# SETTING THE SCENE: MIGRATION AND URBANISATION IN SOUTH AFRICA

**by Sally Peberdy**

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# Synthesis Report:

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# Introduction

> " *…South Africa belongs to all who live in it, united in our diversity. (Preamble to the Constitution of the Republic of South Africa).[1]*
>
> *Ours is a remarkable country. Let us celebrate our diversity, our differences…. South Africa wants and needs the Afrikaner, the English, the coloured, the Indian, the black….Let us move into the glorious future of a new kind of society where people count, not because of biological irrelevancies or other extraneous attributes, but because they are persons of infinite worth created in the image of God. Let that society be a new society - more compassionate, more caring, more gentle, more given to sharing - because we have left "the past for a deeply divided society characterised by strife, conflict, untold suffering and injustice" and are moving to a future "founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex" (Archbishop Desmond Tutu, in the foreword to the Report of the Truth and Reconciliation Commission, 1998).[2]* "

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[1]  Act No. 108, The Constitution of the Republic of South Africa, 1996, Preamble.

[2]  D. Tutu, 1998, "Chapter 1: Forward by Chairperson the Most Revd DM Tutu Archbishop Emeritus," in the Report of the Truth and Reconciliation Commission, Volume 1, p. 22.

In May 2008 South Africa's three largest cities of Johannesburg, Durban and Cape Town were rocked by an explosion of xenophobic violence directed at mainly African foreigners living in informal settlements, townships, suburbs and central business districts.[3] Tens of thousands of people were forced from or fled their homes and businesses. Many lost all that they owned, including the houses and shacks that they lived in. Over 60 people were killed, of whom around 20 were South Africans. Other cities and small towns in South Africa also saw attacks on foreigners. But not all parts of the cities were affected and while thousands of South Africans participated in the attacks, thousands of others reacted with horror and acted to stop the violence and help those affected and displaced. These were not the first attacks on African and other foreigners in South Africa since 1994. The xenophobic violence appears to have started (as did the May 2008 attacks) in Alexandra in Johannesburg in late 1994 and early 1995. Sporadic attacks, murders and displacement continued across the country until the violence of May 2008.

The development of xenophobia since 1994 which has been expressed verbally and physically, and which culminated in the widespread violence of May 2008, is disturbing and even confusing, on many levels. It occurred in a country whose history is defined by its struggle against the racism, oppression and discrimination of the apartheid regime, with one of the most progressive Constitutions in the world and ostensibly with a strong commitment to human rights and respect for diversity. It is also a country where two key sectors of the economy, gold mining and commercial agriculture have a history of employing cross border migrants from southern Africa that dates back to the late 1800s. Yet the language used to describe African migration and migrants is that of swamping, flooding, influxes and of "illegals", illegality and makwerekwere.[4] At times it seems as if black Africans from the region and the rest of the country did not migrate to South Africa before 1994. Where did this language and these xenophobic attitudes come from?

South Africa has the **greatest proportion of its population living in urban areas** and is the richest country on the continent.

Yet it is also a country with one of the highest rates of inequality between rich and poor in the world, and, notwithstanding its history, where the years since the end of the apartheid regime have seen significant changes in patterns of internal and cross border migration. Is there a relationship between changes in the urban landscapes of South African cities and attitudes to migration?

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3    The official name of Durban is eThekwini.

4    Peberdy, S. 2009. *Selecting Immigrants: National Identity and South Africa's Immigration Policies, 1910-2008,* Wits University Press: Johannesburg.

This chapter provides a backdrop for the subsequent chapters. It presents an overview of the history of African cross border migration to South Africa as well as changes in patterns of migration since 1994. It sets out the development of immigration and refugee legislation and policy in the post-apartheid years. The chapter also furnishes a brief introduction to the three cities where the place based case studies of the violence of 2008 were located, Johannesburg, Cape Town and Durban.[5]

# Migrating to South Africa

The history of movement and migration in the region now known as South Africa starts long before the arrival of the first white settlers under the leadership of Jan van Riebeck in 1642. Movement of black Africans in the region occurred before and after the arrival of white settlers. Many of the ethnic groups in South Africa have links with others in the region and not just because of the imposition of colonial national borders. Wars, particularly at the time of Shaka Zulu pushed people northwards. Indian and Chinese migration to the country (mostly through indentured labour schemes) started in the late 1800s.

The formation of the Union of South Africa in 1910 saw the development of racially exclusionary immigration legislation, which only allowed white migration and immigration (Immigrants Regulation Act of 1913). As immigration to South Africa in the 20th century meant white immigration this has led to the assumption that an obviously racist white South African state allowed in any and all white immigrants and kept out all black immigrants. Yet this assumption masks the long history of state sanctioned black African temporary migration from southern Africa to the mines and commercial farms of South Africa as well as the tacit sanctioning of other forms of migration from the region, including "clandestine," or illegal migration. It also elides over the exclusion of successive groups of white immigrants.[6] The attitude of the state to black African migration from the region "veered between encouragement, acceptance, ambivalence and rarely hostility." REF

Owing to territorially expansionist aims nationals of Botswana, Lesotho and Swaziland could move freely into South Africa until 1963, although they were subject to segregationist and apartheid restrictions on movement and settlement once they were inside the country. From the 1920s until at least the mid-1960s undocumented migration (or clandestine) was allowed under certain circumstances. Permission to stay was granted until 1928 for some irregular migrants from the

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[5]     Khutsong is not located in Johannesburg, Cape Town or Durban but sits on the edge of Gauteng. See: Amisi, B., Bond, P., Cele, N., Hinely, R., ka Manzi, F., Mwelase, W., Naidoo, O., Ngwane, T. and S. Shwarer. 2009. *Xenophobia and Civil Society: Durban's Structured Social Divisions*; Dube, N. 2009. *'Many shades of the truth' – The Ramaphosa case study*; Everatt, D. 2009. *'The violence that was just the beginning…': Views on 'foreigners' and the May 2008 violence expressed in focus groups staged at the time*; Hlwatshayo, M. 2009. *COSATU's Responses to Xenophobia*; Jara, M. and Peberdy, S. 2009. *Progressive humanitarian and social mobilisation in a neo-apartheid Cape Town: a report on civil society and the May 2008 xenophobic violence in Cape Town*; Kirshner, J. and Phokela, C. 2009. *Khutsong and xenophobic violence: Exploring the case of the dog that didn't bark*; Ngwane, T. 2009. *Xenophobia in Bottlebrush: An investigation into the reasons behind the attacks on African immigrants in an informal settlement in Durban*; Ngwane, T. and Vilikazi, N. 2009. *Social Movement Responses to the Xenophobia: A Case Study of the Soweto Electricity Crisis Committee, the Anti-Privatization Forum & the Coalition Against Xenophobia*; Sinwell, L. and Podi, N. 2009. *Towards Addressing the Root Causes of Social Tensions: Evaluating Civil Society and Local Government*. Sinwell, L. *Towards Addressing the Root Causes of Social Tensions: Evaluating Civil Society and Local Government Responses to Xenophobic Violence in Alexandra*; Smith, M.J. *The Right To Respond: A Meta-Review of the Role of the South African Media's Coverage of Xenophobia and theXenophobic Violence Prior to and Includin gMay 2008*, Case studies for Atlantic Philanthropies.

[6]     Peberdy, S. 2009. *Selecting Immigrants...*

region.[7] And, from the 1920s until at least the mid-1960s undocumented migrants found in urban areas or at the border were given the option of repatriation or permits to work on white owned farms.[8] An exchange of notes between the Portuguese East African (now Mozambique) and South African governments in 1963 allowed "clandestine" migration until or unless either government decided to stop it.[9]

## By the 1960s black migrants from the region were entrenched in every sector of South Africa's labour force leading to concerns over the number of Africans from the region in the country.

In 1961, the Froneman Commission appointed to inquire into "foreign Bantu in the Republic" estimated there were 836,000 'foreign-born" Africans in South Africa of whom 420,000 were in rural areas and 53,281 were registered as working in urban areas.[10] The number of southern Africans living in the country (at least in urban areas) appears to have declined from the 1970s possibly owing to political changes (independence) and growing tensions between South Africa and neighbouring states.[11] The entrenchment of the apartheid state made arrest more likely and their were increasing fears about terrorism, black nationalism and communism.[12] However civil war and drought in Mozambique led to the arrival of an estimated 350,000 Mozambicans in the 1980s and 1990s.[13]

### Table 1. Black population born outside South Africa in censuses, 1911 to 1991.[14]

| 1911 | 1921 | 1936 | 1951 | 1960 |
|---|---|---|---|---|
| 229,207 | 279,650 | 333,777 | 605,992 | 586,043 |

| 1970 | 1980 | 1985[15] | 1991 | 1996* |
|---|---|---|---|---|
| 516,043 | 677,160 | 315,482 | 920,913 | 549,720 |

*includes whites born in SADC countries and the "Rest of Africa"[15]*

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7   Peberdy, S. 1998. "Obscuring history? Debating regional immigration policy in South Africa," in D. Simon (ed.), *South Africa in Southern Africa: Reconfiguring the Region*, James Currey: London and D. Phillips: Cape Town, Ohio University Press: Athens, p. 195-6. This stopped following objections from the governments of Nyasaland, Southern Rhodesia and Mozambique who were concerned about the numbers being given permission to stay.

8   Bradford, H. 1993. "Getting away with murder: 'Mealie Kings', the state and foreigners," in P. Bonner, P. Delius and D. Posel (eds.) *Apartheid's Genesis, 1935-1962*, Ravan Press and Witwatersrand University Press: Johannesburg: 96-125; S. Peberdy "Obscuring history.", p. 196.

9   Peberdy. S. 2009. *Selecting Immigrants*… For a discussion of relations between South Africa and Mozambique see Katzellenbogen, S. 1982. *South Africa and Southern Mozambique: Labour, Railways and Trade in the Making of a Relationship*, Manchester University Press: Manchester.

10  Froneman Commission. 1962. *Interdepartmental Commission of Inquiry into Foreign Bantu*, Government Printer: Pretoria, p. 165.

11  Peberdy, S. 1998. "Obscuring history.", p. 196; personal/private collection of papers of F.G. Brownell.

12  Peberdy, S. 1998. "Obscuring history.", p. 196.

13  Ibid., p. 197; Dolan, C. 1995. "Aliens abroad: Mozambicans in the new South Africa," *Indicator SA*, 12: 29-32.

14  These figures are unreliable, especially after 1951. S. Peberdy. 2009. *Selecting Immigrants*…

15  No explanation is provided for this low figure.

It is African contract workers from the region who have formed the backbone of regional migration to South Africa since the late 1800s. Employed in the gold mines and to a lesser extent commercial agriculture, these workers have made a significant contribution to the economic development of the country. For most of its history mineworkers from the region, particularly Lesotho and Mozambique have made up over half of the labour force of the gold mining industry on which the economy of South Africa has been based.[16] In the early to mid-1900s significant numbers of Malawian and Swazi nationals were also employed on the mines alongside some Batswana and Zimbabweans. Despite their contributions retrenchments on the gold mines have led a massive drop in employment of foreign contract workers, particularly Basotho mineworkers in the late 1990s and early 2000s (Table 1). Over 50,000 Basotho have lost their jobs. In 2006 foreign mineworkers formed the lowest proportion of the workforce on the gold mines ever.[17] Did these mineworkers return home and stay there or have some returned to South Africa to find work in other sectors of the economy?

Africans from the region have entered as contract and seasonal workers on commercial farms since the late 1800s. Numbers of contract and seasonal agricultural workers are hard to find. Regulations and arrangements persisting into the 2000s have allowed seasonal farmworkers from neighbouring states to be regularised after their arrival in South Africa, but only for the duration of the season.[18] Recent xenophobic attacks in De Doorns may in part reflect the regulatory system which allows labour brokers to employ and regularise the stay of seasonal farmworkers. South Africans in the community have alleged that labour brokers prefer to employ Zimbabweans and therefore they led attacks to force them out of De Doorns and from employment as farmworkers.

Regional migration from southern African countries extending as far north as Malawi has been a feature of migration to South Africa since the late 1800s, so black African regional migrants have been part of the fabric of South African urban and rural areas for over a century. They have lived in South Africa as contract workers, as hidden migrants and immigrants and as unrecognised asylum seekers, contributing to the building of the South African economy into one of the strongest in the region. Most have operated as circular migrants retaining homes and families in their countries of citizenship, although some may have developed other family ties in South Africa as well. Yet, this history seems to have been forgotten. There have however, been changes in the patterns of migration to South Africa. In particular the arrival of African migrants, immigrants, asylum seekers and refugees from further north marks a significant change since 1994. Although their numbers may not be as large as they are often imagined to be, they are part of the changing landscape of cross border migration in post-apartheid South Africa

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[16] Crush, J., Jeeves, A. and Yudelman, D. 1991. South Africa's Labour Empire: A History of Black Migrancy to the Gold Mines, David Philip and Westview: Cape Town and Boulder, Colorado; Crush, J. 1999. *Undermining Labour: Migrancy and Sub-Contracting in the South African Gold Mining Industry*, Migration Policy Series No. 15, Southern African Migration Project (SAMP): Cape Town and Kingston; , Migrant Labour in South Africa's Mining Economy: The Struggle for the Gold Mines Labour Supply. McGill-Queen's Press: Kingston and Montreal; T.D. Moodie with V. Ndaatshe, 1994, Going for Gold: Mine, Mines and Migrancy in South Africa, University of California Press: Berkeley; W. James, 1992, Our Precious Metal: African Labour in South Africa's Gold Industry, 1970-1990, David Phillip, James Currey and Indiana University Press: Cape Town, London and Bloomington; J. Crush and W. James (eds.), 1995a, Crossing Boundaries: Mine Migrancy in a Democratic South Africa, Idasa: Cape Town.

[17] Crush, J. 1999. *Undermining Labour*….

[18] For an early history of migration to commercial farms see Jeeves, A. and Crush, J. (eds.). 1997. *White Farms, Black Labor: The State and Agrarian Change in Southern Africa, 1910-1950*, University of Natal Press, Heinemann and James Currey: Pietermaritzburg, Portsmouth NH and Oxford. For contemporary research see Crush J. (ed.), 2000, *Borderline Farming: Foreign Migrants in South African Commercial Agriculture*, Migration Policy Series No. 16, SAMP: Cape Town and Kingston.

# Migration legislative and policy framework

## Immigration and migration

Foreigners can enter South Africa as immigrants (or permanent residents), migrants (temporary residents and contract workers), or asylum seekers who are classified as refugees if and when their applications are approved.

> The process of **legislative and policy reform since 1994 has been slow** and marked by continuity with the past rather than change in that **immigration policy has been mostly exclusionary** retaining a national, protectionist and territorial vision.

The post-apartheid government inherited what has been called one of the "dying Acts of apartheid" the Aliens Control Act of 1991.[19] This essentially exclusionary Act regulated migration and immigration to the country until 2002. There was no refugee legislation in existence in 1994, although the United Nations High Commission for Refugees (UNHCR) had secured an agreement with the apartheid government in 2003 to allow asylum seekers and refugees to be granted special permits under the Aliens Control Act.

The first attempt to alter the legislative framework came in 1995 with an amendment to the 1991 Aliens Control Act, in the words of the ANC Deputy Minister of Home Affairs, "to improve control" over immigration**.**[20] The amended Aliens Control Act placed greater emphasis on the skills and qualifications of potential immigrants than before and the Department stated that "no one in the unskilled and semi-skilled categories" would be accepted as an immigrant.[21] Indicating the stricter immigration regime being implemented by the post-1994 state the number of applications rejected by the Immigrants Selection Committee between 1994 and 1996 was more than two and half times the number between 1990 and 1992.[22] Simultaneously, approved applications for permanent residence declined significantly between 1994 and 2000 (Table 2). The rapid increase in approved applications since 2002 indicates a change in policy and legislation.

The current legislative regime is governed by the Immigration Act of 2002 which had to be amended in 2004 (Immigration Amendment Act), in part to bring it into line with the Constitution. The first

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[19] The use of legislation with racially exclusionary roots raises questions in and of itself (see Peberdy, S. and J. Crush. 1998. "Rooted in racism: the origins of the Alien's Control Act," in J. Crush (ed.) *Beyond Control: Immigration and Human Rights in a Democratic South Africa*, Idasa and Queen's University: Cape Town and Kingston: 18-36.

[20] Act No. 76, Aliens Control Amendment Act, 1995. The primary author of the Act Mr A. Tredoux made similar comments when interviewed about the Act (interview by S. Peberdy 3/4/1998).

[21] Department of Home Affairs, April 1998, "Policy Document: Permanent Residence, Republic of South Africa," Pretoria.

[22] Personal communication, Department of Home Affairs, 3/7/1998.

moves towards the development of new legislation and policy started with a relatively progressive Green Paper in 1997 followed by a very different White Paper in 1998. As part of the Government of National Unity the first Minister of Home Affairs was the leader of the Inkatha Freedom Party (IFP) Mangosutho Buthelezi. Contestations over the department at the level of Director General bedevilled the department even after the (ANC) Minister Nosiviwe Mapisa-Nqakula took over. However, the slow rate of the development of legislation cannot be placed at the door of contestations for power within the department, although they may not have helped they rather reflected contestations over policy direction.

> The **amended Immigration Act** retains many of the features of its predecessor although it **is less exclusionary for some.**

Increasing concern over skills shortages and high rates of emigration of professionals meant the 2002 and 2004 Acts were intended to facilitate the entry of skilled migrants and immigrants to boost South Africa's economy.[23] The objective of the more inclusionary approach was to "approve immigration applications in the context of South Africa's skills and investment needs."[24] Avenues were created to facilitate the entry of professionals with "extraordinary" skills. Application fees for permanent residence were slashed. Notwithstanding these changes application procedures and requirements remain cumbersome and at least until 2008 applications for permanent residence could take two years or more to process.[25]

Semi-skilled and un-skilled workers are still excluded from permanent residence, and with the exception of contract mine workers and contract agricultural workers from temporary residence. The amended Immigration Act retains the preferential access of the mining and commercial agricultural sectors to contract labour from the region. Bi-lateral agreements governing contract labour for the mines from neighbouring states are still operational and have barely changed since the mid-1900s (or even earlier for some).[26] Unlike most work permit holders, contract workers have no access to the immigration system except through marriage and are not allowed to bring their families with them. Arrangements are also in place through regulations to allow the entry of seasonal farm workers from the region (mainly Lesotho, Mozambique and Zimbabwe).

Outside the contract mining and agricultural permits temporary residence is granted for visiting, work, business, study and medical treatment purposes. New categories of temporary residence permit were also introduced in the amended 2002 Immigration Act to facilitate the entry of skilled workers, particularly those working in the corporate sector. Fees for temporary residence remain

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[23] See B.Mercy, D. Kaplan and J. Meyer, 2000, "An outline of skilled emigration from South Africa," *Africa Insight*, Vol. 30(2). See also Rogerson, C. 2007. *Medical Recruits: The Temptation of South African Health Care Professionals*, Migration Policy Series No. 3, SAMP, Idasa and Queen's University: Cape Town and Kingston; Kahn, M. et al. 2004. *Flight of the Flamingos: A Study on the Mobility of R&D Workers*, HSRC: Pretoria; and the collection of papers in McDonald, D. and Crush, J. (eds.). 2002. *Destinations Unknown: Perspectives on the Brain Drain in Southern Africa*, Pretoria: Africa Institute of South Africa.

[24] Department of Home Affairs. 2005. *Annual Report 2004/5*, Department of Home Affairs, p. 35.

[25] www.dha.gov.za.

[26] Crush, J., Peberdy, S. and Williams, V. 2007. "Labour migration and South Africa: Towards a fairer deal for migrants in the South African economy," unpublished report for the Department of Labour.

onerous for those, like most Africans, who come from countries with weaker currencies. Visitors permits are often used by regional migrants who have access to passports, particularly small scale cross border traders.[27] They are usually issued as single entry permits for periods of time varying from a few days to three months. Various conditions may be placed on the issue of visitors permits through regulations.

Nationals of two SADC countries are eligible for specific temporary residence permits. Recognizing the strong connections between Lesotho and South Africa and the large volume of traffic for short (day) visits, Basotho nationals can hold six month concession permits. These allow regular travellers to cross the border for day visits without having their passports checked by immigration officials giving holders relatively free movement between the two countries. In 2000, 130,000 Basotho concession permits were issued, and there is no reason for the number to have declined, rather it is likely to have increased.[28]

Following the xenophobic violence of May 2008 a new special temporary residence permit is being issued to Zimbabweans. The decision to issue the permit indicates the increase in the number of Zimbabweans entering South Africa since the economic collapse of the country in the early 2000s. This was placing a heavy burden on the already slow and faulty asylum system. While many Zimbabweans qualify for asylum the system was also being used by others whose claims were more tenuous. The permits are valid for period from three months to a year. Zimbabweans may still claim asylum.

## Recognising regional obligations

Although **immigration legislation and policy remains largely exclusionary**, particularly for unskilled migrants from the region and the rest of the continent, the post-apartheid **government has recognised the racially exclusionary migration practices of the past regime and the continued existence of colonial boundaries**.[29]

To this end it introduced four measures to redress these issues. First, bi-lateral agreements have established 'border control areas' in certain parts of the border which allow residents of the areas

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[27]  See: Peberdy, S. with Campbell, E., Cau, B.,Conteh, M., Eisab, G., Mulenga, C., Raimundo, I., Tawodzera, G., Tevera, D., and M. Tsoka. 2007. "Monitoring small scale cross border trade in Southern Africa," unpublished report for the Regional Trade Facilitation Programme; Peberdy, S. and C. Rogerson. 2003. "Creating new spaces? Immigrant Entrepreneurship in South Africa's SMME Economy," in R. Kloosterman and J. Rath (eds.) *Venturing Abroad: Global Processes and National Peculiarities of Migrant Entrepreneurship in Advanced Economies*, Berg: Oxford; Peberdy, S. 2000. "Border crossings: small entrepreneurs and informal sector cross border trade between South Africa and Mozambique," *Tjidschrift voor Economische en Sociale Geographie*, 91(4): 361-378.

[28]  Sechaba Consultants and Associates. 2002. *The Future of the Lesotho-South Africa International Boundary*, Migration Policy Series No.26, SAMP: Kingston and Cape Town, p. 35-36.

[29]  Which from 1910 to 1986 and effectively until the 1990s, with the exception of contract mineworkers and agricultural workers, placed racial restrictions on entry (see S. Peberdy. 2009. *Selecting Immigrants…*)

to cross the border to a certain distance without having to pass through immigration control.[30] Second, three different amnesties were introduced for SADC nationals. In 1995, mineworkers who had worked on the mines since 1986 and who had voted in the 1994 elections could apply for permanent residence.[31] Just over 51,000 (half of those eligible) mineworkers got permanent residence through this process.[32] The second, for undocumented SADC nationals who met certain conditions ran from 1996, and gave permanent residence to almost 125,000 applicants.[33] The third ran from 1999 to 2000 and was for Mozambican refugees who had arrived in South Africa between January 1985 and December 1992.[34] This last amnesty gave approximately 90,000 Mozambicans permanent residence.[35]

South Africa is a member of both the African Union and the Southern African Development Community (SADC). Both regional institutions have as part of their founding aims to promote the free movement of people. The SADC has gone through a long tortuous process which eventually led to the adoption of the Facilitation of Movement of People Protocol at the Summit of the Heads of State in 2005.[36] It has been adopted by 9 countries but is still needs to complete the country ratification process before an implementation framework can be drawn up. Although its aim is to facilitate movement eventually, once ratified, the Protocol will essentially only allow SADC nationals visa free entry to another SADC country for 90 days per year. Entry for work or permanent residence purposes will remain subject to national legislation.

The creation of border zones and the amnesties, while inclusionary measures, were more about acknowledging the apartheid past and drawing a line for future exclusion.[37] They paved the way for the introduction of draconian border and heartland policing measures for undocumented migrants from the region. The permits issued to Lesotho and Zimbabwean nationals are pragmatic measures. The legislative framework remains unfriendly to un-skilled and semi-skilled migrants from the region, the rest of the continent and the world.

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[30]    In 2000, 130,000 Basotho concession permits were issued. Sechaba Consultants and Associates, 2002, *The Future of the Lesotho-South Africa International Boundary…*, p. 35-36.

[31]    Mineworkers who had been working in South Africa since 1986 could vote in the 1994 elections. See Sechaba Consultants. 1997. *Riding the Tiger: Lesotho Miners and Permanent Residence in South Africa*, Migration Policy Series No. 2, SAMP: Cape Town and Kingston.

[32]    Crush, J. and Williams, V. (eds.). 1999. *The New South Africans? Immigration Amnesties and Their Aftermath*, Southern African Migration Project/ Idasa: Cape Town.

[33]    Applicants had to prove that they were a citizen of an SADC country; that they had been "continuously resident" in South Africa for a period of five years or longer before 1 July 1996; did not have a criminal record; would be a "desirable inhabitant of the Republic"; "engaged in productive economic activity" in either the formal or informal sector; and/or "in a relationship" with a South African, (including customary and "stay together" relationships); and/or that they had dependent children born in or legally resident in South Africa. The application period was originally set from 1 July 1996 to 30 September 1996, but was extended to 30 November 1996 because of an initially low take up rate (J. Crush and V. Williams (eds.) The New South Africans, p. 6-7).

[34]    Johnston, N. 2001. "The Point of No Return: Evaluating the Amnesty for Mozambican Refugees in South Africa," SAMP Migration Policy Brief No. 6, SAMP: Kingston and Cape Town, www.queensu.ca/samp/, p. 4

[35]    Johnston, N. 2001. "The Point of No Return…", p. 33.

[36]    Oucho, J. and Crush, J. 2001. "Contra Free Movement: South Africa and the SADC Migration Protocols" *Africa Today* 48 (2001): 139-58; see also, Peberdy, S. and Crush, J. 2007. "Migrating without borders: histories, realities and negotiating free movement in Southern Africa," in A. Pecoud and P de Guchteneire (eds.) *Migration Without Borders*, Geneva: UNESCO, pp. 175-197.

[37]    S. Peberdy. 2009. Selecting Immigrants…

# Forced migration, asylum seekers and refugees

The apartheid regime did not recognise asylum seekers and refugees. It was however, willing to take white people leaving de-colonising countries on the continent without question, often when they did not meet the terms of immigration legislation.[38] So, whites who left Mozambique at independence were welcomed in South Africa and given permanent residence. Black Mozambicans who fled the civil war were not, and entered the country as undocumented migrants. The apartheid regime came to an agreement with the UNHCR in 1993 and from that date until the passing of refugee legislation, newly arriving asylum seekers and refugees were issued with special permits under the Aliens Control Act of 1991. After 1994, South Africa became a signatory to the United Nations 1951 Convention on the Status of Refugees and its 1967 Protocol as well as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

Developing the first ever refugee protection legislation in South Africa's history took less time than the new immigration legislation. The 1997 Green Paper recommended the development of a framework specific to refugee protection. Less controversial than proposed changes to the immigration regime the Refugees Act was passed in 1998 (Act No. 130). But reflecting contestations over some of its provisions and accompanying regulations it did not come into force until 2000. It was amended in 2008 by the Refugees Amendment Act (Act No 33) which made procedural changes to the refugee determination procedures and aligned the process more closely with international instruments. Although the Act sets out provisions for claiming asylum the administration of the Act has been problematic and raises questions over the commitment of the government to its refugee regime. Asylum seekers can wait years for their applications for refugee status to be adjudicated.[39] The lengthy adjudication process leaves the system open to abuse. Notwithstanding problems in its administration and implementation, particularly with access and types of documentation provided, the Act affords protection to asylum seekers in South Africa. Asylum seekers and refugees have the right to work, study and access medical treatment as if they were South African nationals.

# Policing migration

One area which has seen a significant break with the past policy is **the policing of undocumented (often called illegal) migration.**

Increasing effort has been put into policing South Africa's borders and its heartland, and so into finding and repatriating undocumented migrants. The focus of these efforts has been other black Africans, for regional migrants this is in part a function of geography. South Africa shares 7,000 kilometers of land borders with Namibia, Botswana, Zimbabwe, Mozambique, Swaziland and Lesotho. The Zimbabwean and Mozambican borders are protected by 220 kilometers of potentially

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[38]   S. Peberdy. 2009. Selecting Immigrants…

[39]   Human Rights Watch. 2005. "Living on the Margins: Inadequate Protection for Refugees and Asylum Seekers in Johannesburg," *Human Rights Watch*, Vol. 17 (15A).

lethal electric fence which runs intermittently along the border. Erected in 1986 against incursions by members of South African liberation movements, the fence has been set at "non-lethal mode" since 1993, but is set to administer an electric shock.[40] Other sections of the border are protected and demarcated by the Kruger National Park, the Limpopo and Orange Rivers, and by a dense sisal barrier planted in the 1970s. In 1994 about 50,000 (of a total of 90,000) soldiers were located on borders and the numbers were increased again in 1995.[41] By 2008, patrolling and policing of the borders had largely shifted to the police. The number of international airports has been reduced from 36 to 10. Importantly for regional migrants entry has been made harder as the number of land border posts was reduced from 52 to 19 between 1994 and 1997.[42]

Perhaps the biggest changes have been seen in heartland policing measures. Using skills developed in the apartheid years black Africans from the rest of the continent are subject to stop and search operations run by the South African Police Services (SAPS) sometimes in conjunction with the army. These are sometimes anti-crime operations but at others they take place to specifically locate undocumented migrants and have been given names like "Operation Passport."[43] Irregular migrants are identified by a range of superficial physical features such as: skin-colour (Africans from further north are held to be darker than South Africans); TB vaccination marks (many other African countries vaccinate children on their forearm whereas South Africans are usually vaccinated on their upper arm); by traditional scarification marks; and by accent, language ability and dress.[44]

Once arrested irregular migrants are taken to police stations and then, depending on where they are arrested to Lindela Detention Centre in Krugersdorp in Gauteng.[45] From there they are repatriated to their home countries. Although legislation meets Constitutional requirements procedures challenge the rights of arrested undocumented migrants.[46] An irregular migrant can be arrested, detained and repatriated by officials of the Department of Home Affairs and has no right to challenge their arrest, detention or repatriation in a court of law, although ostensibly appeal procedures are in place. The process of arrest, detention and repatriation is essentially a revolving door whereby migrants can be back in South Africa within 24 hours of being repatriated.

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40    "Electric fence," *Star*, 2/11/1994. Other reports suggest that the fence has been on "non-lethal mode" since 1990 ("Electric border fence no deterrent to desperate Mozambicans," *Star*, 6/12/1996). The defence force say the shock is like "that from a motor car spark plug" (ibid.) It can be crossed with protective clothing, by cutting holes in the fence or using non-conductive tools like wooden sticks. Sensors detect when the fence is touched or crossed and the information is relayed to a computer which can pin point where the fence is being breached.

41    "Leaky borders are a major worry," *Star*, 12/12/1994.

42    Operational Working Team on Border Control. 1997. "Border Control Collective Approach Implementation Plan," prepared for the Heads of the National Inter-Departmental Structure on Border Control, p. 2 and Annexure 4. These land border posts are supplemented by designated "informal crossing points" for holders of local passes.

43    "Operation Passport," *Star*, 23/6/1998.

44    Minaar, A. and Hough, M. 1996. *Who goes there? - Perspectives on Clandestine Migration and Illegal Aliens in Southern Africa*, HSRC: Pretoria, pp. 165-7; Interview, I. Badenhorst, Chief Immigration Officer, Lebombo Border Post, 3/3/1997.

45    Algotsson, E. 2000. *Lindela at the Crossroads for Detention and Repatriation*, report for the South African Human Rights Commission.

46    Klaaren, J. 1998. "Immigration and the South African Constitution," in J. Crush (ed.) *Beyond Control: Immigration and Human Rights in a Democratic South Africa*, Idasa and Queen's U.: Cape Town and Kingston, pp. 55-78.

# Counting up? Changing patterns of migration

While South Africa there are significant continuities with the past in patterns of cross border migration to South Africa since 1994, there have also been significant changes. It is impossible to know how many foreigners are in South Africa at any one time as official data can be difficult to interpret and there is no way of knowing how many irregular migrants are in the country at any one time. The most significant changes have been:

▷ the entry of asylum seekers and refugees from the rest of the continent and further a-field;

▷ increased movement of visitors and business people (mainly small scale cross border traders) from southern Africa;

▷ a fall in the number of contract mineworkers;

▷ until 2000 a significant fall in the number of permanent residents (but an increase owing to the amnesties);

▷ and since 2000 a significant, but unknown increase in the number of Zimbabweans entering the country.

All too often, the language of migration in the media and in popular discourse when referring to migrants from the rest of the continent is that of "illegal" and "illegals". Very rarely are Africans seen as people with papers and documents and with the right to stay in South Africa, with permission to work and/or study and trade. Yet the existing data shows that many Africans from the rest of the continent hold documents which allow them to be in the country and depending on their status, to work, study and trade.

*Table 2. Approved applications for permanent residence, 1990-2005.*[47]

| Year | Applications approved | African applications approved |
|------|----------------------|-------------------------------|
| 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 |

[47]    Crush, J., Peberdy, S. and Williams, V. 2007. "Labour migration…," p. 19.

| | | |
|---|---|---|
| **1997** | 4,102 | 1,281 |
| **1998** | 4,371 | 1,169 |
| **1999** | 3,669 | 980 |
| **2000** | 3,053 | 831 |
| **2001** | 4,832 | 1,584 |
| **2002** | 6,545 | 2,472 |
| **2003** | 10,578 | 4,961 |
| **2004** | 10,714 | 5,235 |
| **2005** | 2,138 | n/a |

# Permanent residents

There is no way of knowing how many permanent residents are in the country at any one time. As noted above, initially immigration policy and practice post-1994 led to a dramatic fall in the number of approved applications (Table 2 above). The change in policy and legislation in 2002 has led to an increase in approved applications. By 2005, almost half of these new permanent residents were Africans. Their numbers were supplemented by the approximately 266,000 SADC nationals who were granted permanent residence in the three amnesties of 1995, 1996 and 1999-2000.

# Temporary residents

Temporary residents may be in South Africa for a multitude of reasons, visiting family and friends or other forms of leisure, work, trading or business. Small scale cross border traders do not qualify for business permits so usually enter on visitors permits. There has been a massive increase in traffic between South Africa, SADC countries and the rest of the continent since 1994. Home Affairs data only counts the number of times the border is crossed not the number of individuals or permit holders. The number of border crossings by non-South Africans rose from 1 million in 1990 to over 7.5 million in 2005 (Table 3) and to 8.5 million in 2006.[48] Almost 75% of these visits were from SADC nationals, and over 5% from the rest of Africa. These numbers are supplemented by the approximately 130,000 six month border concession permits issued to Basotho each year.

These visitors to South Africa make a significant contribution to the South African economy. Direct spend by visitors from Africa and the Middle East exceeded the combined expenditure of visitors from Europe, the Americas, Asia and Australasia. In 2005, in terms of visitors total direct spend by country, seven of the top ten countries were from SADC including the top four (Mozambique,

[48]     Crush, J., Peberdy, S. and Williams, V. 2007. "Labour migration…," p. 12.

Zimbabwe, Botswana and Lesotho).[49] This may be explained in part by the extensive small scale cross border trade that takes place between South Africa and the rest of the region.[50]

*Table 3. Total Border Crossings 1996-2005*

| | 1996 | 1998 | 2000 | 2002 | 2003 | 2004 | 2005 |
|---|---|---|---|---|---|---|---|
| **TOTAL** | 5,186,221 | 5,898,236 | 6,000,538 | 6,549,916 | 6,640,095 | 6,815,202 | 7,518,320 |
| **Europe** | 798,398 | 981,680 | 1,048,923 | 1,273,822 | 1,343,379 | 1,312,309 | 1,334,225 |
| **North America** | 144,592 | 203,065 | 210,349 | 222,345 | 228,244 | 251,536 | 280,808 |
| **Australasia** | 63,793 | 70,333 | 71,161 | 87,136 | 90,391 | 93,304 | 97,083 |
| **Middle East** | 25,064 | 28,570 | 29,297 | 34,112 | 32,860 | 32,831 | 34,913 |
| **Asia** | 142,240 | 138,478 | 156,600 | 184,555 | 186,274 | 195,943 | 196,702 |
| **Africa** | 3,781,351 | 4,291,547 | 4,298,613 | 4,513,694 | 4,519,616 | 4,707,384 | 5,446,062 |
| **Unspecified** | 185,454 | 124,362 | 123,761 | 173,522 | 177,067 | 156,310 | 61,731 |

*Source: Statistics South Africa, Tourism & Migration Reports, PS015*

# Contract mine and agricultural labour

There have been significant changes in patterns of migration to the mines, and in particular the gold mines of South Africa. Retrenchments in the sector led to the loss of around 170,000 jobs between 1990 and 2000. South Africans were heavily affected in the early years of retrenchments but have been most likely to be employed with growth in employment in the 2000s (Table 4). Basotho mineworkers have been most heavily affected.

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[49]  South African Tourism Strategic Research Unit, 2006 Annual Tourism Report, South African Tourism, August 2006.

[50]  See: Peberdy, S. et al. 2007. "Monitoring small scale cross border trade…"; Peberdy, S. and C. Rogerson. 2003. "Creating new spaces?..."; Peberdy, S. 2000. "Border crossings…".

*Table 4: Mine labour employment on the gold mines, 1990-2006[51]*

| Year | South Africa | Botswana | Lesotho | Mozambique | Swaziland | % Foreign | Total |
|------|-------------|----------|---------|------------|-----------|-----------|-------|
| 1990 | 199,810 | 14,609 | 99,707 | 44,590 | 17,757 | 47 | 376,473 |
| 1995 | 122,562 | 10,961 | 87,935 | 55,140 | 15,304 | 58 | 291,902 |
| 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 |
| 2001 | 99,560 | 4,763 | 49,483 | 45,900 | 7,841 | 52 | 207,547 |
| 2002 | 116,554 | 4,227 | 54,157 | 51,355 | 8,698 | 50 | 234,991 |
| 2003 | 113,545 | 4,204 | 54,479 | 53,829 | 7,970 | 51 | 234,027 |
| 2004 | 121,369 | 3,924 | 48,962 | 48,918 | 7,598 | 47 | 230,771 |
| 2005 | 133,178 | 3,264 | 46,049 | 46,975 | 6,993 | 43 | 236,459 |
| 2006 | 164,989 | 2,992 | 46,082 | 46,707 | 7,124 | 38 | 267,894 |

*Source: TEBA*

# Asylum seekers and refugees

One of the most significant changes in patterns of migration seen since 1994 is the arrival of asylum seekers and refugees from the rest of the continent as well as from overseas.

South Africa has experienced a significant increase in asylum-seekers from the rest of Africa and Asia since 1994. Around 150,000 claims/applications for asylum were received by the Department of Home Affairs between 1994 and 2004. In the same decade 26,900 asylum seekers were granted refugee status.[52] In 2006 (the latest year for which data was available by country), an "estimated" 53,363 asylum claims were made, the highest ever number."[53] Men comprised 78% (41,437) of these claims, women 20% (10,769) and children 2% (1,155). Although, some 5,342 initial decisions were made on the 2006 claims for asylum it can take up to five years (and sometimes longer) for asylum claims to be adjudicated. The Department of Home Affairs established a "Backlog Project" in an attempt to reduce the number of people waiting for decisions on their claims. Of the 111,157 outstanding claims in the backlog project at the beginning of 2006, 29,325 were finalized leaving a balance of 81,832 people with the status of asylum seekers while they waited for decisions on their claims to refugee status.[54]

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[51]  Crush, J., Peberdy, S. and Williams, V. 2007. "Labour migration…"

[52]  Department of Home Affairs, unpublished data, 2005.

[53]  Department of Home Affairs, 2006 Annual Report on Asylum Statistics (January-December), unpublished, Department of Home Affairs, 2007.

[54]  Department of Home Affairs, 2006 Annual Report on Asylum Statistics….

The largest claimant-generating countries between 1994 and 2001 were: Angola, Burundi, Zaire (DRC) and Somalia. There have also been significant numbers of claimants from countries such as Cameroon, Nigeria, Senegal, India and Pakistan. Rejection rates are high for claimants from these countries, suggesting that economic migrants may have attempted to use the refugee system to settle in South Africa. Data for 2006 shows changes in the countries of origin of applicants for asylum from the period 1994-2001 (Table 5). Most notable is that Zimbabwe was the largest source of asylum claims in 2006 comprising over a third of all claims (18,973). Also new to the list as a significant source of asylum claims was Malawi with 6,377 claims (12%). Other important source countries were the DRC, Ethiopia, Bangladesh and Somalia.

*Table 5. Refugee applications by country of origin, 2006.*

|  | Applications | |
| --- | --- | --- |
|  | **Number** | **%** |
| Zimbabwe | 18,973 | 35.4 |
| Malawi | 6,377 | 11.9 |
| DRC | 5,582 | 10.5 |
| Ethiopia | 3,916 | 7.3 |
| Bangladesh | 3,074 | 5.8 |
| Somalia | 3,024 | 5.7 |
| Tanzania | 1,838 | 3.4 |
| Pakistan | 1,363 | 2.6 |
| Congo (Brazzaville) | 1,207 | 2.3 |
| India | 1,175 | 2.2 |
| Others | 6,832 | 12.8 |
| Total | 53,361 | 100.00 |

*Source: Department of Home Affairs, 2006 Annual Report on Asylum Statistics (January-December), unpublished, Department of Home Affairs, 2007.*

# Post-apartheid cities – or neo-apartheid cities?

*"*
*Cities are not just to do with housing people and economic activity, or building streets and architecture; they are also places of struggle for social and spatial justice and equitable distribution of resources as well as places of art, culture and civilisation. (Malik, A. 2001).[55]*
*"*

Developments in South African cities since 1994, present a conundrum. On the one hand they have been the sites of some of the most significant changes in post-apartheid social, cultural and economic life. On the other, at times they appear to reproduce some of the worst aspects of the apartheid city. So, on the whole, they remain spatially divided with black poor and working class still living in geographically marginalised and peripheral areas of the city which are under-serviced and marked by high levels of unemployment, poverty, economic marginalisation and social crises.

In South Africa "cities are the most productive sites in the national economy as well as areas that accommodate the largest number of poor people."[56] The 21 key urban areas of the country contribute 70% of the national economy.[57] They are the places at the interface of South Africa and the rest of the region and continent as well as the rest of the world. They are the sites where the integration of South Africa into the global economy can be seen. Johannesburg is the only South African city to be classified as a world city. Cape Town and Durban are port cities, key to South African trade, while Johannesburg serves as an economic and trade hub for the country and the region.

In 2001, some 56% of South Africa's population were found to live in cities (but only 48% of black Africans).[58] Johannesburg, Cape Town and Durban along with Ekurluleni and Tshwane (also known as Pretoria) are the country's core urban regions. Although the rate of growth is slowing South African cities are growing at an average rate of nearly 2% per annum.[59] And, there has been a significant increase in the rate of urbanisation since the early 1990s as racial restrictions on movement and residence were lifted. Internal migration is a key feature of the population growth of the cities under discussion.

Despite being sites of wealth creation, South Africa's cities are also sites of great inequality and poverty. Table 6 shows that although the three cities under discussion contributed almost 40% of the nation's Gross Value Added (GVA) in 2004 almost a quarter of the populations of Cape Town and Johannesburg and over a third of the population of Durban were living under the Minimum Living Level (MLL) in 2005. The official unemployment rate for all the cities averaged at over 25%.

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[55]    Cited in Pieterse, E. 2004. "Recasting urban integration and fragmentation in post-apartheid South Africa," *Development Update*, Vol. 5 (1), p. 81.

[56]    South African Cities Network (SACN). 2006. *State of the Cities Report, 2006*. SACN: Johannesburg, p. 2-2.

[57]    SACN. 2006. State of the Cities Report, 2006. SACN: Johannesburg, p. 1-3.

[58]    Statistics South Africa. *Census 2001*. (www.statssa.gov.za).

[59]    SACN. 2006. State of the Cities Report, 2006. SACN: Johannesburg, p. 3-2.

## Table 6. Economic profile of Cape Town, Durban and Johannesburg

| | Population size (2001) | Official Unemployment rate (%) (2004) | Population under Minimum Living Level (MLL) (%) (2005) | Population with no schooling (%) (2004) | Contribution to national Gross Value Added (GVA) (%) (2004) | Gini Coefficient (2005) |
|---|---|---|---|---|---|---|
| Cape Town | 2.9 m | 23.4 | 24.7 | 15.5 | 11.2 | 0.67 |
| Durban | 3.1 m | 28.1 | 33.7 | 18.3 | 10.0 | 0.74 |
| Johannesburg | 3.5 m | 28.9 | 24.8 | 18.4 | 18.1 | 0.75 |

*Source: SACN. 2006. State of the Cities Report, 2006. SACN: Johannesburg, pp. 2-8, 3-31, 3-45.*

The post-1994 government inherited a legacy of inequality of access to services, infrastructure and social capital leaving South Africa a highly divided society.[60] Millions of (mainly black) South Africans were living in shacks in peri-urban and urban areas, others in inadequate and/or overcrowded housing.[61] In 1994 around 12 million people in South Africa lacked access to clean drinking water, and 21 million lacked adequate sanitation.[62] Only 36% of the population had access to electricity.[63] Estimations of unemployment rates have ranged from 25% to 40%.[64] But they are as high as 70-80% in some urban communities.

Although great strides have been made in improving access to clean water, sanitation and electricity access to housing and service delivery remain extremely problematic. The violence of May 2008 is not the only violence seen in urban communities in the past few years. Increasingly communities are demonstrating against the lack of service delivery and corruption. Table 7 shows some key indicators regarding service delivery. However, these figures mask deeper inequalities which are expressed through race and class. Black African South Africans, and to a lesser extent, coloured South Africans remain marginalised. Black South Africans are most likely to live in informal dwellings in informal settlements with limited access to water and sanitation. So for instance in Cape Town in 2006, 21% of households relied on water on site and 18% on a public but figures for black households were 46% and 18% respectively. Similarly although in 2006, a quarter of the city's households used flush toilets on site this applied to 50% of black residents of whom 55% were sharing with other households. Some 3.5% of the population were still using the bucket system, but 10% of black residents.[65] Some informal settlements are relatively well serviced. Others are not.

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[60] See Seekings, J. and Nattrass, N. 2006. *Class, Race, and Inequality in South Africa*, University of KwaZulu-Natal Press: Scottsville.

[61] Peberdy, S. 1999. "Selecting immigrants: Nationalism and national identity in South Africa's immigration policies, 1910-1998," unpublished PhD thesis, Queen's University, Canada, p. 91.

[62] African National Congress.1994. *The Reconstruction and Development Programme: A policy framework*, Umanyo: Johannesburg, p. 28.

[63] African National Congress. 1994. *The Reconstruction…*, p. 31. The 1996 census found just over 40% of households lacked electricity (Statistics South Africa, 1996. *Population Census, 1996*, p. 72).

[64] "Census outcomes will necessitate review of Provinces slices," Star, 21/10/1998.

[65] Small, K. 2008. "General household survey analysis for Cape Town" City of Cape Town (www.capetown.gov.za), p. 28.

## Table 7. Access to services in Cape Town, Durban and Johannesburg (2001).

| City | Access to water in dwelling (% households) | Households without water on site (%) | Households with access to VIP toilet or less (%) | Households not using electricity for lighting (%) |
| --- | --- | --- | --- | --- |
| Cape Town | 70 | 16 | 12 | 11 |
| Durban | 50 | 30 | 32 | 17 |
| Johannesburg | 62 | 15 | 14 | 6 |

*Source: SACN. 2006. State of the Cities Report, 2006. SACN: Johannesburg, pp. 3-36 to 3-39.*

Similarly access to housing is shaped by race and class with black residents of South Africa's three major cities being most likely to live in informal dwellings in backyards or in informal settlements. Again the chances of doing so are defined by race and class. In Cape Town in 2006 an estimated 22% of all households lived in informal dwellings, but almost 60% of the city's black households (37% in informal settlements and 22% in backyards) and 7% of coloured households (2% in informal settlements). Some 18% of Cape Town's households live in overcrowded conditions (29% of black and 21% of coloured).[66]

South African cities are also facing social crises. Health care is a particular problem for cities. HIV prevalence rates in South Africa are amongst the highest in the world, in part because the high rate of circular migration within the country creates conditions which encourage the spread of the virus. HIV prevalence rates from ante natal clinics in 2006 found prevalence rates of 17% in Cape Town, 32% in Johannesburg and 42% in Durban.[67] Communities, particularly those on the margins also face challenges of crime and violence, some of which is related to drug use.

Some of the problems facing South African city managers are shaped by high rates of internal migration. Some 35% of the South Africa population of Johannesburg was born outside the province of Gauteng. Cape Town has experienced significant changes in its make up. Almost 60% of the population growth of the city between 1996 and 2001 was due to internal migration as almost 200,000 South Africans arrived in Cape Town.[68] Between 2001 and 2006 net internal migration to the city amounted to almost 130,000.[69] Following the lifting of the "coloured preference area" between 1985 and 2005 the black population of the city increased from less than 200,000 to over one million. Durban too, has seen high rates of in-migration from the rest of the province and elsewhere and between 1996 and 2001 experienced a rate of population growth of 2.35% despite carrying a heavy burden of AIDS related mortality.[70]

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[66]  Small, K. 2008. "General household survey analysis…" pp. 22,28.

[67]  Department of Health. 2008. *Progress Report on the Declaration of Commitment to HIV/AIDS*, Department of Health (www.unaids.org).

[68]  Parnell, S., Cousins, B. and A. Skuse. 2006. "Migration and urban governance: The case of Cape Town," paper presented at the SAMP/COJ/SACN/MDP Workshop on "Migration and Urban Governance: Building Inclusive Cities in the SADC" Johannesburg, p. 4.

[69]  SACN. 2006. *State of the Cities Report…*, p. 2-18.

[70]  Statistics South Africa, Census 2001, www.statssa.gov.za; Maharaj, B. 2006. "Migration and Urban Governance: The Case of Durban," unpublished paper for SAMP/COJ/SACN/MDP Workshop on "Migration and Urban Governance: Building Inclusive Cities in the SADC," Johannesburg, p. 4.

# Conclusion

It is at the intersection of the long history of migration to South Africa, of immigration legislation, policy and practice, changing patterns of cross border and internal migration and the challenges facing post-apartheid cities and their residents that this project examining the relationship between civil society and the xenophobic violence sits. The long history of cross border migration and the contribution of regional migrants to the building of the South African economy in the past and present appears to have been lost.

The commitment of the state to diversity and respect for human rights is there to see. However, it seems that these rights and respect for diversity mainly apply to citizens, and the inclusive vision which incorporates non-nationals seems only to see those with skills and large bank accounts, or unskilled and semi-skilled workers who will continue to contribute to the mining and agricultural sectors.[71] Immigration legislation, policy and practices remain largely exclusionary except for skilled professionals while challenging the rights of irregular migrants. The language around the introduction of immigration and refugee legislation as well as policing measures, contribute to exclusionary constructions of South African nationhood.

A close examination of changing patterns of cross border migration is revealing. They show that there have been relatively significant changes in the patterns of black African cross border migration, and in the legal status of African cross border migrants. Recognition by the post-apartheid state of racially exclusionary immigration legislation and practices has given over 250,000 SADC nationals already resident in South Africa permanent residence. Thousands of others have been given the opportunity to visit South Africa legally, passing through border posts with travel documents to visit friends and family, to shop and to trade. Special permits for Basotho and Zimbabwean nationals allow them entry to South Africa under particular terms and conditions. New refugee legislation has allowed African asylum seekers from the rest of the continent the opportunity to seek asylum in South Africa. Yet a close examination of the history of migration to South Africa suggests that although the rate of movement of black Africans cross border migrants across South Africa's borders (in both directions) has increased, this may not amount to the influx and flooding that is so often imagined. The data also shows that a significant proportion of African foreigners in South Africa are here with papers that allow them to work, study and trade. So, where does the discourse of illegality come from?

The deep legacy of inequality left by the apartheid state not only shows the enormous challenges faced by the South African government to deliver services to all. The rapid rate of urbanisation in South Africa's cities since the early 1990s indicates that the challenge grows, as the state tries to keep up with new arrivals. Internal migration to South Africa's cities poses a number of problems or issues. First, it increases demand for services and service delivery on city governments that are already struggling to deliver. Second, it can cause disruption in communities and community structures. Third, new arrivals may take time to organise themselves into civil society structures. Fourth, and importantly in the context of the violence of May 2008, new arrivals may not be aware of the long-

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[71] For further discussion on notions of citizenship, immigration, belonging and national identity see Peberdy, S. 2009. *Selecting Immigrants…*

standing residence of African non-nationals and therefore may be challenged by the embeddedness of African foreigners, who while not South African may have lived for longer in the city. However, poverty, inequality, lack of services and lack of housing are not reasons to attack people for who they are and for the citizenship they hold.