

# Population Movements in and to South Africa

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Migration Fact Sheets summarise state of the art research and are intended to inform discussions and debates surrounding human mobility in Southern Africa.

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# Population Movements in and to South Africa

This fact sheet is a quick reference guide regarding South Africa's migration management policies and a selection of key challenges facing the country with regard to population movement. The note discusses internal migration and urbanisation as well as cross border movements into South Africa.

## Numbers and Migration Patterns

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Data on migration into and within South Africa is poorly collected, weakly analysed, and often misleading. Official data (e.g., the 2001 national census, the 2007 community survey.) do not reliably capture movements between provinces, within them, or within municipalities. Given the irregular nature of migration across the country's borders, it is difficult to develop precise figures on international mobility. Despite these obstacles, triangulation from a variety of data sources indicates the following dynamics:

- *Internal migration* – movements between and within provinces and municipalities – represents the most numerically significant form of movement in South Africa. Whereas international migration is more politically sensitive, people moving within the countries international borders poses the greatest challenges for government planning, service provision, and social cohesion. The scale of migration and its impacts vary across locations. Gauteng Province receives the most migrants from other provinces while the Eastern Cape is losing the most people to other provinces. Despite its impressive dimensions, migration is often less important than other population dynamics. For example, between 2001 and 2007, while 74% of population growth in Gauteng was due to natural growth (the difference between the birth and death rate of people already living in the province), only 26% was due to migration. Only 3% of the total growth was due to cross-border migration.
- International or cross border migration is far less numerically significant than many South African citizens and policy makers believe. As noted above, there are no reliable statistics regarding cross border migration opening space for rumours and presuppositions to take hold. Many commonly quoted estimates, ranging from 1-8 million international migrants, are not based on solid evidence. There are some relatively accurate numbers for recognized refugees, asylum seekers, persons with work permits, and deportees, but these do not reflect broader migration trends. Given these caveats, the following numbers are based on the Department of Home Affairs' most recently released administrative statistics (2008/9) and on FMSP's estimated projections based on national census data:

- *Recognized refugees*: cumulative since 1994: 47 596 (at end 2009);
- *Recognized asylum seekers*: new applicants in 2009: 223,324. Of these, 4,567 were approved, 46,055 were rejected and 172,702 were added to the backlog of unprocessed cases;
- *Economic migrants issued with individual work permits (not including corporate permits)*: 32,344 in 2007/8 (more recent data not available);
- *People deported*: 312,733 in 2007/8. More recent data is not publically available, although overall deportation numbers are likely to have diminished significantly after the moratorium on deportation of Zimbabweans was introduced in April 2009.
- *Total foreign population (including documented and undocumented)*: Based on the FMSP's extrapolations from census data, the overall foreign population is likely to be between 1.6 and 2 million or 3-4% of the total national population. The figure is also lower than many receiving countries within Africa and elsewhere in the world.
- *Zimbabweans*: Zimbabweans currently make up the largest group of international migrants in the country. Including both recent arrivals and long term residents, FMSP estimates that there are between 1 and 1.5 million Zimbabweans currently in South Africa. Zimbabwean migration is diverse with variations by motivation for leaving Zimbabwe (persecution and economic collapse); legal status (documented and undocumented); skills levels; social welfare needs; length of stay in the country; and location of residence in South Africa. There is no evidence that Zimbabwean migration to South Africa is continuing to accelerate. Given the continued political and economic uncertainty, a mass, permanent return to Zimbabwe is unlikely within the next two to five years.
- *Emigration*: There are no accurate estimates of the number of people who have emigrated from South Africa since 1994, especially since calculations often do not include South Africans who have left and then returned. The Centre for Development and Enterprise estimates that between 1989 and 2003 over 520,000 South Africans had emigrated. There are no more up-to-date or official sanctions figures.

## Legal and Policy Framework

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- *Basic rights*: The Constitution, especially Chapter 2 (the Bill of Rights), grants all people in South Africa—citizens and both documented and undocumented non-citizens—rights

to life, dignity, equality before the law, administrative justice, basic education, basic health care, and labour rights.

- There are debates within South African policy making and jurisprudence over the extent to which various categories of non-citizens are entitled to other rights. With notable exceptions, few non-citizens are entitled to social grants, public housing, or other direct state support. Despite accusations to the contrary, research suggests that few non-nationals claim or receive such assistance.
- South Africa has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- *Internal migration*: The movement of residents within the country is not restricted and residents are not required to officially register their place of residence when they move.
- *Asylum*: The most relevant legislation is the 1998 Refugees Act. Under the Act, South Africa has a policy of self-settlement and self-sufficiency for asylum seekers and refugees, including the right to work and the right to access public health care and education services. The rights of refugees are also outlined in a 1951 United Nations Convention and the African Union's Convention on Refugees, both of which South Africa has signed.<sup>1</sup>
- *Immigration*: The 2002 Immigration Act (amended in 2004) regulates immigration by enabling permits for skilled migrants, students, tourists and other categories of permanent and temporary migrants. It also regulates the arrest and deportation of undocumented migrants. It provides no permits for job seekers. Since 2009, all of South Africa's immediately neighbouring countries have bi-lateral agreements allowing citizens to receive a free visa to enter South Africa for short periods (mostly for 30 days). This visa does not include the right to undertake paid work.
- *Emigration*: There is no legal limitation on emigration from South Africa. That many South Africans are highly skilled or hold dual citizenship further enables resettlement elsewhere.
- *Regional migration management*: The 2007 SADC Protocol on the Facilitating of Movement of Persons foresees the progressive facilitation of movement in the SADC region through the introduction of free visas and rights for citizens of the region to work and establish themselves. Beyond this protocol, there is little regional legislation on the movement of people apart from international refugee and asylum conventions.
- *Assessment of policy framework*:
  - South Africa's constitutional guarantee of basic rights and the legal framework governing asylum are among the most expansive and progressive in the world.

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<sup>1</sup> United Nations 1951 Convention relating to the Status of Refugees and 1967 Protocol; OAU 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa

- Challenges in implementation of the constitutional and asylum frameworks, including the provision of documentation and basic services to non-nationals, undermine the practical impact of formal legal protections.
- The immigration regime, as distinct from the asylum system, is not well adapted to national and regional needs and realities. The regime continues to be dominated by concerns about economic and physical security, rather than regional development and human rights. It does not provide adequate access to documented migration options in ways which address South Africa's skills and labour needs, especially as regards semi-skilled and entrepreneurial migrants from the region.
- The policing of undocumented migration is currently ineffective and often leads to rights abuses.

## Policy Issues and Key Challenges

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There are several challenges currently affecting South Africa's ability to benefit from human mobility:

### **1. Planning for population movement at provincial and local government level**

While migration management is currently considered a national competency, internal and cross-border migration impact on provincial and municipal functions, especially planning for service delivery. Infrastructure planning should take into account actual migration patterns, especially rural-urban migration and movements into small towns. Investment in rural development is unlikely to reduce migration to urban areas.

### **2. Ensuring access to basic rights and services for all**

South Africa's progressive Constitutional guarantees of basic and socio-economic rights are limited in their implementation toward cross-border migrants. This is due to a lack of knowledge among service providers, discrimination and corruption. Access to basic rights is also undermined in areas of high internal migration such as urban informal settlements because of inefficient service planning and corruption. Public goods such as basic health care, basic education and protection under the law only lead to collective development if accessible to all.

### **3. Preventing xenophobic violence and supporting social cohesion**

Disaffection with unaccountable local governance structures and frustration with government service provision has led to increased popular violence. This violence often takes the linked forms of service delivery protests and attacks on outsiders—non-nationals and citizens from minority ethnic groups. These tensions have significantly disrupted local and national institutions and economies and do not provide a strong atmosphere for individual or institutional investment. Inclusive and transparent service provision can help build safer communities and more responsive and accountable public institutions.

### **4. Managing Zimbabwean migration**

Zimbabwean migration will remain the region's greatest challenge for many years. South Africa cannot prevent exposure to Zimbabwean migration, only manage its impacts. To be effective, pragmatic policies such as the special dispensation permit for Zimbabweans require implementation assistance from a range of government departments, communication campaigns to ensure public support, coherence between legal and humanitarian interventions, and integration with medium- and long-term regional migration management strategies.

### **5. Enabling migrant contributions to local and national economy**

The South African economy is dependent on cross-border migration to address some of its skills shortages and sectoral labour needs. Regional migration is also a critical component of regional integration and economic growth. The challenge is to attract foreign labour while preventing further entrenchment of informal and exploitative labour conditions and 'race to the bottom' labour competition with undocumented and unregulated foreign workers. Contributions to local economies and employment creation by migrant entrepreneurs can be enabled through support in accessing the banking system and inclusion in local economic development strategies. Initiatives to create a regional labour market have largely stalled despite repeated efforts to facilitate policy development in this area.

### **6. Effectively implementing the asylum system**

While South Africa's asylum system is progressive in principle, severe administrative hurdles continue to limit access and protection for asylum seekers and refugees. Asylum system inefficiencies and gaps in the immigration framework also make the asylum system attractive for economic migrants seeking documentation, while hindering access for bona fide asylum seekers.

### **7. The migration of children and unaccompanied minors**

Significant numbers of unaccompanied children are crossing South Africa's borders to live, study and work. There are reports that children have been illegally adopted by families other than their own in ways that are akin to labour exploitation or slavery. Others have suffered police harassment. In almost all instances, children—accompanied and otherwise—struggle to access health care, education, and other social services even though

international law and South Africa's domestic legislation prohibit discrimination against children on the basis of nationality or documentation status.

#### **8. Border security, smuggling, and trafficking**

South Africa is under domestic and international pressure to address human trafficking across its international borders. To that end, the National Prosecuting Authority and others have proposed new legislation and expanded regulatory authority. Despite these pressures, there is little evidence that South Africa is a significant destination or transit point for international human trafficking. What little may exist can be addressed through existing legislation. The greatest threat to human security comes from the cross-border smuggling of people, which also threatens the integrity of governmental border control mechanisms.

#### **9. Increasing sub-regional convergence and coordination**

Regional migration policies are inherently linked with regional economic integration processes. Existing bilateral and inter-state regional forums lack effective policy consultation with labour organisations and the private sectors at regional level.

#### **10. Developing efficient interdepartmental data gathering and policy cohesion tools and capacity-building mechanisms**

There are significant inconsistencies in migration-related policy-making between different government departments. This stems partly from a lack of centralised, reliable and available data and inconsistent data gathering methods across departments.

## **Selected FMSP Publications on Migration Policy and Practice**

- Amit, R. (2010) Lost in the Vortex: Irregularities in the Detention and Deportation of Non-Nationals in South Africa. Johannesburg, Forced Migration Studies Programme.
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