



Challenging Presumptions, Changing Process: Towards Progressive, Pro-Poor Migration Policy

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The African Centre for Migration & Society (ACMS) is a research, training and outreach body based at the University of the Witwatersrand in Johannesburg. African-based and African-oriented, the ACMS explores immigration, migration and urbanization across the continent. Through its research and outreach it has worked with the South Africa Presidency, the South African Local Government Association, and the Departments of Labour, Health, Social Development and other government bodies to improve their responses to human mobility and mainstream migration management across the public sector.

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The African Centre for Migration & Society at Wits University welcomes the opportunity to further our common commitment to developing and implementing pragmatic policies that address perennial problems for the country's diverse population: joblessness, poor wages and labour conditions, inequality, and physical insecurity. As academics, our role is neither to condemn nor condone, but to offer critical reflections based on objective, original, evidenced-based research and comparison with regional and global experiences.

This testimony emerges from our belief that with the right policy frameworks and administrative structures, human migration can help realise the South Africa we all wish for: a country where its residents live in dignity free from fear and poverty. To achieve these ends, **an effective migration policy should minimize the number of undocumented migrants, promote equal and equitable participation for all in the labour force, ensure that migration contributes rather than detracts from growth and job creation, and allows for an asylum system that provides protection for those genuinely in need.** We do not claim definitive knowledge on how to achieve these ends and we should be sceptical of those who do. However, research in South Africa and examples from elsewhere help us explore possible scenarios, challenge dubious presumptions that inform current policy directions, and point to processes and questions that can guide us as we move forward together.

Although based on extensive research and analysis, this testimony is not intended as an exhaustive technical report. The African Centre for Migration & Society will willingly provide additional documentation, analysis, and suggestions on improved data collection and policy reforms on request from members of the portfolio committee or others within government. We have also included a selected list of publications and references as an appendix to this testimony.

Scenario: The Dark Hole of Securitization

Although the government – and the Department of Home Affairs in particular – has yet to release the results of its long-awaited policy review, there are strong clues as to the orientation of future migration policies. This section explores the likely outcome of the kind of heightened controls on immigration and greater restrictions on those seeking asylum included in the ANC's *Peace and Stability* discussion document and largely endorsed during the party's recent policy conference in Mangaung.

Based on South African and comparative evidence and examples, there are strong reasons to believe that if implemented, **the securitization of migration management**—a process of heightening border controls, restricting entry, and increasing detention and deportation—**will worsen conditions for the country's impoverished citizenry, foster criminality and corruption, threaten the rights of asylum seekers and refugees, and, counter intuitively, increase the number of undocumented migrants in South Africa.**

Let us first consider the last point—that of increasing numbers –by looking at two examples: the European Union and the United States. Over the past ten years, both regions have greatly expanded their border control initiatives through a combination of militarization, technology, fences,

extra-territorial patrols, interception, and detention centres. Although the number of arrests and deportations has increased as a result, the number of undocumented migrants in the respective countries has not substantially decreased. What has happened is that people are staying longer once they have crossed a border and, due to the difficulty of moving, may work to bring over family members whom they can no longer visit. It is also worth noting that the European system has increased the level of risk migrants are ready to take, resulting in about 28,000 deaths at sea per year. There have been similar increases in deaths along the US-Mexico border as people take ever more dangerous journeys across mountains and deserts. The key lesson from these comparative examples is that **devoting significant resources into increased border control does little to reduce migrant numbers but carries significant risks.**

And what of the effects on **wages and employment?** Here, a number of issues come into play. First, given that securitization is unlikely to reduce the number of undocumented workers, there is little chance that it will improve labour conditions for citizens. Moreover, because undocumented migrants face more severe sanctions for protesting poor labour conditions and are harder to unionize (or otherwise organize), their participation in the labour force is likely to further push down wages. This makes South Africans worse off than if the migrants were documented. (We must also keep in mind that because people are working without documents, they are not paying income taxes or contributing to skills levies or unemployment funds). The lack of documentation also means that people are typically under-employed, resulting in wasted skills. Lastly, without access to credit or bank accounts, people have few options but to continue working in low-income and tenuous positions. By excluding them from opportunities to save and invest, the country further misses out on their potential economic contributions. These are not necessary outcomes of migration, but are likely to be the outcomes of increasingly restrictive controls.

As for **criminality and physical security?** Here too, **attempts to securitize natural migration processes are likely to undermine citizens' physical security.** There are many reasons for this. First, people without documents are unlikely to go to the police when they are victimised. That many of the unbanked carry cash also means they are ideal targets for criminals and that such criminals are unlikely to be reported, investigated, charged or convicted. This only enables criminality and violence in communities. They are also less easily detected when engaged in illicit activities. Second, undocumented migrants remain highly vulnerable to extortion at the hands of police, border guards, and other security officials. Already the discretion provided to such officials has resulted in extraordinarily high levels of administrative irregularities. While not everyone will be upset by the considerable abuse and bribery migrants face at the hands of police or other state officials, we should all be concerned at the perverse incentive structures such opportunities create. Our research estimates that Gauteng-based police spend approximately one-fourth of their human resource budget on immigration issues. This money is doing little to make the province safer. Rather, we are effectively subsidizing various forms of harassment and resource extraction from what the police jokingly term 'mobile ATMs'. As foreigners are no more likely than South Africans to be involved in crime, this does little to make us safer. Moreover, as the police busy themselves shaking down, and detaining foreigners, criminals are given space to work. But such criminality is not limited to towns and cities. Current proposals to further militarise the borders closely follow those already implemented in the United States. The results there have been predictable if not intended: an escalation of violence between border guards and smugglers, more sophisticated cross-border criminal syndicates, additional deaths of border crossers, and – as noted – no significant decline in

illegal trade or entry. **Organised crime and petty criminality will be reduced through police intelligence and anti-corruption measures, not border controls.**

Problematic Presumptions

How is that we have moved so far towards securitization without recognizing the considerable risks it poses? There are almost certainly domestic interests who would like to see us go in this direction: a defence force looking for work; business and individuals keen on new and renewed tenders; and officials offering citizens false hope of overcoming continued economic and physical insecurity. Interests abroad also wish South Africa to be the first line of defence against migration to Europe and beyond. Before we go further, we should recognise that **the securitization path has already been paved by wealthier countries that have failed to realise the misguided promises of prosperity and security.** It is just these promises – and the presumptions behind them – that we now wish to consider.

The first of these is **the misplaced belief that South Africa is being overwhelmed with ever growing numbers of migrants and asylum seekers.** A closer look at the numbers does much to deflate these exaggerated estimates. First, asylum numbers have escalated in large part because there is no effective way for economic migrants to enter South Africa legally. If we were to create mechanisms for Zimbabweans to enter South Africa, asylum numbers would drop precipitously to easily manageable numbers. Already, the partial stabilization of Zimbabwe resulted in a 64% decrease in asylum applications in 2011 (DHA Asylum stats 2011). As for international migrants generally, the recently released 2011 census figures are far more modest than most popular estimates: 1,692,242 foreigners out of a total population of almost 50 million. This equates to roughly 3.3% of the country's total population. This may be an undercount, but even so, the total percentage is unlikely to top 4%. Despite being the region's uncontested economic dynamo, these numbers are small when compared not only to Australia, Europe or the United States (around 10%) but to Botswana and Namibia who have rates above 5% according to the United Nations Department of Economic and Social Affairs.

We must also look carefully at current policies, which are often accused of being too permissive. When examined closely, the Immigration Act of 2002 is already remarkably restrictive by global standards, let alone for a new-found democracy committed to human rights and regional integration. Under the Act and its various amendments, it is next to impossible for residents of other countries to legally seek work in South Africa. Although there are options for the wealthy and highly skilled, the recent amendments to the Act make even skilled migration more difficult. **The problem with our Immigration Act is not that it is too permissive, but that it is too blunt.** By denying avenues for legal entry—avenues that could be beneficial for South Africa and its citizenry—we ensure that people enter illegally and at greater cost to them and our society.

There are also reasons to be wary of promises that **the military or others can prevent migration.** South Africa already deports tens of thousands of people a year (just above 3 million people between 1994 and 2012) and detains or turns away many others. This is not an effective policy, as confirmed by Minister Pandor's recent comments that the country is spending R 90 million per year on a deportation policy. Such expenditures enrich stakeholders in Bosasa and others associated with the detention and transport of deportees but have little substantive impact on the issues that most South Africans care about: jobs and crime. As noted above, the United States has spent billions of dollars on a wall, helicopters and security guards without substantially reducing

migration from Mexico and Central America. Through its 'Frontex' initiative, Europe has followed a parallel course with similar consequences. In both cases, it is only the faltering economies of the host countries that have encouraged people to go home or stay away. What securitization measures have accomplished, by contrast, is to foster corruption, violence and organized crime along the borders and at sea.

The **final presumption**—and the one that is most difficult to dislodge – is that **immigration inherently undermines South African's economic security and possibilities for job creation**. Global evidence from Europe and North America (where research has been conducted) is ambiguous at best about the effects of immigration on the economy. Certainly, some people will lose out, but others will benefit. **A sound policy means that the positive is far more likely to outweigh the costs**. Although immigration may present more direct competition in the South African context, there are a number of important factors to keep in mind:

- Given the relatively small number of international migrants, even effectively excluding them from the labour force would only have marginal impacts on the overall employment or wage rate;
- By ensuring that international migrants are working illegally, we only maximise any potential negative consequences;
- Migrants—even those working illegally—often contribute in ways that generate wealth and jobs for South Africans. This is most obvious when they import scarce skills, but we must not overlook the value of trade, investment, VAT and other contributions;
- Migrants of all skill levels can play an important role in improving South Africa's overall economic position by contributing to a robust regional economy. In 2012, migrants to South Africa transferred approximately R9.7 billion to their families and communities in sending countries (Truen & Chisadza for Finmark Trust, 2012). Much of this is cash used to fund education, investments and consumption across the region. Many of these transfers also take the form of in-kind remittances where goods purchased (and often made) in South Africa are informally exported. Moreover, by spreading Rand throughout the region, we strengthen the currency and build economic stability. **We are only now beginning to understand the potential positive impacts of such exchange and we should be wary of cutting it off before we do.**

Processes for Positive Reform

There is no magic formula for ensuring that migration policy contributes to improving South Africans' welfare and safety. Indeed, there is no single answer or 'optimal' migration policy. There will always be compromises and uncertainties. If nothing else, the testimony above indicates that current policy directions are unlikely to further those aims. Moreover, any policy is likely to fail if founded on faulty presumptions about the nature and degree of threat migration presents and lacks widespread support from stakeholders across South Africa. With improved data and dispassionate analysis, we may nonetheless move towards more pragmatic and pro-poor policy frameworks. A few practical suggestions may help ease this process:

- Entrench the role of the Immigration Advisory Board while expanding its extra-governmental membership and enhance its advisory functions to matters of policy rather than limiting its position to reviewing regulations and bureaucratic innovation.
- Reinforce labour inspectorates to capacitate them and ensure equality of remuneration and treatment of foreign workers;
- Dedicate resources within the Department of Arts and Culture, Education & COGTA to fight against xenophobia and educate populations, organised labour and civil servants. This fight must go beyond education campaigns which, while important, do little to address the economic and political incentives for continued violence (see Misago, *et al*, 2011);
- Establish a programme to establish a formal, multi-stakeholder platform dedicated to migration aimed at improving the collection of international migration data and facilitate access to well-maintained data bases by state, quasi state and non-state actors including, inter alia, NEDLAC, the Department of Labour, SALGA, Statistics South Africa, Chambers of Commerce, SARS, Social Development, and members of the security cluster;

Beyond these measures, there are several questions we should keep in mind as we consider new policy options and proposals:

- Are the policy's objectives clearly stated, developmental (i.e., pro-poor), and its presumptions supported by objective research and evidence?
- Have the proposals been forged in consultation and with the support of key stakeholders from organised labour, business, concerned government departments (DIRCO, DED, DSD, DoL, DoH, DTI, COGTA & SALGA, Provincial Premiers), NGOs, academics and expert analysts, legal practitioners, and regional partners. More pointedly, do the proposals reflect the interests of these stakeholders, or do they pursue a more narrowly defined set of goals that fails to take into account the broader context?
- Do the proposed policy reforms include:
 - A clear methodology and timeframes for implementation;
 - Concrete programmes for addressing existing and potential administrative challenges;
 - Estimated costs for implementation;
 - Estimated aggregate and sector effects for the local, national and regional economy?
 - Plans to reverse brain drain; promote skills transfer and retain qualified skills?

A Final Note on Asylum

As we rethink our immigration system, the commitment to providing asylum should not be compromised in an effort to control immigration. Rather, we must recognise that the overwhelming asylum numbers are primarily indicative of the country's failure to provide effective mechanisms for the migration of lesser skilled migrants. Until such mechanisms are instituted, migrants will continue to take their chances with the asylum system in ways that compromise its ability to function. In doing so, they contribute to the country's administrative burden and jeopardize the safety of those truly in need of protection as refugees.

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