

**THE SHORT ARM OF THE LAW: MIGRANTS' EXPERIENCES OF
POLICING IN JOHANNESBURG**

Declaration

I hereby declare that this is my original work and has not been submitted to any other university for the award of any degree.

Signed.....

Date.....

Dedication

I dedicate this work to George, Willy and Eunice who are migrants in their own right and to South Africans/former Mozambicans of Bush back Ridge.

Acknowledgement

There are many people who in one way or another contributed to the completion of this work. Though I may not individually mention each and every one of them, I wish to express my gratitude to all of them. Worthy of individual mention are my supervisors, Dr Loren Landau and Dr. Ingrid Palmary who helped with conception and execution of this project. I wish to sincerely thank them for their scholarly and critical guidance without which this study would not have been possible. My appreciation also goes to Jacinta Ndambuki who made valuable editorial contribution on this work. My classmates, particularly Brian, Eva, Mike, Esther, Felix and others did, in one way or another contribute to the success of this study. My thanks also go to Mr. G Chesang for the much assistance, academic and otherwise that he extended to me during the course of my work. I thank the Centre for Refugee Studies, in Moi University, for planting the seeds of this work and to Moi University for granting me study leave to be away from my work place. I also thank the University of Witwatersrand for giving the opportunity to further my education.

My greatest appreciation goes to my family, Jackie and the children, for withstanding my long absence and to my parents who have always supported me.

List of Acronyms

ANC	African National Congress
ATM	Automated Teller Machine
DHA	Department of Home Affairs
FMSP	Forced Migration Studies Programme
HRW	Human Rights Watch
ID	Identification Document
IOM	International Organization for Migration
LHR	Lawyers for Human Rights
NGO	Non Governmental Organization
OAU	Organization for African Unity
RSA	Republic of South Africa
SAHRC	South African Human Rights Commission
SAP	South African Police
SAPS	South African Police Service
SAMP	South African Migration Project
TRC	Truth and Reconciliation Commission
UNHCR	United Nations High Commission for Refugees
UNDP	United Nations Development Programme

Abstract.

Proponents of migrants rights often posit that distinct legislation not only secure migrants rights in host countries, but also enhance the ideals of liberal democracies in which policing is regulated by the rule of law, impartiality and respect for due process. The potential for discrimination by host communities to some categories of migrants is deemed to underscore the importance of migration laws. Critics argue that such laws undermine the very rights they are supposed to protect in that they set different standards for the treatment of migrants.

In this study, based on evidence from research with Somali migrants in Johannesburg, South Africa, study I argue that legal documents as evidence of legal status have little significance in the policing of migrants. This paradox can be explained by three main reasons; first, the issuance, retention and renewal of these documents is characterized by irregularities and corruption that undermine the legitimacy of the document, giving the police enough grounds for suspicion. Second the political and social context in which policing of migrants is done undermines the significance of their legal status. The anti-migration sentiment among the nationals effectively sets different standards for policing of migrants. Third, the legal framework gives the police the dual and potentially conflicting responsibilities of regulating migration on the one hand and protecting migrants on the other hand. The police have taken their regulation responsibility to be synonymous with that of gate-keeping whereby migrants are separated and denied access to government services. This role of gate – keeping is manipulated by the police for their own ends while citizens and politicians directly or indirectly sanction their extra-legal actions when dealing with migrants.