Journal of International Education and Leadership*, 2: 1-22.

Landau, L.B. 2008. Violence, condemnation and the meaning of living in South Africa. In: Hassim, S; Kupe, T & Worby, E. (Eds.). Go Home or Die Here: Violence, Xenophobia and the Reinvention of Difference in South Africa. Wits: Wits University Press

Landau, L.B (Ed.). 2011. Exorcising the Demons Within: Xenophobia, violence and statecraft in contemporary South Africa. Johannesburg: Wits University Press.

Lazar, A. 2011. Transnational migration studies: Reframing sociological imagination and research. *Journal of Comparative Research in Anthropology and Sociology*, 2(2): 69-83.

Levitas, R. et al. 2007. The Multi-dimensional Analysis of Social Exclusion. London: Townsend Centre for International Study of Poverty.

Mda, T.V. 2011. Home Away From Home? African International Students in South Africa. Human Science Research Council, South Africa.

Madge, C., Raghuram, R. & Noxolo, P. 2014. Conceptualizing international education: From student to international study. *Progress in Human Geography*, 39: 681-701.

Maharaj, P, Perumal, R. & Perumal, S. 2011. Perceptions of international students on the challenges of diversity management at a South African university. *Alternation*, 4: 203-227.

Mamattah, S. n.d. Migration and transnationalism: The complete picture? A case study of Russians Living in Scotland. *Esharp*, 6: 1-22.

Management Information System (MIS). 2014. Cape Peninsula University of Technology.

Management Information System (MIS). 2016. Cape Peninsula University of Technology.

Menzies, J.L. & Baron, R. 2014. International postgraduate student transition experiences: The importance of student societies and friends. *Innovations in Education and Teaching International*, 51: 84-94.

Mouton, N., Louw, G.P. & Strydom, G.L. 2013. Present-day dilemmas and challenges of the South African tertiary system. *International Business & Economic Research Journal*, 12: 285-300.

Mubembe, L. 2012. An investigation into the language challenges faced by Congolese students at the University of Fort Hare in South Africa. MA thesis (Unpublished). Fort Hare: University of Fort Hare.

Pineteh, E.A., 2015. The challenge of living here and there: Conflicting narratives of intermarriage between migrants and South Africans in Johannesburg. *African and Black Diaspora: An International Journal*, 8: 71-85.

Pineteh, E. & Ralarala, M.K. 2014. Studying at Cape Peninsula University of Technology: language challenges experienced by international students. (Under review).

Pineteh, E. & Ralarala, M. 2013. The language challenges experienced by international students at Cape Peninsula University of Technology. Research Report. Cape Town: Peninsula University of Technology.

Portes, A., Guarzino, L.E. & Landolt, P. 1999. The study of transnationalism: Pitfalls and promise of an emergency research field. Ethnic and Racial Studies, 22: 217-237.

Riccio, B. 2001. From "ethnic group" to "transnational community"? Senegalese migrants' ambivalent experiences and multiple trajectories. *Journal of Ethnic and Migration Studies*, 27: 583-599.

Ryan, J & Viete, R. 2009. Respectful interactions: Learning with international students in the English-speaking academy. *Teaching in Higher Education*, 14: 303-314.

Saith, R. 2001. Social exclusion: The concept and application to developing countries. QEH Working Paper Series No. 72.

Schartner, A. 2015. 'You cannot talk with all of the strangers in a pub': A longitudinal case study of international postgraduate students' social ties at a British university. *Higher Education*, 69: 225-241.

Sehoole, C. 2006. Internationalisation of higher education in South Africa: A historical review. *Perspectives in Education*, 24: 1-13.

Sen, A. 2000. Social exclusion: Concept, application, and scrutiny. Social Development Paper No. 1, Cambridge: Master of Trinity College.

Sonn, C.C. 2002. Immigrant adaptation: Understanding the process through sense of community. In: Fisher, AT., Sonn, C.C & Bishop, B.B. (Eds.). Sense of Community Research, Applications and Implications. New York: Kluwer.

Tati, G. 2010. Student migration in South Africa: A special reference to the youth from francophone Africa. *Espace Populations Societes*, 2: 281-296.

Thomson, G., Rosenthal, G. & Russell, J. 2006. Cultural stress among international students at an Australian university. Paper presented at Australian International Education Conference, 2006.

Tshotsho, B., Cekiso, M. & Mumbembe, L. 2015. English language grammar challenges facing Congolese international students in South Africa. *Int J Edu Sci*, 9(1): 73-79.

Van Hear, N. 1998. New Diasporas: The mass exodus, dispersal and regrouping of migrant communities. London: UCL Press.

Vertovec, S. 2001. Transnationalism and identity. *Journal of Ethnic and Migration Studies*, 27: 573-582.

Warner, R. & Miller, J. 2015. Cultural dimensions of feedback at an Australian university: A study of international students with English as an additional language. *Higher Education Research and Development*, 34: 420-435.

Watson, J. 2013. Combining international student social and academic transition online. *International Student Experience Journal*, 1.

Yeh, C.J. & Inose, M. 2003. International students' reported English fluency, social support satisfaction, and social connectedness as predictors of acculturative stress. *Counselling Psychology Quarterly*, 16: 15-28.

Zhou, Y., Jindal-Snape, D., Topping, K. & Todman, J. 2008. Theoretical models of culture shock and adaptation in international students in higher education. *Studies in Higher Education*, 33: 63-75.

Occupational Change among Nigerian Immigrants living in the Netherlands

Pamela Ijeoma*

Abstract

In this article, the term occupational change is used to refer to problems Nigerian skilled immigrants encounter in the Netherlands. Immigrants who may have had stable occupations or have attended higher education before migrating to the Netherlands face numerous difficulties including foreign qualification recognition, lack of Dutch language skills, and age factors in their search for jobs. They fall back to low cadre jobs as a way of survival in the Netherlands. I have explored the relationship between occupational change and stress among Nigerian immigrants who studied and worked in Nigeria before migrating to the Netherlands. First I argue that stress, which manifests as a result of occupational change amongst Nigerian immigrants in the Netherlands, is a clear reason for downward mobility amongst migrant children and their parents. Using the case of Nigerian skilled migrants in the Netherlands, I have designed a new framework that could be used to tackle issues of migrant occupational change as a result of foreign qualification recognition in host countries.

Keywords Occupational change, Stress, Skilled Migrants, Children, Social Isolation, Foreign Qualifications

Introduction

Over the years, I have had the pleasure of having informal group and individual discussions with Nigerian immigrants living in the Netherlands who work in low cadre sections of the economy but have high qualifications from their home countries. Discussions with mothers in particular in the Bijlmer area of Amsterdam Zuidoost regarding their occupational dreams and aspirations brought pain to my heart. Many of the women have experienced stress as a result of occupational change. Chidinma, a 39 year old qualified Nigerian nurse, came to the Netherlands in 2009 with her husband and three children, only to realise that she cannot work in the Netherlands as a nurse due to language barriers and qualification standard difference between the Netherlands and

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Nigeria [27] . This made Chidinma channel her entire focus towards self-development, giving less time to the wellbeing of her children. She enrolled in a language school in the Bijlmer area of Amsterdam where she lives in a bid to attain the language requirement that is needed for her to attend nursing school in the Netherlands[28]. On gaining admission, she applied for a student loan, only to be told that she was not eligible because she was above the age of thirty[29]. Chidinma did not give up; she registered for her course and combined a menial job with her studies. The stress of working and studying was unbearable for Chidinma; she could not cope with the stress. Consequently, she dropped out of the program[30]. Chidinma's case is not unique as there are hundreds of immigrant families with such issues. Drawing on in-depth qualitative interviews with Nigerian skilled immigrants in the Netherlands with foreign qualifications, this paper will highlight the difficulties this group of people faces. Barriers such as the lack of the Dutch language skills and unrecognised qualifications keep them out of the jobs for which they are qualified.

Being an immigrant in a foreign country is challenging. As Rath (1997) notes, one is faced with barriers such as language and unrecognised qualifications that will limit job opportunities in the host country. When combined with issues of depression, poverty and inadequate social support, one can begin to appreciate the magnitude of obstacles immigrants with stress face as a result of occupational change. Clearly, not all immigrants are affected by stress, or care less about the general wellbeing of their offspring. However, for the many that are affected, the challenge of losing their identity due to occupational change is overwhelming (McKee-Ryan et al. 2005). As a means of escaping the overwhelming realities that skilled immigrants face in host countries, low cadre jobs are inevitable (Kloosterman et al. 1998). This solution of falling back on low cadre jobs reproduces stress in the short run, which may lead to violence against themselves, spouses and children.

Background/Contextualisation

Economic motives are one of the primary reasons for human movements and are specifically influential in the case of Nigerian migration. Migration flows

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[27] Formal Interview with Chidinma at her Bijlmer residence (July 7th 2015).

[28] *Ibid.*

[29] *Ibid.* at 28

[30] *Ibid.* at 28

from Nigeria to countries beyond the region did not occur on a large scale until after independence in 1960. From the 1950s through the 1970s, Nigerians mainly migrated to the United Kingdom due to the legacy of colonial ties and for educational pursuits. Nigerian returnees of the 1960s and 1970s with valuable skills had access to civil service jobs or jobs in the private sectors of the Nigerian economy. As political tensions worsened, economic conditions in the late 1970s and 1980s escalated. Economic emigration from Nigeria to the United Kingdom extended to the United States. The Structural Adjustment Program of the mid-1980s also fueled emigration from Nigeria. Unlike previous emigrants who looked forward to returning to Nigeria after graduating, this set of migrants preferred never to return (Mberu 2005). Although less-skilled youth became a significant part of the emigration stream to countries such as Italy, Spain, the Netherlands, Ireland, Germany, France, Belgium and the Gulf states in the early 2000s, skilled Nigerians continued to emigrate for greener pastures via student and professional migration and the green card lottery (Mberu 2005). On average, more recent migrants to non-English speaking European countries are reported to work in informal or less-skilled sectors of the economy regardless of their skill-levels as a result of their lack of cultural capital such as language skills. Drawing from the case of Nigerian skilled immigrants in the Netherlands, the article aims to convey the effects of such a lack of cultural capital among Nigerian skilled immigrants in the Netherlands.

As Nigerians migrate to the Netherlands, they realise that higher education certificates need to be updated, Dutch language skills need to be developed to a proficient level and age is often an added barrier to such self-development for older migrants. Increased competence in Dutch increases descent job opportunities as reflected by the Surinamese skilled migrants who come from former Dutch colonies. The Surinamese are advantaged by what Oostindie (2011) refers to as "post-colonial bonus." The post-colonial bonus avails the Dutch former colonies with the cultural capital such as knowledge of and familiarity with Dutch language and culture needed to integrate into Dutch society with ease. Nigerian immigrants do not have the post-colonial bonus of the Surinamese and are disadvantaged in the Dutch language skills. For Nigerian immigrants with foreign qualifications from their country of origin, migrating to the Netherlands ended their career goals and heightened their stress, as they lacked the cultural capital to integrate into Dutch society.

In general, Dutch authorities provide families or individuals, including Nigerian immigrants legally living in the Netherlands, with monthly social assistance in the case where they earn below a certain threshold (SVB 2015). However, the system has failed to realise that not all groups of people have the same intentions or desires. Some people's problems need a solution that gets to the root of the matter. The case of Nigerian immigrants with foreign qualifications is a genuine one. The Dutch authorities, via an informal interview session with a social worker at DienstWerk en Inkomen (DWI 2015), a municipal organization in Amsterdam that assists low income people, does not support assisting people in general who are on social benefits and wish to attend higher education (Study in Holland 2015). According to the DWI social worker, as soon as studies of higher standards are mentioned, the person's social assistance will be in jeopardy because they chose the path of higher education (Study in Holland 2015). The social welfare organisations refuse to offer such people the assistance they need in fear that the money offered for their living expenses may instead be used for study expenses (Study in Holland 2015). It may be understandable for the government to exclude people on social benefit from having the right to ask for a tuition fee grant, but it may also harm people with serious intentions or motives. Nigerian immigrants with foreign qualifications who cannot pay their way through school, are vulnerable to stress as a result of occupational change[31]. The system does not unite technical and cultural fixes to solve such social problems. There is a Nigerian adage that says that a matured mother goat chewing grass in front of her offspring is indirectly teaching them the exact manner in which to chew (African Studies Centre Boston University 2015). The lesson implied is: what children grow up seeing is what they practice. It starts with proper parenting. If parents do not work, their children learn the same and they will grow up to rely on the government to take care of them, thus becoming non-productive citizens. This article, therefore, seeks to answer the question: What does it mean to lose one's occupational identity as a highly skilled immigrant with foreign qualifications who has the potential to do better?

Theoretical Framework

In this article, stress is regarded as a phenomenological concept as outlined by Lazarus and Folkman (1984). Stress in the context of immigrants seeking

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[31] Formal interview with Chinedu (13th July 2015); Formal interview with Ifeoma (19th July 2015); Formal interview with Dorothy (30th July 2015).

economic betterment is not just any experience but an experience that poses a threat to what is of the utmost importance to immigrants who voluntarily leave for foreign countries with the hope of making their economic situations better than they were in their home countries. Stress may lead to several different outcomes within a wide range of emotional or psychological states (Lazarus et al. 1985). Mental illness can be looked upon as one of many possible consequences of stress, as immigrants' high expectations in their countries of settlement may become hard to reach (Simich et al. 2006; Bhugra 2004). Hardship among immigrants opens doors to different mental health conditions that affect one's mood, thinking and behaviour. Examples of mental illness include aggression, depression, anxiety disorders, schizophrenia, eating disorders and addictive behaviors.

The effects of stress are disadvantageous in that they may include depression that, in turn, negatively affects victims' offspring. According to Richardson (2009) and Suto (2008), irrespective of heightened family and career responsibilities and demands, skilled migrants face a lack of social support in the new country that significantly affects skilled migrants' abilities to adapt, and may lead to lower work adjustment and downward career mobility (Peltokorpi and Froese 2009; Wang & Sangalang 2005).

Literature on skilled migrants' human capital has highlighted how immigrants' qualifications are underutilised in host countries (Turchick-Hakak et al. 2010; Zikic 2014). Authors such as Friedman & Krackhardt (1997) and Ibarra (1993) specifically point to skilled immigrants' incapabilities of building relationships with high-status local contacts due to having lower-status and less useful networks in local business culture. It is not strange that skilled immigrants, especially immigrants from third world countries like Nigeria, face such problems. Drawing on cases of immigrants with foreign qualifications living in the Netherlands, it is clear that some groups face more stress than others when it comes to having their foreign qualifications recognised. For example, EU immigrants from Bulgaria who are not core western Europeans get their qualifications recognised in the Netherlands without having to carry out further studies or suffer other barriers that Nigerian immigrants with foreign qualifications experience.

State of the Art

Much has been written on the struggles of skilled immigrants finding suitable jobs in the labor market but few authors have addressed the effects of such

struggles on African immigrants, their identity and their children. Oreopoulos (2011) has addressed the struggles of skilled immigrants in the labour market, however, the effects of these struggles on immigrants' children and mental health is not addressed. As such, I seek to fill these gaps in the literature. The goal of this article is to explore the relationship between occupational change and stress among highly skilled immigrants with foreign qualifications who cannot find jobs that match their skills in the Netherlands. The article also advocates the need to support such immigrants so that they can meet the required standards in the Netherlands. I seek to suggest a solution to alleviate the effects of migrant stress that could potentially increase the upward movement of immigrants and their children and decrease domestic violence from adults towards their children so that, in the long run, there will also be a decreased burden on the welfare system.

The proposed solution suggests a combination of technical and cultural components (Layne 2000). This translates to providing immigrants who cannot find an appropriate job as a result of foreign qualifications with the necessary support to standardise their qualifications regardless of being on social welfare benefits. This should form a model. Merging these two models together will provide a holistic fix for skilled migrants vulnerable to stress. When these models are incorporated, it will no longer represent social assistance but would rather translate to Integral Social Assistance[32]. At least in this one area, acknowledgement of the suffering of this group and extra attention to their individual needs and not just their needs as a group are required.

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[32] Integral Social Assistance is a phrase I coined to show that people's needs are not uniform as laid down rules. There are people with desires other than the currently prescribed solutions to social problems. People may need money to survive but some may also deserve money to progress with and fulfill their already established career goals in a new country. In practice, Integral Social Assistance will involve organisations that work with government grants to provide immigrants with foreign qualifications with the tuition fees they need for studies in the Netherlands so that they may not be at risk of stress. Those who already suffer the risk will also benefit from Integral Social Assistance. It will get to the root cause and provide ways to alleviate the problem, which will wad off the vicious cycle of poverty that exists for such immigrants in the Netherlands.

Methodology

In preparing this article, I administered surveys and conducted formal interviews among Nigerian immigrants living in the Bijlmer area of the Netherlands. I targeted those hit by occupational change crisis and those who managed to escape it. The objective of the surveys and interviews was to determine the influence of occupational change on the wellbeing of the immigrants and their families in the Netherlands. Specifically, I wanted to determine how the issues of career change deter the upward movement of immigrants in their host country. The questionnaire sought responses from the Nigerian immigrants in relation to five major issues: (1) past occupational history before migrating to the Netherlands; (2) current job and socio-economic status; (3) marital status/family life, including any experience with domestic abuse; (4) view on stress; (5) experiences on government response to their challenges. I selected participants via my own social networks like church, acquaintances, families and friends. Part I of this article examines how occupational change spurs stress amongst immigrants with foreign qualifications in the Netherlands. It unmasks the effects of stress as a result of occupational change on immigrants and their children and highlights lessons to be drawn from the occupational change, that is; what does it really mean to be stressed in one's country of settlement[33]? Part II proposes a series of solutions that combine technical and cultural fixes to better protect adult immigrants in their pursuit for qualification standardisation plans in the Netherlands [34]. This combined model focuses on approaching the requirements and wellbeing of immigrants who are in need of standardising their education, so that they can meet employment requirements in the Netherlands.

Part I: Findings: Occupational Change Attributes: Depression, Poorly Mentored Children, Stress, Social Isolation, Violence, No Sense of Belonging

Precious[35] was a banker in Zenith bank, one of Nigeria's leading banks (Zenith Bank Nigeria 2015). She studied accounting in the university and graduated with a second-class honors degree[36]. She married her Nigerian husband long

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[33] See infra Part I

[34] See infra Part II

[35] Formal interview with Precious (1ST of July 2015).

[36] Infra 48.

stationed in the Netherlands[37]. On settling in the Netherlands, Precious, tried to find new job in the banking sector with her certificate and previous work experience, but she was denied access[38]. The HR advisor of one of the banks she solicited for a job told her of the need to upgrade her bachelor's degree in accounting to at least a master's degree in accounting or any business related degree[39]. In the year during which this was happening, precious had already turned 30, and she was therefore not eligible for study grants[40]. She consequently enrolled in university without any state assistance. She faced the most difficult time of her life. There were no extra funds to see her through university. Her husband's salary was not enough to cater for her studies and domestic bills at the same time. Precious got a job at a breakfast café as a cleaner where she tried to combine work and study. The stress of combining the two landed her in the hospital with chronic muscle ache. She dropped out of her course. Precious confessed to have avoided all her banker friends in Nigeria, especially the ones that advised her not to leave her good job in Nigeria. She suffered serious depression from not being able to get through higher education in the Netherlands because of the finances needed. Her career goal took another turn. When she gave birth to her first baby, she did not bother informing friends back home in Nigeria, she feared that they would ask her when maternity leave would be over. She recounts dropping her newborn child on the ground by mistake due to the depression and stress. She felt like sleeping all the time[41].

Toochi's experience echoes Precious' story. She was a qualified lawyer in a well-known firm in Rivers State, Nigeria[42]. On migrating to the Netherlands, she lacked the funds to allow her to upgrade her qualification. As a low-income single mother on social benefit, she sought to ask for extra welfare assistance to enable her to pay tuition fees. She was told she was not eligible for social assistance for higher education because the social help fund is designed to assist only people with low income and not people intending to take up studies. The irony of it all is that social benefits can be combined with other training that will land people on low cadre jobs in the Netherlands. Depression took a

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[37]Ibid. at 31

[38] Ibid. at 31

[39] Ibid. at 31

[40] See Infra 8

[41] Ibid. at 31

[42] Live History Interview with Toochi (4th July 2015)

better part of Toochi, the other part of her that managed to survive the crisis of stress set up an informal restaurant specialising in Nigerian delicacies, so as to save up for her studies. Events carried over and she ended up not being able to save enough money for her studies. She suffered from not being able to practice law in the Netherlands. Lowering her standards to a common informal chef to save up for her studies heightened her occupational stress.

Depression, which according Gabriel et al. (2013) can lead to emotional stress, actually led Toochi to a point of emotionally instability. She contemplated harming herself[43]. She shared with me how she lived a good life in Nigeria as a lawyer. The social welfare system in the Netherlands does not provide for low-income immigrants with foreign education qualifications, who aim to attend higher education but lack the funds. Toochi remained on social benefits but could not be a mentor for her children because of the emotional damage resulting from the stress of the occupation change she suffered[44]. She was traumatised to the extent that she cared less about the academic stance of her children.

France (54 years) is another Nigerian immigrant who has experienced a similar saga of stress as the result of occupation change. France is a qualified civil engineer from the University of Lagos, Nigeria. He is married with children. He also lacked the financial tools to upgrade his qualification to match the Dutch standard. As a result of this, he suffered depression that led him to occasional wife battering. He also confessed to having done illicit jobs, such as drug trafficking and pick pocketing in Amsterdam 'Central' for extra money to send to his parents who had gone through difficult times to finance his university education in Nigeria. He recounts how his son's teacher complained that his son beat up his friends at school on various occasions. France's behavior towards his son's mother could be the reason behind his son's behaviour. As emphasised by Humphreys & Mullender (2000) and Fantuzzo & Mohr (1999), children learn very quickly. The boy might have picked up these habits from his mentor father's actions at home. According to France, he is not surprised that his son refused to attend university after his secondary education. He began an apprenticeship as a plumber, yet, he was

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[43]Infra 48
[44] Ibid. at 44

not good at it. To date, France and his entire family are a burden on the social benefit system in the Netherlands[45].

Violence is one consequence of occupational change amongst immigrants, however there are other serious consequences such as poorly mentored children who are not well integrated in society (Levendosky et al. 2000). According to Chau et al. (2014) and Suárez-Orozco (2009), it is evident that children from poor homes are less likely to enjoy proactive, innovative and good mentored upbringing as seen in France's case. Children whose parents suffer depression are not motivated at home to strive for academic excellence (Price et al.1998). Parents do not inspire their children due to the circumstances they find themselves in; they see their children equally as they see themselves. Such immigrants feel that as they cannot succeed in their pursuit of a decent career, how will it be possible for their children to do otherwise? This may lead to fewer migrant children making it to higher education in the Netherlands in the long-term. Therefore, the issue at hand must not be taken for granted.

Nonye Eze, one of the interviewees[46], is a forty five year old Nigerian trained dentist with two children. She recounted how her ex-husband tried the American trend of Nigerian men marrying Nigerian medical professional women and exporting them to the US for money-making (Information Nigeria 2014; Punch Nigeria 2015). He thought Nonye would easily find a job just like other US exported brides[47]. Unfortunately, it was not as he thought. Nonye had to meet strict requirements before she could practice dentistry in the Netherlands. Nonye's ex-husband was patient in the beginning to see if she could meet the necessary requirements, but after the expenses of Nonye's intended studies including Dutch language school were calculated, her ex-husband realised that he could not afford her education and simultaneously care for the home. It did not take long before she was thrown out of the house. According to Nonye, the reason for her ex-husband's action was that she added more of a burden to his already stressed bank account. He is currently married to a nurse from a Surinamese background.

I must acknowledge that Nonye was lucky to have not lost her life in the saga. It is obvious that Nonye's husband prided himself with highly skilled women

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[45] Ibid. at 53
[46] Formal interview with Nonye (10th of July 2015)
[47] See Infra 128

as evident in the case of him marrying and bringing Nonye all the way from Nigeria to the Netherlands, only to leave her with two young children. He was not patient enough to see Nonye through school because of the finances involved. Nonye did not have a choice other than to fall back to social welfare benefit, to enable her take care of her children[48].

Similarly, Chinedu Ikpoenyi, a 38 year-old man who was a practicing lawyer in Nigeria, also suffered the pressure and trauma of stress as a result of occupational change in the Netherlands[49]. He confessed to me that at a point, all he wanted was an opportunity to attend university in the Netherlands, even if it meant studying a course that is less stringent like professional courses. His top goal in life was to at least satisfy his occupational and educational ambition. Unfortunately, the Netherlands welfare system centers on technical fixes (group fix as seen in Layne 2000), which exclude individual considerations (cultural fixes) when solving social problems. Chengdu's occupation and ambition came to a standstill because of the cost of tuition fees. When I asked him what he currently does for a living, he says he works at a factory where his frustrations are aggravated on a daily basis. He told me about his part-time job in a factory with other immigrants who have not attended school or university in their whole lives. According to Chinedu they have all become the same people in reality for if this were not the case, he as a trained lawyer would not be working with them at the factory[50]. Chinedu's case appears to be the downward career mobility experience that is practically ignored in the Dutch society.

Ifeoma left her job as a secondary school teacher in Nigeria, only to realise that her occupation was on the path of no return in the Netherlands[51]. As a 39 year old immigrant with the ambition to become a math teacher in the Netherlands, there were no funds to support her study plans. She ended up getting a job as a cleaner during the week and a hairdresser in the weekend. She recounts how she was affected by occupational stress; she got so frustrated to the extent that she did not socialise with friends (see Paul and Moser 2009 on the same issue).

Dorothy, a 37 year old single mother of one, managed to successfully complete her business and management degree via funds her parents gathered back

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[48]See Infra 128

[49] Formal interview with Chinedu (13th July 2015)

[50] Formal interview with Chinedu (13th July 2015)

[51] Formal interview with Ifeoma (19th July 2015)

home in Nigeria[52]. They sold their piece of farmland to pay for her tuition. During my discussion with her, she talked of how challenging it was to get the fees to pay for her university education as a single mother on bijstaand (social assistance). Her parent's financial assistance allowed her to achieve her goals. Today, her entire family is reaping the benefits of her university qualification from the Netherlands, which according to Benham (1974) is the reward for education. She has a well-paid job at a bank in Utrecht. She also highlighted the other benefits of attending university, which are immeasurable. When I asked her of the benefits, she was quick to mention economic independence and confidence to function in Dutch society (Baum and Payea 2005). She also told me that she is now able to take better care of her child.

A clear observation of Dorothy at the grocery shop on a day I trailed her truly revealed that she is well integrated and confident in Dutch society (Groenendijk 2004). Her self-confidence was reflected in the way she behaved. I paid close attention to the way she spoke to the supermarket attendant with respect and humility. Her behavior will indeed inspire her child to grow to become a good role model within Dutch society. Achieving higher education in the Netherlands is indeed responsible for making her who she has presently become (Desai and Alva 1998).

This article is indeed a wakeup call for the Dutch society. The effect on children who come from such homes may be victimisation and vulnerability to illicit businesses and activities (Edelson 1999; Fantuzzo & Mohr 1999). This also explains the stigma of failure that Precious the banker feared and Subramanian and Kumar (2009) have discussed in detail.

Part II: Conclusion and Discussions: How Integral Social Assistance Model can curb Stress among Immigrants in the Netherlands

Like the saying goes, charity begins at home (Idioms 2015). A child growing up with parents that are depressed as a result of stress caused by occupational change in host country that could well be avoided will live to believe that higher education is a waste of time. Bradshaw et al. (2007) have ascertained that the wellbeing of children is paramount in the Netherlands and therefore it does not seem ideal to ignore children in this case. Ideally, children of skilled immigrants are supposed to have academic confidence as children of educated parents but due to the trauma of occupational change stress, most immigrant

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[52]Formal interview with Dorothy (30th July 2015)

children in this situation suffer poor academic performance (Whitehead & Iman 2005). This goes to show that parents also have a contribution to make to the wellbeing of their children (Mazzucato & Schans 2011). Integral Social Assistance[53] (combining technical fix and cultural fix) will go a long way to improve the life of vulnerable migrant families. From the formal interviews conducted with Nigerian immigrants in the Netherlands[54], findings show that households solely headed by women are hit the hardest in terms of stress. Women interviewed all pointed to one problem: the difficulty of running a home alone and doing various jobs to pay or save for tuition fees (The Guardian 2012). Women are more pressurised and vulnerable to family matters, such as finding a way to generate income to live on (Schrover 2006). However, none of the interviewees of the article mentioned that it was too late for them to return to the university to make up for what is required to be able to upgrade their foreign qualifications in the Netherlands[55]. One common confession among respondents with stress conditions is that they isolate themselves from colleagues and families (Liem & Liem 1988; Halleröd & Larsson 2008; Bolton & Oatley 1987). Some also avoid successful Nigerian immigrants in the Netherlands for the fear that they would tell people back home that they are no longer what they were in Nigeria, that they have experienced a loss of identity as a result of occupational change.

The welfare of skilled immigrants working in jobs for which they are over-qualified can be improved considerably if people like Chinedu, who have foreign education qualifications, are given Integral Social Assistance (ISA) to take a step further from the norm. This will lead to more immigrants integrating positively in the Netherlands. Chinedu has the potential to live a better life in the Netherlands but due to the lack of support and finances he needed to upgrade his degree to EU standards, he gave up on his dreams. Ifeoma Adibe was also affected by the technical fix system of the Netherlands. The model of solving social problems did not pay attention to her goals as an

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[53] See Infra 39

[54] Formal interview with Precious (1ST Of July 2015); Formal Interview with Toochi (4th July 2015); Formal interview with France (9th July 2015); Formal interview with Chinedu (13th July 2015); Formal interview with Ifeoma (19th July 2015); Formal interview with Dorothy (30th July 2015)

[55] Formal interview with Precious and Chidinma (1ST Of July 2015); Formal Interview with Toochi (4th July 2015); Formal interview with France (9th July 2015); Formal interview with Chinedu (13th July 2015); Formal interview with Ifeoma (19th July 2015); Formal interview with Dorothy (30th July 2015); Formal interview with Dorothy (30th July 2015)

individual. There is a need to be aware of the requirements of families such as those researched in this article that have a bright future but cannot excel in their country of settlement due to the stress of finding employment in lower-level jobs. Stress as a result of occupational change, which compels its victims to suffer depression and isolation and subsequently leads to emotional and financial trauma, is inevitable in this case. Adopting an Integral Social Assistance model as earlier proposed would serve as a viable option which could potentially combat both the more severe and the less drastic consequences of stress as a result of occupational change among skilled immigrants from third world countries. Drawing from the case of Dorothy, the article has shown that the benefits of working in jobs for which immigrants are qualified brings out the best in them in host countries and reduces their chances of mental health conditions. In the Netherlands, achieving the goals of the Integral Social Assistance model is not so difficult, as the amenities already in place would enable a smooth implementation of the model. For instance, the day-care system in the Netherlands provides subsidies for students with low income regardless of age to be able to take their children to daycare (Rijksoverheid 2015). Language schools are also subsidised by municipalities for immigrants with low income who are willing to learn the Dutch language (ROCVA 2015). Another good amenity provided by the government is Nuffic's responsibility to manage and accredit foreign certificates (Nuffic 2015). If this were not the case, critics would be quick to point out the need to verify the originality of immigrants' qualification certificates. With such services provided by authorities in the Netherlands, highly skilled immigrants will not face many obstacles in standardising their foreign qualifications in the Netherlands.

It is no doubt that the effects of stress as a result of occupational change are disastrous, thus the government needs to strive hard on this issue. The Netherlands can learn from the Nigerian immigrants interviewed and observed in this article so that immigrants with foreign qualifications wishing to return to studying in the hope of securing a higher-level job can achieve their goals through the Integral Social Assistance model. The model is designed to deal with the stress crises that result from occupational change and may compel immigrants to suffer depression and isolation and lead to emotional and financial trauma.

References

African Studies Centre Boston University. 2015. From <http://www.bu.edu/africa/outreach-/resources/np/> (Retrieved August 9, 2015).

Baum, S. & Payea, K. 2005. Education Pays 2004: The benefits of Higher Education for Individuals and Society: Trends in Higher Education Series. College Board Report 5664.

Benham, L. 1974. Benefits of women's education within marriage. In: Schultz, T. (Ed.). Economics of the Family: Marriage, Children, and Human Capital. Chicago: University of Chicago Press.

Bolton, W. & Oatley, K. 1987. A longitudinal study of social support and depression in unemployed men. *Psychological Medicine*, 17: 453-460.

Bradshaw, J. Hoelscher, P. & Richardson, D. 2007. An index of child well-being in the European Union. *Social Indicators Research*, 80(1): 133-177.

Bhugra, D. 2004. Migration and mental health. *Acta Psychiatrica Scandinavica*, 109: 243-258.

Chau, K., Baumann, M., Kabuth, B. & Chau, N. 2014.School difficulties in immigrant adolescent students and roles of socio-economic factors, unhealthy behaviors, and physical and mental health. BMC Public Health, 12: 453.

Desai, S. & Alva, S. 1998. Maternal education and child health: Is there a strong causal relationship? *Demography*, 35(1): 71-81.

DWI. 2015. DienstWerk en Inkomen. From <http://bit.ly/29VMn3V> (Retrieved August 30, 2015).

Edelson, J.L. 1999. Children's witnessing of adult domestic violence. *Journal of Interpersonal Violence*, 14(8): 839-870.

Fantuzzo, J.W. & Mohr, W.K. 1999. Prevalence and effects of child exposure to domestic violence. *The Future of Children*, 9(3): 21-32.

Friedman, R.A. & Krackhardt, D. 1997. Social capital and career mobility: A structural theory of lower returns to education for Asian employees. *Journal of Applied Behavioral Science*, 33: 316-334.

Gabriel, Y., Gray, D.E. & Goregaokar, H. 2013. Job loss and its aftermath among managers and professionals: Wounded, fragmented and flexible. *Work, Employment and Society*, 27(1): 56-72.

Groenendijk, K. 2004. Legal concepts of integration in EU migration law. *European Journal of Migration and Law*, 6(2): 111-126.

Halleröd, B. & Larsson, D. 2008. Poverty, welfare problems and social exclusion. *International Journal of Social Welfare*, 17(1): 15-25.

Humphreys, C. & Mullender, A. 2000. Children and Domestic Violence: A Research Overview of the Impact on Children. Devon: The Policy Press.

Ibarra, H. 1993. Network centrality, power and innovation involvement: Determinants of technical and administrative roles. Academy of Management Journal, 36: 471-501.

Idioms. 2015. Idioms. From < http://bit.ly/29WPmTv > (Retrieved August 12, 2015).

Information Nigeria. 2014. Nigerian Medical Doctor Shot Dead by her Husband in America. From <http://www.informationng.com/2014/04/nigerian-medical-doctor-shot-dead-by-her-husband-in-the-usa.html> (Retreived June 2, 2015).

Kloosterman, R., van der Leun, J. & Rath, J. 1998. Across the border: Immigrants' economic opportunities, social capital and informal business activities*. Journal of Ethnic and Migration Studies*, 24(2): 249-268.

Layne, L.L. 2000. The cultural fix: An anthropological contribution to science and technology studies. *Science, Technology and Human Values*, 25(4): 355-377.

Lazarus, R.S. & Folkman, S. 1984. Stress, appraisal and coping. New York: Springer Publishing Company.

Lazarus, R.S., DeLongis, A., Folkman, S. & Gruen, R. 1985. Stress and adaptational outcomes: The problem of confounded measures. *American Psychologist*, 40: 770-779.

Levendosky, A.A., Lynch, S.M. & Graham-Bermann, S.A. 2000. Mothers perceptions of the impact of woman abuse on their parenting. *Violence Against Women*, 6(3): 247-271.

Liem, R. & Liem, J.H. 1988. The psychological effects of unemployment on workers and their families. *Journal of Social Issues*, 44: 87-105.

Mazzucato, V. & Schans, D. 2011. Transnational families and the well - being of children: Conceptual and methodological challenges. *Journal of Marriage and Family*, 73(4): 704-712.

Mberu, B.U. 2005. Who moves and who stays? Rural out-migration in Nigeria. *Journal of Population Research*, 22(2): 141-161.

McKee-Ryan, F.M., Song, Z., Wanbeg, C.R. & Kinicki, A.J. 2005. Psychological and physical wellbeing during unemployment: A meta-analytic study. *Journal of Applied Psychology*, 90: 5376.

Nuffic. 2015. Nuffic Diploma Accreditation. From < http://bit.ly/2aaTCBM> (Retrieved August 20, 2015).

Oostindie, G. 2011. Postcolonial Netherlands. Sixty-Five Years of Forgetting, Commemorating, Silencing. Amsterdam: Amsterdam University Press.

Oreopoulos, P. 2011. Why do skilled immigrants struggle in the labour market? A field experiment with thirteen thousand resumes. *American Economic Journal*: Economic Policy 3:148-171.

Paul, K.I. & Moser, K. 2009. Unemployment impairs mental health: Meta-analyses. *Journal of Vocational Behavior*, 74(3): 264-282.

Peltokorpi, V. & Froese, F.J. 2009. Organizational expatriates and self-initiated expatriates: Who adjusts better to work and life in Japan? *The International Journal of Human Resource Management*, 20: 1095-1111.

Price, R.H., Friedland, D.S. & Vinokur, A.D. 1998. Job loss: Hard times and eroded identity. In: Harvey, J.H. (Ed.). Perspectives on loss: A sourcebook. Philadelphia, PA: Taylor and Francis.

Punch Nigeria. 2015. Concern as more US-Based Nigerians Murder their Spouses. From <http://bit.ly/29PfLE9 > (Retreived May 7, 2015).

Rath, J. 1997. The informal economy as bastard sphere of social integration. In: Eichenhofer, E. & Marschalck, P. (Eds.). Migration und Illegalitaty. IMIS-Schriften Volume 7. Osnabrück: Universitätsverlag Rasch.

Richardson, J. 2009. Geographical flexibility – A cautionary note. British Journal of Management, 20: 160-70.

Rijksoverheid. 2015. Kinderopvangtoeslag. From <http://bit.ly/2aeAcfa> (Retrieved August 20, 2015).

ROCVA. 2015. Staatexemen. From < http://bit.ly/29VMFrx> (Retrieved August 20, 2015).

Schrover, M. 2006. Migration, Gender and Vulnerability. Paper presented at the Graduate Seminar in Leiden.

Simich, L., Hamilton, H. & Baya, B.K. 2006. Mental distress, economic hardship and expectations of life in Canada among Sudanese newcomers. *Transcultural Psychiatry*, 43: 418-444.

Study in Holland. 2015. From <https://www.studyinholland.nl/education-system> (Retrieved August 2, 2015).

Suárez-Orozco, C. & Suárez-Orozco, M.M. 2009. Children of Immigration. Massachusetts: Harvard University Press.

Subramanian, S. & Kumar, M.V. 2009. Coping with failure, mental health and occupation intentions among failed entrepreneurs. *Asia Pacific Business Review*, 5(1): 120-125.

Suto, M. 2008. Compromised careers: The occupational transition of immigration and resettlement. Work, 32: 17-429.

SVB. 2015. From <http://bit.ly/2aeAm6p> (Retrieved August 2, 2015).

The Guardian. 2012. Women and House Chores. From <http://www.theguardian.com/society-/2012/mar/10/housework-gender-equality-women> (Retrieved June 12, 2015).

Turchick-Hakak, L., Holzinger, I. & Zikic, J. 2010. Barriers and paths to success: Latin American MBAs' views of employment in Canada. *Journal of Managerial Psychology*, 25: 159-176.

Wang, X. & Sangalang, P.J. 2005. Work adjustment and job satisfaction of Filipino immigrant employees in Canada. *Canadian Journal of Administrative Sciences*, 22: 243-254.

Whitehead, A. & Iman, H. 2005. Children and migration. Background paper for DFID migration team.

Zenith Bank Nigeria. 2015. From <https://www.zenithbank.com/> (Retrieved August 18, 2015).

Zikic, J. 2014. Skilled migrants' career capital as a source of competitive advantage: Implications for strategic HRM'. *The international Journal of Human Resource Management*, DOI: mm0.1080/09585192.2014.981199.

No Future for our Children: Challenges faced by foreign minors living in South Africa

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Abstract

The intensification of international migration and continued conflicts in Africa have resulted in growing numbers of child migrants. Children are increasingly becoming mobile and crossing international borders unaccompanied. The movement of unaccompanied or separated minors triggers international obligations on all states that are party to the Convention of the Rights of a Child to take all available measures to ensure that children's rights are respected, protected and fulfilled. South Africa has arguably the most progressive child protection mechanisms in Africa. Those mechanisms are conferred and extended to foreign minor children within its borders. However, due to a lack of coordination between the various state departments entrusted with matters concerning foreign minors, the state has failed to fulfil its duties as required by national and international law. This paper highlights the difficulties faced by foreign minors and how the gaps in law leave them undocumented, vulnerable and unable to access social services. This paper also discusses how South Africa's approach to accompanied and unaccompanied foreign minor children provides no durable long term solutions for these children, effectively leaving them in a legal lacuna once they reach the age of majority. Drawing on our experience as refugee attorneys, we demonstrate that there are disparities between the law and the implementation of the law. We conclude with recommendations on possible policy and legislative reforms that can be implemented in order to ensure that South Africa develops a comprehensive and meaningful long-term approach for migrant children living in South Africa.

Keywords Separated foreign children, durable solutions, refugees, foreigners, asylum seekers, non-refoulement.

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Introduction

Up until the early 1990's migration was largely perceived as an act primarily undertaken by adult males. Children were commonly viewed as migrating within family units. Recent studies into independent child migration reveal that a large number of children migrate independently either unaccompanied or separated from their families. It is estimated that there are 250 million child migrants globally (UNHCR 2015). Save the Children, a non-government organisation, estimates that 25% of all migrants are children (Victoria 2015). This high number of child migrants necessitates the need to formulate laws and policies that comprehensively protect children in receiving countries. South Africa is the third largest economy on the continent and is absorbing a substantial number of unaccompanied child migrants (KPMG South Africa 2016). As a result of the protracted conflicts in parts of the continent (Gouden 2002) and growing economic instability in neighbouring countries such as Zimbabwe, South Africa will continue receiving accompanied and unaccompanied minors (Palmary 2009). The South African government therefore needs a comprehensive approach to child migrants; an approach informed by its international legal obligations and with the principles of the Constitution of South Africa which states that the "best interests of the child are paramount."

This paper analyses how South Africa gives effect to its national and international obligations towards child migrants. Although South Africa has passed laws which provide child migrants with legal protection, the implementation of these laws reveal a lack of coordination between the various relevant departments in dealing with migrant children. This results in a failure to fulfil their respective mandates and duties as required by the Convention of the Rights of a Child (1989) as well as the South African Children's Act (2005). In this paper we discuss the various legal barriers to documentation faced by migrant children in South Africa and argue that the gaps in law have left many migrant children without documentation, vulnerable and unable to access social services. Furthermore, we contend that South Africa's approach to foreign children provides no durable long term solutions for minors, a situation that leaves them in a legal lacuna once they reach the age of majority. The paper is organised as follows: we begin with a broad outline of the legal instruments pertaining to children in South Africa. We then analyse the departmental procedures used in assisting unaccompanied and separated foreign children. Thirdly, we place foreign child

migrants into four legal categories; unaccompanied foreign children with refugee claims, separated foreign children with refugee claims, unaccompanied and separated foreign children with no refugee claims and accompanied refugee children with refugee claims. We critically examine the legal protection afforded to these categories. We conclude with recommendations in an effort to fill the legislative gaps within South Africa's foreign child protection framework.

Child protection in South Africa: The legal framework

The Convention of the Rights of a Child (1989) lays the foundation for international child protection law. This Convention places a duty on states to ensure, through the passing and implementation of national laws, that the best interests of a child are always paramount. South Africa gives effect to this international obligation through a number of national legal instruments; firstly the rights of a child are enshrined in the South African Constitution (1996), which is the supreme law of the land. Section 28 of the Constitution places a duty on the state to respect, protect, fulfil and promote the rights of a child. Secondly, the Children's Act (2005) gives meaning and effect to the rights set out in the Constitution and both the Constitution and the Children's Act make no distinction between children based on nationality; care and protection is afforded to all children in South Africa regardless of nationality. The only Act that contains particular provisions which apply to certain categories of children is the Refugees Act (1998) which seeks to protect children who are or may be refugees. In addition to these laws, the Department of Social Services/Development (DSD) has Standard Operating Procedures (SOPs) designed to aid in the practical implementation of the rights set out in the Constitution and the Children's Act.

According to the United Nations High Commission for Refugees (UNHCR 1996) "an unaccompanied child (also referred to as an unaccompanied minor) is a child who has been separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so." Whereas a separated child is a child who has been separated from both parents, or from his or her previous legal or customary primary care-giver, but not necessarily from other relatives (Separated Children in Europe Programme 2009). Conceptually, a separated child is slightly different from an unaccompanied minor in that the separated child may not be in need of care and protection as he or she might be cared for by an accompanying adult such

as an aunt or uncle. This is often the case with refugee children who are forced to flee due to conflict.

As stated above, child migrants fall into various legal categories, however it is clear that once it is established that a child is unaccompanied or separated from his or her parent, care-givers or guardian, an inquiry has to be conducted to ascertain whether the child is in need of care and/or protection as is required by the Children's Act. Unaccompanied and separated children are therefore assisted by various government departments; generally speaking all unaccompanied or separated children who are suspected of being in need of care and protection should be referred to the DSD. The DSD is the main governmental department entrusted with giving effect to the rights of the child as provided in the Children's Act. Unaccompanied and separated children may also fall within the ambit of the South African Police Services (SAPS) particularly where such children have been abused, smuggled, neglected or trafficked. The Department of Home Affairs (DHA) usually encounters children at the initial undocumented stage.

Brief overview of the child protection process in South Africa

What follows is a broad overview of the processes that should be taken by government departments when assisting unaccompanied or separated children. These guidelines are set out in the Children's Act and have been translated into Standard Operating Procedures by the DSD. These guidelines for care and protection entails a five step process, namely: identification; assessment and documentation; family tracing; durable solutions; and repatriation.

Assessment and statutory intervention

Given that unaccompanied and separated children are often vulnerable to social pathologies, they are always presumed to be in need of care and protection. With regards to child protection, the same procedures govern unaccompanied children and separated children. The SOPs (2013) for the tracing, reunification or alternative care placements of unaccompanied and separated children in South Africa state that: "upon becoming aware of an unaccompanied or separated minor child at risk, DSD, SAPS or the designated Child Protection Organization (CPO) are obligated to take steps to ensure the immediate safety and well-being of the child." The DSD's SOP states that the procedure laid out in section 110(5) of Children's Act should be followed. Where the child faces immediate danger, the DSD may remove the child

without a court order to a temporary safe care facility pursuant to section 152 of the Children's Act, for a duration not exceeding six (6) months. Once the child has been removed and placed in a temporary safe care facility, without a court order, the case must be reported to the Children's Court by no later than the following court day. If the child is not in immediate danger, he/she may remain where he/she is as a temporary safe care placement, pending investigations. The investigation should be completed and a report compiled for the court within 90 days.

Where the child is undocumented, section 48(2) of the Children's Act stipulates that the Children's Court can estimate the age of the child, aided by the written motivation of a designated social worker, an investigation into the circumstances of the child, including any abuse, neglect or exploitation must be conducted and recorded and the findings together with a recommendation presented to the Court. The DSD or the designated CPO should assess whether the child is seeking asylum and if so, assist the child to seek asylum through the Refugee Reception Officers in DHA. Once the investigation has been completed the social worker should present the findings and make recommendations to the court regarding the most suitable solution for the minor child.

The Children's Court is to determine whether the child is in need of care and protection. If in need of care, the Court must make an order to ensure that the child is officially placed in terms of either sections 156 or 157 of the Children's Act. Section 156 pertains to orders made when a child is found to be in need of care and protection, it provides five options for the type of order that the Court can make in respect of a child with no parent or caregiver: to be placed in foster care, cluster foster care, to be taken to a temporary safe care pending the finalisation of an application for adoption of the child, shared care with different care-givers at different times or periods or placement at a Child and Youth Care Centre. The main objective of Section 157 is the securing of stability in a child's life.

Family Tracing

Once the temporary safety of the child has been secured, the social worker has to establish why the child has left home and why she is alone. The CPO or social workers need to determine if there are any parents, caregivers or extended families of the unaccompanied or separated minor, their current living circumstances and whether they are in a position to care for and protect the

child. In doing so the social worker may elicit the assistance of other social workers in the child's country of origin if and when it is appropriate. Once family members have been traced, the social worker may request an assessment of the family and its circumstances through their national International Social Services (ISS) office. An inter-country report will be provided through the national ISS and made available to the local social worker responsible for the case. The cross border assessment may also be done by non-government organisations such as the UNHCR, the International Red Cross or International Organization for Migration. The DSD can also approach the respective embassy of the child's country of origin to obtain information such as birth certificates or travel documents provided that such a child is not an asylum seeker. If the child was born in South Africa, the DHA should have a record of the child's birth because all children born to foreign parents in South Africa are provided with a notice of birth by the hospital where they were born which allows them to apply for a birth certificate at the DHA or in their country of origin upon their return. The birth certificate issued to foreign children is merely to document the birth. Thus, the foreign child is not listed in the South African population registry.

Reunification or placement

If the information gathered from the country of origin is favourable in terms of the family's ability to take care of the child and it is perceived to be in the child's best interests to be returned to the family, the child may be reunited with her family. There is a procedure to be followed when returning such children. The DSD's SOPs provide that the return of a child to her country of origin should be considered on a case by case basis. However, the following needs to be taken into account: the repatriation should be in the best interests of the child and arrangements must be made to ensure the safety of the child. In practice, a social worker is usually appointed to accompany the child to the border where the child is subsequently handed over to their family or the relevant authorities and the person receiving the child signs a receipt acknowledging receipt of the child. Travel documents are arranged with the relevant embassies and the DSD in principle should take cautionary measures in handing the child over so as to avoid trafficking and exploitation. A statutory document discharging the child from South Africa's statutory system is produced and handed over to the agency receiving the child. The individual receiving the child has to be pre-identified and verified by the person accompanying the child to the country of origin.

Alternative care placements

Some children cannot be reunified with their families either because their families cannot be traced or because it is not in the best interests of the child to be reunified with them. An alternative care arrangement which is suitable for the child needs to be recommended to the presiding officer of the Children's Court. The relevant considerations to be made are again highlighted in the SOPs.

Unaccompanied foreign minors with refugee claims

One of the biggest hurdles faced by unaccompanied and separated foreign children is access to documentation that regulates their continued stay in South Africa. These documents can be obtained either through the Immigration Act or the Refugees Act.

The laws governing the right to seek asylum in South Africa are contained in the Refugees Act. Section 3 of the Act defines what or who a refugee is and provides three categories of people who qualify for refugee status. A refugee is a person who is compelled to leave her country of origin, owing to a well-founded fear of persecution on a number of listed grounds and whose country is either unable or unwilling to protect her. A refugee can also be someone who fled her country of origin owing to external aggression, occupation, foreign domination or events seriously disturbing or disrupting public order or someone who is a dependent of such a person. The Act specifically provides for unaccompanied children seeking asylum but is silent on separated children. Therefore, we will analyse the rights of unaccompanied foreign children within the ambit Refugees Act. Section 32(1) of the Refugees Act provides that:

Any child who appears to qualify for refugee status in terms of section 3, and who is found under circumstances which clearly indicate that he or she is a child in need of care as contemplated in the Child Care Act, must forthwith be brought before the Children's Court for the district in which he or she was found. [...] The Children's Court may order that a child contemplated in subsection (1) be assisted in applying for asylum in terms of this Act.

While subsection 2 provides that a Children's Court may order that a child who appears to qualify for refugee status be assisted in applying for asylum in terms of the Act, the reality is that documentation for unaccompanied children in the asylum process remains a major barrier. This is irrespective of the fact that refugee law allows children with refugee claims to be documented under

the Act. A large number of these children remain undocumented because the relevant authorities refuse to grant them access to the asylum process without the assistance of a parent or guardian.

Bhabha (2003) notes that "all unaccompanied children face legal impediments and legal limitations as the law mainly recognises them as objects of the law and not as subjects of the law)." This is mainly because children under the age of eighteen are normaly considered by South African law, in general, as lacking full legal capacity and therefore can only interact with the law when duly assisted by a parent or guardian. This is the case even in instances where children are legally permitted to engage directly with the law.

This legal approach to children places child migrants who are seeking asylum in a vulnerable position as refugee status determination officers are unwilling to allow them to lodge independent asylum claims. It is presumed that children can only be dealt with under the procedures directed at families – the refugee status determination officers only view children as dependents of an adult and therefore only grant them asylum under section 3(c) of the Refugees Act (Bhabha 2003). Where the child is not accompanied by a parent, she is simply refused assistance on the grounds of being a minor.

Irrespective of whether the child has an independent refugee claim or not, this approach fails to take cognisance of child-specific claims and fails to see that children can be persecuted and that any of the grounds for asylum in section 3 can be applicable to children (Bhabha 2003). In particular, children often have child-specific claims such as forced conscription as child soldiers or forced marriage as child brides who are often forced into marriages by their own parents. Thus, there is a need to provide for child specific refugee protection as there is no minimum age limit to the international right to seek asylum. This is evident from articles 32 and 33 of the Convention Relating to the Status of Refugees (1951: Article 29) and paragraphs 213-219 of the UHNCR's Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees (2011: 41). Both provide guidelines on how unaccompanied minors may be assisted when applying for asylum. They state that where an unaccompanied minor seeks to apply for asylum, the relevant authorities need to ensure that the interests of the child are fully safeguarded (2011: 50). Furthermore, the South African Refugees Act states that children must be assisted in applying for asylum.

The Children's Act provides a legal mechanism that could potentially be used in enforcing children's right to seek asylum. But as Bhabha (2003) argues, children are often only viewed as victims of malfunctioning family networks and not as victims of persecution. Many CPO and social workers dedicate themselves to removing children from harmful environments and placing them in spaces of care and safety, however, once they obtain a court order from the Children's Court and secure the child's safety, they seem to believe that their work is complete (Bhabha 2003). They are often unaware of the need for obtaining documentation for these children and where they are and they often lack the knowledge necessary to assist the child in obtaining the documents. As a result, unaccompanied children with refugee claims are placed in places of care and protection without legal documentation and once they reach the age of majority are removed from these places of safety because they fall outside the protection and ambit of the Children's Act and are rendered vulnerable to arrest, detention and deportation as they are factually illegal migrants. In this way, social workers and CPO are only concerned with the temporary care of these minor children and they give little or no consideration to long term durable solutions for when these children attain majority. While police officers, immigration officers and refugee status determination officers only consider legal status and fail to consider the social welfare of the child. In addition social workers, family advocates, presiding officers and refugee status determination officers are not abreast with children's rights in terms of the Refugees Act. This is also indicative of the current discourse which only seeks to engage with children in a welfare and humanitarian manner as opposed to a legal approach.

Separated foreign children with refugee claims

Separated children with refugee claims are slightly complex because the Refugees Act makes no mention of them. Prior to the Mubake and Others v Minister of Home Affairs and Others ZAGPPHC 1037 judgement, South African refugee law was silent as to how separated refugee children with refugee claims should be treated. In this case, the court was called upon to determine when separated children should be documented. The applicants in Mubake argued that a child should automatically be regarded as a dependent of the accompanying adult and therefore documented with the adult. The respondents argued that separated children should only be documented once a Children's Court inquiry has been conducted and the court has lawfully placed the children in the care of the accompanying adults. The court agreed

with the applicants' interpretation of the law and argued that it cannot be in the best interests of the child to leave them undocumented pending the inquiry and thus vulnerable to arrest and detention. The court thus found that children should be documented with the accompanying adult and need not wait for the conclusion of the Children's Court inquiry.

This case clarified that when dealing with children who are separated from their biological parents and who appear to qualify for asylum, the DHA needs to issue the children with at least an asylum permit pending the DSD investigation as to whether the children are in need of care and protection. The Court stated that this is essential because leaving the children undocumented renders them susceptible to various social ills. The Court highlighted that pending the DSD investigation, if left undocumented the children are rendered invisible to immigration officials, untraceable and left in an uncertain and precarious position. The Court drew a distinction between the inquiry conducted by the DSD and the inquiry conducted by DHA by stating that the former pertains to the social welfare of the child while the latter pertains to the legal status of the child in terms of human rights law. Given that these two processes are not mutually exclusive, the judge saw no compelling reason why they cannot occur concurrently. The judge reasoned that the outcome of the one does not necessarily influence the other. The Children's Court inquiry can find that the adult asylum seeker is fit and proper and may continue to care for the child while the asylum inquiry may determine that the child and/or the adult cannot be issued with refugee statuses as they do not meet the requirements of the Act. In this situation they would both have to depart from the country. This case set the precedent that every separated child should be documented as soon as possible and that the DHA need not wait for the conclusion of the Children's Court before assisting the child with making the application. However, in our experience we have found that the DHA continues to leave many children undocumented pending the Children's Court inquiry.

Unaccompanied and separated foreign children without refugee claims

Refugee protection is only applicable to people who have a refugee claim, in terms of the Refugees Act. Consequently, those who do not have prima facie refugee claims are dealt with in terms of the Immigration Act. Unaccompanied children who do not fall within the ambit of the Refugees Act have limited mechanisms for obtaining legal status as the Immigration Act of South Africa does not provide any concrete mechanism for these children. The permits provided for in the Immigration Act require passports and birth certificates

which, as stated earlier, many foreign children do not have. Moreover, the Immigration Act bears no reference to children as independent migrants; children are only envisioned as *travelling within a family unit where they are* dependent on an adult. They do not have the capacity to apply for any of the permits under this Act without the assistance of a legal guardian.

Children who fall under this category are afforded temporary protection while they are legal minors as the law provides that foreign minors should not be arrested for lacking legal documents. Though there is contemporary case law reflecting this, foreign minors are still subjected to arrest and detention. The Centre for Child Law and Another v Minister of Home Affairs and Others 2005 (6) SA 50 (T) is a prime example of the lack of knowledge and application of children's rights to foreign children. In this case, over a hundred foreign children were arrested and detained at the Lindela Repatriation Centre which is South Africa's main deportation and repatriation holding facility. It was reported that some of the children were even housed in cells with adult inmates in clear violation of section 27(1)(a) of the Child Justice Act which specifically provides that children should be detained separately from adults. An urgent application was brought by the Centre for Child Law asking for the immediate release of the children, the application was granted. The court declared the arrest of the minors unlawful and furthermore stated that the respondents' behaviour constituted a serious infringement of the children's fundamental rights. The court confirmed the unlawfulness of arresting undocumented foreign minors. Nonetheless, once a child reaches the age of majority they too face the danger of being arrested, detained and deported. There are no durable long term solutions for such children. As stated before, social workers and presiding officers view it as sufficient to obtain a court order placing children in a place of care, hardly going beyond catering to the legal documentation needs of the children. Consequently, a Children's Court inquiry does not guarantee any document to legalise a foreign child's stay in South Africa. This is particularly so when the child is not a refugee.

It can be argued that these children could be dealt with and documented in terms of section 31(2)(b) of the Immigration Act which grants the Minister of Home Affairs special powers to grant a foreigner the rights of permanent residence for a specified or unspecified period when special circumstances exist which justify such a decision without them having to satisfy the requirements of the Immigration Act. This is what we commonly refer to as a Ministerial exemption; it is an application which is made to the Minister of

Home Affairs. The Minister has discretionary powers to grant or deny the application.

To avoid leaving foreign children who do not have refugee claims undocumented we propose that once the Children's Court concludes that the child is in need of care and protection and it is clear that the child does not fall within the ambit of the Refugees Act or that his or her application for asylum has been rejected, it (the Children's Court) should also order the child's legal representative or appointed social worker to make an application for documentation for the child in terms of section 31(2) of the Immigration Act. This should ensure that every unaccompanied foreign child is provided with temporary legal documentation. This is a suitable solution as the child may be granted temporary residence due to the special circumstances of being in need of care and protection. Should these circumstances change, or should the child's parents be located, the Minister has the power to withdraw the exemption. In this way, the exemption will only be used for children who are in need of care and protection.

Accompanied foreign children with refugee claims

Accompanied foreign children are also denied the opportunity to apply for asylum in their own names; they are automatically placed into their parents' files as dependents pursuant to section 3(c) of the Refugees Act. This section of the Act recognises the right to family unity and allows those married to refugees or dependent on them to be permitted to remain in the country by obtaining derivative refugee status by virtue of being spouses or dependants of a recognised refugee. The spouse or dependent is required only to prove that he or she is a dependant or spouse of a recognised refugee. Once the dependency or spousal relationship is established, the person is granted a derivative status. The Regulations of the Refugees Act define a dependant as an applicant's spouse, unmarried dependent child under the age of 18 years, or any destitute, aged or infirmed member of the principal applicant's family.

The Act therefore envisioned a person dependant on a recognised refugee in South Africa who does not have an individual claim in terms of section 3(a) or (b) of the Refugees Act. In order to allow such a person to lawfully reside in the country and thereby maintain family unity, the law provided for derivative refugee statuses. Therefore, the legislation is meant to give protection to family members of a recognised refugee who may not have a claim without the principal applicant but also flee with the principal applicant in order to

maintain their family nucleus. However, this provision has been interpreted by officials to mean that whenever an adult is accompanied by a minor child, the minor child must be dealt with in terms of section 3(c). In this way, refugee children are perceived as dependents that are only eligible to apply for derivative status.

This is unlawful and prejudicial to the minor. It is unlawful because it is an unjustifiable limitation of foreign children's rights to have their asylum applications heard. It is also procedurally unfair and often results in the child being severely prejudiced. This is particularly so where the child has a strong independent refugee claim stemming from his or her status and the parent has a particularly weak refugee claim, an example would be young boys who are usually forced to become child soldiers in times of conflict and war or young girls who are often forced into sex slavery or child marriage. The child is thus left to the mercy of the outcome of the adult's claim.

This could result in the violation of the principle of non-refoulement which prohibits the return or expulsion of a person to a territory where his/her life or physical liberty would be threatened (UN Convention Relating to the Status of Refugees 1951: Article 33(1)). Secondly, denying the minor child an opportunity to have his or her own asylum application adjudicated is procedurally unfair and prejudicial because it only affords the child temporary legal protection. This is because once the child attains the age of majority, which is 18 years of age, she ceases to be a dependant as defined in the Refugees Act. According to section 33(2) and (3) of the Act and section 16(6) of the Regulations of the Act, a person who obtains majority and thereby ceases to be a dependant may remain in the country if the person has a valid asylum permit and will be given an opportunity to apply for asylum pursuant to section 3(a) and/or (b) of the Refugees Act.

In reality this means that a minor who had a prima facie refugee claim when she entered South Africa but was not given the opportunity to apply for her own status in terms of section 3(a) or (b) and was erroneously documented in terms of section 3(c), will lose her derivative status upon attaining the age of majority. She will then be required to make a new asylum application based on a claim she had when they first arrived in the country. The reality for most of these children is that by the time they reach majority age, their claims have elapsed and they can no longer rely on them. Some of their claims are age-based claims and as young adults they can no longer rely on them. Others left their home countries at a tender age and cannot be reasonably expected to

accurately remember the events that occurred when they were young. Moreover, the DHA also withdraws refugee permits of abandoned children. This is because when the abandoned children attempt to extend their expired permits, they are required to attend the Refugee Reception Office with the principal applicant, where the child is unable to produce the principle applicant, the DHA refuses to extend the permit. In essence, by refusing to extend, the DHA is withdrawing their refugee status which is unlawful. Only the Standing Committee for Refugees established in terms of section 9 to 11 of the Refugees Act is empowered to withdraw the status of a refugee. This is also the case for children with deceased parents.

The "aging-out" practice adopted by the department and the resultant unlawful withdrawal of derivative status of children who reach the age of majority is prejudicial to these children as it denies them the opportunity to obtain long term durable solutions. It also denies the right to family unity to accompanied minor children who at the age of majority find themselves with the undesirable legal status of being an illegal foreigner.

The withdrawal of the refugee status of a person who has ceased to be a minor is problematic in two ways; firstly, some minors initially attempt to make independent claims when they first arrive in South Africa but are prohibited by DHA officials with a flawed and unlawful interpretation of the asylum laws. They are then issued with derivative status and their own claims are allowed to lapse or become irrelevant. Therefore, it is unduly harsh, procedurally unfair and prejudicial to expect someone to recall events that caused her to flee their home country as a child when the person has now obtained majority years later.

Moreover, the withdrawal of the derivative status upon reaching majority is equally prejudicial to accompanied minors who entered South Africa in pursuit of family reunification and were either subsequently abandoned or lost their parents after documentation. In this scenario where the child did not have an independent claim when they first arrived, they surely will not have a claim after attaining the age of majority. It is cruel and inhumane to allow a child to reside in a country for many years, get accustomed to the culture and language, and then expect her to return to a country of origin where she does not know anyone nor have any social ties. The law needs to guard against this by considering what is in the best interests of the child with a more forward-looking approach. Providing short-term solutions is not in the best interests of the child. The best interests of the child approach should not only be looking

at the present but should be forward-looking, thereby securing stability in the child's life not only presently but in a long term, durable sense.

Policy reform and recommendations

We have highlighted the trend of focusing on only social welfare as being prevalent in dealing with foreign minor children in South Africa. The dangers of this practice are that undocumented children are often denied access to social services such as health care, education and other public services and they are rendered vulnerable to arrest and deportation. Moreover, the tendency to focus only on social welfare without considering documentation when dealing with unaccompanied minors is exacerbated by the fact that the Children's Act makes no specific reference or mention of foreign children. The Children's Act does not recognise specific vulnerabilities of certain categories of foreign children such as unaccompanied foreign minors and separated refugee children. Though the Children's Act seeks to protect all children irrespective of nationality, foreign children are not afforded the full extent of the state's child protection system on the basis of their nationality. This is because many presiding officers, social workers and other officials do not know that foreign children should be given equal protection. This lack of knowledge of children's rights was displayed by various government officials in the Centre for Child Law case where a magistrate in the Children's Court refused to conduct inquiries in respect of foreign unaccompanied minors on the basis that the foreign children fall outside the ambit of the Child Care Act. This crass display of methodological nationalism is commonly seen in matters where foreign children are denied basic socio-economic rights on the basis of their nationality. To combat this, the Refugee Rights Unit has always advocated for the amendment of the definition of a child in the Children's Act to include the words: "irrespective of nationality" (Machingambi & Ralekwa 2015). The definition would therefore read as follows: "'child' means any person under the age of 18, irrespective of nationality." The Act should also make explicit mention of unaccompanied foreign and separated children and should define the terms expressly stating the different legal categories that such children fall into and how they should be dealt with taking into account their specific needs.

It is thus crucial for the DSD, when identifying whether a child is in need of care and protection, to also determine whether the child is a separated or unaccompanied foreign child, as this triggers the need to inquire as to whether the child needs legal documents to reside lawfully in the country. This will also ensure that those dealing with children do not only focus on the social welfare

issues faced by all children but that they are aware of the nuanced needs of foreign children that render them vulnerable to exploitation and unlawful detention as a result of not being properly documented. The DHA needs to fulfil its role by identifying foreign unaccompanied and separated children at the Refugee Reception Offices and ports of entry. When dealing with children, Refugee Reception Offices should, as a matter of practice, ascertain first and foremost if a child has an independent refugee claim and should document the child and provide them with an asylum or refugee status document.

It is also important for the DHA to note the difference between a separated foreign child and an unaccompanied foreign child. This is because some children become separated from their parents after entering the country. For example, children whose parents have died or resettled in a third country without the child may turn an accompanied child into a separated child. As such, it is crucial that the DHA establishes proper mechanisms that will enable officials to properly identify separated children from unaccompanied children. So that where a child is accompanied by an adult, it becomes necessary to establish the nature of the relationship between the child and the adult in order to establish whether or not the adult is in fact the child's primary care-giver. This will assist the state in combating child trafficking.

The Children's Court should play a greater role in determining whether the child is in need of care and protection, the court should decide with the assistance of a legal opinion of an expert refugee attorney or UNHCR whether the child appears to have a refugee claim. If the child appears to qualify for refugee status, the court should order that the child be assisted in making the application for asylum and accordingly be documented as an asylum seeker or refugee.

There is, thus, a need for a provision in the Refugees Act and its Regulations that develops a clear delineated role for DHA, DSD, SAPS, Border Control and the Children's Court, when dealing with unaccompanied foreign children in order to ensure that such children are properly dealt with and are not left legal undocumented. This would require that Refugee Status Determination Officers be adequately trained in determining the refugee status of unaccompanied children.

Furthermore, the Refugees Act and its Regulations should clearly set out the procedure for referring unaccompanied or separated foreign children by the DHA to the DSD. The referral system should invariably include a mechanism

for the recording by the DHA of each child referred indicating a note on the circumstances under which the child was found, the DSD official to whom the child was referred and the name of the DHA official who made the referral.

There needs to be a more coordinated policy between the various government departments working with unaccompanied and separated foreign children. Thus, the gap between child-protection and welfare departments and migration departments needs to be breached as children often fall through the bureaucratic cracks. The fact that a different department determines the immigration status of children and an entirely separate one deals with the overall responsibility for welfare and access to rights poses a significant inconsistency between how separated children's cases are comprehensively considered. The lack of one central department in facilitating greater coherence and a greater focus on the best interests of children also presents a barrier to the development of a durable solution. There should be synergy between section 32(2) of the Refugees Act and the chapter 9 of the Children's Act. Section 32 of the Refugee's Act provides for the referral of unaccompanied refugee children to the Children's Court through the Children's Act. The Children's Act needs to reflect this provision by empowering the magistrate with the powers to make such an order. Identification and documentation of the child should be a priority after the child has been removed from any immediate danger. Where the Department of Home Affairs is the first department to encounter a child who appears to qualify for refugee status and seems to be in need of care and protection, the child must be documented without delay and should not have to wait for the conclusion of a Children's Court inquiry as contemplated by section 32(2) of the Refugees Act. This is because section 32(2) of the Refugees Act when directing Refugee Reception Officers to first refer a child who falls within the ambit of the Refugees Act and who appears to be in need of care and protection fails to take into consideration sections 150(2) and 155(2) of the Children's Act which states that before opening a Children's Court inquiry a social worker must investigate the matter and within ninety (90) days compile a report on whether the child is in need of care and protection. During this investigation period which may last up to ninety days, the child will be undocumented, vulnerable to arrest, detention and possible deportation. Furthermore, it becomes easier for trafficked children to slip back into the hands of traffickers and without documentation they are unable to access social services and are at risk of exploitation. The initial documentation of the child renders the child legally

visible and easier to track and trace. Consequently, the precedent set in the Mubake judgement stating that separated minors should be documented as soon as possible should be extended to unaccompanied children.

The Centre for Child Law case clearly outlined how foreign unaccompanied minor children should be dealt with. The court recognised the crucial role that the Children's Court should play in these matters and noted that there is a legal duty on the various government departments in South Africa to draft a policy framework which lays down the processes and procedures of dealing with unaccompanied foreign children. Furthermore, the court laid the precedent which requires the court to play a central role in determining the child's legal status.

When assessing the best interests of the child, authorities need to appreciate the fact that the best interests of a child and the durable solution assessment are inextricably linked. The best interests of a child are the avenue through which a durable solution is made and should not be discarded. Children should be provided with a secure, stable life throughout their childhood and beyond. We are of the view that the South African government only deems repatriation as the only durable solution after a child attains majority. The local integration and naturalisation of the child is not pursued to its full extent because if it was, it would entail considerations as to how to secure a child's permanent legal stay in the country.

By neglecting to ensure the legal documentation of foreign minors, authorities fail to understand that the ultimate goal of safeguarding the rights and protection of foreign children is the implementation of a durable solution. In most cases, this can only mean integration into the local society. Social workers and presiding officers when determining what is in the best interest of a child should include considerations for long term durable solutions, particularly for children who cannot be reunited with their parents. These long term solutions will centre on the securing of permanent stay in the country. A framework of legal permanence that provides children with a sense of security, continuity and identity is consequently called for. Furthermore, the DHA should incorporate the best interests of the child whenever they deal with minors. They should always conduct extensive status determination interviews to determine whether a child has a refugee claim or not. A child's age should never be seen as a deterring factor.

Conclusion

From the above, we can conclude that despite South Africa having a well-developed legal and policy framework for securing the rights of foreign children, a number of protection gaps, especially in terms of implementation of these frameworks, still exist. A consistent theme in this paper has been the lack of sufficient legal paths for the documentation of foreign minors. Where they do exist, children face exclusion because those entrusted with assisting them do not know the full extent of their obligations or how to fulfil these obligations. Furthermore, the bifurcation of competencies and the lack of a jointed approach to the needs of foreign migrant children exacerbates the problem. Where children are documented, they are often provided with temporary legal status that expires at the age of majority leaving the children with no real long term durable solutions. Documentation is essential in South Africa and forms a significant part of the protection of foreign children. True child protection can only be achieved by considering the best interests of the child from childhood and beyond. An approach which fails to take a child's future into account, fails to meet the best interests of the child. We therefore call upon the Children's Court to play an active role in determining the best interests of a child and consider long term solutions for children who cannot be repatriated.

References

Primary

1951 UN Convention Relating to the Status of Refugees.

1989 Convention on the Rights of the Child.

Centre for Child Law and Another v Minister of Home Affairs And Others 2005 (6) SA 50 (T).

Child Justice Act 74 of 2008.

Children's Act 38 of 2005.

Department of Social Development, 2013. Standard Operating Procedures for the Tracing, Reunification or Alternative care Placements of Unaccompanied and Separated Children in South Africa.

Immigration Act 13 of 2002.

Machingambi, N. & Ralekwa, R.S. 2015. UCT Refugee Rights Unit submission on the Children's Bill.

Mubake and Others v Minister of Home Affairs and Others.

Refugees Act 130 of 1998.

The Constitution of the Republic of South Africa Act 108 of 1996.

UNHCR. 1996. Note on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, Geneva.

UNHCR. 1992. Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees.

Secondary

Bhabha, J. 2003. More than their share of sorrows: International migration law and the rights of children. Saint Louis University Public Law Review, 22: 301-322. From < http://bit.ly/2aeAm6p> (Retrieved May 6, 2016).

Gouden, V. 2002. Managing and Resolving African Conflicts: A Critical Review. From <http://bit.ly/2aiPgeI> (Retrieved July 7, 2016).

KPMG South Africa. 2016. South African economy not the second largest in Africa anymore. From <http://bit.ly/2aiPgeI> (Retrieved July 6, 2016).

Palmary, I. 2009. For Better Implementation of Migrant Children's Rights in South Africa. Report for UNICEF, Forced Migration Studies.

Separated Children in Europe Programme. 2009. Statement of Good Practice, Revised 4th Edition. From <http://bit.ly/29WUrex> (Retrieved May 9, 2016).

Victoria, J. 2015. Experts Weigh in on Child Migration. Mail and Guardian, August 28, 2015. From <http://mg.co.za/article/2015-08-28-00-experts-weigh-in-on-child-migration> (Retrieved May 15, 2016).