Migration Profile: South Africa

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SCALABRINI INSTITUTE FOR HUMAN MOBILITY IN AFRICA (SIHMA)

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<tr>
<td>ACMS</td>
<td>African Centre for Migration and Society</td>
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<td>ANC</td>
<td>African National Congress</td>
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<tr>
<td>CCR</td>
<td>Centre for Conflict Resolution</td>
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<td>CDE</td>
<td>Centre for Development and Enterprise</td>
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<td>CoRMSA</td>
<td>Consortium for Refugee and Migrants in South Africa</td>
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<td>CSVR</td>
<td>Centre for the Study of Violence and Reconciliation</td>
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<td>DHA</td>
<td>Department of Home Affairs</td>
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<td>GNU</td>
<td>Government of National Unity</td>
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<td>HSRC</td>
<td>Human Sciences Research Council</td>
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<td>IDASA</td>
<td>Institute for Democracy and South Africa</td>
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<td>IFP</td>
<td>Inkatha Freedom Party</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>ILO</td>
<td>International Labour Organisation</td>
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<td>IOM</td>
<td>International Organisation for Migration</td>
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<td>IRIN</td>
<td>Integrated Regional Information Networks</td>
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<td>LHR</td>
<td>Lawyers for Human Rights</td>
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<td>RRO</td>
<td>Refugee Reception Offices</td>
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<td>RSDO</td>
<td>Refugee Status Determination Officer</td>
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<td>SADC</td>
<td>Southern African Development Community</td>
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<td>SAIRR</td>
<td>South African Institute of Race Relations</td>
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<td>SAMP</td>
<td>Southern African Migration Project</td>
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<td>SAPS</td>
<td>South African Police Service</td>
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<td>SIHMA</td>
<td>Scalabrini Institute for Human Mobility in Africa</td>
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<td>UN</td>
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<td>UNHCR</td>
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<td>UNICEF</td>
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<td>UNDP</td>
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Introduction

In 2014 South Africa celebrates an important anniversary of freedom and democracy. It was twenty years ago, in April 1994, that the world watched with bated breath as voters patiently waited in long, winding queues to cast their votes in the first non-racial election in the country’s history. This relatively smooth and peaceful negotiated transition from the brutal, racialised politics and policies of apartheid was a welcomed surprise for many observers from around the world, given the repression and violence that characterised the struggle against apartheid.

The South African government has since made many important strides in its attempts to rectify the inequities and injustices of apartheid. However, enormous challenges remain for this country of almost 52 million people. Millions of South Africans continue to live in entrenched poverty, and for many, access to adequate housing, services, food and education remains an ongoing challenge. Inequality levels in the country have historically been amongst the highest in the world, and have remained so in the post-apartheid era, with a Gini coefficient of 63.1, according to 2009 World Bank data (World Bank 2009). Life expectancy at birth is 56.9 years, in part due to the impacts of the country’s ongoing struggles with HIV/AIDS and tuberculosis (UNDP 2014). Despite significant advances in testing, treatment and support, approximately 6.4 million people, or 12.2% of the population, are living with HIV/AIDS in South Africa. (HSRC 2014, 25).

Against this backdrop, the movement of people in South Africa continues to present a huge array of both challenges and opportunities for policy makers, civil society actors, sending and host communities, and of course, for migrants themselves. This report offers a brief overview of some of the history, current trends, policy framework and key challenges presented by the movement of people in contemporary South Africa.

Human Mobility in Historical Context

The history of South Africa is, in many ways, a history of migration. The rich diversity of South African languages, cultures and religions in the country today is testimony to this fact. However, the management of migration has historically been highly political and highly politicised, particularly throughout 20th century South African history. It has been intrinsically linked to deeply emotive issues such as nationalism, identity, race, political power, and economic control. Indeed, such issues continue to frame migration debates in contemporary South Africa.
Colonial policies, combined with endemic poverty and conflict in the region (some of it exacerbated by the apartheid state’s policies of regional destabilisation), have meant that migration has long been an economic strategy, if not a key strategy of survival, for many people. Indeed, the migration and labour of unskilled or semi-skilled migrants has played a foundational role in the economy of South Africa, and an ongoing role in bolstering the economies of neighbouring countries. This is particularly true of the mining sector. For approximately 150 years, mining labour migration from neighbouring countries to South Africa has been a feature of the southern African landscape, woven into the tapestry of southern African societies and economies. Migrant labourers were largely recruited from Lesotho, Zimbabwe, Swaziland, Botswana, Malawi and Mozambique (Adepoju, 2003). The reliance on inexpensive migrant labour to work in South Africa’s rich gold and diamond mines was one of the economic pillars of apartheid, but also pre-dated the formal systems of apartheid by many decades. Migrant labour was also recruited for domestic service, work on commercial farms and in factories, and in the transportation and construction sectors (Crush, Peberdy, & Williams 2006, 4). In the mining sector, the migrant labour system was carefully controlled through an emphasis on circular migration and the contract labour of male migrants, who were expected to return to their country of origin following the completion of each contract. Women wishing to migrate across borders for work had to do so illegally (Crush et al., 2006, 7). As exploitative as this system certainly was, the income from mining and other migrant labour-utilising industries has historically represented an often critical income in both direct and indirect benefits for millions in the region, through remittances and the controversial system of deferred wage payments.

Foreign labour migration was a keystone of apartheid policy, but domestic labour migration was also pivotal to upholding the structure of South Africa’s industrial and resource economy, and highly influential in its impact on the country’s political economy. The apartheid regime’s social engineering of the movement of people through, for example, its system of pass laws and its creation and administration of the nominally independent “homelands” or “Bantustans” was part and parcel of a complex system designed, at least in part, to facilitate and control the movement of black labour in the country. As with regional migrant labour, male labourers very often left wives and families behind in rural areas, especially in the Eastern Cape and KwaZulu Natal to work in the mines of Gauteng. While the often negative social and cultural repercussions of these migration patterns have been significant and deeply challenging, domestic migrant labour also
continues to be an important source of income for both migrants and their families within South Africa.

Historically, opportunities for migration to South Africa outside of the migrant labour system existed, but only for some. These opportunities were also subject to a strict, specific and often shifting set of criteria. An exploration of South Africa’s immigration policies since 1910 tells a story of inclusion and exclusion throughout the twentieth century, in which major shifts in immigration policy have followed whenever there has been a significant shift in political power (Peberdy, 2009). Peberdy (2009) demonstrates this by mapping out a history of the country’s immigration policies, beginning with the British-controlled Union of South Africa in 1910, followed by the changing immigration priorities of the Nationalist Party government (driven by Afrikaner nationalism), and ending with an exploration of more recent shifts in immigration policies informed by the “African nationalism” of the post-1994 years. These shifts in power, she argues, have each been associated with shifting nationalisms and therefore shifting national immigration priorities, revealing what she calls the “powerful myth-making of nation states and their fears that non-members or non-citizens have the potential to contaminate the national body....” (Peberdy 2009, 2). From this perspective, the exclusion of potential migrants deemed to be threatening to the nationalism of the day is a motif with a long history in South Africa.

During the apartheid years, immigration policies were specifically designed along racialised lines to support the segregationist goals of the regime. Twentieth century immigration policies under white minority rule in South Africa rested on four key pillars: “racist policy and legislation; the exploitation of migrant labour from neighbouring countries; tough enforcement of legislation; and the repudiation of international refugee conventions” (Crush and McDonald, 2001, 2). At times, all immigration to South Africa was strictly curtailed, while other periods were characterised by the active courting of selected immigrants, based firmly on racial and religious criteria along with an explicit requirement that immigrants, by law, had to be likely to become assimilated into the country’s white population (Crush & McDonald 2001, 2; Peberdy, 2001; Segatti & Landau, 2011, 61). Ironically, while apartheid South Africa was welcoming such immigrants, it was also, at the same time, a refugee-sending country, with a global diaspora of political exiles and those who fled the country to join the armed wing of the ANC, Umkhonto we Sizwe (the Spear of the Nation), in neighbouring countries and beyond, particularly following the Soweto Uprising of 1976.
The fall of apartheid in the early 1990s and the country’s first racially inclusive democratic elections of 1994 represented an important moment in the history of migration management in South Africa, but in many ways, old patterns of exclusion and an official discourse positioning migrants as a threat continued into the new democracy. One of the most striking and disturbing phenomena of the post-apartheid era has been the rise and expression of xenophobia against foreign nationals in the country. The most infamous eruption of violence against foreign nationals across South Africa took place over several weeks in May 2008, and was a stark moment in the country’s post-apartheid trajectory. By the time the overt violence subsided, 62 people had been killed, 670 injured, unknown amounts of property and possessions had been destroyed or looted, and more than 150,000 people had been displaced from their homes across the country (Segatti and Landau 2011, 10). Attempts to analyse and understand both the causes and expressions of this violence continue to occupy a range of academics and observers, and rightly so, as the violence, in a sense, lifted the veil from any remaining illusions of the reconciled, post-apartheid “Rainbow Nation,” revealing instead a country still haunted by the legacies of apartheid and the unfulfilled promises of the new, democratic dispensation. However, the idea that resentment, intimidation and violence against foreign nationals in the country began and ended with the most dramatic and well-publicised demonstrations of violence over two weeks in May 2008 is amply dispelled by evidence of sporadic, well-documented incidents of violence since 1994 (Crush 2008, 44). Although the scale of the 2008 violence was unprecedented, tensions around the presence of foreign nationals and perceived “others” in the country remain high, and violent expressions of this continue to pose a very real risk to the safety and security of migrants living in South Africa.

**Contemporary Trends in Human Mobility**

Today, migration to and from South Africa takes many forms, and includes the movement of diverse groups such as undocumented migrants, low-skilled and semi-skilled migrant labourers, asylum seekers and refugees, unaccompanied minors, tourists, business people, students, and highly skilled migrants. The majority of this movement occurs within the SADC region, though South Africa attracts migrants and visitors from all over the world. Since 1994, annual approved entries into South Africa (including entries for purposes such as work, study, business, holiday, and contracts) have climbed steadily and considerably, though interestingly, annual numbers of authorised permanent immigrants have generally substantially dropped, post-apartheid. In 1980,
for example, there were 29,365 legal permanent immigrants, while in 2009, the number was only 4083 (Segatti and Landau, 2011, 156).

The scope of irregular migration is much more difficult to measure, as the very nature of irregular migration makes reliable statistics impossible to attain. South African Police Service statistics for 2007, 2008 and 2009 estimate the presence of between three and six million irregular migrants in the country (Segatti & Landau, 2011, 156), while the official 2011 national census data show a total of 1,692,242 foreign nationals out of a total national population of approximately 50 million, or about 3.3 percent of the population (Landau et al., 2013). While this figure is highly unlikely to include all foreign nationals in the country, the African Centre for Migration and Society (ACMS) estimates that the total percentage of foreign nationals, inclusive of irregular migrants, is still unlikely to top 4 percent (Landau et al., 2013). The IOM sets this number slightly higher, estimating the total percentage of immigrants (all those born outside of the country) at 4.5 percent of the population (IOM, 2013). The vast majority of migrants settle in urban and peri-urban areas, in keeping with broader and dramatic urbanisation trends in the country.

South Africa is not just a migrant-receiving country, but is also as an important migrant-sending country. In particular, skilled South Africans have been emigrating in significant numbers, especially over the past two decades. The IOM estimates a negative net migration rate for South Africa between 2010 and 2015, at -0.4 migrants/1,000 population (IOM, 2013). However, reliable emigration data, like much migration-related data, is difficult to come by, and some scholars have drawn upon the census data of migrant-receiving countries to arrive at an estimate of emigration levels from South Africa. One report by the Centre for Development and Enterprise, for example, draws on such work by Stern and Szalontai, who estimate that between 1989 and 2003, over 520,000 South Africans had emigrated, with the numbers growing by roughly 9 per cent a year (Centre for Development and Enterprise 2010, 10). Of these, approximately 120,000 had professional qualifications, equating to approximately 7 per cent of the total stock of professionals employed in South Africa, and over eight times the number of professional immigrants in that same period (Centre for Development and Enterprise 2010, 10). As Ellis notes, skilled emigration from South Africa results in a significant multiplier effect; he cites, for example, the estimate that each skilled South African who emigrates creates ten redundancies, which may consequently cost South Africa hundreds of millions of rand per year in lost revenue (Ellis in Wa Kabwe-Segatti
This loss of skills is compounded by ongoing, deep-seated challenges in the country’s domestic skills production systems through education and training programmes. There has, however, been some recent research indicating a significant return of South African expatriates, such as the December 2013 report by Adcorp, a private workforce management and outsourcing company. This report estimates that despite an ongoing skills shortage of an estimated 820,000 in skilled position vacancies across the country, approximately 359,000 high-skilled South Africans have returned to the country since 2008, a trend, they argue, which could be partially explained by the ongoing global economic crisis (Adcorp 2014).

Some of the most striking migration figures of the post-apartheid dispensation relate to refugees and asylum seekers, a category that did not officially exist in South Africa until the development of the country’s first refugee legislation, the Refugees Act of 1998. 2014 UNHCR figures report a total population of concern of 296,675, including 65,233 recognised refugees and an additional 230,442 asylum seekers (UNHCR 2014). Department of Home Affairs (DHA) data from 2001-2009 show a substantial increase in the number of asylum seekers in this period, rising from 4,860 in 2001 to 364,6381 in 2009 (Segatti & Landau 2011, 159). As political and economic conditions in Zimbabwe deteriorated, particularly around 2008 and 2009, the numbers of Zimbabweans entering South Africa added significantly to the asylum claim backlog, as new claims sky-rocketed from 64,373 in 2008 to 222,300 in 2009. The UNHCR notes that South Africa registered 778,600 new asylum applications from 2008-2012, with Zimbabweans accounting for more than half of these claims (UNHCR 2013, 26). Many more Zimbabweans entered the country as irregular migrants, though there have been attempts by the South African government to regularise Zimbabweans living in South Africa through alternative documentation processes.2

With the relative stabilisation of Zimbabwe, numbers of new asylum seekers have dropped considerably in recent years. The DHA annual asylum statistics report documents slightly over 70,000 new asylum claims in 2013 from over 80 countries world-wide (Department of Home Affairs, 2013, 3). While the highest numbers of asylum seekers still originate in the SADC region

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1 This is a cumulative total of asylum seekers, as opposed to new asylum seeker applications for that year.
2 Throughout the dispensation and documentation processes (which began in April 2009) the government declared a temporary moratorium on the deportation of irregular Zimbabweans during a window in which they could, in theory, present at the Department of Home Affairs (DHA) and regularise their status. These processes have met with some success but have also been beset by significant management and administrative challenges. For an overview of some lessons learned from these documentation processes for Zimbabweans, see Amit, 2011.
(approximately 34,000 in 2013), South Africa also hosts refugees and asylum seekers from much further afield (Department of Home Affairs, 2013, 3). In 2013, there were nearly 12,000 asylum seekers from East Africa, with over 9,000 asylum seekers from Ethiopia and Somalia alone (Department of Home Affairs, 2013, 3). According to these statistics, West Africa represents another significant source of asylum seekers, with just over 10,000 asylum seekers applying in 2013 from the region, including 7,300 Nigerians, while Bangladesh, Pakistan and India together account for another approximately 10,000 asylum claims lodged in 2013 (Department of Home Affairs, 2013, 3). Importantly, the African Centre for Migration and Society notes that asylum seeker numbers have, in large part, escalated because there currently is no legal, effective way for economic migrants to enter South Africa (Landau et al., 2013). It argues that with such a mechanism in place, asylum seeker levels would drop to levels that would be easily manageable (Landau et al., 2013).

In recent years, the South African government has also been dealing with complex issues surrounding the cessation of refugee status for Angolan refugees, in which host countries may evoke the “ceased circumstances” clause of the 1951 Geneva Convention to end refugee status for nationals of countries that are deemed to be safe for return. The government’s declaration of cessation in 2013 followed the UNHCR’s recommendation that it was now safe for Angolan refugees to return to Angola, due to the ongoing political and economic stability in the country, following the end of decades of civil conflict in 2002. This was unchartered territory for the South African government, the DHA, and civil society actors involved in the process. This process will be discussed in more detail in the Angolan chapter of this report.

Many migrants arrive in South Africa purely on their own volition, while others arrive through complex regional smuggling networks. Migration statistics around smuggling are particularly challenging to obtain, though one 2009 International Organisation for Migration report estimates that between 17,000 and 20,000 irregular male migrants from East Africa and the Horn of Africa are handled by smugglers each year, with South Africa as the anticipated (but not always successfully reached) destination (Horwood 2009, 7). Trafficking has also become a common term in South African migration debates. Adepoju (2005, 77) points to three main types of trafficking which have been identified in sub-Saharan Africa as a region, including the trafficking in children, mainly for farm labour and domestic work within and across countries of the region; the trafficking
of women and young people for sexual exploitation, mainly outside the region; and the trafficking in women from outside the region for South Africa’s sex industry. However, such trafficking networks are complex and still not well understood. Furthermore, empirical research and data on the scope and scale of trafficking in South Africa remains sparse, especially given the complex challenges associated with conducting research on this topic. At the same time, media and political claims are often dramatic, and based on inflated numbers with no discernible empirical basis, misunderstandings of the specific definitional qualities of “trafficking” as a phenomenon, or the conflation of human trafficking and commercial sex work (Africa Check, 2013). One IOM commissioned report, compiled by the Norwegian Agency for Development Cooperation in 2010, reports that between January 2004 and January 2010, the IOM assisted a total of 306 trafficking victims in the whole Southern African region, 57 of whom were children (Tørres and du Toit, 2010). While certainly not indicative of the total number of trafficking cases, instances of trafficking, while serious, may still be comparatively few when set against the backdrop of other complex and often dangerous forms of migrant flows, exploitations and vulnerabilities.

Unaccompanied minors represent another challenge of migration in South Africa. While again, numbers are unknown, hundreds and potentially thousands of unaccompanied minors are present in the country, requiring specialised attention and care. Also present are “separated children,” that is, children who have been separated from both parents or from their previous legal or customary primary caregiver, but not necessarily from other relatives. A particularly challenging issue arises when unaccompanied minors or separated children do not have an asylum claim, and do not have documentation. While such children may be placed in long term care within South Africa by court order, they are currently unable to access proper identity documents, and are thus relegated to a state of legal limbo.

The management of international migration continues to pose many challenges for South Africa, but so too does the management of domestic migration flows. Some regions of the country have been experiencing striking in-flows of migrants, while others have experienced significant out-flows. Indeed, the challenges posed to local governance by domestic migration flows are far more significant than those presented by international migration (Segatti and Landau 2011, 17). A 2011 Statistics South Africa report notes that between 2006 and 2011 alone, an estimated 215,000 people will have migrated out of the Eastern Cape, while Limpopo province is estimated to
experience the out-migration of just over 140,000 people. In those same years, Gauteng and the Western Cape province are estimated to have received approximately 367,100 and 95,600 migrants, respectively (Statistics South Africa, 2011). However, like most migration-related statistics in South Africa, such numbers are slippery and unreliable. Nonetheless, domestic migration flows have put both real and perceived pressures on provincial and municipal governments, in particular, to develop strategies for service delivery that will meet this growing demand, alongside strategies for redressing shortcomings for base populations. The areas in which many unskilled foreign nationals settle and look for the means of survival (particularly the peri-urban areas around Johannesburg, Tshwane [formerly Pretoria], and Cape Town) are the same communities in which South Africa’s poorest citizens, including recent domestic migrants, live (Segatti and Landau 2011, 17). Given the social climate of hostility towards foreign migrants, domestic migration may then further exacerbate South Africans’ perceptions of being in direct competition with foreign migrants for jobs and resources.

Interestingly, Landau notes the propensity in some official discourse towards a “demonizing” of newly urbanised citizens in South Africa, who cite concerns that such migration places a severe strain on employment levels, housing, and public services (2010, 221). However, “even officials wishing to more proactively absorb new residents, who are often poor and vulnerable, face considerable challenges in determining how to do so” (Wa Kabwe-Segatti 2008, 127).

While the impact of domestic migration is often overlooked in debates about migration in South Africa, so too is the importance of remittances in the regional economy. Using World Bank data, the 2013 IOM country profile for South African reports that remittance inflows amount to US$1.123 million annually (approximately R12.4 million) or .3% as a share of the country’s GDP (World Bank, 2014; IOM, 2013). 2012 World Bank data estimates migrant remittance outflows at US$1.32 million, or approximately R14.5 million (World Bank, 2014). However, the informal channels through which many remittances flow make it challenging to effectively and reliably capture the extent of such flows, though data is also insufficient for formal sector remittances. While acknowledging the limitations of their data, a recent study by Truen and Chisadza (2012, 57) for the FinMark Trust estimates that the average remitting migrant in South Africa sends between R4,500 and R6,500 home per year, with 45-55% of migrants being likely to remit. They estimate a total remittance market in the SADC region of R11.2 billion, of which R6.7 billion
flows to Zimbabwe alone, while another estimated R7.6 billion is remitted through informal channels (Truen and Chisadza, 2012, 57). Remittances are regularly used towards education, investments and consumption, and make an important contribution to livelihood strategies across the region.

**South Africa’s Policy Framework**

Managing migration effectively is a daunting task for any government, and post-apartheid South Africa has been no exception. With the end of apartheid, it quickly became apparent to the new government that existing legislation governing migration in South Africa was wholly inadequate to meet the requirements of the new democracy. Policymakers and civil society actors alike were forced to grapple with the many complex policy questions raised by migration, set against the dramatic social, economic and political changes taking place in the country. In many ways, however, while framed in the new language of rights, administrative justice and equity, the national imperatives of migration management did not dramatically alter with the onset of the new democracy, but instead remained rooted in an approach that emphasised control and security.

One of the last main pieces of apartheid-era legislation was passed in 1991, in the form of a new migration policy called the Aliens Control Act, which codified numerous legislative amendments that have consistently reinforced the strict control of the flow of people across South Africa’s borders (Klotz 2000, 831). Peberdy and Crush describe the act as an attempt to “entrench the past in the future,” through which all existing immigration legislation was consolidated (1998, 33). Crush and McDonald write, however, that this legislation, “rooted in the imperatives and ideology of late apartheid [proved] to be a blunt, ineffectual and often unconstitutional instrument for migration management in post-apartheid South Africa” (2001, 1). In 1995 and 1996, amendments were made to the Aliens Control Act, which, according to the Deputy Minister of Home Affairs, were meant to “improve control over immigration” (Peberdy 2001, 17). While some of the amendments represented a tightening of requirements, these reforms also indicated an effort to bring immigration policy closer into alignment with the country’s new constitution (which was officially approved in 1996), such as an amendment that altered a previous provision that undocumented migrants could be held in detention indefinitely and without judicial review.

Nonetheless, following the adoption of the final Constitution in 1996, the Aliens Control Act was declared unconstitutional and liable to constitutional review by 2002 (Wa Kabwe-Segatti 2008,
69). This placed the government in a particularly challenging situation in the interim, having to manage migration with the blunt and outdated legal instrument it had inherited, while simultaneously working towards the development of a new legislative framework. This was to prove a long, fraught, and arduous task.

The principal responsibility for the overhaul of migration policy for South Africa fell largely to the Department of Home Affairs, under the leadership of the Inkatha Freedom Party’s (IFP) President Mangosuthu Buthelezi in the context of the post-apartheid Government of National Unity (GNU). In November 1996 the Department appointed a task team to develop a Green Paper on International Migration, which was published in the Government Gazette in May of 1997. Following a process chaired by Dr. Wilmot James, the Green Paper recommended the initiation of two separate but related migration policy streams, one for refugees and asylum seekers, and one for immigration policy, governing migration functions such as the issuance of student visas, work visas, tourist visas and permanent residence permits.

Prior to the development of the Refugees Act, there had already been some important, if insufficient, movement towards the recognition of refugees in the country. In 1991, for example, following the unbanning of the ANC and the release of Nelson Mandela, the South African government signed an agreement with the UNHCR to try to address the issue of the repatriation of South Africans living in exile; other agreements were signed from 1993 onwards between the South African government, the UNHCR and the government of Mozambique regarding the repatriation of Mozambican refugees living in South Africa (Smith 2003, 4; Wa Kabwe-Segatti & Landau 2008, 64). The apartheid government’s policies of regional destabilisation had positioned South Africa as both a producer of political exiles, and as a host to populations fleeing disruption and violence in neighbouring countries.

As the transition from apartheid continued, the South African government signed a Basic Agreement with the UNHCR in 1993, and became party to the 1969 Organization of African Unity Convention on the Specific Aspects of Refugee Problems in Africa in 1995, and the 1951 Geneva Convention relating to the Status of Refugees in 1996. However, until the promulgation of the

3 A Green Paper is a comprehensive discussion document compiled by the South African government to explore a policy issue and make suggestions for policy directions.

4 Dr. James was at this time the Executive Director of the Institute for Democracy and South Africa (IDASA).
Refugees Act, refugee affairs were administered through the mechanisms of the Aliens Control Act. Treatment of refugees before 1998 was thus “regulated by administrative procedures that allow[ed] considerable discretion and abuse” (Barutciski 1998, 701).

The development of new, specific refugee legislation involved widespread consultation and the involvement of state, civil society, and academic actors at the domestic and international level. While the process revealed some conflicting agendas and priorities between the state and civil society actors involved, as well as different normative approaches to realising South Africa’s international and domestic obligations towards the protection of refugees, the result was a largely progressive Refugees Act of 1998, which came into effect in 2000. Unlike almost all its regional counterparts, South Africa’s asylum system rejects campment options in favour of allowing asylum seekers and refugees freedom of movement, along with the right to work and study in the country. The Act was drafted to include administrative checks and balances, as well as avenues for decision appeals to ensure fairness and to prevent refoulement5, including the formation of a Standing Committee for Refugee Affairs charged with reviewing those decisions by Refugee Status Determination Officers that found an asylum claimant’s application to be manifestly unfounded6. While there were very real debates that took place the development of the Refugees Act, existing international laws and norms, along with a new post-apartheid commitment to human rights, played a pivotal role in guiding the development of legislation pertaining to refugees and asylum seekers in South Africa. Nonetheless, the efficacy of South Africa’s new asylum system has been undermined from the beginning by significant gaps between policy and its implementation. This will be discussed in further detail below.

While the Refugees Act had some solid international parameters as guidelines, the Immigration Act represented an entirely different challenge, with a complex range of factors to consider, particularly given the emotive nature of migration debates and the symbolic weight of these debates with regard to nation building narratives and processes. A widespread consultation process towards new immigration legislation began in 1996, but it was not until 2002 that post-apartheid South Africa’s first Immigration Act was passed amidst a maelstrom of controversy. As

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5 Refoulement is the illegal return of an asylum claimant to a country in which his or her life may be at risk, and non-refoulement is a cornerstone principle of international refugee law.

6 A manifestly unfounded claim is one in which the decision-maker believes the claim to be clearly fraudulent.
Vigneswaran writes, “despite significant pressures on government to develop new initiatives and show results, the defining characteristics of immigration policy making over the past decade have been disorder, disunity, and despair” (2011, 129). Given the political changes in the country, immigration legislation could not be tinkered with incrementally, but needed to be overhauled completely. Many political analysts and migrant groups hoped that the new democracy and the coming to power of the ANC would give rise to a more open immigration policy. However, such expectations were “based on the false expectation that the advent of democracy and the change in regime coincided with a change in core national interests, which of course they did not” (Wa Kabwe-Segatti 2008, 74).

Amendments to the Immigration Act of 2002 were announced in 2004. These amendments did not offer a significantly different approach to migration management, making some technical and legal clarifications and simplifying some of the more complex aspects of the 2002 Act, as well as tightening provisions around the issuance and renewal of visitor permits, and tightening control over work-related activities (Crush and Williams 2005, 25). Further amendments to the principal Act in 2007 and 2011 came into force with the release of associated regulations in late May 2014. Amendments were also made in 2011 to the Refugees Act, including a reduction in the validity of the asylum transit permit, from 14 days to five days, giving asylum seekers a much smaller window to present at a Refugee Reception Office once they have entered the country. While the Refugee Amendment Act extends some rights, many of the amendments appear to be much more about tightening up perceived loopholes in current migration legislation, rather than offering any fundamentally different approach to the management of migration.

Despite the contention and confusion that have characterised migration policy making processes in post-apartheid South Africa, there have certainly been some important advances. Post-apartheid immigration legislation, for example, included much greater attention to due administrative process, including the removal of administrative discretion in decision-making, requirements of written notice of administrative decisions, and associated rights of appeal against arbitrary decisions. Importantly, it also outlined clear, legislated limits to detention times for undocumented migrants. The Act introduced increased mechanisms for the migration of skilled labour into the country, through various new visa and permit types. Moreover, the 2002 Act contained explicit calls for the rooting out of xenophobia both within communities and the state (though there has
been little evidence that such campaigns have garnered much traction or attention, let alone results). However, immigration legislation has left almost no room for the migration of unskilled labour into the country, and has retained a strong emphasis on both the deterrence of undocumented migration, and enforcement mechanisms for dealing with undocumented migrants.

In southern Africa, there have been significant discussions regarding the development of a regional approach to managing human mobility. Such discussions have largely happened at the level of the Southern African Development Community (SADC), a regional bloc with fifteen member states. In the mid-1990s, a “Draft Protocol on the Free Movement of Persons” was put forward at SADC, but no agreement was reached. This was replaced by a significantly watered-down “Draft Protocol on the Facilitation of the Movement of Persons in SADC.” However, this protocol requires two thirds of the SADC states to ratify it, which has yet to happen. Those who argue in favour of a regional approach point out that even where there is strict migration legislation and substantial amounts of money spent trying to secure borders, migration happens anyway, especially with a border as long and porous as South Africa’s. When driven by political and economic insecurity, people who are often already vulnerable will take further risks that endanger their safety and security. A legal mechanism allowing SADC residents to cross borders could help regulate the flows of people, while allowing people to enter the country more safely. It would decrease the burden on South Africa’s detention and deportation regime, which is costly, largely ineffective, and rife with systemic abuse and rights violations. A legal mechanism for regional work-seekers could mean less strain on the asylum system. Advocates also argue that encouraging regional migration can bolster the economic growth of the region, lessening regional inequalities. However, important questions remain about who would manage such a regional migration regime.

In a sense, the regional management of migration requires governments to transfer some of their own powers from the state level to the regional level, which states are often reluctant to do. The SADC also experiences significant financial and institutional challenges, and there are important, complicating differences in financial and political security among member countries. There are also strong public sentiments in some countries against immigration of any kind, making it a politically sensitive and difficult issue.
Main Actors

A wide range of organisations and actors are involved in issues of human mobility in South Africa, including various government departments at municipal, provincial and national levels, research and academic institutions and a range of non-governmental and civil society actors. This section is by no means an exhaustive list, but rather offers a broad overview of some of the main organisations and institutions involved in migration debates and migration management in the country.

The issues raised by human mobility cut across the various levels of government, and they also cut across various departments within those levels of government. This is part of what makes the governance of migration so deeply complex and challenging. In South Africa, the Department of Home Affairs is the central actor at the national level, with responsibility for the management of immigration and the asylum system, as well as core civic affairs functions. The Department of Labour is another pivotal state actor, as is the South African Police Service (SAPS). Home Affairs is also part of the South African government’s “Justice, Crime Prevention and Security Cluster,” which also includes Justice and Constitutional Development, the Police, Correctional Services, Defence and Military Veterans, and State Security. However, coordination among these departments and among different levels of government remains weak, and the implementation of migration policies is beset with difficulties, as explored in the following section.

South Africa is also home to various research and academic initiatives related to migration, such as the African Centre for Migration and Society (ACMS), based at the University of the Witwatersrand in Gauteng. Researchers at this centre, formerly known as the Forced Migration Studies Programme, continue to produce important migration-related research with relevance in South Africa and much further afield. The Southern African Migration Project (SAMP), based at Queen’s University in Canada, is another key producer of migration knowledge for South Africa and other southern African countries. Other research institutes with some interest in issues of human mobility include the Centre for Development and Enterprise (CDE), the Human Sciences Research Council (HSRC), the Centre for the Study of Violence and Reconciliation (CSVR), the South African Institute of Race Relations (SAIRR), and the Centre for Conflict Resolution (CCR). The Scalabrini Institute for Human Mobility in Africa (SIHMA), based in Cape Town, is the
newest addition to this research landscape, as part of an international network of Scalabrini migration research and study centres.

There is also a relatively vibrant and robust civil society in South Africa, rooted in its own, particular history. Prior to the transition to democracy, civil society was largely united in the struggle against apartheid, but following the ANC’s coming to power in 1994, state-civil society relations were to a large extent conciliatory and cooperative. Towards the end of the 1990s and into the early 2000s, however, a more contentious or adversarial civil society began to re-emerge in South Africa, particularly around issues such as HIV/AIDS, education, services, and housing. New legal frameworks (including the constitution, the Refugees Act, and various international conventions) also allowed civil society organisations working on issues of human rights and migration, and particularly asylum seeker and refugee rights advocacy organisations, to organise and emerge in the post-apartheid years. Currently, civil society organisations engage in issues of human mobility at various levels, from local to national and international. Some organisations played an important role in terms of informing refugee policy debates and policy formulation processes, while others have been involved in ongoing efforts to define, expand, and uphold the rights associated with refugee and immigration policy.

At a national level, organisations such as Lawyers for Human Rights and the Legal Resources Centre have played critical roles in both policy debates and litigation around the rights of migrants in the country. Also at a national level, the Consortium for Refugee and Migrants in South Africa (CoRMSA) represents a consortium of approximately 25 member organisations from across the country (including non-governmental organisations, research units, legal practitioners, and refugee and migrant associations), with the aim of strengthening partnerships and coordination among organisations. South Africa also has a significant faith-based sector engaged in issues of human mobility and protecting the rights of migrants, such as the work of the Scalabrini order, the Catholic Parliamentary Liaison Office, the Jesuit Refugee Service, and the Methodist Church of South Africa. While some organisations take a grassroots, activist approach and others a legalistic approach, still others are engaged largely in the provision of services for migrants, refugees and asylum seekers. There are also many active organisations or associations of various sizes, comprised of migrants and refugees themselves. International human rights non-governmental
organisations which have been involved in migration issues in South Africa include, for example, groups such as Human Rights Watch and Amnesty International.

International organisations such as the International Organisation for Migration (IOM) and the International Labour Organisation (ILO) are also involved in South African migration debates, as are United Nations (UN) bodies such as UNICEF and the United Nations High Commission for Refugees (UNHCR). The UNHCR has a range of implementing partners across the country, as well as relationships with operational partners, including a cross section of relevant government agencies and departments.

**Issues in the Governance of Migration: Implementation Challenges**

Despite important advances in the legal and policy frameworks of migration governance in South Africa since 1994, the effective implementation of policy remains a very serious challenge. Rights violations in the state’s management of human mobility are, unfortunately, systemic and well-documented. The institutions and administrative structures required to effectively implement the Refugees Act have consistently fallen short of what is needed to meet South Africa’s legal obligations and to uphold and protect the rights of asylum seekers and refugees, while under the Immigration Act, the country is grappling with issues such as significant numbers of undocumented migrants, and an associated robust detention and deportation regime that also routinely violates migrants’ rights. This section can only provide the broadest of overviews of a few select issues that illustrate the scope of such challenges, including systemic barriers in both accessing and navigating the asylum system, key challenges in the detention and deportation regime, and contemporary shifts in *de facto* policy that are undermining or violating the rights of migrants in South Africa.

**Institutional and Administrative Barriers**

Institutional and administrative barriers faced by asylum seekers are widespread and take numerous forms. The asylum system, like the immigration system, is administered by the Department of Home Affairs, a historically under-capacitated and troubled department with the dubious reputation amongst civil servants of being the “employer of last resort” (Vigneswaran 2008, 795). Inexperience in dealing with asylum seekers and refugees, historically low levels of departmental capacity, and the lack of resources and political priority placed on the management
of asylum in South Africa, have combined with unexpectedly high numbers of new asylum seekers to create a system characterised by inefficiencies, backlogs, and lengthy delays in status determination and appeals processes, poor decisions, and opportunities for corruption throughout.

Obstacles to even the initial steps of gaining access to the system and filling a claim can be formidable, and for some, insurmountable. Despite tens of thousands of new asylum applicants per year, and the continued administrative needs of all existing claimants, there are currently only three remaining Refugee Reception Offices (RRO) in operation in South Africa. These are located in Musina, Tshwane (Pretoria) and Durban, after the Department of Home Affairs’ highly contested closures of RROs in Johannesburg, Port Elizabeth and Cape Town in 2011 and 2012. These closures were undertaken as part of the Department’s new unofficial policy direction to move all refugee reception functions to the northern land borders of South Africa, though there remains much confusion surrounding this proposed direction, including legal challenges to these RRO closures. Since the closures, all new asylum seekers looking to access the system in Cape Town, for example, must instead apply at one of the three remaining RROs, which are all over 1,000 kilometers away. Applicants must then return to that office for all subsequent procedures related to their claim. For many asylum seekers, this is not feasible financially, and often logistically impossible, particularly given the kinds of delays and inefficiencies of the current system. This places migrants at increasing risk, in terms of documentation, deportation, and potentially, refoulement.

While access to RROs can be difficult or impossible for many asylum seekers and refugees inside the country, others are denied even this possibility, having been turned away at the borders based on the illegal practice of group exclusion, in which individuals are denied entry into South Africa based on their nationality alone. While the Refugees Act of 2008 explicitly states that no asylum seeker may be denied entry at a border post, a 2011 report by IRIN, for example, points to the a priori rejection by border officials of Somalis and Ethiopians seeking entry to apply for asylum in South Africa, while a joint 2013 report by ACMS and Lawyers for Human Rights (LHR) documents the denial of entry at the Beitbridge and Lebombo border posts between March 2011 and July 2012 of Zimbabwean asylum seekers without valid travel documents (IRIN 2011; Polzer

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Preventing asylum seekers from accessing protection is not only a violation of domestic law and customary international law, but the denial of entry may also put some asylum seekers at risk of *refoulement*. This kind of *a priori* group exclusion is a contemporary illustration of the ongoing ad hoc management of migration, irrespective of the relationship between the directive, or *de facto* policy shift, and the law. Such decisions may be based on misunderstandings of international law, in particular a misinterpretation of the first or third safe country principle (Amit 2011; Polzer Ngwato 2013, 21).

Research conducted by the ACMS has shown that asylum seekers who do enter the country and are able to access Refugee Reception Offices often face a host of further administrative challenges that compromise the integrity of the asylum system and the ability of South Africa to meet its obligations under international law. A survey of over 1,400 asylum applicants in late 2011 and early 2012 showed, for example, that almost two thirds of respondents did not receive asylum seeker permits the first time they presented at a Refugee Reception Office (RRO); that on average, an asylum seeker or refugee required three visits to resolve a single issue; that 53% of respondents reported having to spend the night outside an RRO to gain access; and, that some RROs are refusing to allow access to individuals who do not possess an asylum transit permit, in clear contravention of refugee law (Amit 2012b, 10).

Furthermore, asylum seekers arriving at RROs in South Africa often have very little understanding of what the asylum system entails and how to navigate their way through the system, but research demonstrates that many receive very little, if any assistance, from officials regarding explanations of the requirements of the application process (Amit 2012, 11). Further challenges include: inadequate translation services; difficulties in renewing asylum permits and replacing lost or stolen permits; the risks created by the practice at some RROs of fining for expired or lost permits (leaving many individuals who are unable to pay undocumented and at risk of *refoulement*); and significant issues of corruption at RROs, such as incidents of asylum seekers being forced to pay officials to gain access to RROs or to obtain services (Amit, 2012, 11). The quality of decisions taken by Refugee Status Determination Officers (RSDO) is also called into question, with RSDOs spending an average of 17 minutes with an applicant to determine his or her refugee status, though

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8 Valid travel documents are not required for individuals intending to register an asylum claim.
over half of these interviews lasted less than 15 minutes; three quarters of the survey respondents reported that “what was written in their status determination decisions did not adequately reflect the information they provided during the interview,” yet more than half of the respondents said they did not understand how to appeal their asylum claim decision (Amit, 2012, 12). The wait times for status determination decisions can also cause considerable challenges for those attempting to navigate the asylum system. The Refugees Act provides for the processing of asylum claims within 180 days of receipt, but in practice, processing times for asylum decisions, as well as for appeals or reviews of rejected applications, can take years, largely due to the existence of formidable backlogs.

**Detention and Deportation**

The Lindela Detention Centre, in Krugersdorp, Gauteng, is the hub of South Africa’s extensive detention and deportation regime, where irregular migrants are detained until being repatriated to their home countries. This regime is illustrative of the substantial gaps between immigration policy and its implementation, and highlights the negative, and sometimes dangerous, implications of the state’s securitised and control-oriented approach to migration management. The detention and deportation regime is expensive, ultimately ineffective, and routinely violates the rights of migrants, including refugees and asylum seekers. The reliability of deportation statistics is questionable, particularly given that the same individual can be deported multiple times in a year. However, Home Affairs data shows that there have been approximately 2.8 million deportations between 1994 and 2008, with over one million deportations occurring between 2005 and 2008 alone (Segatti & Landau, 2011, 158). The DHA data shows that subsequently, there was a significant drop in deportations, almost certainly due to the temporary moratorium on the deportations of Zimbabweans which was associated with the attempted Zimbabwean documentation processes, as discussed above. However, deportations resumed in October 2011, and once again, thousands of Zimbabweans are being deported regularly from the country (Budlender, 2013, 34). It is not uncommon for asylum seekers or refugees to be caught in the state’s wide detention and deportation net, but other undocumented migrants, including tens of thousands of Zimbabweans,

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9 Sutton and Vigneswaran note that “the average applicant waits 640 days before sitting an interview with a Refugee Status Determination Officer. For some, the period of limbo and waiting does not end here. About 1 in 6 applicants waits a further year before receiving a decision on their status. Many then wait further periods in the appeals process” (2011, 633).
are also subjected to a system that often strays considerably in practice from the legislation and official policies meant to guide it.

Many undocumented migrants who are detained and deported simply return to South Africa as soon as possible, across the same porous borders. Indeed, Everatt (2010, 11) has characterised the process as being “essentially a revolving door whereby migrants can be back in South Africa within 24 hours of being repatriated”. This is particularly true for Zimbabwean migrants in South Africa. The detention and deportation regime also highlights the conflation that occurs in the implementation of specific aspects of the Immigration Act of 2002 and the Refugees Act of 1998. The merging in practice of what were designed to be two separate management frameworks has meant that individuals who ought to be protected under the provisions of the Refugees Act are instead subjected to the more punitive detention and deportation provisions of the Immigration Act, once again leaving asylum seekers and even documented refugees vulnerable and at significant risk for *refoulement*. Under the Refugees Act, asylum seekers and refugees must not be detained for the purposes of deportation, and therefore cannot legally be detained at Lindela, however, the DHA routinely ignores this differentiation, resulting in the detention of individuals who should be protected under the provisions of the Refugees Act (Amit, 2012c, 8).

A 2012 case review of 90 legal cases brought against the Department of Home Affairs by the NGO Lawyers for Human Rights over 23 months between 2009 and 2010 reveals a range of violations under the Refugees Act, including, among others, arrest of asylum seekers at the border; arrest of asylum seekers who enter with false documentation; arrest despite a stated intention to apply for asylum; denial of protection to asylum seekers whose asylum permits expired while in hospital or in police custody; the sending of asylum seekers to Lindela directly from prison; the arrest of asylum seekers with valid asylum permits; and, the arrest of refugees with valid refugee permits (Amit, 2012c, 9). The research findings also cite violations of the terms of the Refugees Act for existing and would-be asylum seekers inside Lindela, including a substantial list of violations of administrative justice, such as coercing detainees to sign notices of deportation or forms they did not understand, and detaining individuals beyond the legally allowable 120 day maximum (Amit, 2012c, 10). Sutton and Vigneswaran (2011, 633) also note that “many of the detainees are arbitrarily and illegally denied access to the outside world,” citing survey data which shows that many detainees do not even have access to a phone and of those that do, most do not have sufficient
money to make a call. The current system also leaves considerable room for corruption, with bribes regularly paid by migrants to officials to avoid arrest, or to get out of jail (Sutton and Vigneswaran, 2011, 634).

**Formal and Informal Policy Shifts**

The innate complexity of effectively managing the movement of people in South Africa has been further complicated by the implications of policy failures since apartheid, including a concomitant hardening of attitudes against migrants, as undocumented migrants as well as refugees and asylum seekers are increasingly framed within both state and society as blatant abusers of the system. The direction of migration management in South Africa is also still characterised by a general climate of uncertainty, stemming not just from the lack of regulations, informal policy directives, and lack of implementation of existing legislation, but also by the lack of a clear direction moving forward with regards to migration management priorities in South Africa. In the interim, however, a number of *de facto* policy shifts have become apparent in the state’s current management of migration, particularly in the refugee and asylum seeker stream.

Many of these shifts have raised significant concern for asylum seekers and refugees, along with many civil society actors and academics working in this field. A 2013 report co-authored by Lawyers for Human Rights and the ACMS, for example, draws attention to the fact that many of the shifts in practice have transpired ahead of explicit policy documents and statements of strategic intent, arguing that,

> where strategic aims have been identified, there is either no evidence that the problem exists to a significant degree (such as asylum seekers posing a security threat to South Africa), or there is no logical connection between the problem and the proposed solution (Polzer Ngwato, 2013, 13).

Many of the practices emerging ahead of formal policy shifts are in contravention of either domestic or international law, or both, and the report chronicles a number of cases in which the DHA is “acting against and in contempt of specific court orders” (Polzer Ngwato, 2013, 13).

Along with practices of group exclusion and access barriers, as discussed above, one recent shift in the state’s approach to the management of asylum includes renewed discussion around the limitations of basic rights of asylum seekers, including the right to work and study. However, the
right for asylum seekers to work and study was not easily won, having been established in a Supreme Court of Appeal decision in 2003,\textsuperscript{10} which found that a policy denying the right to work and study for asylum seekers unlawfully violated the conditions for having a dignified life (Handmaker, 2009, 174). There are, however, indications that the DHA and the ANC are considering attempting to revoke these rights, including a series of statements to this effect made by Home Affairs officials, including the Director of Asylum Seeker in the DHA, Lindile Kgasi, and wording in the ANC’s 2012 Peace and Stability policy discussion document which not only suggests that “work and study permits with limitations will have to be applied for under the immigration act” but also questions asylum seekers’ rights to be self-employed in informal trading (ANC, 2012, 6; Polzer Ngwato, 2013, 34). This document questions whether by-laws regulating informal trading and small shop (spaza) ownership should apply equally to asylum seekers and citizens, noting that informal trading “should not be legal under the Refugees act given that asylum seekers are persons whose status has not been determined” (ANC, 2012, 6). Partly, these restrictions appear to be rooted in a conflation by policy makers of refugees, migrants, and undocumented migrants, and a sense that all migrants are generally abusing or taking unfair advantage of the systems and rights in place.

Finally, ongoing violence against foreign nationals living in South Africa, especially those from other African countries, has drawn attention to the stark disconnection between the formal rights and protections afforded to migrants by the state, and competing values and norms within society. While suspicion and hostility towards foreign nationals, or those perceived to be “others,” is by no means a new phenomenon in South Africa (and, of course, finds expression in many parts of the world) its recent expression in South Africa has proven to be particularly hostile and violent, especially since the advent of democracy in the country. Xenophobic violence in South Africa reveals deep and entrenched weaknesses in the new democracy and raises important questions about not only the state’s willingness, but perhaps more importantly, the state’s capacity, to design and implement a migration management regime that meets its constitutional and international legal obligations.

\textsuperscript{10} “Minister of Home Affairs and others vs. Watchenuka and another” Case No. 2004 (4) SA 326 (SCA).
Conclusion
South Africa, like many parts of the world, experiences high levels of human mobility as people move to, from, and within the country in significant numbers. However, the particular confluence of South Africa’s own social and political history has meant that the country experiences important obstacles in managing migration effectively. It has meant that for many migrants, refugees and asylum seekers, the rights that are formally protected on paper are certainly not always protected in practice. Indeed, the often significant gaps between policies and practices, between the formal guarantee of rights and the capacity of migrants to exercise those rights, is one of the most pressing issues facing migrants in the country.

The gap between policies and practice is exacerbated by a lack of political will, and by deep-seated capacity and resourcing issues in migration governance in South Africa, particularly within the Department of Home Affairs, a chronically under-resourced and under-capacitated Department. With the end of apartheid and the transition to democracy, legislation was revised and redrafted to meet new international and domestic imperatives, but the associated training and resourcing required for the effective implementation of the country’s new legislative framework has been lacking from the beginning. The political will to provide such resourcing is also questionable, particularly within the context of the myriad unmet basic needs of many South African citizens. For many policy makers and citizens alike, migration largely continues to be conceptualised as a zero-sum game, in which migrants are simply taking advantage of an overly lenient system, at the expense of South African citizens. While to date, there has been no repetition of the scale of violence against migrants that shook the nation in May 2008, resentment continues to simmer just below the surface in many parts of the country. Incidents of violence against foreign nationals are a regular occurrence, many of which are never reported or are framed by the police and the state not as xenophobic violence, but rather as more straight-forward criminality.

In the meantime, the policy environment governing migration appears to be tightening, with an increased emphasis on security and control. This is true of not only legislation, but is also true of the *de facto* policies and directives that actually effectively shape the way in which the movement of people in South Africa is governed. The chronic under-resourcing and mismanagement of the asylum system and systemic violations of migrants’ rights in both the immigration and asylum
streams undermines the South African state’s commitments to the effective, rights-upholding management of human mobility.

While more academic attention has been paid to issues of human mobility in South Africa than in many of its regional neighbours, many aspects of migration remain under-researched and under-theorised. In particular, issues of data availability and reliability remain an ongoing challenge for both migration researchers, and also for policy-makers, who have often found it difficult to find evidence upon which to base their migration policy decisions. As Segatti and Landau (2011, 145) note, “the difficulty they have found in doing so reflects the way in which migration data are collected and the tense and complex relationship policy makers have often had with researchers and experts.” Given the very nature of human mobility, with all its variations and complexities, the accurate measurement of migration patterns, flows, numbers and motivations is enormously challenging. Human mobility issues are also often deeply sensitive, political and politicised, and even existing data can be easily over-looked in policy decisions. Nonetheless, the availability of better, richer and more reliable migration statistics would undoubtedly be beneficial for both policy makers and advocates of improved migration governance.

There remain significant research gaps in terms of understanding both the impacts and potentials of human mobility in South Africa. For example, while some work has been done in these areas, further research could help shed further light on patterns of both international and domestic mobility and settlement, remittance flows and figures, the economic contributions of migrants within and across a range of socio-economic contexts, issues of migrants’ access to health care, the special requirements of unaccompanied minor migrants, the myriad impacts of South Africa’s detention and deportation regime, and the administrative processes and impacts of cessation. Future research could also continue to explore and theorise the existence of such obvious and abundant gaps between policies, as they are written, and the actual practices of
migration governance. While there has been much research and thought directed towards questions of xenophobia in South Africa, including its complex causes and consequences, there has also been much less research directed towards questions of how best to counter and defuse such sentiments, and how best to work towards a positive re-conceptualisation of migration that acknowledges its potential benefits not just for individuals, but for sending and host countries alike.
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