

Southern African Migration Project

Criminal Tendencies: Immigrants and Illegality in South Africa

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1.0 Introduction

- 1.1 South Africans believe that immigrants are largely responsible for the post-1994 crime wave in the country. In a national survey of South African citizens conducted recently by the Southern African Migration Project (SAMP), for example, respondents were asked what, if anything, they had to fear about people from neighbouring countries (McDonald 2000: 209). Almost half the population (48%) felt that migrants were a “criminal threat” (compared to 37% who thought they were a threat to jobs and the economy, and 29% who thought they were a health threat). The simplistic, and largely unsubstantiated, association of foreignness with criminality, job-stealing and disease is echoed in the rhetoric of state and the media. Danso and McDonald (2001), for example, show how the reporting of immigration is suffused with the notion that South Africa’s crime problem is largely the fault of the foreigner.
- 1.2 At the official level, a causal relationship between migration and criminality is often assumed to be self-evident. Crime statistics for police operations regularly report the apprehension of “illegal immigrants” in the same breath as arrests for armed robbery, car-jackings and rape. Officials and politicians from all parties subscribe to a discourse in which foreignness and criminality are assumed to be closely correlated. Undocumented migrants are not only criminals by virtue of their unauthorized presence in the country but are by definition also engaged in other forms of crime. The ANC’s ex-Director of General of Home Affairs made the extraordinary claim before Parliament in March 2002, for example, that “approximately 90% of foreign persons, who are in the RSA with fraudulent documents, i.e. either citizenship or migration documents, are involved in other crimes as well... it is quicker to charge these criminals for their false documentation and then to deport them than to pursue the long route in respect of the other crimes that are committed” (Masetlha 2002).
- 1.3 The data to support or contest the “self-evident” association between migration and criminality is not available, either to those who make the claims or to the authors. However, it is possible to subvert the simplistic idea that migrants from other countries in Africa (and particularly neighbouring countries) are, by definition, a criminal threat. The first point to make is that migrants themselves are generally extremely apprehensive about crime in South Africa. Migrants are certainly more nervous than citizens about the crime situation in South Africa. Why, if migrants are uniquely responsible for crime, should they be so worried about the criminal? In one SAMP study, a sample of migrants in South Africa were asked to compare standards in their home country with those in South Africa. As many as 86% said that the crime situation was better at home, with only 4% saying that things were worse there (McDonald 2000: 183). Their apprehensiveness is born of personal experience; as many as 42% said they had been robbed, 24% had been harassed and 23% assaulted (McDonald 2000: 281).

- 1.4 The second point relates to the commonplace idea that South Africa is being inundated by unwanted immigrants, refugees and migrants. There can be little doubt that few South Africans want foreigners in the country (Crush 2001). But is this because the country is really under siege? Do the metaphors that accompany official and media depictions of migration (tidal waves, floods, being swamped) have any basis in reality? Here there is an unfortunate association with the discourse of crime. What better image can there be than the idea that a crime “wave” is caused by a “flood” of immigrants? All of these aquatic metaphors should be consigned to a watery grave, along with the fallacious figures on which they are based.
- 1.5 The third point is that migrants are usually spoken about in highly generalized language which fails to recognize the complexity of the migration phenomenon and the manifold distinctions between different kinds of migrants and immigrants. If every non-citizen in the country is made to carry the pejorative label of “alien” or “foreigner” or “makwerekwere”, it is a small step to the conclusion that they must be up to no good. This brief therefore aims to disaggregate “migration” to show the variety and complexity of migration streams to post-apartheid South Africa. If any conclusions are to be drawn about the relationship between migration and crime, this is an essential first step. In other words, different categories of migrants are inherently more likely than others to be vulnerable to crime; as victims or perpetrators. It is therefore critical to understand these distinctions at the outset. While the variety and complexity of migrant movements to South Africa has increased significantly with the collapse of apartheid, the majority of these streams, and their participants, have no obvious connection with or interest in crime.

2.0 Streams of Migration

- 2.1 As in the past, most migrants are still from South Africa’s immediate neighbours— Mozambique, Lesotho, Zimbabwe, Malawi, Swaziland and Botswana. The precise numbers are not known although they have clearly increased since 1990. It is also clear that since the end of apartheid, migrants from virtually every other African country have disembarked in South Africa, sometimes via other SADC countries. The main countries are Angola, DRC, Nigeria, Ghana, Ivory Coast and Senegal.
- 2.2 Although many aspects of contemporary patterns of migration resonate with South Africa’s long history of cross-border movement, traditional patterns of movement are changing. A Mozambican migrant may be taking the same roads as his father, and even grandfather, but for different reasons and to different destinations. And, as important, our Mozambican migrant may well be a woman. A computer engineer from India may look like an Indian labourer who arrived in the 1890s but the reasons and logic for being here are very different. Even those arriving to work in the same sector, for instance mineworkers, may find the conditions of work are now fundamentally different – so different that they shape how miners migrate. Underpinning these changes are shifts in

the priorities and policies of the South African state (Peberdy 2001; Crush and McDonald 2001). However the changing patterns of post-apartheid migration cannot just be laid at the door of the government and policy makers.

- 2.3 A 1998 SAMP survey provided important insights into the complexity of contemporary motivations for migration to South Africa, and how these motives vary from country to country and by gender. Table 1 indicates that nearly 70% of Mozambican migrants going to South Africa are labour migrants (defined as those going to work or look for work). In the case of Zimbabwe, only 29% are labour migrants (with 42% going to trade and/or shop). In the case of Lesotho, only 25% are labour migrants with 34% going to visit family and 19% to shop. Botswana has the lowest rate with only 10% being labour migrants. Family visiting is extremely important for Botswana, Lesotho and Zimbabwe, an indication of longstanding cross-border familial ties.
- 2.4 Another very visible trend is the growth in the numbers of non-national entrepreneurs from the region and elsewhere in the informal and formal retail sector South Africa (Peberdy and Rogerson 2000). These trade dynamics have also seen a growth in short term migration by small entrepreneurs involved in what is usually called informal sector cross-border trade (Peberdy 2000a, 2000b, Peberdy and Crush 2001). While many of these traders may “break the law”, in that there are no legal mechanisms for legitimate trade to take place, to label them as criminals would be to malign an extremely industrious and hard-working group of small entrepreneurs.

Reason for Entry	Botswana	Lesotho	Mozambique	Namibia	Zimbabwe
Work	7	17	45	11	15
Look for work	3	8	22	2	14
Business	6	2	2	8	7
Buy/sell goods	2	3	2	2	21
Shopping	24	19	4	1	21
Visit family	23	34	12	13	39
Medical	5	6	4	4	2
Holiday	14	2	5	19	3
Study	3	1	1	3	2
Other	12	8	2	12	3

Source: SAMP database

The complexity of the migration equation can also be viewed through the lens of a typology which uses official classifications to distinguish several migration types. These include (a) immigrants (permanent residents); (b) migrants (temporary residents); (c) contract workers; and (d) refugees and asylum seekers. In addition, the cross-cutting role of gender needs to be highlighted since the migration motives and opportunities of male and female migrants differ markedly.

3.0 Immigration and Permanent Residents

3.1 The apartheid state made every effort to encourage white immigrants prior to its demise in 1994 (Peberdy 1999). The latter years of National Party government also saw the beginnings of immigration from Taiwan, Israel and the Indian sub-continent. However the thrust of formal immigration remained white immigrants from ex-colonial countries or from Europe. As Table 2 shows, there has been a significant decline in the number of people being granted permanent residence since 1994. This is most evident amongst Europeans but applies across all areas. While the fall in the number of immigrants may, in part, reflect a decline in confidence in moving to a post-apartheid transitional South Africa it is difficult to see this as the only, or even primary, reason.

Year	Legal Immigrants	African Immigrants
1990	14,499	1,628
1991	12,379	2,065
1992	8,686	1,266
1993	9,824	1,701
1994	6,398	1,628
1995	5,064	1,343
1996	5,407	1,601
1997	4,102	1,281
1998	4,371	1,169
1999	3,669	980

Source: DHA annual reports

For instance, it is difficult to see why applications to immigrate to South Africa from the rest of Africa should have declined since 1991. Other evidence suggests that there has been an increase in interest in moving to South Africa from the rest of the continent. This stasis in documented immigration from the rest of the continent indicates a shift in policy and implementation of legislation towards a more restrictive “fortress” stance (Crush 1999a, Mattes et al 2002). The new Immigration Act promises a new approach to skilled immigration, but it remains to be seen whether this contentious and confused piece of legislation will effect any significant change (SAMP 2002).

- 3.2 The majority of post-apartheid “immigrants” possess skills that are in short supply in South Africa. Most are in gainful employment in the public and private sectors. In general, therefore, the post-apartheid legal immigrant is far more likely to have been a victim of crime than a perpetrator.
- 3.3 South Africa’s immigration amnesties of the 1990s also legalized the status of many non-citizen residents of the country. There were amnesties directed at three different categories of temporary resident: (a) migrant mineworkers; (b) SADC country citizens who had been living “illegally” in South Africa for more than 5 years; and (c) ex-Mozambican refugees resident in South Africa. In each case, the granting of permanent

residence required that the applicant did not have a criminal record. How many applicants were turned down on these grounds is unknown. Significantly, however, large numbers of migrants in each category did not full foul of this requirement. They included 51,000 miners; 201,000 SADC country undocumented migrants; and 140,000 ex-Mozambican refugees (Crush and Williams 1999, Johnston 2001).

4.0 Migration and Temporary Residents

- 4.1 People also enter South Africa legally as temporary residents on various types of permit: business, holiday, study, work, contract workers, and border passes (Table 3). The patterns of permit issue vary for different categories. The number of visitors permits issued has increased steadily since 1994, for visitors from overseas as well as for visitors from the rest of Africa and the region. The most significant increase has been in the issue of “holiday permits” (from under 3 million in 1992 to nearly 5 million in 1999). Certainly there has been a steady increase in the number of holiday permits issued to people from overseas (particularly North America and Europe) indicates the growth in tourism from these countries.
- 4.2 A similar expansion in the issue of permits to visitors from the rest of Africa, may in part suggests a growth in continental tourism, but it also points to the expansion and consolidation of South Africa’s economic relations with the rest of the continent, including southern Africa. Small entrepreneurs involved in cross-border trade, and particularly those who come to South Africa to source goods to sell in their home countries usually travel on visitors permits as they find it hard to qualify for business permits. Thus, the increase in the issue of visitors permits to people from the region, and to a lesser extent from the rest of the continent, reflects a change in trading patterns and the growth in small and medium entrepreneurs involved in formal and informal cross-border trade.

Year	Business	Holiday	Study	Work	Contract	Passes	Transit	Other	Total
1992	475,131	2,891,271	24,075	13,870	174,660	42,232	134,463		3,750,038
1993	655,618	3,358,153	31,750	78,276	181,550	45,241	147,581	4,283	4,833,317
1994	761,231	3,896,547	28,695	70,002	157,589	88,448	162,445	2,627	5,624,415
1997	601,167	4,002,534	45,092	86,118	107,681	143,964	166,418	17,302	8,132,499
1998	676,521	4,731,046	51,737	81,442	84,755	110,608	149,557	12,570	9,306,681
1999	576,401	4,990,566	50,130	74,129	61,443	113,053	151,580	8,784	9,892,403

- 4.3 Conversely, there has been a decline since 1994 in the number of people entering legally on work permits (Table 4). Labour market evidence suggests that there has been no decline in demand for skilled workers—the people who most often qualify for work permits (Jenkins 2002, Borat and Poswell 2002). While there has been a massive loss of jobs as the South African economy “restructures”, these have been primarily in unskilled and semi-skilled categories. At the same time South Africa has been losing skilled workers to emigration (McDonald and Crush 2002). Emigration and labour

market restructuring have therefore led to a shortage of skilled workers across the economy. Hence, the fall in the issue and re-issue of temporary work permits has very little to do with labour market demand and everything to do with government policy. Employers have found it more and more difficult to hire abroad, even temporarily, and foreign workers find themselves enmeshed in Home Affairs red tape (Rogerson and Rogerson 2002). Again, the new Immigration Act promises a change in attitude, policy and mechanism, but it remains to be seen what will happen in practice.

Year	New Work Permits	Renewals	Total
1990	7,657	30,915	38,571
1991	4,117	32,763	36,880
1992	5,581	33,318	38,899
1993	5,741	30,810	36,551
1994	8,714	29,352	38,066
1995	11,053	32,838	43,891
1996	19,498	33,206	52,704
1997	11,361	17,129	28,490
1998	10,828	11,207	22,035
1999	13,163	10,136	23,299
2000	6,643	9,191	15,834

Source: DHA annual reports

4.4 Many sectors and individual employers show a distinct preference for non-South Africans. The service and domestic work industries in Gauteng, for example, employ significant numbers of Central Africans. Sectors, that are traditional employers of regional labour (e.g., mining, construction, agriculture), continue to prefer non-South African labour. This means that in the case of mining and some areas of commercial agriculture, foreign migrants can enter the country legally and work legally. In the case of other sectors, there are no legal mechanisms for entry so workers and employers must connive. In effect, South African law “criminalizes” a Mozambican working in the construction sector but not his brother in the same town working in the mining industry. The problem here is inconsistency in the law. Studies of deportees from South Africa suggest extremely high levels of employment amongst non-South Africans in the country (Crush 1999b). In other words, it is far from self-evident that foreign migrants are marginalized in the labour market to the point where criminality becomes the only survival option.

5.0 Contract workers

5.1 Contract migration for the mines between Botswana, Lesotho, Mozambique, Swaziland and South Africa is a legal entry/legal stay form of labour migration. It is the best-documented because the South African mine recruiting company, TEBA, keeps very good employment records and makes the data available (Table 5). All contract miners are also recorded at the port-of-entry by South African immigration officials.

- 5.2 The data sources show various important trends over the last decade including: (a) consistent downsizing in the mine workforce through mine closures and retrenchments from the late 1980s to the present, down from 376,000 in 1990 to 230,000 in 2000; (b) a growing proportion of the mine workforce is non-South African (up from 40% in 1985 to 47% by 1990 to nearly 60% by late 1990s); (c) a loss of over 100,000 South African jobs between 1990 and 2000; (d) a similar proportional decline in employment levels for some foreign suppliers (e.g. Lesotho down from 100,000 to 58,000); and (e) increased employment for Mozambicans on the mines. More Mozambicans were employed in 2000 than in 1990 (57,000 v 45,000). The proportion of Mozambicans on the mines has increased from 12% to 25% i.e. a quarter of all miners are now Mozambicans.

Year	South Africa	Botswana	Lesotho	Mozambique	Swaziland	% Foreign	Total
1990	199,810	14,609	99,707	44,590	17,757	47	376,473
1991	182,226	14,028	93,897	47,105	17,393	49	354,649
1992	166,261	12,781	93,519	50,651	16,273	51	339,485
1993	149,148	11,904	89,940	50,311	16,153	53	317,456
1994	142,839	11,099	89,237	56,197	15,892	55	315,264
1995	122,562	10,961	87,935	55,140	15,304	58	291,902
1996	122,104	10,477	81,357	55,741	14,371	58	284,050
1997	108,163	9,385	76,361	55,879	12,960	59	262,748
1998	97,620	7,752	60,450	51,913	10,336	57	228,071
1999	99,387	6,413	52,188	46,537	9,307	54	213,832
2000	99,575	6,494	58,224	57,034	9,360	57	230,687

Source: TEBA

- 5.3 What is striking therefore is that “unemployment” and “job loss” have impacted foreign migrants and local workers in very different ways. Employment in the gold mining industry has contracted by more than fifty per cent since 1987—but the rate of job loss is twice as high for South African mineworkers than for non-South Africans (Crush et al 2001), and the number of Mozambican miners has actually increased. Hence, the mining industry’s lay-off policies of the 1990s targeted South African, not foreign, workers.
- 5.4 The mining industry is not the only sector that employs labour migrants, both legally and illegally. The mechanisms for entry of contract farmworkers are complex and subject to change and interpretation (Crush et al 2000). The simplest mechanism is when farmworkers are recruited under the bilateral agreements in the same manner as miners. For example, migrant farmworkers in Lesotho are recruited through Labour Offices by farmers or their agents to work on Free State farms. A similar mechanism prevails in Mpumalanga where farmworkers are recruited in Mozambique (by companies such as Algos) and enter South Africa legally to work on lowveld farms. The numbers involved are small (no more than a few hundred) since the process is time-consuming and bureaucratic for farmers and migrants.

- 5.5 In the case of Zimbabwe, there is no formal inter-governmental labour treaty so another mechanism was developed under apartheid. This involves the definition of the farming districts of the far north of Northern Province as a “special employment zone.” Farmworkers are issued with a BI-17 permit by local Home Affairs officials on presentation of ID documents and a fee at the border. The permit allows them to enter for work in these districts. Migrants cross at two informal border posts, Wiepe and Dite near Beit Bridge. In 1998, nearly 200 farmers were registered with the border officials as legitimate employers. One private labour recruiter processed over 10,000 BI-17s that same year. An estimated 20-30,000 Zimbabweans are seasonally employed under this system.
- 5.6 The special privileges attached to the mining and commercial farming sector to legally access labour from outside South Africa pre-date 1994 and have continued since. The new Immigration Act contains exemption clauses, inserted at the insistence of the Chamber of Mines, which would allow the system to continue as before. In other words, old-style contract migrancy will continue. Miners in employment are now a relatively privileged group but their status is being undermined by extensive sub-contracting which leaves workers far more vulnerable to exploitative conditions and sudden unemployment (Crush et al 2001). The large-scale retrenchment of miners since 1990 has also added to the unemployment roles a large group of people who have limited skill profiles for other jobs. Most foreign retrenched go home to wait for another contract but some stay around the mines, as do many retrenched South African miners.
- 5.7 While there is no evidence that ex-miners are disproportionately involved in criminal activity, it is important to make the point that the harsh culture of the mine compounds and the impoverished neighbouring settlements leads to a range of activities that the state would consider illegal; including sex-work, illicit liquor production, drug-dealing and gang activity. Gangs have been associated with the mining industry for many years, and it is clear that they have expanded their power and influence over the last decade (Kynoch 2000).

6.0 Refugees and asylum seekers

- 6.1 South Africa was host to significant numbers of Mozambican refugees in the 1980s (an estimated 350,000). About 20% have since returned home (Johnston 2001). South Africa did not recognise refugees until 1993 and it was only following the transition to democracy that South Africa became a signatory to the United Nations and Organisation of African Unity Conventions on Refugees in 1994 (de la Hunt et al., 2001). The refugees, by virtue of their colour and the lack of policy were never granted full refugee status and many lived in South Africa as undocumented migrants. However, significant numbers were fully-integrated into local communities and many obtained legal residence permits in the SADC immigration amnesties of the 1990s.

- 6.2 Since 1990, South Africa has become a new destination for refugees, particularly from the rest of Africa (Peberdy and Majodina 2000, Tuepker 2001). Their reception and treatment was regulated by the Aliens Control Act, which led to grave injustices (Human Rights Watch 1998, de la Hunt et al 2001). A Refugee Act governing the admission of asylum seekers was finally passed in 1998, and became effective in 2000. Since 1994 approximately 63,000 people have applied for asylum in South Africa and approximately 13,000 have been granted refugee status and a similar number have had their claims rejected (Handmaker 2001). The process of adjudication of claims is slow, but not much slower than in many other countries, making it difficult to ascertain how many of these claims are genuine and how many are from people using the system to gain access to South Africa. The majority of claims are from African nationals. Certainly, the number of asylum seekers is relatively low when compared with countries like Zambia and Tanzania.
- 6.3 The legal position and rights held by asylum seekers is affected by when they entered the country. The regulations introduced under the Refugee Act in 2000 place severe limitations on asylum seekers who entered after that date. Under the 2000 regulations, these adult asylum seekers are not allowed to work, study, or be self-employed until they are granted refugee status (although individuals can apply for special consideration to be allowed to work after six months). There is no state support, and minimal other support for asylum seekers making it difficult for them to survive. These regulations mirror actions by other states (mainly the United States and Europe) where and severe conditions on asylum seekers appear to be an attempt to dissuade people from seeking asylum in South Africa, and to seek it elsewhere (de la Hunt et al 2001).
- 6.4 It is difficult to predict what effect the regulations introduced under the Refugee Act will have on the flow of asylum seekers. It may, combined with the hostile environment for many non-nationals discourage potential refugees from choosing South Africa as their destination and they may, where possible, seek protection elsewhere in a more welcoming environment. Any policies that marginalize genuine refugees and fail to provide them with full protection (including the right to a livelihood) are likely to be problematical by driving them to the margins of the host society. To date, however, there is little evidence that refugees are in any way likely to be more involved in crime than anyone else. Indeed, their vulnerable position makes it even less likely that they would see crime as an option, even as a survival strategy.

7.0 Undocumented migrants

- 7.1 Undocumented or unauthorized migration has been part of regional migration to South Africa for decades. For considerable parts of South Africa's history undocumented migration from the region was sanctioned by the state and at times incorporated into labour supply schemes. Furthermore, until 1963 nationals of Botswana, Lesotho and Swaziland could move freely across South Africa's borders and had the right to work and live (within apartheid's racial restrictions) in South Africa. However, the scale, scope

and impact of undocumented migration appears to have changed in the 1990s. Although migrants from Mozambique, Zimbabwe, Lesotho and Malawi comprise the majority of undocumented migrants, evidence indicates that undocumented migration from the rest of Africa, Europe, North America, Asia and the Indian sub-Continent is also increasing.

- 7.2 Debates around migration tend to centre on undocumented migration which is presented as a new and overwhelming problem for the post-apartheid state and South African citizens (Croucher 1998, Crush 2001, Peberdy 2001). Yet, as in most countries, it is virtually impossible to know with any certainty how many undocumented migrants there are in South Africa, or where they come from. People are considered undocumented migrants when they cross borders without papers, by overstaying their permits or enter with false papers. The figure most often cited by the South African state of 2.5 to 4 million in the country at any one time has been withdrawn by the Human Sciences Research Council from where it originated (Orkin, 2002). This has, however, not stopped government officials and journalists from continuing to cite it. There were an estimated 850,000 people recorded as overstaying their permits in January 1999. But, even this figure is suspect as it does not account for those who may have overstayed, but who left the country without being recorded. The actual number of undocumented migrants in the country at any one time is likely to be much lower—and could be as low as 500,000 (Reitzes 1998, Crush 1999b).
- 7.3 Research emerging from the Southern African Migration Project shows that the majority of people entering South Africa from neighbouring states enter the country legally, with documents, and through established border posts (McDonald 2000). Furthermore, debates around migration—and particularly undocumented migration—are permeated by the perception that migrants, especially those from the region and the rest of Africa, want to live in South Africa permanently. Historically, regional cross-border migration was characterized by impermanence. SAMP research suggests that the majority of migrants from the region still do not want to, and are not living permanently in South Africa (McDonald 2000).
- 7.4 These assumptions of irregularity and permanence that are woven through (usually hostile) official and public discourses on migration have been realised in state and civil society responses to migration. The state has introduced a range of measures to police South Africa's borders and heartlands, as well as administrative controls, to try to ensure that migrants are removed without due process and, when in the country legally, stay only temporarily (Minnaar and Hough 1996, Klaaren and Ramji 2001). Second, regulations in the private and public sector, make life difficult for non-nationals, whether trying to open a bank account, get a contract for a cell-phone—or land line, cash a cheque and a myriad of other day to day transactions.
- 7.5 South Africa is an increasingly hostile place for non-nationals, especially those from the rest of the continent. Xenophobic attacks, verbal and physical on non-nationals of all classes and irrespective of whether they are in the country with or without documents are

common and make life difficult for non-nationals. As Crush and McDonald (2000: 7) note this hostile climate that ranges from the mildly irritating to threatening does little to encourage non-nationals to stay on a permanent basis “as the government well knows.” Part of the climate of hostility is sustained by a discourse of illegality. “Illegal aliens” in the lexicon of the Aliens Control Act have been re-christened “illegal foreigners” in the new Immigration Act and are still called “illegal immigrants” or simply “illegals” in the press. The use of this language focuses attention on the breaker of the law while diverting attention from the justness or appropriateness of the law itself. South Africans, who long suffered under an iniquitous legal system, really ought to understand this point better than most. In this sense, attention needs to be focused on the laws that create the undocumented migrant and in developing a managed system of entry and exit that facilitates movement and does not make “illegals” out of ordinary people.

- 7.6 Because South Africa’s entry laws are so intractable (and unworkable), a sizable corruption industry has also grown up to subvert those laws. False documentation is extremely easy to obtain in South Africa. Corruption appears to be rampant in Home Affairs offices (judging by the numbers of arrests following internal investigations) and forged documents are also available on the street. In addition, there is considerable circumstantial evidence of widespread corruption amongst the SAPS who police the arrest and deportation system. For example, bribery is extremely common when police demand remuneration in exchange for protection or release from custody.

8.0 Feminising Migration

- 8.1 Finally, critical gender differences in labour migration need to be highlighted. The South African labour market is highly stratified by gender which provides very different incentives and opportunities for labour migration by males and females. For example, increasingly the only legal way for a SADC citizen to work in South Africa is in the mining industry. Yet, 99% of mine employees are male. There is no equivalent employment sector for women in which there is comparable ease of entry.
- 8.2 Women appear to constitute an increasing proportion of regional migrants entering South Africa (Dodson 2000). They are replacing men in low-wage employment, but are also migrating for a range of “social, productive and reproductive reasons” (Crush and McDonald 2000: 5, Dodson 2000). In a SAMP survey of 5 SADC countries, over 60% of men, but only 16% of women had worked in South Africa, a dramatic difference. Asked about the reason for their last visit to South Africa, 40% of men and only 10% of women said they had gone to work or to look for work (Table 6).

Table 6: Gender Differences in Migration to South Africa		
Purpose of Most Recent Visit to SA	Males	Females
Employment related		
Work	33	7
Look for work	17	3
Other work related		
Business	3	3
Buy and sell goods	4	10
Other reasons		
Shopping	13	23
Visit family/friends	17	38
Holiday	3	3
Medical	2	8
Other	8	5
Worked in SA at some point	63	16

Source: SAMP database

- 8.3 Women have always been part of migration streams to South Africa, whether travelling with papers or without, or from neighbouring countries or from overseas. Women have entered South Africa independently to work or to do business as well as as partners and spouses of migrants or South Africans. Unfortunately, the migration of women in the past, and in the present, remains largely undocumented and is still little understood as women have largely been seen as little more than luggage carried by male spouses (Dodson 2000).
- 8.4 Yet, it seems (and it is difficult to tell as the Department of Home Affairs do not provide a breakdown of statistics into men and women), that women constitute an increasing proportion of migrants to South Africa. They are entering across the spectrum of migrant flows, documented and undocumented, and as skilled and unskilled workers and as part of the growth in movement of entrepreneurs engaged in cross-border trade.

9.0 Conclusion

- 9.1 Notwithstanding South Africa's long history of migration from the region, the rest of the continent and overseas, and even its characterisation at times as an "immigration country", the shape, scale and scope of migration have altered significantly since 1994. The roots of these changes are multiple. The opening up of South Africa has unfastened doors that were previously closed, or only partially open, for many potential migrants, particularly those from the rest of the continent, Asia and the Indian sub-continent. At the same time the new democracy is attractive to people who would previously never have considered (or been able) to live in South Africa, as well as to people seeking refuge from persecution and war
- 9.2 The post-1994 restructuring of the economy has both closed and opened doors and opportunities for different groups of migrants. "Rationalisation" has led to massive job losses amongst unskilled and semi-skilled workers where many migrants from the region

- seek work. Contraction in the gold mining sector, although it has hit South African mineworkers hardest, has still reduced opportunities for foreign mineworkers. It has also led to significant changes in working practices and loss of income for those now subcontracted to the gold mines. In turn subcontracting has affected how often and when these mineworkers can return home.
- 9.3 Despite the hurdles placed in the way of migrants trying to enter South Africa, with or without documents it is clear that there has been a numerical increase in the number of migrants and immigrants. How big and how truly significant these increases are is unknown, but evidence suggests they are not as great as in the imagination of the government and many citizens. Who these new migrants and immigrants are has certainly changed.
- 9.4 At the same time the re-organisation of the economy, attempts to embed South Africa into the global economy and persistently high rates of emigration have led to increasing opportunities for skilled workers. However, it appears it is often difficult for skilled non-nationals to take advantage of these new openings. This is not because there are sufficient South Africans available to fill ever more new vacancies in the job market. Instead, it reflects another factor underpinning new patterns of migration in today's South Africa.
- 9.5 Anxieties about documented and undocumented migration in the state and civil society have led to a shift in the way migration policy is implemented and administered. These changes have made it harder (but certainly not impossible) or more inconvenient to be an undocumented migrant as well as to enter South Africa with documents. The introduction of the new Immigration Act is unlikely to make a significant difference to most potential migrants, unless they are planning to work for a large corporation or institution. Similarly, it seems that the Act, despite its stated aims and objectives, is unlikely to dissipate the hostile environment that permeates the lives of many non-nationals, particularly those from the rest of Africa. Whatever legislation is in place, it is how it is administered that will shape future patterns of migration.
- 9.6 There has been a decline in the number of permanent residence and work permits issued to Europeans and North Americans but at the same time the number of nationals from these regions clutching cameras and touring the sights of South Africa has increased. People from Asia and the Indian sub-continent are working and opening businesses in South Africa, even creating a new "Chinatown" in Johannesburg. Perhaps most visible are Africans from the rest of the continent, working in corporate South Africa, running businesses, selling on the streets. Less visible but increasing in numbers, are new women migrants and immigrants—not only arriving as appendages to partners but as independent migrants and immigrants. As agricultural labour becomes increasingly feminised, many of these women are working in some of the most exploitative areas employment. But they are also working and migrating as independent entrepreneurs and skilled workers.

9.7 In conclusion, the purpose of this brief has been to draw attention to the complex new forms of migration and immigration that are transforming traditional migration dynamics to South Africa. Our intention, in doing so, is to contest the view that there is any necessary relationship between South Africa's crime problem and the presence of increasing numbers of non-citizens in the country. Our research suggests that except for the small minority who are part of organized crime networks, most migrants are here to work, to trade, to shop or to visit. Even those who are in the country without proper documentation are not "criminals". Whether or not their undocumented status is a "crime" is open to debate. Even the state seems unsure, since it does not afford them the right of due process which it accords to suspected perpetrators of other "crimes." We do not deny that some migrants are involved in petty and serious crime; but then so are many South Africans. We remain to be convinced that there is, in fact, any systematic connection between foreignness and criminality. Such a connection, if it even exists, needs to be proven, before rushing to try to "explain" something that may be just a convenient (xenophobic?) form of scapegoating.

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References

- Bhorat, H. and L. Poswell. 2002. "Employment and household poverty: the effects of trade, investment and technology," unpublished paper, Trade and Industry Policy Secretariat, Johannesburg.
- Castles, S. and M. Miller. 1993. *The age of migration: international population movements in the modern world*. New York: Guilford Press.
- Croucher, S. 1998. "South Africa's illegal aliens: Constructing national boundaries in a post-apartheid state." *Ethnic and Racial Studies* 21.
- Crush, J. 1999a. "Fortress South Africa and the deconstruction of apartheid's migration regime," *Geoforum*, 30.
- Crush, J. 1999b. "The discourse and dimensions of irregularity in post-apartheid South Africa," *International Migration*, 37: 125-49.
- Crush, J. 2001. *Immigration, xenophobia and human rights in South Africa*. Migration Policy Series. No. 22, Southern African Migration Project, Cape Town.
- Crush, J. and D. McDonald. 2000. "Transnationalism, African immigration, and new migrant spaces in South Africa," *Canadian Journal of African Studies*, 34(1): 1-20.
- Crush, J. and D. McDonald. 2001. "Evaluating South African immigration policy after apartheid," *Africa Today* 48(3): 1-14.
- Crush, J., T. Ulicki, T. Tseane and E.J. Van Veuren. 2001. "Undermining labour: The social implications of sub-contracting on the South African gold mines," *Journal of Southern African Studies*, 27: 5-32.
- Crush, J. and V. Williams, eds. 1999. *The new South Africans? Immigration amnesties and their aftermath*. Cape Town: Idasa Publishing.
- Crush, J., D. Lincoln, C. Maiarike, C. Mather, F. Mathebula, and T. Ulicki. 2000. *Borderline farming: foreign migrants in South African commercial agriculture*. Migration Policy Series No. 16, Southern African Migration Project, Cape Town.
- Danso, R. and D. McDonald. 2001. *Writing xenophobia: Immigration and the press in post-apartheid South Africa*. Migration Policy Series No. 17, Southern African Migration Project, Cape Town.
- de la Hunt, L.A., J. Handmaker and J. Klaaren. 2001. *Perspectives on Refugee Protection in South Africa*. Pretoria: Lawyers for Human Rights.

- Dodson, B. 2000. "Porous borders: gender and migration in Southern Africa." *South African Geographical Journal*, 82(1): 40-46.
- Handmaker, J. 2001. "No easy walk: Refugee protection in South Africa." *Africa Today*, 48(3): 91-114.
- Human Rights Watch. 1998. *"Prohibited Persons": Abuse of Undocumented Migrants, Asylum-Seekers, and Refugees in South Africa*. New York, Washington, London and Brussels: Human Rights Watch.
- Jenkins, R. 2002. "The labour market effects of globalisation in South Africa," unpublished paper, Trade and Industry Policy Secretariat, Johannesburg, 24 June.
- Johnston, N. 2001. "The point of no return: evaluating the amnesty for Mozambican refugees in South Africa" Migration Policy Briefs No. 7, Southern African Migration Project.
- Klaaren, J. and J. Ramji. 2001. "Inside illegality: migration policing in South Africa after apartheid," *Africa Today* 48(3): 35-48.
- Kynoch, G. 2000. "Marashea on the mines: Economic, social and criminal networks on the South African gold fields, 1947-1999" *Journal of Southern African Studies*, 26(1): 79-104.
- Masetlha, B. 2002. "The migration system in South Africa." Presentation to the Parliamentary Portfolio Committee on Home Affairs, Cape Town, 15 April.
- Mattes, R., J. Crush and W. Richmond. 2002. "The brain gain and legal immigration to post-apartheid South Africa." In D. McDonald and J. Crush, eds., *Destinations Unknown: Perspectives on the Brain Drain in Southern Africa*. Pretoria: Africa Institute and Cape Town: Southern African Migration Project, pp. 139-56.
- McDonald, D., ed., 2000. *On borders: perspectives on international migration in Southern Africa*. New York: St Martin's Press and Cape Town: Southern African Migration Project.
- McDonald, D. and J. Crush, eds. 2002. *Destinations unknown: perspectives on the brain drain in Southern Africa*. Pretoria: Africa Institute and Cape Town: Southern African Migration Project.
- Minnaar, A. and M. Hough. 1996. *Who goes there? Perspectives on clandestine migration and illegal aliens in Southern Africa*, Pretoria: Human Sciences Research Council.

- Orkin, M. 2002. "Introduction," speech given to a workshop "Regionalism, migration and poverty," at a workshop of the Human Sciences Research Council Southern African Regional Poverty Network, Lawyers for Human Rights and the Southern African Migration Project, April.
- Peberdy, S. 2001. "Exclusive immigration policies and inclusive identities in post-1994 South Africa," *Africa Today*, 48(3), 15-34.
- Peberdy, S. 2000a. "Border crossings: small entrepreneurs and informal sector cross border trade between South Africa and Mozambique," *Tijdschrift voor Economische en Sociale Geographie*, 91(4): 361-378.
- Peberdy, S. 2000b. "Mobile entrepreneurship: informal sector cross border trade and street trade in South Africa," *Development Southern Africa*, 18(2): 201-219.
- Peberdy, S. 1999. "Selecting immigrants: nationalisms and national identity in South Africa's immigration policies, 1910-1998," PhD thesis, Queen's University, Canada.
- Peberdy, S. and J. Crush. 2001. "Invisible travellers, invisible trade? Informal sector cross border trade and the Maputo Corridor Spatial Development Initiative," *South African Geographical Journal*, 83 (2): 115-123.
- Peberdy, S. and Z. Majodina. 2000. "Just a roof over my head? Housing and the Somali refugee community in Johannesburg," *Urban Forum*, 11(2): 273-288.
- Peberdy, S. and C. Rogerson. 2000. "Non-South African entrepreneurs and transnationalism in South Africa," *Canadian Journal of African Studies*, 34(1): 20-40.
- Reitzes, M. 1998. "Counting the uncountable? Undocumented migrants in South Africa," Paper presented at Department of Labour Seminar, Cape Town.
- Rogerson, C.M. and J. Rogerson. 2002. "Dealing in scarce skills: employer responses to the brain drain in South Africa," *Africa Insight*, 30(2): 31-40.
- Southern African Migration Project (SAMP) 2002. *Will the new Immigration Act assist ANC government's policy objectives?* Report presented to Parliamentary Portfolio Committee on Home Affairs.
- Tuepker, A. 2001. "Asylum seekers, recognisable victims and national identity in contemporary South Africa," PhD thesis, University of New South Wales.