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Seeking asylum: A case of Zimbabwean asylum seekers in Rosettenville, Johannesburg

Sehlaphi Sibanda

A thesis submitted to the Faculty of Humanities, University of the Witwatersrand, Johannesburg, in fulfilment of the degree of Master of Arts (Dissertation) in Development Studies

Johannesburg, 2011

Table of contents

List of acronyms 5

Dedication 6

Acknowledgements 7

Declaration 8

1. Introducing research on migration patterns into South Africa post-1994 9

Seeking asylum in South Africa 9

Abstract 11

Research question 12

South Africa's migration patterns post-1994 12

Attitudes of DHA officials towards Zimbabwean asylum seekers 18

Definition of key terms and concepts 19
Asylum seeker(s) 19
Refugee(s) 20
Human rights 20

Perceived skills of Zimbabweans 21

Map of South Africa 23

2008 asylum applications: statistics 24

Theoretical framework 26

Refugee protection in South Africa 27

The relationship between migration and development 30

2. Reflections on research methods 34

Research methods 34

Case study approach 36

Brief background of Rosettenville 37

Settlement and location 37

Map of Rosettenville 38

Sampling 40

Semi-structured interviews 42

Secondary sources 44

Research ethics 45

Respondent's profile 51

Limitations of the research 52

3. Research findings 55

Asylum seekers' experiences 55

Gap between policy and implementation 56

Frequent renewals 59

Amendments over the years 63

Validity of permits and uncertainty about application period 65

Knowledge about Refugee Act and own rights 66

Education levels/skills and under employment 71

Cheap labour 75

Prejudice 79

Migration and crime 81

Failure to distinguish between asylum seekers and undocumented migrants 83

Exclusion versus protection 85

Gender dynamics 87

Conclusion of research findings 94

4. Research conclusions **96**

Conclusions and recommendations 96

Annexure 1 **101**

Bibliography 106

List of acronyms

CAX	Coalition against Xenophobia
CBD	Central Business District
CCMA	Commission for Conciliation, Mediation and Arbitration
DHA	Department of Home Affairs
FMSP	Forced Migration Studies Programme (University of the Witwatersrand)
ID	Identity Document
MDC	Movement for Democratic Change
MRMP	Migrant Rights Monitoring Project
OAU	Organisation of African Unity
SAPS	South African Police Services
SAQA	South African Qualifications Authority
UN	United Nations
UNHRC	United Nations High Commission for Refugees
Wits	University of the Witwatersrand
Zanu (PF)	Zimbabwe African National Union Patriotic Front

Dedication

To forced migrants, feeling their past more emphatically than their present.

It takes courage to be a refugee

Acknowledgements

My sincere gratitude goes to my loving mother, Anet and to my beautiful sister Phethangani Ndiya as well as the rest of my family for the encouragement and emotional support.

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This research would have not been possible without the participation of the twenty respondents who agreed to share their experiences with me, for that I will be forever grateful. Lastly big thanks go to the Refugee Help Desk and especially John Pierre Lukamba for introducing me to most of the respondents and taking me around the Rosettenville area, my heartfelt gratitude for all your help.

Declaration

I declare that this research report is my own unaided work. It is submitted to the Faculty of Humanities for a Masters Arts (Dissertation) in Development Studies, University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.

_____

Sehlaphi Sibanda

14 February 2011

1

Introducing migration patterns into South Africa post-1994

Seeking asylum in South Africa

The emergence of displaced migrants in the form of asylum seekers has seen not only a considerable increase in the number of people entering South Africa, but has also culminated into an interest in the manner in which the country responds to forced migrants. Furthermore, this has opened debate between those arguing that Zimbabwean immigrants are unfairly tapping into the gains of an anti-apartheid struggle they did not fight for and therefore should be sent back home. While others argue that Zimbabwe played a big role in the liberation of South Africa from apartheid and Zimbabweans should be granted asylum in South Africa. Migrants themselves have entered the fray arguing that they can contribute to the development of their host country.

This thesis focuses on asylum seekers and development, particularly the perceived or assumed role that asylum seekers can play in the development of host countries. This thesis argues that Zimbabwean asylum seekers, and indeed asylum seekers from other parts of the world, stand to play a very big role in the development of South Africa, but are severely hindered by asylum seekers laws and policies which do not appreciate their circumstances thus curtailing their potential and grossly violating their rights. Furthermore, this thesis argues that if managed properly, with good structures and

laws to support those structures, forced migration can bring social economic and political value to host countries.

Research for this thesis was collected over four months from July to October 2009. Respondents were Zimbabwean asylum seekers who have been on the asylum system for about two years or more. It is envisaged that asylum seekers who have submitted their claims for protection for this time would be able to provide greater insight into the system and their general experience in South Africa.

This research is not yet another descriptive account of problems and human rights abuses that asylum seekers face but instead investigates what asylum seekers might bring to the development of South Africa. Moreover, the research contributes to a broader understanding of forced migration and development challenges in South Africa and hopes to influence South Africa to maximize the potential benefits of migration.

The research investigates the state's behaviour and practice towards asylum seekers by examining policy *vis-a-vis* realities on the ground, policy administration and the legal structure. The findings of the research suggest that laws and policies not only lack a human face, but hinder asylum seekers from realising their full development potential. Laws fail to take into perspective people's realities and therefore result in a negative impact on development.

Moreover, the research uncovered a shift within the asylum determination process. The state's response to asylum seekers has shifted from a model of protection to controlling asylum seekers with much emphasis being placed on the socio-economic security of the country. Although the numbers and types of migrants may have

changed since 1994, the state's response to the phenomenon of immigration has continued to be driven by a desire for strict control and exclusion (Tshabalala 2009:20).

This shift from protection to security has not only obscured many of the real social and political issues surrounding forced migration but has and continues to violate the rights of migrants. This framing of forced migration as a means of repression and exclusion have been confirmed and justified at national policy level.

To reverse the structural subjugation, elimination and impoverishment of asylum seekers the Department of Home Affairs (DHA) has to provide realistic policies which meet the needs of asylum seekers such as easy access to finance, health care and education amongst other needs.

Abstract

This research was encouraged by the recent developments in migration patterns in the world. Though immigration is not new to South Africa, with people migrating to the country from as early as the 1600s, there has been a notable increase post – 1994 at the fall of apartheid. The profile of migrants has also changed considerably to include refugees, asylum seekers and other forced migrants (Landau 2007; Jacobsen 2006). It is the emergence of a new group of immigrants in the form of asylum seekers and their relationship with the state, economy and society which makes for interesting analysis.

This thesis argues that the continual framing of migration as a security issue, in relation to crime and unemployment overlooks the positive brain gain for the recipient countries (Mawadza 2007). Framing forced migration in this manner disregards the

important question of why people migrate and what service they (can) provide to their countries of asylum and in the process violates their rights.

Research question

This research comes from a premise that there is a mismatch between policy and ideal and/or practice. Due to their exclusionary nature, laws governing the asylum process, as well as poor policy implementation in South Africa fail to take into account people's realities. This fetish for migrant exclusion has meant that South Africa has failed to promote a development agenda and capitalise on the gains of migration.

South Africa's migration patterns post-1994

The increase in wars, civil strife and other forms of unrest in Africa particularly Southern Africa and the Great Lakes region and indeed elsewhere in the world has seen a growing number of forced migrants more than previous decades, with most African migrants settling in South Africa post 1994. Different scholars have given different reasons behind this destination 'choice' ranging from porous borders which are easy to cross, corruption within the DHA and a large population as well as the ethnic diversity of South Africa which makes it relatively easier for undocumented migrants to be simply absorbed into everyday life (Landau 2007).

Landau and Gindrey (2008) believe that more recent migration patterns have been heavily shaped by perceptions of better employment and other opportunities in the country and a relatively peaceful political climate. Landau (2007) and Jacobsen (2006) have noted that as the other traditional migrant receiving countries have become both poorer and politically unstable in post independence economic decline, South Africa

may have come to represent both a 'greener pasture' and a safe haven for those that seek to escape these conditions (Landau 2007). While, however, Johannesburg offers the prospect of employment and protection, none is guaranteed and comes at a price.

Whilst South Africa thrives politically, economically and socially the same cannot be said of her northern neighbour- Zimbabwe. Ironically it is around the same time (late 1990s) when South Africa started showing signs of economic and political growth that Zimbabwe started showing signs of trouble. In 1997 the government gave the war veterans Zimbabwean $50, 000 (equivalent to USD4000.00) then) and once off gratuities and Zimbabwean $2,000 monthly payments.[1] On top of these hefty payments war veterans and their families were allowed free schooling and free medication at government institutions. As a result of this unplanned spending, inflation had risen to 11,000%[2] by June 2007, the worst ever recorded in history. Zimbabwe, once heralded as Africa's bread basket, had reached economic decay.

This was just the start of problems bedevilling Zimbabwe. With the failure of the economy, voices of disgruntlement grew culminating in the formation of a new political party, the Movement for Democratic change (MDC) in September 1999 under the leadership of trade unionist turned politician, Mr Morgan Tsvangirai. The party was to be Robert Mugabe's most formidable opposition. The political and economic tragedy unfolding in Zimbabwe was to see Zimbabweans scatter all over the world in search of refugee, with the bulk of them settling in Johannesburg. Whilst there are no

[1] Zimbabwe News Online, 12 October 1997 www.africa.upenn.edu/Newsletters/zmno_121097.html (accessed 2 September 2009)
[2] http://forum.mg.co.za/showflat.php?Number=1802276399 (accessed 2 September 2009)

exact figures of Zimbabweans in the diaspora (because of the patterns of migration) the numbers have been pegged around1-9 million immigrants in South Africa alone.[3]

Migrations of this scale, whether forced or otherwise, observably have consequences on the development of any state, notably changes in the political, social and economic spheres. Scholars like Sassen (1996) argue that such large scale migration poses a threat to the sovereignty of a state, at the same time diminishing its role in determining and controlling the flow of people, goods and information in and out of its jurisdiction (Sassen 1996). It therefore comes as no surprise that the increase in migration patterns into South Africa has been partly blamed on its weakening capacity to control borders. However, instead of looking at this scenario as a danger, this research argues that benefits can be reaped from such a situation.

According to Gorman (1993:7) this has long been generally accepted among refugee and development experts in academia. He argues that refugee populations could have significant development implications on host societies (Gorman 1993:7). The Rwandese who fled their country in 1961 to seek refuge in Zaire is a case in point. Gorman argues they contributed immensely to the development of their host country. The International Labour Organisation, Bohning: (1981) and SAMP: (1997) have also documented the overwhelming evidence of the positive contribution of migration.[4]

A report by the Migrant Rights Monitoring Project (2009) revealed that whilst this trend, asylum seekers settling in South Africa, is relatively new what is worrying is South Africa's response which centres on controlling rather than protecting refugees.

[3] Landau L (ed) ,2007 *Protecting Refugees, Asylum seekers and Migrants in South Africa* , Cormsa www.migration.org.za/sites/default/files/reports/2009/CRMSA07Report.pdf (accessed 10 October 2009)

[4] Oucho O.John, *The Relationship between Poverty and Migration in Southern Africa* www.sarpn.org.za/documents/d0001212/oucho/oucho.pdf (accessed 10 October 2009)

Algotsson and Van Garderen (2001:1) also note that this control is evident in the 'restrictive immigration policies, deterrent measures such as punitive and arbitrary detention, carrier sanctions, rejection at borders and large repatriation programmes'. This response is not unique to South Africa, a developing country, where students of political economy might justify it as necessary because the state's responsibility lies first and foremost to its citizens, therefore the need to control and limit asylum seekers who are generally perceived as competition with citizens for jobs and other services.

This trend, the exclusion of migrants, is also evident in countries like France which saw an upsurge in the number of asylum seekers from Francophone Africa in the late 1980s. Freedman (2004:1) came to the conclusion that the discourse of security has obscured many of the real social and political issues surrounding forced migrants. The United States responded more or less the same and resorted to fortifying borders in a bid to exclude Mexican immigrants; this however yielded little positive results as the immigrants have simply found other routes through which to enter the States.

South Africa has done considerably well in responding to new arrivals by amending old laws; The Aliens Control Act No.96 of 1991 and the Aliens Control Amendment Act No76 of 1995 which grossly violated the rights of asylum seekers and refugees. These have been replaced with the Refugee Act, No 130 of 1998, which gives asylum seekers more rights though arguments are that the Refugee Act is still modelled along 'fear of the foreigner' which is an off shot of the apartheid philosophy. The argument is that the Refugee Act is not progressive at all.

Though strides have been made in amending law and policy, the results are not quite so evident. Law and its application still remain poles apart. A study by the Civil Society Organisations working on refugee and asylum seekers' human rights in South

Africa (2006) demonstrates that although there is a fairly acceptable measure of legal and policy protective mechanisms for the protection of refugees and asylum seekers in South Africa, there is a serious lack of coherence in the government's implementation of these policies.

This lack of effective implementation of polices has severe effects on everyday life of asylum seekers. For instance the research found that there is poor communication on the status of asylum seekers even between law makers and the police as a government law enforcement agency. In South Africa the DHA is responsible both for formulating policy that should guide immigration enforcement and for determining the status of those that are suspected to be 'illegal'. On the other hand the South African Police Service (SAPS) is ultimately responsible for the day-to-day enforcement of such laws and policies. However, the research uncovered poor communication between these two government departments, the SAPS are ill informed about the documented status of asylum seekers.

In order for the discussion to be easily followed, it is necessary to unpack terms that are considered crucial in the discussion. These terms were chosen because they underline the main argument of the research. For development to be effective it has to be sustainable. The need for development to be sustainable was recognised after the failure of the United Nations first two development decades (1960-1980); this failure encouraged a shift in development discourse from a prescriptive to a more participatory with an emphasis on meeting human needs of present generations.

Social science scholars have given different interpretations to the term development. Development is a dynamic process unfolding overtime, so that the present circumstances in a country or region need to be evaluated against past policies (Naude:

1997:4). It is therefore imperative to change policy to suit present circumstances. Allen (1980) argues that sustainable development is a form of development that is likely to achieve lasting satisfaction of human needs and improvement of quality of life. According to Van Zyl (1994:4) development is the structural transformation of society in many spheres including the political, social, economic and cultural spheres which results in greater productivity, income and choices and consumption for all people. Van Zyl argues that this development process will lead to actual development if characterised by capacity participation of individuals and groups in economic, socio-political institutions so that people's choices and preferences can be taken into account by policy- makers.

According to Naude (1996: 2):

> Development implies a qualitative change in the way society carries out its activities such as through more progressive attitudes and behaviour by the population, the adoption of more effective social organisation … the term evolution refers to the original formulation and adoption of qualitative structural advances in the form of new social attitudes, values and behaviours, or organisations

Though different scholars give different definitions, they all emphasize that development should be human-oriented. This thesis argues though South Africa is doing relatively well in as far as achieving economic growth (it is the strongest economy in the region), it still lags behind in achieving social development, notably the living standards of the population especially the marginalised have still not improved. Post - apartheid economic structure still has not changed much from the apartheid structure. The economy is still largely capitalist and the control still remains in the hands of a few. The capitalist system which centres on maximising profits also

means that business is inclined to cut costs where ever it can include the use of cheap labour.

Attitudes of Home Affairs officials towards Zimbabwean asylum seekers

Zimbabwean asylum seekers are caught at the end of the stick because of the DHA's attitude towards them. The Departments' 'there is no war in Zimbabwe' approach informs or rather ill-informs the way they receive and engage with Zimbabwean asylum seekers. According to the Act each case should be judged on individual merit and not of factors taking place in whole or part of a country as such this blanket application of the Act and the assumption that all Zimbabweans seeking asylum in South Africa are economic migrants disregards this important fact that not all cases are economic. This approach also fails to take into cognisance the interconnectedness between political, social and economic reasons.

This explicit discrimination against Zimbabwean asylum seekers was challenged in court in 2006 (Cormsa: 2008:6). Despite the fact that Zimbabweans are the largest asylum seeking group in South Africa they are the least likely to be granted asylum, 44,423 Zimbabweans claimed asylum in South Africa between 2005 and 2007; within the approximately 5,000 new asylum applications processed each year, the government recognised 241 Zimbabweans as refugees between 2004 and 2006[5]. This is largely as a result of the 'refugee- producing countries' which in itself speaks

[5] Neighbours in need: Zimbabweans seeking Refugee in South Africa www.google.co.za/search?hl=en&q=neighbours+in+need+%2CZimbabweans+Seeking=refugee=in+South+africa&btnG=Google+search&meta+cr%3DcountryZA (accessed 10 October 2009)

volumes about policy implementation in South Africa (asylum cases are supposed to be decided on an individual basis not necessarily events in the country of origin).

Officials often accuse Zimbabwean asylum seekers of abusing the asylum system as a means of legalising their stay in South Africa. Whilst the economy of Zimbabwe is indeed on its knees and although economic conditions may be a contributing factor to flight, the majority of applicants who approach the reception offices cannot be characterised primarily as economic migrants (MRMP 2009: 6).

Whilst acknowledging that the DHA is faced with shortages in personnel, and poorly trained staff and backlogs amongst other challenges, the ultimate goal of the asylum system should be to protect asylum seekers and these challenges must not stand in the way of protecting asylum seekers.

It is hoped this research will influence positive laws on asylum seekers and good structures to support those laws and policies which will see policy being aligned with concrete societal realities. The research informs a better understanding of issues and exposes complexities confronting asylum seekers and possibly informs policy on how to tackle these problems. Ultimately the research opens up communication about this new group of immigrants in the country.

Definition of key terms and concepts

Asylum seeker(s)

The United Nations Refugee Convention 1951 describes an asylum seeker as a person with a well founded fear of persecution on grounds of their race, religion, political opinion, nationality or membership of a particular social group, is outside their country

of nationality and is unable or unwilling to avail her/himself of state protection because of such fear.

Refugee(s)

According to the United Nations Convention of 1951 (UNHCR), a refugee is_any person, owing to well founded fear of being persecuted for reasons of race, religion, and nationality, membership of a particular group or political opinion, is outside the country of his nationality and is unable to or owing to such fear, is unwilling to avail himself of protection of that country… (United Nations Convention of 1951) Art (2).

The Organisation of African Unity (OAU), describes a refugee as someone who

> …owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality (OAU 1969) (Art.1 (2).

It must be noted that while refugees are not only differentiated in terms of the causes of flight, South Africa at present only recognises political refugees. It should also be noted that both the UN and the OAU use these terms interchangeably and this will be adopted in the research. This research also makes use of the term ‘forced migrant (s) in reference to asylum seekers and asylum seekers. Even though the research uses these terms interchangeably it should be noted that they have different legal meanings.

Human rights

According to Article 2 of the United Nations Declaration of Human Rights of 1948, Human rights are generally accepted principles of fairness and justice. The Universal

declaration of Human Rights describes them as ‘universal moral rights that belong to all people simply because they are human beings.

Perceived skill of Zimbabweans

The special focus on Zimbabwean asylum seekers was influenced by a number of factors, chief amongst them are the following;

This thesis argues that Zimbabweans relatively have skills and a good level of education that could be put into good use especially in filling up spaces in the much talked about critical skills shortages in maths and science but is finding it hard to put these skills into good use because of stringent legislation. Richmond (2000:30) defines a skilled person as someone with specialised or technical skills that are used in professional occupations without such individuals the development of the economy would be severely hindered (Richmond 2000). Zimbabwean workers are potentially a valuable resource for the South African economy, due to relatively high education and skill levels. This research uncovered that more than sixty–nine percent of those interviewed had an Advanced Level education (equivalent to Matric) or higher education and at least one other skill. A study by Ranchod (2005) supports this claim.

These skills and education levels are however not only unique to Zimbabweans. Recent research by the FMSP (2009) revealed that 28.7% of migrant survey respondents in Gauteng, Durban and Cape Town have at least finished tertiary education, compared with only 3.2% of the total South African population holding a degree.

According to the National Refugee Baseline Study Survey in South Africa UNHCR (2003), the majority of refugees come from fairly well educated backgrounds. The

same study found that the minority that are in paid employment are in the poorest paid jobs and working in the fields that do not reflect their previous skills and experience. This means that valuable formal qualifications and skills are currently lying dormant and unused in the economy and the public sector. This thesis underscores the importance of the contribution of those with fewer formal skills, for example in the self-employed sector and that their contributions should be invoked in policy discussions.

Another motivating factor is that asylum seekers from Zimbabwe are often dismissed as economic refugees and are not regarded as political refugees by the DHA and by the media. Based on this assumption DHA officials have adopted an arbitrary manner when dealing with Zimbabweans. This is a gross violation of statutes governing the asylum determination process which state that each case is supposed to be judged on individual merit as enshrined in the various protocols regarding asylum seekers and refugees; the 1951 United Nations Refugee Convention and the 1967 Protocol, OAU Refugee Convention which South Africa is signatory to as well as the Refugee Act.

It is because of these attitudes from the media and the DHA that Zimbabwean asylum seekers make for an interesting analysis in drawing the line between political and economic migrants. Most asylum seekers from Zimbabwe often cite economic and political reasons for flight, a reason often used by the DHA to exclude them from granting them protection.

Figure 1: Map of South Africa



http://www.mapsworldwide.com/maps/South%20Africa_map.gif (accessed 19 October 2009)

South Africa is highly pressurised by asylum seekers. Government statistics indicate that more than 207,200 individual asylum claims were registered in South Africa in 2008, making the country the largest single recipient of asylum-seekers in the world.[6]

Table 1: 2008 Asylum applications in South Africa

Item	2008 figures
Refugees & Asylum Seekers	256,200
Zimbabwe	115,800
Congo-Kinshasa	33,000
Somalia	27,000
Malawi	16,400
Ethiopia	11,000
Congo-Brazzaville	9,400
Bangladesh	6,900
Pakistan	5,000
Tanzania	4,200
Total applications	228,700

http://www.unhcr.org/4a2e15ab2.html (accessed 19 October 2009)

The Refugee Act 2008 places restriction on travel outside South African borders, though this is not contained it the actual Act itself (it should be noted that ounce given refugee status, the choice to apply passports to travel beyond is extended to refugees) . This act by the South African government to place travel restrictions on asylum seekers without the Act specifying so is an indication of problems which lie within the application of the Act.

[6] http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e485aa6 (accessed 19 October 2009)

While it is understandable that naturally asylum seekers would not want to go back to a country which they fled, maybe until the situation in that country improved, in South Africa asylum seekers are restricted from any travel outside South African borders. The travel restriction this means that asylum seekers especially Zimbabwean women who for years have depended on cross border trade for survival have had to abandon their traditional survival strategies. This is in conflict with the South African policy of self-sufficiency. Basically the idea behind this concept is to open up space and equip citizens to realise their potential and not to rely on the state for all their subsistence. The South African government has extended this to asylum seekers as well meaning as the policy is, structural hurdles make it difficult for asylum seekers to realise this. For example ideally extending the right to get an education and to work to asylum seekers is welcome and would go a long way in making them independent however it defeats the whole purpose to give grant them these rights and yet make accessing these rights structurally impossible.

Without their traditional method of livelihood asylum seekers find themselves forced to compete with locals on the job market and for basic humanitarian needs, placing a strain on the already overwrought government hence the exclusionary response to exclude them. This competing for services with locals manifests in social ills such as xenophobia.

Whilst on paper asylum seekers are allowed to work in the Republic, amongst other things, securing employment has not been easy. It does not help to have procedural policies which claim to incorporate migrants in the development process but fail to have structures to promote this.

Theoretical framework

The literature reviewed is divided into two parts, the first part focuses on South African's policy towards migrants *vis–a-vis* international laws on refugee protection. This part highlights internationally accepted standards of refugee protection and shows where South Africa fails to meet these standards. The part borrows from the social policy framework. In its abstract sense social policy is the principle whereby members of a large organization and political entities collectively seek enduring solutions to the problems that affect them (Freeman and Sherwood 1970:2).

The proponents of this theory argue that it maintains an element of stability while at the same time seeking to improve the conditions of its members. While one understands that laws and policies are there to give a semblance of order in the society we live in, these laws should take into perspective the realities of the very people they seek to protect. Social policy as a process which should not be rigid but ought to be flexible and modified according to people's ever changing needs and realities.

Social policy as a framework of action propounds that social policy is both a product and a process; it assumes the availability of a well delineated policy which is to be implemented, within the context of potential changes in the values, structure, and conditions of the group affected Freeman and Sherwood (1970).

The proponents of this theory argue that it maintains an element of stability while at the same time seeking to improve the conditions of its members. Social policy as a process which should not be rigid but ought to be flexible and modified according to people's ever changing needs and realities.

The second part highlights the socio-economic impact of Zimbabwean asylum seekers on the development of their host state. This part draws from a collectivist-migrant development oriented perspective which places emphasis on focusing on the positive gains of migration rather than viewing migration as a security threat. The literature reviewed discussed migration within a socio–economic context. By attempting to investigate the interaction between migrants and policy and its implementation, the research exploits gaps which exist both in literature review and public discourse (Tshabalala 2009).

Refugee protection in South Africa

South Africa is signatory to internationally accepted conventions on the protection of refugees. These conventions emphasise on protection amongst other rights. However, in practice refugee protection in South Africa is still found wanting.

These conventions however, do not dictate how the members should implement these policies as such policy implementation is left to the discretion of each member state; neither do they (conventions) place sanctions if the conventions are violated. This gives governments space to implement the conventions within their own interest and interpretation (Chebichi 2009).

There are many grey areas in the Refugee Act of 1998, for example South Africa currently does not recognise what is termed ‘economic migrants’ which the State argues Zimbabweans fall within this bracket because of the ‘there is no war in Zimbabwe policy’. The Act allegedly does not protect this group; furthermore, it blurs the lines in defining who qualifies for protection. It gives a general definition of the term refugees. The term refugee/ asylum seeker is described as following:

> …owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality (Refugee Act 1998).

Furthermore, Section Four of the Act which stipulates which group of people may be excluded from protection is mum on 'economic migrants', this section highlights protection may not be extended to someone who has:

> Committed a crime against peace, a war crime or crime against humanity…, has committed a crime which is of not a political nature and if committed in the Republic would be punishable by imprisonment.

The section goes on to stipulate that refuge may not be given to someone who is guilty of acts contrary to the principles of the UN or OAU, or a person who enjoys protection of any other country in which she or he has taken residence (Refugee Act 1998).

The fact that Zimbabweans are being misconstrued as 'economic' migrants and therefore prejudiced when it comes to protection illustrates a misinterpretation on both the understanding and the application of the law.

Under the Act asylum seekers are issued with a temporary Section 22 Permit, with which to claim their rights, it is in claiming these rights that the inadequacies of the Act are exposed. Firstly it is not clear what the extension of the permits is based on as it differs even for people visiting the same centre and who are on the same stage of the asylum determination process. The best explanation is that this is based on the discretion of the officer on duty. Most asylum seekers however reported that they are normally given extension periods of anything between three to six months, with a few cases of monthly renewal periods. Asylum seekers often have trouble keeping up with

these renewals. The enactment of policy has gross inadequacies and borders on the violation of basic human rights.

Policy lacks a human face and do not take into perspective the realities of the people they seek to protect, a sentiment shared by Spencer-Nimmon (1994:16). For instance, while the law documents those living in this country they cannot easily access social services because their identity documents are not widely accepted by service providers including government institutions.

Civil society and development scholars encourage a paradigm shift from viewing migration as a purely political process to a process which takes into perspective political and socio economic conditions of migrants. They argue that there is an inter connectedness of these – if people's political circumstances are disturbed and they cannot enjoy and /or practice their political rights, it means their socio- economic circumstances are disturbed as well and *vice –versa.* This concept also answers the critical question why people migrate and what they have to offer. Migration is a construction of two factors –push and pulls factors.

Whilst Gorman (1993) and Bohning (1981) have shown a relationship between migration and development, not much theoretical work has been carried out and practical steps have been taken to address the connection between the two.

Previous scholars have cited that the large clandestine nature of movements of undocumented Zimbabweans into South Africa has often presented challenges in as far as quantifying their impact in this country, frequently resulting in skewed findings given the difficulties in quantifying undocumented migrants (Solidarity Peace Trust

2009). However, since this research looked at documented asylum seekers it becomes fairly easy to quantify their impact

The relationship between migration and development

Scholars in social science such as Freedman (2004) place emphasis on capitalising on the positive gains of migration. Freedman argues that though there is a connection between migration and development, these gains are clouded by the general perception that migration is a security threat. This theory is asserted by other scholars like Mangala (2003) and John (2004) who go beyond offering a general perspective and contextualise this with the African scenario.

Going with the Home Affairs department view that Zimbabweans seeking asylum in South Africa are economic migrants that still should not disqualify them from protection given that one can never really separate one from the other, one can argue that the economics are a result of the politics, and the politics a result of the economics. Echoing the media's often emotive language used to describe Zimbabwean s in South Africa— "a human tsunami," "illegal immigrants," or "border jumpers"— the government has suggested that Zimbabweans in South Africa are all voluntary economic migrants.

Former President Thabo Mbeki has referred to them as an "inflow of illegal people.[7]" Other South African officials have made various statements including "there is no war in Zimbabwe," implying that Zimbabweans cannot possibly have valid asylum claims,

[7] Fence-problematic-in-Zim-border-control www.timeslive.co.za/local/.../

that they voluntarily leave their country, and that Zimbabweans "are economic migrants" or "not real refugees.[8]

It is largely because of politics that Zimbabwe's economy has deteriorated. According to research by the Migrant Rights Monitoring Project (2009:19),

> Most asylum seekers actually listed economic circumstances in combination with political factors as reasons for their flight. This shows a complex picture of factors leading people to leave their homes…the mere mention of economic factors, if cited together with other reasons, should not be criterion for exclusion from refugee status.

Block and Levey (1999:2) argue that if the discourse that Zimbabwean asylum seekers are economic migrants, then it ignores the fact that structural restrictions on access to employment and social benefits often leaves them in situations of extreme hardships rather than economic benefits.

Though migrants are perhaps one of the most researched groups existing literature tends to a larger extent to reflect the views of the state and not much of experiences of the ordinary migrant. This might be because most research tends to focus on policy rather than experiences. Presenting a one-sided view of any situation especially from a prescriptive approach is not enough and does not open space for any critical analysis of the system. The literature reviewed is mainly related to the research and provides an abstract for analysing the data collected.

Fabricius (2009) underscores the need for an investigation into reasons why people migrate and an understanding of their realities as well as the positive link between

[8] Neighbours in need: Zimbabweans seeking Refugee in South Africa. www.google.co.za/search?hl=en&q=neighbours+in+need+%2Ce+in+south+africa&btnG=Google+Search&meta=cr%3DcountryZA (accessed 3 October 2009).

migration and development. He argues that an understanding of these elements presents a meaningful backdrop of migration forced or otherwise. But can negative perceptions to migration be ignored?

South Africa has only been shown to incorporate asylum seekers in policy statements but not much has been done on the ground, a case in point is granting seekers a right to work but giving short time frames in which documents must be renewed which often means missing a day of work to have the permits renewed, thus placing them at a disadvantage on the job market.

The fact that most asylum seekers fail to access banking services, put their skills into good use and have been forced to abandon their traditional methods of livelihood, amongst other things due to structural difficulties is not only detrimental to them but to the detriment of the country as a whole.

This systematic exclusion of migrants from entering South Africa could have a negative effect for the host country. Castles (2000) argues that migrants who enter a country without the necessary documents or permits, usually in search of employment, are likely to circumvent laws and present themselves documented migrants. Thus, caution also needs to be taken when it comes to the asylum policy. The frustrations that face asylum seekers when claiming their rights could lead them to try and regularise their stay in the country by acquiring fraudulent South African Identity documents.

According to the International Migration Report (2009), undocumented migrants are likely, depending on the policies that govern immigration in destination countries, to

attempt to present themselves in line with whichever category might help them get recognised.

The South African policy of exclusion though given much prominence lately has always been present and is as old as migration itself. In the mines and farms South Africa had a system of exclusion based on ethnic and national grouping commonly known as the compound system. This 'divide and rule' system was established to prevent workers from organising any form of worker resistance. Internal labourers were divided according to their ethnicity and external migrants were divided by their nationality.

Another development scholar, Mangala (2003:16), argues that structures in place should allow for this participation to take place. According to Mangala participation involves the migrants' interaction with institutions, social groups and various other sectors within his or her adapted society. He further argues that participation reflects certain aspects of integration, but does not define the actual levels of participation that occur; the actual levels that occur are thus determined by structures in place (Mangala 2003:16). This highlights the need not to only influence good laws but good structures to support those laws and policies. This will see policy being aligned with concrete societal realities.

2

Reflections on Research Methodology

Research methods

Coming from a perspective that migration is not only a geographical, but a social and political phenomenon, the research hypothesises that migration laws do not appreciate people's lived experiences and in the process fail to consider the negatives of migration. In order to capture as closely as possible all the relationships between migration and development and at the same time investigate migrant experiences, the study draws from several research methods. These include case study approach, sampling and semi-structured, open-ended interviews with the help of a questionnaire and written records. Using these methods simultaneously allows for an examination of migrant and policy relations from different perspectives, and therefore helps generate a more comprehensive picture of migration. The strengths and weaknesses of each method used are explored.

The research chooses qualitative over quantitative forms. Durrheim (1999) distinguishes between qualitative and quantitative research: quantitative research takes the form of numbers and statistical types of data analysis, while qualitative research involves collecting data in the form of written or spoken language, observations that are recorded and analysed according to particular themes. Moreover, given the nature of the research subject, which has a bias towards people's everyday experiences and given that experiences are different from one person to the next,

qualitative methods were thus preferred as they allowed the researcher an in-depth study of the selected subject.

According to Durrheim (1999) quantitative methods on the other hand begin with a series of predetermined categories. The data and conclusions drawn are then used to make generalisations. Furthermore, with quantitative methods relying heavily on predetermined statistical questions, this method would not have found out what was uncovered using qualitative method. Qualitative methods were deemed best for this research which involves delving into forced migrants' subjective experiences and realities and people's experiences which cannot be quantified as statistical data.

Due to the sensitive nature of the subject – respondents came from diverse cultural, educational and skills backgrounds both in Zimbabwe and South Africa and hence have different experiences — the need to understand the configuration of each respondent was imperative. Coupled with the importance of understanding each respondent's life was a need to develop not only a culture of mutual trust and understanding between both the respondents and the interviewer but also research techniques and methods that encourage this trust. The following primary methods were thus used: sampling, semi –structured interviews and questionnaires. Secondary methods of data collection used included books and journals, documents from archives such as newspapers, as well as documents from the Department of Home Affairs.

Thompson (1968) highlights the importance of appreciating the respondents' background. He cautions that to understand class a researcher has to regard it as a social and cultural formation. Qualitative methods were employed because their

empirical formation records and analyse lives and experiences of real people as opposed to quantitative methods, which by its predetermined statistical approach does not appreciate an investigation into people's realities.

Case study

According to Yin (1994) a case study is an intensive investigation of a single unit. Though this research targeted Zimbabwean asylum seekers, it does not mean that the issues raised are unique to them only. They are common amongst other asylum seeking groups in South Africa. However, because of the need for a thorough in-depth research, it makes sense to profile a smaller group as opposed to a larger one. The case study approach provided the research a space to understand in-depth processes within the single case study (Hlatshwayo 2003: 36).

Respondents were Zimbabwean asylum seekers (holders of a valid Section 22 permit commonly known as a temporary asylum permit) who have been in Johannesburg, specifically the Rosettenville area for two years or more. This period is envisaged to have been enough time spent in Johannesburg for respondents to draw meaningful conclusions from their experiences on how policy impacts on development.

The twenty respondents were interviewed (ten women and ten men); again this figure is not fully representative of the Zimbabwean asylum seekers in Johannesburg, but it largely gives an insight into the realities of this group. The respondents were in various stages of asylum determination process. These stages ranged from those still awaiting status determination to those who had been given status decisions but were continuing to renew their asylum permits pending appeal.

Brief background of Rosettenville

It is located in the South of Johannesburg about 10.8 kms from the Johannesburg Central business district.[9] The area boasts of Portuguese restaurants, who gave prominence to the place when they first arrived in South Africa and chose to settle there and subsequently opened businesses. Perhaps it is because of this history and experience with immigrants that Zimbabwean asylum seekers find the area a much easier choice for settlement.

Settlement and location

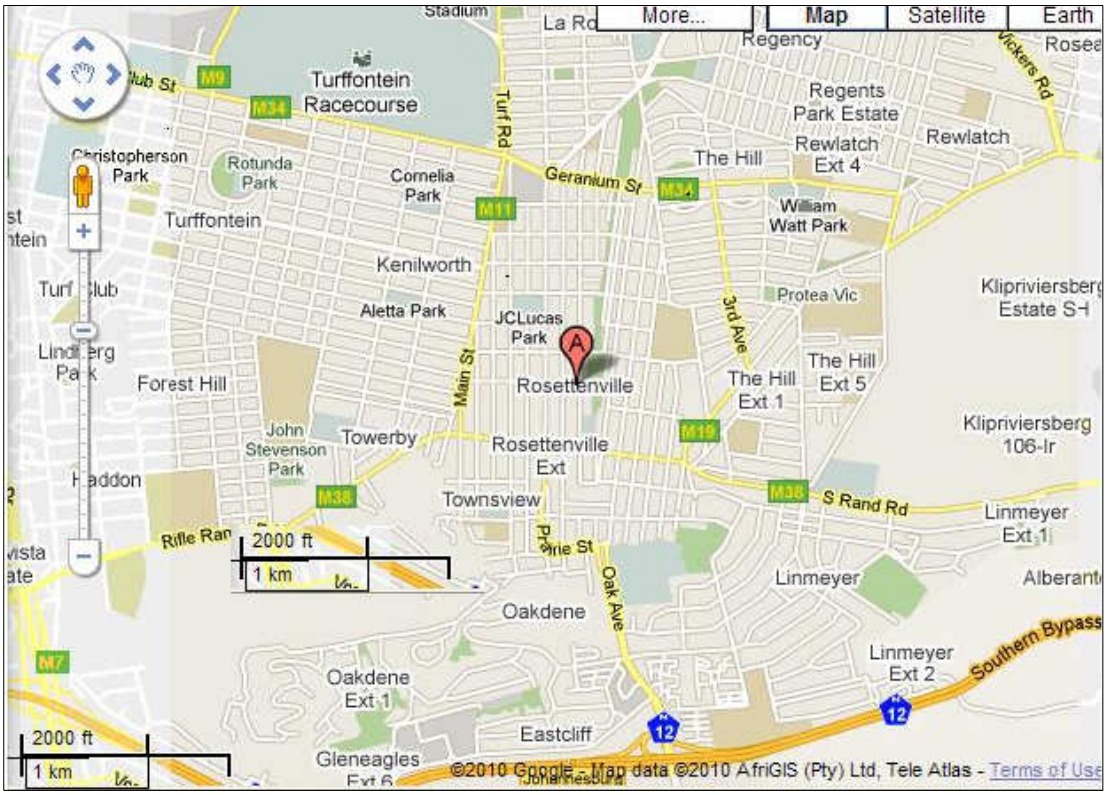
Though Zimbabwean immigrants are diversely located, Rosettenville was found to be very popular. This area of settlement and location was found to be mainly influenced by one's socio-economic position. While other factors such as educational and religious beliefs play a role in determining where one settles, they were found not to be amongst the main factors. For instance, most of the respondents are fairly educated but regardless of this they are in menial jobs which do not pay much. Therefore, they are forced to stay in this area. Hence, it is income rather than skill and qualification which becomes a determining factor in one's choice (or lack of) of settlement. This shows the existence of income – based class within migrant communities. Although there is a large concentration of Zimbabweans in other previously suburban areas such as Yeoville, Berea, Hillbrow and Turffontein (just across the road from Rosettenville), Rosettenville still remains popular with most Zimbabweans of low income status.

One of the reasons likely to have influenced choice of settlement is because of its dense population and large concentration of immigrants from other parts of Africa,

[9] http://www.safarinow.com/destinations/rosettenville/hub.aspx/5 (accessed 10 December 2009)

both documented and undocumented making it easier for Zimbabwean immigrants to be incorporated in the area. Moreover this area has a thriving industry offering services and goods that Zimbabweans identify with such as restaurants serving Zimbabwean cuisine, Zimbabwean churches and businesses, recreating what Anderson (1983) terms an 'imagined nation'.

Figure 2: Map of Rosettenville



http://maps.google.co.za/maps?hl=en&q=map+of+rosettenville,+johannesburg&um=1&ie=UTF-8&hq=&hnear=Rosettenville,+Johannesburg+South+2190&gl=za&ei=_lJqTP-xHMH78Aau_qmEBA&sa=X&oi=geocode_result&ct=title&resnum=1&ved=0CBsQ8gEwAA

In his study of DRC immigrants and settlement in South Africa, Kamaungu (2008:19) highlights that:

> Areas of dense concentrations (of a particular migrant group) are likely to offer safety and psychological comfort… against acts of xenophobia and to facilitate communication with relatives and friends left behind.

The already large concentration of Zimbabwean migrants in the area to a certain extent acts as a pull factor. Taylor and Barlow (2000) recognise this. Having family and kinship and social networks already established in the area means that newcomers do not have to worry about accommodation and other necessities. This family also plays a crucial role in initiating the new arrivals to the way of life in that area.

Lazega (1997:119) emphasises the need to contextualise sociological research. He argues that, part of sociologists' work is to contextualise individual and collective behaviour. Contextualisation has both substantive and methodological dimensions. Substantively, it means identifying constraints put on some members' behaviour and opportunities offered to them and others. Methodologically, it is a necessary step for comparative analysis and for appropriate generalisation of results.

Field work was done over a four month period. The researcher encountered minor setbacks such as respondents postponing or cancelling interviews at the '12th hour' or some (those who opted to meet the researcher outside their homes) not pitching up for the appointments. Some respondents despite being assured that the information would remain confidential and would not be passed to any third parties, particularly the DHA and the Zimbabwean government still felt not secure and trusting enough of the researcher.

Sampling

Due to time and resource constraints, it is impractical for researchers to involve every relevant subject in their research. For this reason researchers come up with practical ways of making sure that their study is representative of everyone, hence the sampling method. Simply put, sampling involves choosing and basing research on a small group relevant to the study. For qualitative research, it is the relevance to the research topic rather than representativeness that determines the way in which the people to be studied are chosen (Hlatshwayo 2003:37).

Monche (2006:32) describes sampling as a selection of a subset of the population. While Tshabalala (2009:65) argues that:

> This technique can be defined as a method for recruiting new cases through a process of onward referral from known cases. Sampling starts with one or more individuals who are known to meet the given criteria. They are interviewed and asked to nominate and facilitate introductions to other people they know and who also fulfil a similar criterion as themselves. The nominees are contacted and interviewed, and the process repeated. The sample thus expands by tapping on social networks and contacts.

Furthermore this method was chosen because it is used to identify 'hidden' populations like migrants or those that actively seek to evade the public spotlight, like undocumented migrants (Kalsbeek: 2000). Snowballing techniques were used in order to access relevant respondents. The researcher was introduced to the respondents through the Refugee Help Desk which already had presence in the Rosettenville area of Johannesburg. The Refugee Help Desk was formed in August 2008, largely as a

response to the May 2008 xenophobic violence which saw an aftermath of around 62 people dead and hundreds homeless and a number of women raped.[10]

The organisation aims to raise awareness to the plight of forced migrants and to promote tolerance and integration of forced migrants. Furthermore, this organisation aims to assist forced migrants with information necessary to realise their socio-economic capacity, as well as promote the development and protection of their rights.

In order to assess the role migrants play towards the development of their host countries the research looked at migrants with at least one skill and minimum ordinary level (Grade 11 equivalent) qualification.

Not all respondents however belong to this network. The Refugee Help Desk also acts as an intermediary between forced migrants, local communities, and the government.[11] Since this organisation is centrally placed, having contact with all relevant stakeholders, it was identified as the best link between the researcher and the asylum seeker community.

Once the researcher established contact with this network it became fairly easy to identify relevant respondents within this network as other people within the network grew to trust the researcher and gave details of other people to be interviewed. It should be noted that not all respondents are/were members of this organisation but some had been in contact with the organisation for various reasons.

Social scientists recognise some of the positives of this technique. Peil *et al*. (1982) argue that the snowballing technique is particularly useful in studies of this nature because it helps to break the ice between the researcher and participants and to build

[10] www.mg.co.za/article/2008-05-31-toll-from-xenophobic-attacks-rises (accessed 1 July 2009)
[11] Refugee Help Desk brochure

trust. There are however limitations to this technique; Tshabalala (2009) has criticised it for its potential to generate data that might consist of similar experiences, since social groups or networks are likely to stick together and for this reason, may go through similar experiences.

Semi –structured interviews

The research employed semi-structured in-depth interviews guided by a questionnaire which were recorded, then transcribed with the data captured and analysed. This method was chosen because of its strengths which includes amongst others allowing respondents to speak in-depth about the subject.

The interviews were only recorded in instances where respondents consented. The interviews were conducted in two of the major languages in Zimbabwe namely English and Ndebele. One might argue that these languages are not representative of the Zimbabwean population considering that half of the population is Shona-speaking. Conducting interviews in these languages, however, was prompted by the fact that the researcher does not speak any other Zimbabwean native language and wanted to avoid using interpreters as she felt that respondents might not express themselves freely through a third person given the sensitive nature of the subject under investigation. Moreover, excluding interpreters ensured that there were no issues lost during the interpretation process.

Qualitative data collection was through in-depth face-to-face interviews guided by an open-ended questionnaire. This data collection technique was chosen for its flexibility since it does not restrict the respondents to the confines of particular subject area. The

technique not only allows the respondents to express themselves freely but can draw the interviewer to issues omitted in the conceptualization of the study. Black and Champion (1976: 5) highlight that one of the advantages of this type of inquiry is that 'questions are asked and answers given in the course of normal behaviour that will contribute to a mutual understanding of the present situation.

Since the research is about people's lived experiences and migrant's role in the development of South Africa, questions were kept open-ended and were divided into two broad categories: which comprised of their biographical details including their educational and skills background; and their experience with authority. The idea behind this was to get a comprehensive view of understanding their perceptions of asylum seekers, and their experiences and the impact on development thereof.

Migrant perceptions and experiences are important because they provide a further explanation to the relationship between the everyday realities asylum seekers face and how they impact on development. This kind of method allows respondents to highlight what cannot be explained through policy alone, but come out clearly from first hand narrations. A case in point is one of the respondents take on the renewal periods and employer's perception on both the renewal periods and hiring migrants:

> There are mixed emotions, because when you go there you have to stop everything else. Sometimes you can go for a day…sometimes it can take 2 days; if you're unlucky maybe even 3…usually my employer would make the day to coincide with my off day. I think employers generally understand the need for us to have valid permits and it is good that we have something which makes us legal, which means that we can be employed. If we do not have papers it might be a problem for them as well.[12]

[12] Interview with Xolani, Rosettenville, 15 August 2009.

The interviews also pointed to different feelings about the Refugee Act, these feelings are to a large extent a result of people's relationship with the Act and life in South Africa in general. Nicholas and Kenneth for example have different experiences. On the one hand, Nicholas is satisfied with the Act for 'allowing him documented status in South Africa' and fairly understands 'that there must be reasons for the frequent renewals as well as the fact that permits can only be renewed at the centre where one initially applied.[13] Kenneth on the other hand is very critical of the Act, he is very frustrated that though he has good qualifications he still cannot get a job because of what he terms 'state xenophobia'[14]. He also cited frequent renewals amongst his other frustrations. Their different views can be directly attributed to their circumstances. Nicholas is not as educated as Kenneth and is not employed therefore is only happy to be documented. Kenneth on the other hand because of his education aspires for a job.

Secondary sources

Secondary sources included books, journals, (both written by the DHA and independent scholars), critique of relevant treaties, Acts, policies, legislation and regulations. The approach in analysing these was guided by an investigation of their relevancy in present day South Africa, given that they to a large extent guide the daily lives of asylum seekers including their role in the development of South Africa. These sources were also reviewed against a human rights back drop.

[13] Interview with Nicholas, Rosettenville, 30 July 2009.
[14] Interview with Kenneth, Central Business District, Johannesburg, 30 September 2009.

Research ethics

Conducting research on sensitive issues such as those pertaining to people's migration status poses a number of ethical challenges. The researcher bore in mind the vulnerability of the group she was talking to. This is a group likely to have been exposed to the worst forms of abuse – in their home country, during flight, and in their country of asylum. This group could be traumatised by their experiences, past and present, therefore it could not only be suspicious but expecting some form of gain from anyone interacting with them. Utmost caution was therefore taken in ensuring that the respondents could trust the researcher and that no material gain should be expected from the interview.

Securing the trust was made possible by fully explaining the purpose of the research, clearly highlighting that it was for academic purposes only and information would not be made available to any third parties. The respondents were told that they should not expect any gains from the research, if lucky policy might be reviewed as a result of this research and other similar studies, but that might take time or never happen at all.

Homan (1991) underscores the need for informed consent. The researcher fully explained the purpose of the research so that respondents knew what they were entering into. The researcher did not proceed with interviews where respondents seemed not to fully comprehend the purpose of the research. Moreover, respondents were told that they had every right not to answer any questions that they were not comfortable with and that they could stop the interview at any point should they feel they did not want to proceed.

No interviews were remunerated whether in cash or kind. Paying for interviews leads to a 'He who pays the piper plays the tune' situation with respondents likely to respond in a manner in which they feel is what the researcher wants to hear, in the process either leaving out vital information or resorting to exaggerations or even blatant lies. No person under the age of legal consent was interviewed as they are still minors.

Ensuring the safety of both the researcher and the respondents was of utmost importance. As a result a number of measures were taken to ensure this. Wassenaar and Mamotte (2003) underscore the need to protect both the researcher and the respondents as a core of any research ethics. Neither the respondents' nor researcher's safety and security were compromised. The researcher normally interviewed people that she had been referred to by previous respondents with whom she had developed a culture of trust and respect and was certain would not refer her to people who might put her life in jeopardy. In case of respondents' safety, the researcher left the choice of interviews venue(s) and time to the respondents. This way, respondents were likely to choose a set up where they felt most comfortable; this also had an advantage in that the more comfortable and secure they were, the more forthcoming they were.

Great effort was made to adhere to ethical standards on reporting on displaced citizens as recognised by United Nations/UNICEF guidelines. These guidelines include protecting identities of respondents amongst other things. Moreover, respondents were informed that they could use pseudo names if they did not want their identities revealed. Furthermore information gathered from the research was strictly for

academic purposes and would not be given to any third party particularly the DHA and Zimbabwean government authorities as this might put the respondents at risk. Determining the authenticity of the permits proved a challenge as it cannot be distinguished by the naked eye. The researcher therefore assumed that anyone who produced the permit and/or claimed to be holders of an authentic valid Section 22 permit was telling the truth. Hopefully this did not compromise the research.

As already mentioned earlier, the researcher got in touch with the respondents through the Refugee Help Desk. At the start of each interview the researcher introduced herself and the purpose of the study.

Respondents were informed of the purpose of the research .The researcher made emphasis that the research was strictly for academic purposes and no promises were made to respondents. The researcher made it clear that although the research wanted their personal stories this platform should not be abused. It was also made clear that the research aimed at gaining insight into to their experiences with the DHA.It is noteworthy that some respondents saw this as a platform to raise their grievances with the DHA and other stakeholders, while some appreciated the Department's turnaround strategy.

The respondents were interviewed individually as opposed to a group setting. This was done to ensure that individuals were free to talk of their individual experiences without any influence from others within the group. This was also done to ensure that no individuals with strong experiences dominated the discussion, as well as to protect the identities of the respondents.

Most of the interviews took place at the respondents' homes because this was where respondents were found to be very comfortable and forthcoming with information. Respondents could stop the interview whenever they were not comfortable with the question posed or choose not to answer a particular question altogether. Moreover, the fact that most of the interviews were conducted in respondents' homes or familiar surroundings bridged the researcher/ respondent power dynamics hence most of the respondents were able to express themselves freely.

All but one of the twenty respondents had been in Johannesburg for a minimum of two years. Thoko, the one exception had been in Johannesburg for less than two years but was interviewed because she comes from an exceptionally high skilled background.

Though field work went fairly smooth there were a few challenges. Some of the respondents clearly exaggerated their experiences with the authorities in order to elicit sympathy from the researcher. A case in point is a lady who claimed to have worked at one of the country's leading chain stores in a management position but was paid R2000.00 by her employer whilst her South African counter parts were earning in the region of R16 000.00. This information was suspect and sounded improbable.

Upon questioning this she was told that she was not a South African national and therefore had no rights. Furthermore, the same respondent initially told the researcher that she holds an Ordinary Level certificate (Grade 10 equivalent) but later in the interview upped her educational qualification stating that she holds a university degree[15].

[15] Interview with Alice, Rosettenville, 5 September 2009.

Since there were glaring inaccuracies in this testimony it was left for the researcher to sift through the information and see what she could work with. This sifting process is called content analysis. This process entails a researcher having an understanding of the context that impact upon a research question. This understanding of the context in turn allows a researcher to do a reliability test. Inconsistencies are nothing new to oral research. Hlatshwayo (2003:40) highlights this; oral testimonies have certain problems, such as people forgetting some detail and chronology of events.

Some of the respondents also did not want to take responsibility over allowing their permits to 'expire,' blaming the police for mistreating them whenever they are stopped at a police roadblock and their papers found to have expired. Sometimes participants did not want to reveal all the events and their "negative" role in those events. Reddy (2002:3) argues that predicated on this criticism, this form of data collection has come under criticism from positivists who argue that researchers who use this method are unable to be objective.

Scholars such as Lambert (1998) and Bahlungu (2001) have conceded that memory loss is a selective process; they recommend that the researcher comes up with clues that might prompt the respondent into remembering certain events. However, this proved rather difficult given that the respondents were speaking mainly of their personal experiences, which the researcher is not informed about.

Besides these small problems with the few respondents who either wanted to use the research as a platform to air their grievances or those who perhaps did not fully comprehend the aims of the research, the research went fairly well. Most respondents

were fairly articulate and open minded and quite objective as they shared their experiences with the researcher.

Numerous but unsuccessful attempts were made to contact DHA officials, leaving the researcher to assume that the DHA officials did not want to grant the researcher interviews and access to records because perhaps they would reveal the department's shifting and often contradictory stand on the matter as well the extent of the DHA's poor record keeping system.

Table 2: Respondents' profile

Name	**Sex**	**Age**	**Employment status**	**Highest Level of Education and skills** (Ordinary level - grade 11 equivalent) Advanced level – Matric equivalent)	**Period they have had permit**
Alice	F		Unemployed	Ordinary Level	Almost 4 years
Thandi	F	35	Part-time employment	Ordinary Level	+-3years
Busi	F	29	Waitress	Advanced Level	2 years
Thoko	F	34	Street Vendor	Advanced Level and Diploma in midwifery	Less than 2 years. She does not meet criteria but was interviewed because of her extra ordinary skills
Monica	F	32	Childminder	Advanced level	4 years
Siphiwe	F	39	Office Administrator	Degree in pharmacy	3 years
Nothando	F	36	Unemployed	Teaching Diploma	2 years
Lindiwe	F	33	Street vendor	Teaching Diploma	4 years
Amanda	F	29	part time job	Degree in Marketing Management	4 years
Thembi	F	29	Cashier	Degree in English	Almost 3 years
Wayne	M	26	Electrician		
Ndaba	M	33	Employed in the financial sector	Diploma in Finance	Just over 2 years
Steve	M	33	Didn't disclose	Refused to answer the question	2 years
Nicholas	M	32	Informally employed		2 years
Shingai	M	33	Informally employed		2 years

Joseph	M	40	Master's student	Post Graduate Diploma in Public Management. Has Degree in Political Science and Administration and is currently studying towards a Master's degree.	+-3years
Xolani	M	28	A bit of 'this and that'	Master's degree	+-4years
Kenneth	M	28	Student	Studying towards a doctorate in Anthropology	Almost 4 years
Dumi	M	32	Unemployed	Ordinary level	2 years
John	M	25	Security Guard	Ordinary level	Just over 3 years

Limitations of the research

Though field work went fairly well, a few challenges were encountered. Chief amongst them was that the study could not access a control group. The fact that the DHA did not grant the researcher an interview greatly limited the research. Policy and conditions are from time to time being reviewed. This researcher would have wanted to investigate the department's efforts to match the ever changing landscape as well as the forms of consultation taken, if any, and their effectiveness with the concerned stakeholders including asylum seekers themselves.

In addition, as the research is about the politics of forced migration, this at a time when the South African government itself is in disagreement over how to handle forced migrants, particularly Zimbabweans, it was crucial that the DHA as a control group be interviewed. The researcher would have wanted to dialogue with the DHA

about data generated in the field in order to help validate its authenticity and to find out where the department stands.

There have been many studies focusing on migrant populations, though not specifically focusing on their realities in relationship with development. Interacting with an over-researched group poses either one of two things; either they have become less inclined to engage with researchers or might have developed a way of keeping the researcher(s) happy by responding in a manner that the researcher wants to hear or deliberately withholding certain information which might be crucial to the study. The researcher witnessed a bit of the latter but made sure that she moved the interviews back on the line and had to sift through the information at the end of the interviews to maintain objectivity.

Certain methodological barriers might have limited the validity of the results. For instance the fact that respondents were given a choice not to answer questions they were not comfortable with might have hampered the validity of the results. Some scholars have also noted the weaknesses of semi-structured interviews which derive from their attempt at setting fixed parameters of inquiry. While the researcher utilised semi- structured interviews this method was not concretised into a fixed approach. Other areas of concern regard the complexity of eliciting responses whose validity is dependent on how the respondent situates him/.herself in the research process on the basis of their own interests and rationalisation. However such dynamics are not unique to this study but are a reality in all social science research.

Due to limited resources only a small group of people were interviewed. Therefore this research is based on a small group of people and is therefore not entirely

representative of Zimbabwean asylum seekers living in South Africa. Moreover, due to the limited resources interviews were only conducted in Ndebele and English as there were no resources to hire translators to help interview people from other language groups found in Zimbabwe.

Demographic data of the respondents is another area that presented limitations to the study. Only asylum seekers from Zimbabwe were interviewed. However, issues raised do not necessarily affect Zimbabweans only but other groups seeking asylum in South Africa. Snowballing as a means of identifying respondents also found limitations in that only people with similar experiences are targeted because the snowballing technique fails to draw from different experiences at the expense of people with different experiences. Tshabalala (2009) acknowledges limitations related to this kind of study. He notes that limitations associated with this kind of study cannot be ignored.

Nonetheless, with these limitations taken into consideration the researcher maintains that the methods used are still the most suitable for a question that seeks to uncover the relationship between forced migrants, their realities in context of South Africa's development. Tshabalala (2009) neatly sums this up when he argues; it is only by being in such proximity, and through adopting a subjective lens, aimed at understanding the actions of the respondents over time, that one can make conclusions about the relationship between asylum seekers and development.

3

Research findings

Asylum seekers' experiences

This chapter aims at highlighting the findings of the research. The research uncovered a number of issues with regards to asylum seekers in South Africa. These issues were measured against the Refugee Act and limitations and strengths of the Act were identified. Respondents were also given a platform to air a general impression of the Act. These issues with possible recommendations are explored further in this chapter. Possible recommendations are also suggested. These findings are crucial in answering the hypothesis that the Refugee Act fails in taking into consideration people's lived experiences and realities and the relationship between migration and development, particularly focusing at the potential benefits those skilled Zimbabwean asylum seekers and migrants bring to South Africa. These findings also speak directly to asylum and policy and in South Africa as well as its application.

> Without migrants – people fleeing poverty or violence and those simply looking for a better life - South Africa would be a much poorer place. Throughout the country's history, gold extracted from the Witwatersrand has been carried to the surface on the backs of workers from Mozambique, Zimbabwe, Zambia and South Africa. With today's skills shortages, agriculture, industry, and education can only thrive by drawing on the energy and skills of those from outside the country. And as these industries grow, so too will opportunities for South African citizens. They will expand further as remittances from South Africa spread wealth throughout the region in ways that promote political stability and nourish markets. The welfare of South Africa has always depended – and always will - on its neighbours and those from much farther

> away. By neglecting, denigrating and excluding foreigners living here, we erode those bonds (Cormsa 2008:5).

The findings of the research were compiled based on sampling; semi structured interviews and reviewing relevant laws, policies and documented information.

Gap between policy and implementation

Though South Africa has arguably one of the most progressive migration policies in the world, a lot still has to be done in the implementation of these policies. Policy states that asylum seekers should undergo a status determination interview within 30 days of submitting their application and their status will then be determined within two years (MRMP:26). However, not even one respondent had had their status determination interview within this period (most have held the permits for more than two years without ever having their status determination interview). This failure to hold the interviews within the given period is in itself a violation of the laws guiding the Refugee Act. This lack of effective policy implementation is due to a deficit in co-ordinated governmental self-monitoring systems, either by a lead agency such as the DHA, or by a dedicated cluster of departmental representatives (Cormsa 2008).

The DHA has argued that it is impossible to have the status determined within this period because of the number of asylum seekers as well as shortages in personnel. Whilst the argument forwarded by the DHA is logical, it does not do anything to help the plight of the asylum seeker ‘kept at the other end of the yoyo’ making it difficult for them to make any meaningful long term decisions about key areas of their lives, because of their unsure future in South Africa. Take John for instance, a young man who wants to further his education but

is sceptical of doing so because he worries about the outcome of his application. In short, policy takes people's lives for granted:

> South Africa has got a lot of opportunities unlike Zimbabwe. I still want to go to school, I want to do matric but now the problem is, what if I go back (to school) today and before the school term is over they (Home Affairs) say I cannot stay in South Africa anymore because they have reached a decision and my application has been rejected. What do I do? I would have wasted my time and my money.[16]

Monica, who has been in South Africa for four years and works as a domestic worker for a Killarney family, also finds herself at crossroads because of her yet to be determined status. She has been in a two year relationship with the driver of the family she works for, but is afraid to start a family with him because she worries about what will become of her child (ren) should her application be rejected and she is forced to go back to Zimbabwe, which would mean she would either have to take the child with her or leave the child with the father's family:

> It is really difficult for me not knowing where I stand; Thabo (her partner) and I cannot even start a family. Imagine a situation where we have children and then my application is rejected and then I have to go back home, though I would like of course to take the child (ren) with me. It will be so difficult ... they wouldn't allow me to take the children and the thought of leaving them here with people I hardly know will also kill me…. Anyway children deserve to be with both their parents and besides South Africa is a much better place to raise a child than Zimbabwe. Where will I get a job in Zimbabwe? What will I feed them?[17]

On the subject of the time it takes to have status determined, John had this to say:

> Well I sort of understand things a lot better, even if the Act says status should be determined within 2 years I find that impossible. You should see the numbers of

[16] Interview with John, Central Methodist Church, Johannesburg, Central Business District, 18 July 2009.
[17] Interview with Monica, Rosesetnville, 23 August 2009.

> people that came to have this paper renewed. So I think it will be impossible to have that done in 2 years. I hate that it is taking long but what can I do? They are always talking of backlogs.[18]

John and Monica are not the only ones faced with this predicament – many others find the fact that they cannot have any long term plans about their lives very difficult and inhibiting in a way. Thembi (29), who has had her permit for almost three years, had this to say:

> I hate the fact that my status has not been determined yet, you know the law says it should be determined within two years, but look at me I have been here for almost three years and nothing has happened yet. I'm better than some people I know, I know of a guy who has been here for 6 years and his status still has not been determined. It is better at least that in the mean time we are allowed a normal existence. We can work and cannot be deported. I don't like my job and I hate it, but at least I'm working. I have never thought much about what I will do when my application is rejected. I hate going to Crown Mines all the time but at least I'm still here and working.[19]

The fact that asylum seekers have to wait more than the 2 years granted by the law to have their status determined highlights a gap between policy and its application.

[18] Interview with John, Central Methodist Church, Johannesburg Central Business Disctrict, 18 July 2009.
[19] Interview with Thembi, Rosettenville, 14 October 2009.

Frequent renewals

Closely related to the fact that status determination seems to be taking longer than it should, respondents highlighted that they found the frequency in which the permits have to be renewed and the fact that they can only be renewed at a centre where they were issued a source of concern with most citing that this hinders them from taking jobs in other cities: 'Most of us are not in permanent employment here in Jozi (Johannesburg). If I get a job in Cape Town what am I supposed to do?' John asks.[20]

Miss Lindiwe, a street vendor, finds it difficult to keep up with the frequent renewals:

> It is really tough on me. It means that for that day I cannot work. It is also not good that when my customers come looking for me I'm not there, they end up going to someone else, but there is nothing that I can do. If I'm caught by the police with an expired document they will want a bribe.[21]

The interview with Steve also highlighted that asylum seekers are finding it difficult and quite an inconvenience to meet all the requirements of the system:

> I applied for asylum at the Rosettenville Centre and when it closed we were all transferred to Crown Mines. Now what it means is that I cannot renew it anywhere else so it means I cannot take a job or go and stay far away from Johannesburg because I will have to frequently come back.[22]

Joseph spoke of how much of an inconvenience the constant renewals are given the demands; 'Every time I go for an extension I have to report to Wits (University of Witwatersrand). They say I have to physically produce the record otherwise they will deregister me. It is quite

[20] Interview with John, Methodist Church, Johannesburg Central Business District, 18 July 2009.
[21] Interview with Miss Lindiwe, Rosettenville 2 October 2009.
[22] Interview with John, Central Methodist Church, Johannesburg Centre Business District, 18 July 2009.

an inconvenience.[23]' One of the respondents who neglected taking the renewed permit to Wits for the records to be updated had a rude awakening upon discovering that his access to campus had been blocked:

> …It is a hassle. Imagine spending the whole day at Crown Mines and still having to make time to go to Wits to have the records updated on their system. This other time I neglected taking it there, only to discover that my access to campus had been blocked when I went later to access the library. At least now Wits has relaxed the rules a bit, people are given a few days to update their records. At some point I had to cancel my class because I spent the whole day at Home Affairs. I feel that it disadvantages me with my studies, time that should be spent in class I'm busy on the line at Home Affairs.[24]

While taking into perspective that the DHA cannot control nor dictate internal systems of independent institutions such as schools; its policy affects those who are in these institutions.

Kenneth Tafira, spoke not only of having difficulties with the frequent renewals but also the process of getting the permit itself;

> It was really a hustle getting that permit; I only got it after we had taken Home Affairs to court. When I came here I was looking for this permit … it was really tough. There was chaos in Pretoria, it was disorderly there were hundreds, even thousands of people who were looking for that permit. People from different parts of Africa…then I went to Rosettenville …I went to Wits Law Clinic and explained my case. I told them, that I'm failing to access this permit something to do with procedure. I felt they were violating my rights as they were violating other people's rights. Wits Law clinic asked me to find other people who had suffered the same fate as me …and we lodged a court application compelling Home Affairs to change what they were doing and that case came to be known as Tafira v Minister of Home Affairs and others.[25]

[23] Interview with Joseph, Rosettenville 20 August 2009.
[24] Interview with Xolani, Rosettenville 29 August 2009.
[25] Tafira V Minister of Home Affairs and Others, High Court of South Africa, Transvaal Provincial Division Case No: 12960/2006.

The court ruled in Tafira's favour. The DHA however did not immediately comply with the ruling. Long after the verdict had been passed would -be asylum seekers still met with problems accessing the system. Applicants were still treated in a dehumanising manner prompting Tafira to go back to court:

> If you go to Home Affairs now, things have changed radically. Of course Home Affairs did not immediately comply with that ruling…People were put in the bush suffering under the mercy of the weather is it rain, cold, heat. We went again to court until Home Affairs finally complied with that (ruling). Things are now orderly. There is now clear procedure about what to do when you get there.[26]

Asylum seekers also report a level of psychological disturbance associated with both their unsure future in South Africa as well as the kind of jobs they do. Most are in temporary entry level positions. They highlighted that they find themselves under extreme stress as renewal dates near, because of the uncertainty of what might happen at their next visit. Those in part-time employment also noted job related stress, citing that it is quite stressful to be in unsecure employment.

Thembi, who works on a shift basis as a cashier at a certain supermarket in the CBD seems to be finding it very difficult to keep up with these demands. One could not help but notice a hint of psycho-social damage in her tone. Given the nature of her job, one understands why she will find this very difficult:

> I do not know how they determine the length of the extension, but it ranges between 3 and 6 months. The whole thing is just so traumatic. Imagine there is no telling how long my next extension will be, this be it means I cannot arrange with someone to stand in for me at work because there is no way of knowing whether which shift will

www.unhcr.org/cgibin/texis/vtx/reworld/rwmain?page=search&docid=45B4c8242&skip=0&query=tafira (assessed 2 August 2009)

[26] Interview with Kenneth Tafira, Johannesburg CBD, 30 September 2009.

> coincide with the renewal date…you don't realise what the whole thing does to one's psychological being, it really affects us.[27]

Wayne reports being frustrated with his present job (his employer recognises his permit but does not understand the frequent renewals) but he cannot leave because of the likely difficulties in finding another job elsewhere as most employers do not recognise his permit. Whilst John and others worry about the frequency in which permits have to be renewed and the fact that they can only be renewed at a centre where they were issued, others like Dumi and Nicholas do not find this a problem. Both highlighted that they are unemployed and as a result they do not see the frequent renewals as a problem. Nicholas feels there must be a reason behind the policy:

> It does not worry me, my life is here now and I don't need to travel somewhere else. People should understand that there must be a reason the Home Affairs enacted such policy. What if someone travels to Cape Town and when they get there apply for another permit.[28]

Though Xolani highlighted the inconveniences of the constant renewals, he had something positive to say about the Act:

> There are mixed emotions, because when you go there you have to stop everything else. Sometimes you can go for a day…sometimes it can take 2 days; if you're unlucky maybe even 3…usually my employer would make the day to coincide with my off day. I think employers generally understand the need for us to have valid permits and it is good that we have something which makes us legal, which means that we can be employed. If we do not have papers it might be a problem for them as well.[29]

[27] Ibid.
[28] Interview with Nicholas, Rosettenville, 30 July 2009.
[29] Interview with Xolani, Rosettenville, 20 August 2009.

Asylum seekers called for the extension of the validity of their permits as a means of easing backlogs. Furthermore, respondents called for a need to computerise the system to allow asylum seekers to renew permits anywhere in the country. This way, asylum seekers will be able to exercise their right to travel (all this with authorities keeping track on their whereabouts).[30]

According to Monica policy should be in such a way that people who have been on the system for 4-5 years should be given South African IDs. Such views indicate a lack of comprehension for the system itself. Every case should be judged according to merit. Then only deserving cases are granted refugee status valid for 2 years. A maroon refugee identity document is issued to claim rights, of which at the end of the 2 years the case is reviewed yet again and if there is still a need to protection that individual is issued with a 5 year refugee status. At the end of the 5 years, the case goes through a final review. If it is still found that the person still needs protection then that individual is granted South African residence status and a South African ID is issued.

Amendments over the years

Though most respondents expressed dissatisfaction with the delays in processing of applications and the inconveniences thereof, another shortfall within the Act and the system at large, most think that the standard of living is generally better in South Africa compared to Zimbabwe. Amendments in legislation were also applauded. The fact that the Refugee Act 1998 grants asylum seekers more rights than the Aliens Control Amendment Act No 76 of 1995 is a great improvement towards refugee rights protection. Unlike the previous Acts, At least now this Act understands the need for self-sufficiency. Thus gives people the right to

[30] Interview with John, Central Methodist Church, Johannesburg Central Business District, 18 July 2009.

work and study which has improved the lives of people a lot. This Act also fosters integration. People are no longer kept in camps. It is dehumanising for people, men not to be able to provide for their families.[31]

According to Steve, the system has changed. People are being treated in a much more dignified manner. The fact that the extension periods have been extended from an average monthly basis to 3 months confirms this positive change.[32] Though Steve is fairly happy with the improvements, he adds that one loses money every time he misses a day of work. He feels the extension could be extended to a year to make it easier on the applicants.

For others like Thandi though - while lamenting the time it has taken for her status to be determined - is happy for the fact that all is not lost. The Refugee Act of 1998 gives her right to appeal. Her initial application lodged in 2002 was rejected, but with help from the Lawyers for Human Rights she was able to re-launch her case in 2006. The decision is still pending. The Aliens Control Act did not give her this right.

South Africa is applauded for the amendments thus far, some countries including those in the developed world still grant asylum seekers limited rights. The United Kingdom and the Netherlands, for example still do not allow asylum seekers a measure of self sufficiency. Under the Netherlands Aliens Act[33] and the Immigration, Asylum and Nationality Act 2006[34] respectively, asylum seekers are denied a number of rights; amongst them the right to work and have to depend on the state for handouts.

[31] Interview with Monica, Rosettenville, 23 August 2009.
[32] Interview with Steve, McDonalds, Rosettenville, 23 August 2009.
[33]Netherlands Aliens Act ww.ind.nl/en/images/publiek_ENG_Algemem_cmt.16537.pdf (accessed 20 May 2010).
[34]Immigration, Asylum and Nationality Act 2006 www.aph.gov.au/library/intguide/SP/asylum_seekers.htm. (Accessed 20 May 2010).

Validity of permits and uncertainties about application period

Validity of the permits was found to be discretionary depending on the officer on duty or the centre visited, which means that there is no standard time for asylum seekers to renew permits. The validity of permits varies from 1 to 6 months and it is not clear whether this has got anything to do with the period in which one has been in the system or the stage of the application process they are in. One respondent highlighted that initially he renewed his permit monthly. This was then extended to a 6 monthly basis and then 'I was lucky on my last visit and was given a year because I befriended one of the officers there'[35]. Not only is it worrying that asylum seekers do not know how the extension period is determined, but a major source of concern is that it is left to the discretion of the official on duty leaving the system open to abuse and corruption.

The lack of standardisation of the length of the renewal periods and the fact that respondents were not sure whether this is because of policy or other reasons speaks to the fact that asylum seekers are not informed about crucial information regarding the application process. Evidently the processes as well their rights were either not explained to them or insufficiently explained by the officials. Hence scarce knowledge about both the Act and the Section 22 permits.

Failure by DHA officials to sufficiently explain the Act and the Section 22 permits could have serious implications, for example on how asylum seekers claim their rights. There are also serious consequences if asylum seekers cannot comprehend the basics of asylum.

[35] Interview with Joseph, Rosettenville, 20 August 2009.

Knowledge about the Act and own rights

Asylum seekers were also found to generally have a limited knowledge of their rights. Respondents seem to have an inadequate understanding of the system, while highlighting that the Act and the system were not explained to them by the officials. There was a general consensus from respondents that they understood what the Act entails and the demands thereof, after taking the initiative themselves. 'The permit means that I can move around South Africa freely without being arrested by police. It means I can work, access hospitals …and study in South Africa', responded one person.[36]

At the same time as the Act gives these rights amongst other rights, its primary purpose is to protect asylum seekers from persecution by their governments. Most respondents, however, seem to take this as secondary or did not allude to this at all;

> Unless you take your own initiative and find out what it says there is no one to explain that process to you. You just go there and say I'm here for an asylum permit and then they say get in the line …but without an explanation. There is no explanation whatsoever… I took the initiative to familiarise myself with the Act, but I will tell you right now the average person would not be aware of their rights. It is a big disadvantage to them.[37]

Heavy workloads, understaffing and backlogs were identified as some of the reasons officials do not get time to sufficiently neglect this very important stage of the process. Needless to say this does not reflect well on the DHA. Hence, the need to increase staff complement.

The lack of effective implementation of polices has severe effects on everyday life of asylum seekers. For instance the research found that there is poor communication on the status of asylum seekers even between law makers and the police as a government law enforcement

[36] Interview with Shingai, McDonalds, Rosettenville, 13 August 2009.
[37] Interview with Mr Joseph, Rosettenville, 20 August 2009.

agency. In South Africa the DHA is responsible both for formulating policy that should guide immigration enforcement and for determining the status of those that are suspected to be 'illegal'. On the other hand the South African Police Service (SAPS) is ultimately responsible for the day-to-day enforcement of such laws and policies. However, this research revealed a gap in communication between these two agencies. The SAPS are often ignorant of laws pertaining to refugees as a consequence of which asylum seekers with valid paper have reported incidents of members of SAPS not recognising their documents. This lack of coordinated communication features prominently with other service providers. Needless to say asylum seekers rights are abused in the process.

Asylum seekers are fairly ignorant of their rights. According to the MRMP 2009 report only 21 % of the survey had either the Section 22 Permit or the Act and the various stages of the asylum determination process sufficiently explained by DHA officials (MRMP 2009). This means most asylum seekers have had to take initiatives to familiarise themselves with the Act which might mean that there is a significant chance that they might not fully comprehend it. A lack of full understanding of the Act might prejudice their status determination. Coupled with this lack of understanding of the Act, most did not know in which stage of the application they are. The confusion surrounding the various stages of the application process is itself indicative of the problems within the system, a fact recognised by previous scholars (MRMP 2009: 65).

As highlighted above, most respondents speak of the fact that the Act as well as the Section 22 Permit was not unpacked to them, but they claim to have learnt of their rights after they took time to read through the permit, and hence claim to know what it entails. It is however worrying that most respondents, when asked what rights they can claim using the Section 22 permit, highlighted that they can study and take up employment as well as access hospitals,

amongst other services. However, these are not the only rights one can claim. The permit allows asylum seekers a number of rights; amongst them the right to annul the permit in favour of other permits such as a work permit. They can also leave the Republic if they feel they no longer need protection and in the event that one marries a South African national their marriage certificate takes precedence over the Section 22 permit.

Moreover, some respondents seem not to understand the responsibility that comes with holding the permit. For instance the permit requires to be renewed on time. Failure to this, the permit becomes void. Notwithstanding this, some, however, see the fact that when found with expired permits they are threatened with arrest as an infringement of their rights.

As highlighted above, some respondents highlighted what they termed 'heavy handednesses of the police, accusing the police of abusing their power when dealing with them. Many claimed to have been intimidated and threatened with arrest and deportation and having their asylum permits torn up for failing or refusing to bribe the police officials. 'The police are giving us a hard time. If they find you with an expired paper they threaten you with arrest. It is just not fair'.[38]

The police will be, however, acting well within their rights. The police have a right to arrest asylum seekers without proof of identification on them but deporting them is unlawful. Article 33 (1) of the United Nations Refugee Convention of 1951 - of which South Africa is signatory - protects asylum seekers from deportation. This applies to all refugees, including asylum seekers whose status has yet to be determined and those seeking entry to a country. The Convention states that no one (asylum seekers and refugees), including those convicted of crimes, should be sent back to a country where they will be at risk of torture. Deporting forced migrants who have presented themselves in another country is known as refoulment.

[38] Interview with Busi her, home in Rosettenville, July 30 2009.

Protection from deportation is extended to everyone who has lodged a claim for protection even if their case has not been finalised including Zimbabweans who are perceived as economic migrants.

In spite of this, it came to the attention of the researcher that some asylum seekers had been deported because their permits had lapsed. This again speaks to the fact that asylum seekers and even migration officials themselves are not well versed with the law. One can thus conclude that South Africa is in violation of the conventions.

Asylum seekers claim institutions of power, namely the police, are prejudiced against them. They claim that they are easy targets to law enforcement agents whom they meet frequently in their day-to-day business since most are informally employed and are dependent on informal business such as street vending, therefore increasing their interaction with enforcement agents. On their part law enforcement agents claim that they apply the law equally across all levels (Tshabalala: 2009). Although officials are governed by set structures and rules in enforcing immigration laws, which they are expected to, follow in the execution of immigration enforcement, their day-to-day activities are influenced more by social conditions and contexts prevailing in the environment within which they work (Tshabalala, 2009). They are underpaid and work long hours which evidently has a bearing on their performance. Considering that asylum seekers are the most policed group, they are bound to have a lot of interaction with the police. The fact that asylum seekers feel insecure trading on the streets and in their shops severely limits their opportunities as entrepreneurs.

Nicholas reports of being arrested after a random street search when he did not have his permit on him,[39] but was later released after a friend had brought the permit to the police station and its authenticity verified by the Department of Home Affairs. Clearly there was

[39] Interview with Nicholas, McDonalds, Rosettenville, 30 July 2009.

nothing which falls out of policing duties which the police did. Nicholas needs to understand that there is nothing criminal or corrupt with the police carrying out random street searches. If one does not carry proof of identification, the police have a right to ask for that identification to be brought to them. Maybe by virtue of being an asylum seeker and perhaps generally held perceptions (maybe with valid reasons) that police are out to flush asylum seekers, Nicholas automatically concluded that this was a violation of his rights. Police have often been accused of exhibiting xenophobic attitudes when policing black migrants, especially asylum seekers

Asylum seekers are expected to have their qualifications verified by the South African Qualifications Authority (SAQA). In fact this rule does not apply to asylum seekers but all non –South African qualifications are subject to the same process for job and school applications. While this is a very essential process in order to curb against fraudulent qualification holders finding their way into the system, there is a need to quicken the process and make it affordable to people. Exorbitant qualification evaluation fees act as a hindrance to many, especially considering that most are in menial employment. A case in point is Joseph who noted the following: 'It was tough saving enough to have my qualifications evaluated. Working as a cook and with a family to support, there is not much one can save from a cook salary… but I was determined'.[40]

This discussion revealed that one of the main reasons South Africa has not capitalised on the skills of the new arrivals is because of a lot of red tape and bureaucracy as well as the poor communication channels amongst various stakeholders.

[40] Interview with Joseph, Rosettenvile 20 August 2009.

Education levels, skills and underemployment

Zimbabweans are thought to come from fairly skilled and well-educated backgrounds. These allegations are of course subject to different interpretations. Though this study focused on a handful of Zimbabweans, they seem to confirm this assertion (respondents had a minimum 'O Level education and at least one skill). However, most are in employment that does not reflect their skills. Limited public information for employers on the validity, authenticity as well as renewability of these permits often disadvantages asylum seekers in the job market.

> If you look at the historical postcolonial background of Zimbabwe, it produced highly skilled people who are being sought after in different parts of the world. What looks strange and amazes me is that South Africa has not been able to utilise that base of skills for the reasons that I will talk now which I think are steamed in South African state racism …state xenophobia. There are thousands of Zimbabwean skilled people who are roaming around or under employed or unemployed at all who despite their skills cannot find employment.[41]

Kenneth's sentiments are echoed by a Cormsa report (2008:56):

> Zimbabwean workers are potentially a valuable resource for the South African economy, due to relatively high education and skill levels. For example, 30.4% of Zimbabweans in the recent FMSP study had completed at least one tertiary degree. Because of the lack of legal status, however, many skilled Zimbabweans are working in casual or part-time employment or are not working at all. It has been noted that because of their perceived undocumented status, many Zimbabweans are prone to being hired by unscrupulous employers for low wages, which harms wage levels and labour standards for everyone.

If the argument that Zimbabwean asylum seekers have skills that could be effectively used to the benefit of South Africa holds, then the question that needs to be asked is why those skills

[41] Interview with Kenneth, Johannesburg Central Business District, 30 September 2009.

are not being effectively utilised. As not only the biggest economy in Africa but as one of the fastest growing economies in the world, these skills might bring a lot of benefit to South Africa hence the need to come up with a comprehensive plan of tapping into the skills. As the continent's youngest democracy after years of sanctions and trade embargoes imposed during the apartheid era as well as a background of 'bottle neck' education which ensured that black people – the majority in the country - received substandard education, South Africa needs all the qualifications and skills to help build its society.

The white population who were at the top of the apex in terms of the quality of education received have lately been leaving the country in fairly large numbers, citing the escalating rate of crime amongst other reasons. This gap means South Africa lacks in capacity to match the requirements of a growing economy since it does not have much of a home-grown-based pool of personnel resources to draw from. Despite skills shortages, few attempts have been made to utilise the skills of the asylum seekers. The qualifications and skills of migrants in the sectors of the new technologies and research are particularly sought after in new development programmes.

A study by Cormsa (2003:53) also notes the difficulties associated with this:

> There are still many factors that constrain the ability of non-citizens to work productively in South Africa. The most significant institutional factor limiting migrant employment is delays in the processing of documentation by the DHA, which affects everyone from skilled foreign employees to asylum seekers and refugees.

Furthermore, most asylum seekers are forced on average to lose a day of work, having their permits renewed which restricts their legal employment. Consequently, many resort to entry

level employment, even those qualified to hold senior positions .Since senior positions would not allow them so much time away from work.

Underemployment and unemployment also still remain one of the biggest challenges facing asylum seekers. Joseph holds a postgraduate Diploma in Public Management as well as a degree in Political Science and Administration and has extensive experience in government having worked as a teacher, customs official, a Local Government official and as a Public Administrator. He also has impressive skills. He is skilled in signage building, monitoring and evaluation, having worked with the local government, local NGOs and United Nations agencies. Regardless of his skills, he found himself working as a cook in Pretoria until luck came his way and he found himself a scholarship and is now pursuing a Master's degree. Hopefully, he will one day make something of himself and his host country. However, not everyone is lucky to get such a big break. Many end up despondent, with nothing but a bleak future ahead of them.

The problem of underemployment is not only unique to South Africa or developing countries. Zimbabwean asylum seekers in the United Kingdom face similar challenges:

> Zimbabweans in the UK, for all their command of English, find themselves faced with humiliation, non recognition and lack of respect as they become undocumented migrants existing within the cracks of the host society. They become, as Chikwava shows in Harare North, prepared for under-employment and downward occupational mobility. The cultural disdain for care work is overturned and more Zimbabweans than any other nationality are employed as the BBC – British Bottom Cleaners (McGregor: 2007).

Ndlovu (2010:125) also highlights this situation:

> Because Zimbabweans are phonetically different from the rest of the white population, they become, regardless of class and ethnicity, easy targets of discrimination and exploitation. It is not unusual, for example, for a person who had been a bank manager in Zimbabwe to find him/herself gutting fish alongside a person who had been a security guard in Zimbabwe.

Xolani is a holder of a postgraduate degree in Forced Migration studies. Kenneth is a holder of a postgraduate degree in Sociology and currently studying for a doctorate in Anthropology. Wayne is an electrician. Siphiwe holds a degree in pharmacy and Thoko has a diploma in midwifery and is in the process of completing a degree in Nursing Science. These are some of the examples of skills that have not been effectively utilised. Xolani has never been formally employed. He says at the moment he is doing 'this and that' and the last time he was in formal employment was when he was on a 3 month contract as a research assistant. Kenneth has also never been formally employed. Thoko started off as a domestic worker and now ekes a living selling sweets and cool drinks. She stated that she was told by the Nurses Council of South Africa that as someone from another SADC country she cannot practice nursing in the country as SADC countries have taken steps to guard against skills theft. As she pointed out, '…they told me that unfortunately I cannot practice here as a nurse because the SADC protocol does not allow people from other countries to practice'. [42]

While this argument might make a lot of diplomatic sense in a 'normal' situation, it does not seem to make much sense in the situation that South Africa finds itself in today. Thoko is in the country today and could be making a valuable contribution to the development of the country as a much needed midwife rather than selling cool drinks and sweets. It is therefore

[42] Interview with Thoko, McDonalds, Rosettenville, 9 September 2009.

imperative that policies be measured and reviewed in order to match relevancy. While people like Thoko and skilled others continue eking a precarious living, the South African government continues spending millions of rands per year acquiring skilled people from elsewhere in the world:

> I studied sociology. When I came to South Africa I did masters in Anthropology. Currently I'm doing a PhD at Wits University. After finishing my studies in Sociology I worked for a number of NGOs in Zimbabwe …I have never been employed in South Africa…of course I've made applications to jobs that were commensurate with my qualifications which I didn't get which I suspect it is because of my immigrant status or the one that I was talking about which wanted clarification what the asylum permit is.[43]

South Africa has recently adopted a policy of black empowerment, commonly known as BEE, this policy seekers to address wrongs of apartheid through giving blacks and others from disadvantaged backgrounds opportunities which they were denied. Blacks who were at the bottom of the pyramid are the major beneficiaries; one would have thought that this would be extended to skilled black migrants from neighbouring countries considering that most faced similar oppressive laws from their colonial masters.

Cheap labour

Hlatshwayo (2009) interrogates perceptions that migrants have come to be viewed by capital as a pool for cheap labour since they often work on a casual basis and therefore do not belong to any workers union and are willing to work under poor working conditions. Wayne validates this assertion: 'I am concerned about all these skills going to waste. The construction industry is absorbing everyone – be it electricians, accountants, high school drop

[43] Interview with Kenneth, Johannesburg CBD, 30 September 2009.

outs. Everyone is there. They do not care about qualifications neither do they care about documents. As long as one can do the work, everyone there gets the same salary'.[44]

The onus lies on the government in conjunction with the Department of Labour and labour unions to ensure equal application of labour standards and minimum wages across the board. Standardising labour laws might also help to curb xenophobia which is largely as a result of nationals resenting migrants for working for offers below minimum wages and under the most horrible of conditions. If people feel they all have equal opportunities, it will discourage employers to abuse and exploit migrants (Ranchod: 2005:21). Faced with pressure to provide for starving families back in Zimbabwe, most are left with no choice but to take any job available for a pittance:

> I know many people who are qualified who are doing construction work and are underemployed although they have degrees and diplomas. I refused to do any of that work because of my belief that I do not want to be exploited in anyway…maybe that was because I did not leave any wife or children at home Practically no one would cry to me and say we need money for this or that. Practically most people when they came here they have to do any kind of job because they have got wives and children to support…although I used my other talent as an artist to make some money and get a living.[45]

Siphiwe is also worried that migrants are being exploited at the workplace because they are not unionised:

> With the difficulties of getting a job, I do not think most people would entertain the idea of belonging to a union. Most people are only happy to be able to draw a salary at the end of the day. It would be unwise to antagonise one's employers with all the talk of unions. Besides these unions require monthly subscriptions. Money which

[44] Interview with Wayne, Rosettenville 28 July 2009.
[45] Interview with Kenneth, Johannesburg CBD, 30 September 2009.

> could otherwise be sent home to feed families. Personally I would not waste my money on that.[46]

According to Amanda, '…Most of Zimbabweans who are here are about something. They know what they want and they know where they are going. It is one big sad story that people who are skilled are not allowed to work, simply because they do not come from South Africa. A lot has to be changed. The government needs to sit down and take stock and decide where they want to be'.[47] One respondent revealed that he could not take a job at a construction company because the wage that he was being offered fell below his qualifications and he felt he could not sell himself 'cheap'. He was quick to point out that it was easy for him to turn down the offer because he does not have the pressures of family demands, but had it been someone with a family which needs to be fed and clothed and have all other needs taken care of, they would have accepted the job.[48]

Dumi, who is informally employed, made mention that at times he works with highly educated people in his 'piece jobs', a common term of reference to a part-time informal job. Piece jobs could mean anything from working part-time as a manual labourer to a building assistant. Because of their temporary nature these jobs are not structured and there is no security. State xenophobia has been blamed for the difficulties in accessing employment. Employment in South Africa is regulated by the Labour Act 2002. Both the Labour Act and the Refugee Act were criticised for discriminating against non nationals:

> Look at the repercussions the whole permit has. It does give people a right to work and study but in reality that is not the case. The reality is that one cannot have access to employment simply because when the employers say we want someone with an identity document then that asylum seeker permit is immaterial. Theoretically that is

[46] Interview with Siphiwe, Rosettenville, 17 August 2009.
[47] Interview with Amanda, Rosettenville, 3 October 2009.
[48] Interview with Kenneth, Johannesburg Central Business District, 30 September 2009.

> what it says but in practice that is not which is the reason why many Zimbabweans are doing menial jobs. You find a teacher cleaning the streets. You should go and interview those people and ask them "have you applied for employment that you studied for?" "They will say yes countless times and you say what happened. They will say because I do not have a South African ID book. Then you ask hem "don't you have an asylum seeker permit that stipulates that you should work?'[49]

He continues:

> It states among other things that one has to have a Work Permit and the employers cannot employ someone who does not have a green South African ID book or who does not have a work permit. If they issue a work permit then that company has to prove beyond doubt that they opened the application to local people and they had to go for an outsider, now hinges on the whole discrimination that is perpetuated by the state, the xenophobia, the racism that is there.[50]

There has however been a positive turn in as far as targeting skills already in the country is concerned. As has been reported by Cormsa (2008), national policies to address the skills shortage, such as ASGISA (Accelerated shared growth initiative for South Africa), do not explicitly target the employment of skilled foreigners who are already in the country, such as asylum seekers and refugees. A quota work permit for people with scarce skills has been introduced which is intended to provide more flexibility for skilled foreign job seekers, as it does not require the applicant to have a job offer, it does not tie the employee to a specific employer, and it is not limited to a specific time period.

However, permit holders are only given 90 days to find employment after the permit is issued, which is often insufficient time to locate vacancies in their field and to go through the interview process.

[49] Interview with Kenneth, Johannesburg CBD, 30 September 2009.
[50] Ibid.

Furthermore, from 2008, it has become compulsory for professionals to register with practitioners' councils, such as the Engineering Council, before receiving a quota work permit. The process of registering with the Engineering Council can take up to 18 months. The South African Council for Educators reportedly is not coping with the rising demand for registration which is slowing down the quota-permit process (Cormsa 2009).

Moreover, the Department of Education has entered into talks with the government to implement initiatives that will make it less of a bureaucratic hassle for Zimbabweans and other foreign-qualified teachers to be drawn into mainstream teaching. The government has also started relaxing visa conditions for Zimbabweans (in 2008 the government announced that Zimbabweans are exempt from visas). Though these initiatives have been criticised as not being enough, they are welcome and are seen as a positive start.

Prejudice

Asylum seekers face different kinds of prejudice in the work place, ranging from hostility from fellow colleagues and very little prospect of promotion. Employers are not likely to hire and/or promote someone who is constantly absent from work in order to renew their permit, neither are they likely to give a position of responsibility to someone who cannot travel extensively outside the country to represent the company, if needed;

> To add on that many employers don't understand the document and what it entails. I can tell you my own situation. It states among other things that one has to have a Work Permit and the employers cannot employ someone who does not have a green South African ID book or who does not have a work permit. If they issue a work permit then that company has to prove beyond doubt that they opened the application to local people and they had to go for an outsider, now hinges on the whole

> discrimination that is perpetuated by the state, the xenophobia, the racism that is there.[51]

Kenneth continues:

> A friend of mine got me a certain job in Cape Town and those people asked me "are you allowed to work in South Africa?" I said yes I've got an asylum seeker permit and I even emailed them a copy. They came to me and said can you explain to us what that thing is. I said to them if you want further clarification I can refer you to Lawyers for Human Rights but they still remained shaky and said they do not want to take chances by employing a person like me... I'm unemployed because I do not have a South African ID book.[52]

The emphasis on the green book bears a similarity to the *dompas*, a pass given to black people during apartheid which they had to carry to travel from one area to the next, 'It's (reference to the Section 22 permit) just like the *dompas* you have to take it with you everywhere'[53]. This pass (dompas) is known for having severely hindered free movement of blacks often limiting their movements to farms and to areas which were called tribal reserves. This pass was largely perceived as demeaning.

Asylum seekers speak of prejudice from potential employers. Nothando was told that a certain company does not employ asylum seekers because they took advantage of their temporary status and would steal from their employer and it would be difficult for the company to trace them.[54]

> Every end of the month or after every 3 months I have to ask my employers to go to Home Affairs, which is another reason I think employers are reluctant to hire asylum

[51] Interview with Kenneth, Johannesburg CBD, 30 September 2009.
[52] Ibid.
[53] Ibid.

[54] Interview with Nothando, Rosettenville 15 September 2009.

> seekers, with their mentality that they have of production, who wants to hire someone who is always absent. I am personally in trouble with my employer over this.[55]

Amanda calls for an understanding of both the Refugee and Labour Acts before they are criticised of being discriminatory; she had this to say

> There are a lot of people who are unemployed in South Africa, whether they have the skills or not is secondary. What is important is that they are all looking up to their government to create jobs for them. The government also has to take into consideration the feelings of these people before it starts employing foreigners. As it is they feel that some of us (casual labourer) are also taking away their livelihood. Imagine how they would feel if we were all to be in informal employment. At the same time if you want to develop this country you will employ skilled foreigners.[56]

Though respondents hardly spoke of rights in the workplace, it is a welcome move that trade unions - COSATU in particular - have placed it on record that migrant labourers should be encouraged to join unions and they are fully protected by labour organisations such as the CCMA.

Migrants and crime

Migrants warned about the dangers of stereotypes linking Zimbabweans to crime. Contrary to the labels that Zimbabweans carry such as that they are thieves and criminals responsible for the increasing crime rate in South Africa, Zimbabweans on their part claim that are hard working and know what they are about and are determined to get it. Respondents warned that not only do such stereotypes contribute to xenophobic attitudes but they are also not

[55] Interview with Wayne, McDonalds, Rosettenville 28 July 2009.
[56] Interview with Amanda, Rosettenville, 3 October 2009.

validated. They feel that if are properly utilised, rather than been viewed in relation to crime migrants can achieve a lot for themselves and South Africa.

> It is unfortunate - perhaps sad - that people can be accused of being criminals based on their nationality. It ought not to be forgotten that people are criminals in themselves and not because of where they come from…each society has got its fair share of criminals. There are Zimbabweans who are criminals but to use that as an excuse to deny deserving cases is a wrong interpretation of the Act and a wrong application of the law.[57]

One respondent had this to say:

> It is not only businesses that need to be educated; I think the general public as well. Listening to people talk about migrants asylum seekers…I do not like what they are saying. To them everyone who is here is after their jobs or wives and if you're Nigerian you're here to steal. I do not like it.[58]

The respondent also touched on possible recommendations:

> Policy needs to appreciate the potential that asylum seekers bring and not criminalise them. Look at all these Somali- and Pakistani-owned shops. Let us do away with this categorisation because it is the basis of the discrimination. We say there is someone who does not belong because they do not possess a green ID book and we say they are not entitled to the benefits of this country - then this exclusion will continue. Unless we do away with this thinking then this current context cannot work.[59]

[57] Interview with Thembi, Rosettenvile, 14 October 2009.
[58] Interview with John, Central Methodist Church, Johannesburg CBD, 18 July 2009.
[59] Ibid.

Failure to distinguish between asylum seekers and undocumented migrants

There has been very little effort in communicating not only the presence of asylum seekers in the country, but also their legal status. Industry and indeed other stakeholders cannot make a distinction between asylum seekers and undocumented migrants. Most employers and social service providers still ask for either a South African green coded identity document or passport before they can offer services to asylum seekers and this disadvantages asylum seekers in many ways. The few that are lucky enough to secure employment find it is not easy to save and even invest in businesses due to stringent rules.

Many asylum seekers report being refused access to banking services and other social services due to concerns about the validity of their documentation. Without access to credit, large numbers of entrepreneurial non-nationals are prevented from starting businesses that would generate further job creation for South Africans. Lack of access to banking facilities reduces their physical and financial security, and puts them at greater risk of being robbed; 'When I went to open a bank account I was told to produce a green identity book. I told them I did not have it, but I told them I have an asylum permit. They refused. I couldn't open a bank account that time until some other time where I had to see the bank manager. It was my persistence that finally led to the account being opened'.[60]

One respondent noted: 'I was refused to open the account because my permit was expiring in a month's time[61]'. While another stated that '…a certain bank told me they do not recognise the Section 22 Permit, they only recognise passports and IDs'.[62]

[60] Interview with Mr. Dumi, Rosettenville, 24 July 2009.
[61] Interview with Wayne, Rosettenville 23 September 2009.

Asylum seekers can contribute to the economic development of South Africa through many ways, one of which is securing employment and paying taxes. However as has been mentioned, this is no easy fit. Most asylum seekers have shown their entrepreneur skills by starting their own businesses. The law allows them access to business permits. It is however unfortunate that foreign-owned business is targeted by criminals and perhaps xenophobic elements who take advantage that there is not enough police protection for foreign-owned businesses. Siphiwe highlights the difficulties of not having a bank account: 'It is difficult not to have a banking account, I'm allowed to work but I'm not allowed to save. I cannot walk around with cash'.[63]

Others like Steve never had problems accessing banks. There is a need to explore further the reasons why people with the same kind of documentation would get different treatment from the banks. There is a need to establish whether different banking institutions have different policies in place on dealing with Section 22 holders. It also came to light that some like Alice were denied access to banks not because of their permits but because they do not have proof of residential address, particularly those who stay at the Methodist Church. Others feel that it is the DHA which dictates migration policy and it is its duty to inform other sectors of society and these sectors simply take instruction:

I think there is no effective way of communication between Home Affairs and these other sectors. If there was there will be a systematic way of dealing with such issues…I also feel there is an attitude …that people feel they are entitled to certain things as citizens and they feel there is competition from certain people so they can do anything to ensure that it is hard

[62] Interview with Monica, Rosettenvile 23 August 2009.
[63] Interview with Siphiwe, Rosettenville 17 August 2009.

as possible for the outsiders to access certain services. That way it sorts of reminds everyone who is who.[64]

Exclusion versus protection

One of the most outstanding shortfalls of the refugee policy is that it is exclusionary; focusing on excluding rather than protecting forced migrants. Policy administration was castigated for being an extension of the Aliens Control Act put in place during the apartheid era. This Act was largely based on the philosophy of exclusion:

> Historically South Africa believes that the way of defining themselves means excluding other people. With an asylum permit you [are] undocumented basically according to the state's philosophy. Then the states' policy is discriminatory. When you look at asylum seeker documentation, that category of documentation means one is outside the local system.[65]

Alice reports being told to her face by a Home Affairs official in Pretoria that Home Affairs would do anything to curb Zimbabweans in the country; 'They told me that they were going to ensure that we are sent back to Mugabe because there is no war in Zimbabwe. They said it was our fault that we were starving because we had chased the white men away.[66]

Her exasperation is clear. She asks '…for how long should this go on? For how long must we be kept on the side lines?[67]'

> It's a disgrace that they are being excluded, allow them to pay taxes, do away with this asylum seeker thing and come up with documentation that can allow them to work .Do away with the policy. I do not know how easy it will be to do that but

[64] Interview with Xolani, Rosettenville, 29 August 2009.
[65] Ibid.
[66] Interview with Alice, Central Methodist Church, Johannesburg, 18 July 2009.
[67] Ibid.

> something needs to be done. There should be some kind of advocacy and lobbying for policy to be changed. It is stemmed in apartheid, the fear of the foreigner.[68]

Alice feels that it is not so much about the law but rather about how communities receive them;' I would not say it is the law. The real problems begin when we get to the communities we live in. We are not wanted there and I do not see how the law can make people want us. Communities need to be educated on how it means to be an asylum seeker.[69]

According to Nothando, the hurdle is not over as soon as one gets the permit but, it is when asylum seekers try going about their lives that they realise the systematic exclusion of asylum seekers: 'the system has all these bottle necks and I feel it is designed to exclude as much as possible'.

Asylum seekers are still denied basic services which by law they should be able to claim using the Section 22 permit. Indeed some services are a preserve of citizens. Service providers also tend to deny asylum seekers those services which are extended to them. Hence, the need to create a set of legal standards and guidelines for all public services so as to legally enforce equal treatment of foreigners and locals.[70] A case in point are those asylums seekers who find themselves denied access to anti-retroviral treatment in government health care centres and can only access them through NGOs.

One respondent who earns a living as a vendor reported that she finds the lengthy process of renewing permits rather an 'inconvenience' since her business suffers tremendously when she is not around.

> The problem is not so much within the Act itself but it is the timeframe from when one gets their Section 22 Permit and when their status is determined, if status was

[68] Interview with Thandi, Central Methodist Church, Johannesburg, 18 July 2009.
[69] Interview with Alice, Central Methodist Church, Johannesburg, 18 July 2009.
[70] *The Gendered nature of Xenophobia in South Africa*, CSVR, 2008, p. 37, www.migration.org.za/presentation/gendered-nature-xenophobia-south-africa (accessed: 10 February 2009)

> determined in 2 years as stipulated in the Act there would be no problem at all. When they heard that my permit will be expiring in 3 months …there is no guarantee for a long term employment prospect…they say why we should pay this person who will go back in 3 months.[71]

Gender dynamics

The research uncovered interesting gender dynamics. The gender breakdown of different refugee populations varies significantly, as does the gendered experience of flight and refugee settlement. The Refugee Act of 2008, however, does not take this into perspective, lumping women and men together as a homogenous group. Social scientists have noted that contrary to popular belief the majority of asylum seekers are women and girls – a reality hidden by the fact that the majority of those who reach their destination are men (Amnesty International 1997:4). Unofficial statistics put the figure at 80 %, globally.

The Act does not explore approaches to this gendered experience; neither does it attempt to make refugee women more visible. An appreciation of the gender component will give a background and hence an understanding of the different experiences of men and women, including their survival strategies amongst other things.

Previous scholars on the gendered nature of migration have focused on formal labour migration. Dodson (1998) tends to focus on leaving women outside the scope. In cases where they were mentioned they were either on the margins or they were presented as appendages to men. They were simply viewed as those 'left behind' with nothing to contribute towards development. Consequently, because of these assumptions, migrant women's contribution to the development has always fallen outside the margin and this area remains under researched.

[71] Interview with Siphiwe, Rosettenvile, 17 August 2009.

While this study did not specifically concentrate on the gendered nature of forced migration, the gendered nature of migration could not be ignored.

Migration impacts differently on men and women. The nature of the Zimbabwean set-up is such that the responsibility of providing for family lies mostly with women, most relying on cross-border trade. Prominent Zimbabwean writer Charles Mungoshi (1997:8) highlights this trend;

> Nhongo considers himself a 'traditionalist' and 'tribesman' in spite of his tertiary education and former position of Manager in an industrial firm. Whilst he held his job, he had barred his wife from furthering her education and taking up formal employment. When Sara engages in cross-border trading to rescue the family from abject poverty and starvation.

Women in South Africa therefore find themselves faced with the double yoke of providing for themselves and family in South Africa, if any, as well as expected to send regular remittances home. The fact that the Act places travel restrictions on travel beyond South African borders, not only to Zimbabwe which they fled, but to any other country, has huge implications for women and consequently their dependants. According to the DHA, the reason behind travel restrictions is that as a department they can only offer best protection and security to those claiming asylum if they are in South Africa. Unsubstantiated reports, however, state that some asylum seekers have found ways to circumvent the system and travel beyond South African borders. If travelling outside the borders of South Africa was legalised, then the government could develop a system which tracks how much these women make in cross-border trading and make a certain percentage taxable, thus benefiting South Africa.

The criminalisation and withdrawal of rights of travelling outside South Africa once someone has lodged an asylum application poses challenges to Zimbabwean migrants especially women who have always resorted to cross-border trading as a means of supplementing their income;

> I used to travel to Botswana and Zambia. I would hunt Mopani worms to go and sale them in Botswana at the time I was there I would stay with a family doing domestic work for them and bring back soap and sugar to sell at home. In Zambia I used to buy clothing material for resale.[72]

This making of gains through occupying less lucrative economic niches not immediately usurped by male competitors is recognised by scholars such as Everett (2007) and Indra (1998) amongst others. Women migrants were more likely to travel for purposes of cross-border trade, meaning that they sought urban destinations with opportunities for trade and shopping, and were likely to stay for shorter periods and engage less with the formal economy or social networks (Everett-Lefko 2007:17).

Benefits of coordinated cross-border trade have been noted not only to improve the lives of individuals but have also contributed to growth of economies and provision of jobs (Dodson 2008). By establishing a cross-border trader's association, these women can be protected against unfair labour practices, the government can keep record/track of how much they bring in the country in terms of foreign currency and revenue generated as well as recognising cross-border trade as an industry that can generate employment and bring in revenue while easing the saturated employment in the country.

With their traditional method of livelihood diminished, these women are forced to compete with other women in the already saturated domestic work industry where they are often

[72] Interview with Lindiwe, Rosettenville, 30 July 2009.

accused by nationals of undercutting wages because they are often prepared to work for very little. One respondent shared how she used to make enough money from the trade to supplement her partner's salary.[73] Those in employment cannot travel outside the country to perform their duties in other countries which might compromise their chances of promotion and advancement within their companies.

The restriction on movements does not only have financial implications but social consequences as well, given not only the situation in Zimbabwe which has forced many people to migrate to different parts of the world in a quest for better lives, but the globalisation of the world, which entails people moving across the globe. Amongst other things, asylum seekers find themselves forced to cut ties with their kith and kin in other parts of the world save from the occasional phone call.

It is evident that most asylum seekers are economically self-sufficient. According to the Forced Migration Studies Programme, 20 % of refugees and asylum seekers have at some point employed someone else. When asked for the general comments on the Act, respondents had this to say:

> I think the Home Affairs is doing its best to accommodate foreigners, I think the problem is that there are a lot of people and very few officials. The service has improved tremendously from how we are received to the length of the extensions we are given.[74]

Most acknowledge the improvements which give refugees access to some facilities and rights afforded to nationals even if claiming these rights tends to be difficult. They would like to see the extension periods improved said Xolani, though very critical of the Act. He does not see the relationship between the Act and the Section 22 Permit. Drawing from his experience, the

[73] Interview with Lindiwe, Rosettenville 30 July 2009.
[74] Interview with Thoko, Rosettenville, 9 September 2009.

permit seems to exist outside the Act: 'It is like chewing gum it comes to a point where it ceases to help'.[75]

Kenneth is very critical of the Act;

> It has got some serious act of inadequacy. They cannot separate economic conditions from political conditions. In the Zimbabwean case in particular you cannot say someone is a political asylum seeker or economic migrant because they are intertwined. They are economic migrants the same as they are political migrants. There is a need to redefine the Act. It moves beyond wars and politics. Anyone with a well-founded fear for prosecution and cannot avail themselves for protection by their government must be allowed to claim asylum.[76]

Perceptions are that Zimbabweans are not political but economic migrants wanting to legalise their stay in South Africa. These perceptions seem to have been justified at government level as well as in the media, maybe with valid reason given that most respondents cited both economic and political factors as reasons for flight and a good number cited economic reasons only. Such views if not communicated properly contribute to xenophobia amongst other problems.

Zinyama (2005) states that migrants have become the target of extreme hostility from South Africans and all Zimbabweans have become stereotyped as social, economic and criminal threats to South Africans. The fact that these allegations are made by authorities makes them acceptable to ordinary citizens; hence the perceptions.

The situation in Zimbabwe is very complex, pointing at either the economics or the politics as the only state of affairs to have gone wrong in Zimbabwe is not only premature but shows a

[75] Interview with Xolani, Rosettenville, 29 August 2009.
[76] Interview with Kenneth, Johannesburg CBD, 30 September 2009.

lack of understanding of the issues in that country. Xolani did not know of the asylum system;

> I did not know I could apply for asylum. I only got to hear about it when I got here. Some of my friends told me there is this permit that will allow me to walk the streets freely and not get arrested and I can use the permit to get a job.'[77]

The fact that most Zimbabweans cite economic reasons as other reasons for their flight should not exclude them from the asylum ambit, but they can be excluded if they cite economic reasons only. The Zimbabwean scenario presents a challenge in the sense that the economics are a result of the politics:

> I know in that Act it says asylum can be given to someone fleeing famine. It is a fear of hunger - that's economics. In Zimbabwe though the economics are caused by the politics .You cannot just say someone is an economic migrant looking for a job. There should be a really thorough understanding; not a face value conclusion. There is a need to delve deeper into the lives of the people so that Home Affairs can understand these things.[78]

Alice echoes Kenneth's sentiments if the consensus is that Zimbabweans are economic migrants and therefore cannot be protected, then there is a need to extend the Act to cover economic issues because people are starving in Zimbabwe. 'I did not know anything about claiming asylum. I got to learn about it when I got to South Africa. I was hoping I would use the passport to legalise myself in South Africa but when my visa expired I applied for asylum'.[79]

[77] Interview with Xolani, Rosettenville, 29 August 2009.
[78] Interview with Siphiwe, Rosettenville, 17 August 2009.
[79] Interview with Wayne, Rosettenville, 28 July 2009.

Steve shares the same sentiments'…I did not know. It was only the situation which forced me to come here…things were not well. I was an organising member of … (mentions political party name). Besides I could not find a job. It was terrible indeed'.[80]

One respondent when asked whether she knew of the asylum system in South Africa had this to say; 'when I left Zimbabwe I was not intending to apply for asylum, I was intending to work here but it is very difficult for foreigners to get a job here and also to stay in this country so in the end I came to apply for asylum so that I could be able to live here without any harassment from the police'.[81]

Ndaba knew of the system from his friends already in South Africa: 'Home Affairs says we are not asylum seekers. They say we are economic migrants and we should go back to Zimbabwe and deal with the consequences of chancing the white farmers away…there are virtually no jobs in Zimbabwe. There is nothing. People are starving to death. What country does not even have a currency of its own?'[82]

Whether validated or not, such perceptions lumping all Zimbabwean asylum seekers in South Africa as economic migrants and arriving arbitrarily at a decision messes up people's lives and some people might resort to illegal means to legalise themselves, which is a problem on its own. Some have identified loopholes within the system and are taking advantage of this and can never be condoned, a fact recognised by Castles (2000). Those who enter a country, usually in search of employment, without the necessary documents or permits, undocumented migrants are also likely, depending on the policies that govern immigration in destination countries, to attempt to present themselves in line with whichever category might help them get recognized. (International Migration Report 2002: 28-30).

[80] Interview with Steve, Rosettenville, 23 August 2009.
[81] Interview with Amanda, Rosettenvile, 3 October 2009.
[82] Interview with Ndaba, Rosettenville. July 24 2009.

Conclusion of research findings

Asylum seekers have spoken, outlining their sentiments on the Act as well as on their experiences. Though most are negative about the Act, it is praiseworthy that South Africa still keeps the system open to Zimbabweans. Even if the status of most Zimbabwean asylum seekers hangs in the balance, it is important to note and it needs to be appreciated that even though Zimbabweans have been labelled all sorts of things, nobody has moved ahead and denied them the right to apply for asylum in South Africa. Despite the fact that most asylum seekers highlighted dissatisfaction with the Refugee Act and its application, most appreciated the improvements from the Aliens Control Amendment Act No 76 of 1995 to the Refugee Act of 1998. Some asylum seekers would argue that the improvements are on paper only and not applied rigorously in practice. In fact, some feel the Refugee Act is only an extension of the Aliens Control Act

Under the Refugee Act 1998, asylum seekers are given more rights such as movement anywhere across the country and rights to study and take up employment. The Act also gives them access to public health care and the right to appeal if a status is not in their favour amongst other rights. Perhaps the greatest achievement is the fact that asylum seekers are integrated with the rest of the population and not housed in camps as was the case with the Aliens Control Amendment Act.

Policy has both intended and unintended consequences. What is important is dialogue between those at which policy is aimed and those making policies. It cannot be denied that cracks within the system have been used to claim asylum by undeserving cases, but there is the million dollar question – what constitutes an asylum seeker? Is it one who flees his/her country because of political reasons or economic and social–cultural reasons? What if these

are a result of political reasons? It is crucial for both the government and migrants to sit down and take stock of where they are and where they want to be and discuss issues in unison.

4

Research Conclusions

Conclusions and recommendations

This research aimed at highlighting the mismatch between policy and practice. Conclusions were drawn from a period of observing and interacting with asylum seekers from Zimbabwe of which 20 gave in-depth interviews. Additional data was drawn from an analysis of other sources amongst them previous scholarly research, internet sources, newspaper clippings and DHA documents. Practical and theoretical evidence presented highlight both the relationship between migration and development as well as the need for structures to bridge the gap between the two.

Hypothetically South Africa has well-meaning policies on self-sufficiency, dignity and general regard of rights, which would make gainful employment very crucial for this to be realised. Structural shortfalls have however made it difficult for this to happen.

Respondents highlighted a number of problems with the implementation of the law; chief amongst them is the disregard of their right to work. One would think that because of the policy of self-sufficiency structural obstacles which make it almost impossible for asylum seekers to be incorporated into formal employment would be removed. The fact that most asylum seekers cannot be formally employed increases their humanitarian needs, meaning they have to compete with nationals in accessing basic services. This places a huge burden on the already inundated economy, consequently leading to social ills such as the xenophobic wave of violence of May 2008, which was said to be a result of poor service delivery by the

government.[83] If the need to provide quality services for its population is not an incentive enough to open spaces for asylum seekers to be gainfully employed so that asylum seekers will not compete for basics with nationals, then migrants' right to work needs to be looked at from a rights perspective.

South Africa was found to have become sidetracked from the main guidelines of refugee protection. According to the United Nations Refugee Convection of 1951 and other statutes regulating forced migrants, refugees fleeing various forms of persecution deserve protection. However, in South Africa this has not been the case with forced migrants reporting that the laws do to a certain extent discriminate against them. Ironically, South Africa is signatory to these treaties and is amongst countries with the most progressive policies on refugee legislation. A lot still needs to be done towards effective implementation of the policy. South Africa's policy still remains characterised by a lot of rhetoric and little action towards policy implementation. Some of the challenges associated with effective policy implementation stem from policy itself, which undermines the very same group it seeks to protect.

Though progress has been made in the area of refugee legislation, refugee protection is still in a state of crisis. Realities in Johannesburg show that asylum seekers are not able to enjoy most rights as provided for in the Refugee Act and other Asylum Protocols which South Africa is signatory to.

On the surface, the research revealed that the government's approach to the asylum question is integrationist. However, on closer scrutiny one realises that it is anything but. One can be forgiven for saying that asylum seekers feature more on the menu than on the table. In actuality government's response is so exclusionist that it actually undermines the very same

[83] www.google.co.za/search?hl=en&q=May+xenophobic+violence+in+south+africa&btnG=Search&meta (accessed 9 October 2009).

government policies and process to both the detriment of government and asylum seeker alike. For instance, the taking for granted of asylum seekers' traditional methods of living forcing them to compete on the labour market with nationals has not only resulted in xenophobia in the form of 'they are here to take our jobs,' but has also left migrants vulnerable and open to unfair labour practices.

It would appear that there was little, if any consultation with asylum seekers. The DHA needs to consult and engage asylum seekers as well as civil society organisations and refugee agencies, in all policy processes that directly affect asylum seekers and refugees.

There is also a need to build and consolidate structures to support policy and legislation, for instance, as long as the department remains understaffed and run by personnel which is overworked, does not have the required training and skill and is not motivated, the service will remain poor. Furthermore, if no initiatives are put in place to inform other stakeholders about the status of asylum seekers in the country and as long as asylum seekers themselves remain in the dark about the rights and responsibilities they can claim using the Section 22 permit, their rights will remain trampled upon and their realities a forgotten subject. It is therefore imperative to improve the system through training, reducing staff workload, so to allow room for, migrants be advised on their rights and responsibilities.

South Africa places a lot of emphasis on controlling asylum seekers and in trying to deter more coming in to claim asylum. Throughout this fixation with preventing migrants from coming in South Africa, the fundamental question of why people migrate and the positives migration brings to any country seem to have been lost in the process.

Exclusion of migrants has proven to be a failure in other parts of the world; the United States government tried fortifying its borders to stop Mexican immigrants. However, determined

migrants have used alternative ways to circumvent such efforts (International Migration Report 2002: 28-30). Moreover, the same report revealed that restriction of movement has had an unintended effect, in that individuals who successfully cross without authorization appear to remain longer than they otherwise would have done.

Development scholars such as Sassen (1996) have shown that there can be no denial of the relationship between migration and development. The relationship can either be positive or negative, benefiting or detrimental to both migrants and their home countries and sending host countries. The International Organisation of Migration neatly summed up the relation:

> In an era of unprecedented levels of human mobility, the need to develop a fuller understanding of the linkages between migration and development is particularly urgent, as is the need to act in practical ways to enhance the benefits migration can have for development, and to elaborate sustainable solutions for problematic migration situations.[84]

The failure to be proactive and open up spaces for asylum seekers to be integrated in the socio-economic scale of the country speaks to the state's failure to formulate development-oriented migration policies. As noted earlier, most migrants continue to be in jobs which do not reflect their skills, qualifications and experience.

As noted earlier migration can also have negative effects especially large and unplanned volumes of migrants which often mean that the receiving country is caught unawares without any proper and comprehensive plans and structures to deal with this, which might lead to the diminishing of a state's sovereignty as it fails to control who or what enters the country. Other negatives include the strain on the country's resources which has shown to lead to xenophobia and protests amongst others.

[84] http://www.iom.int/jahia/Jahia/migration-develoopment (accessed 9 October 2009).

Cormsa (2008:8) highlights the severity of the situation: while there is a global skills shortage in some sectors (such as healthcare and engineering), the skills shortage in South Africa is one of the highest in the world, compared with the needs of the economy (Cormsa 2008:8). Despite South Africa's skills shortages, few attempts have been made to target the skills of non-nationals already inside the country. This amounts to a severe wastage of skills.

Following numerous albeit unsuccessful attempts at trying to get DHA officials to grant this researcher an interview it seems that the government is not prepared to engage and discuss asylum seekers at any other platform apart from government-initiated ones. Discussing asylum seekers at government-initiated channels raises concerns about the representation of asylum seekers at these platforms.

This discussion acknowledged the complexities accompanying the asylum determination process, especially given the gaps and the grey areas in the system which makes it open to abuse.

There is a need of change of attitudes by government as well as a need of effective policy implementation. To achieve this situation, the government needs to sit down and take stock as to where they want to be, who they need to access and whether they need to use these skills. By framing migrants differently in media and government output and behaviour, the image of South African society on migrants could change. The government as well as the media need to interact with migrants instead of labelling them as criminals and opportunists with nothing to give to South Africa, but to take.

To reinforce the capability of the government and other role players to effectively absorb and capitalise asylum seekers in the process of development, the government needs to keep a record of the skills brought by those seeking asylum, once this basic step has been achieved,

the government together with other service providers will need to identify areas which are lacking and those on the skills data base called upon to fill in.

Much of South Africa's response to external migrants is influenced by its violent past. Hence a shift from policies aimed at controlling migration to ones aimed at managing migration is recommended if any sustainable developments are to be made. It is now time to do away with the apartheid legacy which emphasized separate development. It is time law makers moved away from concepts and policies that divide and exclude the human race to policies that recognise the development potential of those already in the country regardless of their race or nationality. Harnessing the development potential of migrants has been proved to benefit both individuals and host societies.

It is ironic that South Africa is known for its legacy as a rainbow nation yet still has institutionalised policies which emphasise and promote the 'othering' of foreigners especially black African migrants.

Annexure 1

Used to collect data from Zimbabwean Asylum Seekers– 18 July -14 October 2009

DRAFT QUESTIONNAIRE ON THE REFUGEE ACT (1998) AND HOW IT SHAPES ASYLUM SEEKER EXPERIENCES IN JOHANNESBURG

To be read and explained to all respondents before the interview

N.B. The researcher will not go ahead with the interview if it is obvious that the interviewee does not fully comprehend the purpose of the interview or does not want to participate.

Good morning/afternoon/day/etc. my name is Ms Sehlaphi Sibanda; I'm doing a Masters in Development Studies at the University of the Witwatersrand, Johannesburg. I am conducting a study that seeks to understand the relationship between asylum seeker policy, laws, people's realities and development in Johannesburg. I am a student, and I do not work for the government, Non- governmental organisation or any other organisation. This research is therefore strictly for academic purposes therefore there is no guarantee that any policy reviews will come about as a result of this research. Please be advised that I will not pay for interviews in whatever form.

If you agree to the terms above, I would like us to talk about your experiences with regards to laws and policy in Johannesburg. I do not have a specific way in which I expect you to speak to me; anything we discuss is valuable for me. You are free to not answer questions and to stop the interview at any time. Your opinions will help me to understand better the various ways in which enforcement is achieved. What we discuss in this interview will be kept strictly confidential, and will be used solely for academic purposes. As mentioned earlier apart from my appreciation, I do not promise you anything for your participation.

Questionnaire to be completed by Zimbabwean Asylum Seeker holding Section 22 Permit who have been in the country for more than 2 years who it is envisaged have

been in Johannesburg long to draw any meaning full conclusions on policy and its impact on development.

Due to the sensitive nature of the subject pseudo names will be used for the interviewees.

General information

Name of Interviewee	_____
Venue of interview	_____
Date of interview	_____
Time spent on interview	_____

Are you ready to go ahead? Yes☐ No ☐(mark with (√) whichever is applicable)

<u>Profile of the respondent</u>

Age ☐ **No. of children (if any)**

No. of dependants in your family

Are your dependents living with you?

Narrate how you travelled from Zimbabwe to Johannesburg and your general impression of life as an asylum seeker in Johannesburg.

What is your highest level of education and any other skills you have?

What do you do for a living?

What is it that you did for a living in Zimbabwe?

How long have you had a section 22 Permit?

Do you belong to any asylum seeker /refugee social network? How has this been helpful?

Did you know of the asylum system before you left Zimbabwe?

On average how often do you have to renew your permit and how do you feel about having it renewed at such intervals?

What is your understanding of the Section 22 Permit?

What problems, if any, related to your status have you encountered or continue to encounter both in your trade and in dealing with DHA officials, banks and other institutions?

Which areas of the act would you like to see being improved?

Any general comments you want to add?

That will be all, thank you for your time

Bibliography

Interviews

Sibanda, S.2009 .*Interview with* Alice July, 18

Sibanda, S.2009. *Interview with* John, July, *18*

Sibanda, S. 2009. *Interview with Ndaba, July, 24*

Sibanda, S. 2009. *Interview with Thandi, July, 18*

Sibanda, S. 2009. *Interview with Wayne, July, 28*

Sibanda, S. 2009. *Interview with Nicholas, July, 30*

Sibanda, S. 2009. *Interview with Busi, July 30*

Sibanda, S. 2009. *Interview with Shingai, August, 13*

Sibanda, S. 2009. *Interview with Joseph, August, 20*

Sibanda, S. 2009. *Interview with Siphiwe, August, 17*

Sibanda, S. 2009. *Interview with Monica, August, 23*

Sibanda, S. 2009. *Interview with Thoko, September 9*

Sibanda, S. 2009. *Interview with Nothando, September 13*

Sibanda, S. 2009. *Interview with Kenneth, September 30*

Sibanda, S. 2009. *Interview with Miss Lindiwe, October, 14*

Sibanda, S. 2009. *Interview with Amanda, October 3*

Sibanda, S. 2009. *Interview with Thembi, October 14*

Sibanda, S. 2009. *Interview with Dumi, July 24*

Sibanda, S. 2009. *Interview with Steve, August 23*

Sibanda, S. 2009. *Interview with Xolani, August 29*

Books, Journals, Internet searches and dissertations

Algotsson, E. and van Garderen, J. 2001. '*Towards a Responsible Framework for the Arrest, Detention and Repatriation of Illegal Foreigners: A Human Rights Perspective of the Immigration Bill'*, http://www.sarpn.org.za/documents/d0001212/algotsson/algotsso n.pdf

Aliens Control Amendment Act No 76 of 1995.

Antony, M. and Mike H. (1996) (Eds), Contributions by de Kock, Ehlers, D. C. Payze, C. Pretorious S. Schuttle, C. *Who goes there? Perspectives on clandestine migrations and illegal aliens in South Africa*. HSRC Publishers, Pretoria.

Castles, S. 2000. 'International Migration at the Beginning of the Twenty-first Century: Global Trends and Issues', *International Social Science Journal*, Vol. 52 (165), pp. 269-281.

Chebichi, J. 2009. *The 'legality' of illegal Somali migrants in Eastleigh Estate in Nairobi, Kenya*. Master's Thesis, Department of Forced Migration, University of Witwatersrand.

Cohen, R. 1998. *Protecting Internally Displaced Women and Children* in Rights Have no Borders. Worldwide Internal Displacement (Ed) Wendy Davies, Norwegian Refugee Council.

Cormsa 2008, Protecting Refugees, asylum seekers and immigrants in South Africa http://www.lhr.org.za/publications/2008-cormsa-report-protecting-refugees-asylum-seekers-and-immigrants-south-africa

Crush, J. (Ed) 2002. *Zimbabweans that move: Perspectives on international migration in Zimbabwe.* Southern African Migration Project. Migration Policy Series no 25.

Crush J and Williams V, (Eds) 2002. *Evaluating Refugee Protection in South Africa*. Southern African Migration Project Migration Policy Brief No. 7.

Dhumma, N. 2009. 'Citizens for Sanctuary.' accessed 29 January 2009 http://www.irr.org.uk/2009/january/ha000016.html

Dodson, B. 1998. B. *Women on the move; Gender and cross border migration to South Africa. Migration Policy Series No*. 9. www.queensu.ca/samp/sampresources/samppublications/policyseries/policy9.htm

Durrheim, K. 1999. *Research Design*. In Terreblanche, M. and Durrheim, K. (eds.), *Research In Practice*, Cape Town: University of Cape Town Press. Cape Town.

Ehlers, D. and Pretorius, S. 1998. *Who goes there? Perspectives on clandestine migration and illegal aliens in South Africa.* HSRC Publishers, Pretoria.

Everett, L. 2007. *Voices from the margins:* Migrant women's experiences in Southern Africa. Migration Policy Series No 46.

Fabricius, P. 2009. *Migration a vital tool for development.* In The Star Newspaper

Freedman, J. 2004. *Migration and in Security in France*. Aldershot, Ashgate, 2004

Hlatshwayo, M. 2009. Unpublished Paper '*COSATU's Responses to Xenophobia'* to be presented at the Centre for Sociological Research at the University of Johannesburg.

Homan, R. 1991. *The Ethics of Social Research: Aspects of Modern Sociology*. Longman. London and New York.

Human Rights Have no Boarders .1997, Amnesty International Publications.

International Migration Report 2002
http://www.un.org/esa/population/publications/ittmig2002/2002ITTMIGTEXT22-11.pdf

Indra, D. 1998. *Engendering Forced Migration.* Berghahn Books, Oxford.

Immigration, Asylum and Nationality Act 2006
http://www.aph.gov.au/library/intguide/SP/asylum_seekers.htm

John, O. O. The Relationship between Poverty and Migration in Southern Africa.
http://www.sarpn.org.za/documents/d0001212/oucho/oucho.pdf

Kalsbeek, W. D. 2000. *Sampling Racial and Ethnic Minorities.* Survey Research Unit, University of North Carolina.

Kibreab, G. 1995. *'Eritrean Women Refugees in Khartoum, Sudan, 1970-1990'*, In Journal of Refugee Studies, Vol. 8 (1), 1-25.

Landau, L. 2007. Immigration *and Development? Immigration, Urbanisation and Sustainable* Livelihoods *in Johannesburg*. Development Southern Africa Vol.24 (1).

http://www.informaworld.com/smpp/ftinterface~content=a777128623~fulltext=713240928

Mangala, M.J. 2003. (M.A Thesis) *The effects of coming to and living in Johannesburg on Congolese Refugees' awareness and Understanding of human rights.* University of the Witwatersrand, 2003

Mawadza, A. 2007. *We need to change the way we talk about migration, In* the Daily Dispatch 3 May 2007

McGregor, J. 2007. *Joining the BBC (British Bottom Cleaners): Zimbabwean migrants and the UK Care industry*. Journal of ethnic and migration studies, 33 (5),

http://www.informaworld.com/smpp/title~content=t713611520

Migration & Economic/Community Development

http://www.iom.int/jahia/Jahia/activities/by-theme/migration-development/migration-development-economic-community

Migration and Population trends in Gauteng Province 1996- 2055 –FMSP Working Paper No. 42 http://migration.org.za/wpcontenct/uploads/2008/03/42LandauGindrey.pdf

Monche, F.2006. (M.A Thesis) *Gender social networks and income generation among Congolese migrants in Johannesburg,* University Of Witwatersrand.

National survey of the refugee reception and status determination system in South Africa, 2009, Forced Migration Programme, University of Witwatersrand.

Netherlands Alien Act http://ww.ind.nl/en/images/publiek_ENG_Algemem_cmt.16537.pdf

Ndlovu, T. 2010. '*Where is my home? Rethinking person, family, ethnicity and home under increased transitional migration by Zimbabweans'* in African Identities. Department of African Literature, University of the Witwatersrand, Johannesburg, South Africa.

Peil, M. and Mitchell P. Rimmer, D. 1982. *Social Science Research Methods: An African Handbook*, Hodder and Stoughton, Chaucer Press LTD, Suffolk.

Protecting Refugees, Asylum seekers and Immigrants in South Africa, Cormsa, 2008 http://www.migration.org.za/uploads/docs/Cormsa08-Final.pdf

Ranchod, K. 2005. *Citizenship and identity, brain drain and forced migration*: The case of Zimbabwe, Centre for Policy Studies Johannesburg.

Refugee Act No 130 1998.

Retief, J. 2002. *Media Ethics: An Introduction to Responsible Journalism*, Oxford University Press, New York.

Robert, F. 1993 (Ed). *Refugee Aid and Development Theory and Practice*, Greenwood Press, Westport CT.

Sassen, S. 1996. *Losing Control? Sovereignty in an age of Globalisation*. Columbia University Press, New York.

Solidarity Peace Trust 2009, *Gone to Egoli: Economic survival strategies in Matabeleland*, A preliminary Study.

Sigworth, R. Ngwane, C. and Pino A, *Gendered nature of xenophobia 2008*, The Centre for Study of Violence and Reconciliation.

Spencer –Nimmon, F.1994. *Voice and Empowerment: The Gender relations of Forced migration*.http://pi.library.yorku.ca/ojs/index.php/refuge/article/viewFile/21840/20509

Thompson, E.P. 1968. *The Making of the English Working Class.* Middlesex: Pelican.

The Documented Experience of Refugees and Asylum Seekers in South Africa: *A Zimbabwean Case Study* (2006). Paper written by Civic Organisations Working on the Refugees and Asylum Seekers Human Rights in South Africa, For Presentation to the Minister of Home Affairs, 2006, Johannesburg, South Africa.http://cormsa.org.za/wp-content/uploads/Research/SADC/REPORT%20ON%20THE%20TREATMENT%20OF%20ZIMBABWEAN%20REFUGEES%20_3.pdf

Taylor, D. and Barlow, C. 2000. What about the future? Long –term migration potential to South Africa from Lesotho, Mozambique and Zimbabwe, In McDonald (Ed) on *Borders: Perspectives on International migration in Southern Africa*, New York, St Martins Press.

Tshabalala, X. 2009. '*Negotiating Movement: Everyday Immigration Policing in Johannesburg,* Unpublished Master's Thesis Department of Forced Migration University of Witwatersrand.

UNHCR Refugee Baseline Survey in South Africa, UNHCR, 2003 http://www.unhcr.org/4371d1ad0.pdf

Wassenaar, D. R. and Mamotte, N. 2008: 'Ethical Issues and Ethical Reviews in Social Science Research', *Social Science and Medicine*, Vol. 20, pp. 1-20

Yin 1994, *Case study Research: Design and methods* (2nd edition), Thousand Oaks, C.A Sage Publishing.