

DEPARTMENT OF ANTHROPOLOGY AND ARCHAEOLOGY

MSocSci in Development Studies

**ZIMBABWEAN MIGRANT PARENTS AND CHANGING IMMIGRATION LAW IN
SOUTH AFRICA**

*Understanding Migrant Parents and their Responses to South Africa's Immigration Policy
Amendments on the Cross-Border Movement of Children and Impact on Migrant Parents*

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ABSTRACT

This paper explores the implications of South Africa's amended regulations to the cross-border movement of children on migrant parents working in South Africa and their children who remain in neighboring countries. The new regulations require minors, or persons below the age of 18 years, to present, in addition to a valid passport, an unabridged birth certificate, an affidavit from parents, and, if applicable, a court order, at the immigration port of entry in order to enter or exit South Africa. While the policy was a response to incidents of child trafficking and was meant to protect children, for a migrant-receiving country like South Africa where the majority of migrants are of unclear legal status, including asylum seekers who left children back home, the policy provides a major barrier to a children-parent reunion. The study adopted a quantitative approach, using a case study of migrant parents from Zimbabwe in the Gauteng Province. It investigated the situation of these migrant parents in South Africa, their relationship with their home country, the implications of the policy amendments, and their responses to the policy.

The study recognises the changing nature of Zimbabwean migration – from circular to semi-permanent and permanent migration – and found that, while the migrant parents have connections with their rural home, they do not intend to return home. They also face constraints in their cross-border mobility either because of their legal status or their job situation. These constraints also mean that it is difficult for these parents to satisfy the requirements in terms of the documentation for their children to cross the border. In order to contact their children, these parents rely on the children moving into South Africa during school holidays. The new policy, however, makes it difficult for their children to move into and out of South Africa legally. The parents fell back on past relationships with “omalayisha”, or cross-border transporters, and developed new ones with bus crews to ensure continued contact with children. They act as agents to smuggle children into and out of South Africa at parents' requests. In the context of South Africa's porous borders and corruption at border posts, children enter and exit South Africa at a

price. Despite the costs involved, there are also risks to the children as some of these agents use undesignated entry points, including crossing the dangerous Limpopo River.

The study concludes that the new policy amendments ignored the realities of migration in South Africa, which should be understood from South Africa's attitude on migration. The policy changes provided a layer of challenges for negotiating the border by migrant parents, which forced parents to find alternative ways of negotiating the border. The study therefore advocates for a policy rethink, taking into account South Africa's migration situation. It stresses the importance of considering migrants as stakeholders in any cross-border policy on children.

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LIST OF ACRONYMS

ANC	African National Congress
AU	African Union
CORMSA	Consortium for Refugees and Migrants in South Africa
DHA	Department of Home Affairs
ESAP	Economic Structural Adjustment Programme
GDP	Gross Domestic Product
IDASA	Institute for Democracy in South Africa
IOM	International Organisation for Migration
ILO	International Labour Organisation
PTSD	Post-Traumatic Stress Disorder
RDP	Reconstruction and Development Programme
SADC	Southern African Development Community
SAMP	South African Migration Project
SANDF	South African National Defence Force
SAP	Structural Adjustment Programmes
SAPS	South African Police Service
SARDC	Southern African Research and Documentation Centre
StatsSA	Statistics South Africa

UN	United Nations
UNDESA	United Nations Department of Economic and Social Affairs
UNICEF	United Nations International Children's Emergency Fund
UNODC	United Nations Office on Drugs and Crime
US	United States
ZDP	Zimbabwe Dispensation Project
ZSP	Zimbabwean Special Dispensation Permits

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CHAPTER ONE

INTRODUCTION: CHANGING POLICY AND LAW

1.1. Introduction

This study was necessitated by the publicity generated by South Africa's passing of new regulations to the cross-border movement of children under the age of 18. The regulations seek to establish the principle for the requirement of parental consent for the travel of minor children in and out of the Republic of South Africa. Before they were implemented as standard procedure, the regulations were first implemented in May 2014 at the Beitbridge Port of Entry, which borders Zimbabwe and South Africa. This led to concerns by various stakeholders and government departments about the new regulations' effects on tourism. They argued that South Africa has become a difficult destination to visit because of these regulations. However, the regulations did not only affect the tourism sector and the country's fiscus; it also had major ramifications for the policy's subjects – the very children it was supposed to protect.

This study looks at the immigration policy amendments to the cross-border movement of children to and from South Africa and the implications, this has on migrant parents living in South Africa and their children left behind in their home countries. It is an analysis of the circumstances of migrant parents in South Africa and their relationship with their homes, and an assessment of how the new policy acts as an impediment to migrant parents' physical contact with their children, and how the parents responded to these policy impediments. It will assist in explaining the circumstances of migrants living in South Africa, and why these migrants should be seen as central to any immigration policy. In this respect, the study carries significant lessons for the South African Department of Home Affairs (DHA) in an era where migration is changing and countries are confronted with the challenges of framing laws that conform with changing migration realities. Migration trends indicate changes in migration to South Africa, characterised first by the feminisation of migration, and secondly, by changing migration intention (Crush *et al.*, 2015).

1.1.1 Justification of the study

In South Africa, politicians' and the general business community's arguments against policy changes to the cross-border movement of children into and out of South Africa have been based on economics, particularly its impact on the fiscus. These policy amendments, which were passed in line with international efforts to curb human trafficking, require minors who are defined as children younger than 18 years, to travel with other documents in addition to a valid passport (travel document). These additional documents include an unabridged birth certificate, an affidavit signed by one or both parents (in cases where the minor is accompanied by any person other than the parents), and court orders, amongst other requirements (RSA, 2010). These policy changes were based on estimates that around 30 000 minors were being trafficked through South African borders every year, with about 50% of them being under the age of 14 years (Africa Check, 2013). Even as the implementation of these new regulations was underway, unintended consequences started to emerge, leading to a national outcry and calls from key economic actors for a policy recall.

The primary concern has been with the impact of the policy on tourism, which is a major contributor to the country's Gross Domestic Product (GDP). Critics, including some government officials, have highlighted the declining number of foreign visitors despite South Africa being a relatively cheap travel destination due to the weakening rand (Mail & Guardian, 2015). This is not surprising since tourism development has been a top priority for the South African government, and has been seen as key to job creation and revenue generation to offset job losses in manufacturing and mining. However, this has implied a neglect of the implications of the regulations on migrant parents and their children, especially those from neighboring countries who have seen the occasional opportunity of reuniting with one another curtailed. Paying less attention to these social implications, particularly the implications this has on the children (the very target of the policy) and their migrant parents (living in South Africa), means that the opportunity to understand key aspects in the cross-border movement of children has been lost.

South Africa has had a high influx of migrants from neighboring countries since its independence in 1994 (Adepoju, 2003; Neocosmos, 2010; Posel, 2004). While migrants are generally cosmopolitan, migration to South Africa has seen the largest concentrated flow of

Zimbabweans (Crush & Williams, 2008; Crush & Tevera, 2010). Scholarship has tended to emphasise the illegal nature of migration into South Africa and the lack of legal documentation by the majority of migrants, focusing on the “influx” after 2000 (Crush & McDonald, 2001; Maphosa, 2010). Indeed, the successful labeling of these migrants as “illegal” or “illegal aliens” has made them invisible in law and economic debates. Yet, the case for their visibility in debates on policy implications is compelling. The vast majority of these migrants left their children at home with their grandparents and these children regularly visit parents on school holidays (Thebe, 2011). From another perspective, even for those migrants that have legal status in South Africa and are able to secure menial jobs, this may require them to work throughout the year rendering them unable to reunite with family on a regular basis (Rutherford & Addison, 2008). These realities about migration in South Africa position migrants and their children at the center of the policy changes, and their absence from debates is the key factor motivating this research.

1.1.2 Objectives of the study

The study is guided by four objectives:

- To review the amended regulations regarding the cross-border movement of children into and out of South Africa in relation to South Africa’s migration crisis;
- To analyse the challenges of Zimbabwean migrants that live in South Africa and their migration intentions;
- To investigate the policy implications or effects on migrant parents and their children in the sending country; and
- To provide an analysis of migrant parents’ responses to the threats imposed by the regulation amendments.

1.1.3 Research questions

- What were the factors that influenced the policy amendments on the cross-border movements of children into and out of South Africa? What factors did the policy fail to take into consideration?

- What are the circumstances of Zimbabwean migrants that live and work in South Africa? What are their migration intentions?
- How did the policy amendments affect migrant parents living in South Africa and their children in their countries of origin?
- How do migrant parents frame their responses to the challenges posed by the policy amendments?

1.2. Why Migrants from Zimbabwe?

Migration from Zimbabwe to South Africa has increased over the past decade. The political and economic collapse in Zimbabwe resulted in out-migration rising from a total of some 200 000 Zimbabweans living in South Africa in 2001 to some 2 million by the end of 2009. In less than a decade, Zimbabweans have become the largest population of migrants in South Africa (Makina, 2010).

While the real flood began in the year 2000, five overlapping phases of significant out-migration from Zimbabwe can be identified:

- In the 1960s, a substantial number of Zimbabweans went to work on South African mines;
- In the 1970s, migration was driven by the war of independence, and included both black activists and whites who left in anticipation of independence;
- In the 1980s, Ndebele people fled from political persecution in the western part of the country;
- In the 1990s, migration was triggered by hardships arising from the implementation of the World Bank/IMF economic structural adjustment programme; and
- In the 2000s, mass migration was triggered by a political and economic crisis that followed state-sponsored invasion and the expropriation of commercial farms coupled with human rights abuses.

South Africa has had large numbers of migrants from neighboring countries since its independence. Over the last fifteen years, migration out of Zimbabwe has reached exceedingly high proportions due to a volatile political climate accompanied by economic crisis that has since led to hyperinflation and the collapse of the Zimbabwean currency. During the apartheid era, Zimbabweans entered the country legally primarily as temporary labour (SAMP, 2002) in keeping with the South African need for labour on the mines. Since 1994, most migrants came from neighboring countries that are fellow members of the Southern African Development Community (SADC). Several factors have contributed to the growing influx of foreign migrants. South Africa's long and porous borders with its neighbors are difficult to control, the potential supply of labour from SADC member states is enormous and elastic, and South Africa's economic dominance in the region makes it an attractive destination. Furthermore, the political and economic situation in Zimbabwe, which has continued to deteriorate since 2000, fuels migration.

Zimbabweans are arguably the biggest group of foreigners in South Africa. Most of them are undocumented and end up seeking asylum. Research done by the South African Migration Project (SAMP) has shown that undocumented migration between South Africa and Zimbabwe has increased steadily since the 1980's. Since 1994, the number of undocumented migrants in South Africa greatly increased due to increased poverty and violence in Zimbabwe. This led to increased securitisation at the borders between 2000 and 2010 (Morreira, 2010). It is not surprising that in April 2009, the DHA implemented the Zimbabwe Dispensation Project (ZDP) in order to address the high numbers of undocumented Zimbabweans by keeping a record of all Zimbabweans living and working in South Africa illegally and those using fraudulent documents. On 12 August, 2014, the Minister of Home Affairs went on to introduce the new Zimbabwean Special Dispensation Permits (ZSP) to replace the permits issued under the ZDP.

Migration to South Africa is also currently undergoing a process of feminisation. During apartheid, severe restrictions on the migration of women limited the cross-border movement of females, encouraging their illegal migration. However, between 1990 and 2010, the number of foreign female migrants living in South Africa increased considerably, from 457 000 to 795 000 (UNDESA, 2009). While males are still more likely to migrate to South Africa than females, the gender gap is closing. Women migrate to South Africa for social and reproductive factors in

addition to economic reasons. They usually move to towns or cities where they can work in the informal sector, mostly in trade, retail, or domestic services, but have also traditionally worked as seasonal agricultural laborers. Due to the ongoing economic crises across the African continent, more women are moving to South Africa to supplement their husbands' incomes (Kok *et al.*, 2006: 37). Furthermore, increased urbanisation and the expansion of employment as well as the increase in the number of educated women in Southern Africa have also spurred the migration of women to South African cities.

In scholarly literature on international migration, even literature with a gender focus, women have featured only in relation to male migration (Brown, 1983; Gordon, 1981; O'Laughlin, 1998), and have remained invisible as migrants in their own right. On the contrary, internal migration by women (rural-to-urban) within Southern African states has received significant coverage over the years (Bozzoli, 1991; Izzard, 1985). Pophiwa (2014) states that migration from Africa has historically been a male-dominated phenomenon, but the pattern has changed significantly in recent decades. Over the past few decades, there has been an overall rise in feminisation of migration in Africa, as millions of women gradually became economic beings with a responsibility to contribute financially to their families. Female labour migrants in South Africa increased as economic and social challenges increased in neighboring states, pushing women into seeking employment. This shows that women have become key actors in the South African labour markets. While scholars recognise women as labor migrants, particularly in Southern Africa, their migration has been portrayed as rather temporary and circular (Griffin, 2011; Ulicki & Crush, 2000, 2007; Muzvidziwa, 2001; Posel, 2004).

1.3 Structure of the Dissertation

This study is organised into six chapters. Chapter One, which is the introduction chapter, serves to outline the research paper, its objectives, and its purpose. This chapter also presents the background to the study, the reason for the study, and research questions.

Chapter Two consists of the literature review. This chapter begins with a discussion of key concepts, which are linked to migration and human trafficking, namely: migration, immigration

policy, human trafficking, child trafficking, children, and human rights. This chapter ends with presenting the theoretical framework looking at the policy models.

Chapter Three describes the research methodology. In this chapter, the research design is described and the study area, sampling, data collection instruments, and data collection procedures are explained. This chapter also describes the data analysis process and ends with a description of some ethical considerations, challenges encountered, and the chapter summary.

Chapter Four provides a broad overview of South Africa's immigration policy on movement of children and also looks at the issue of people or migrant smuggling of children from Zimbabwe to South Africa prior to the policy amendments.

Chapter Five provides an assessment of the effects of policy amendments on migrant parents living in Johannesburg, South Africa and their children in their countries of origin. It also provides responses to challenges posed by the policy. Firstly, it looks at the general profile of the migrant parents: their age, marital status, legal status, and employment and education level. It then focuses on the push and pull factors that lead to the parents' migration.

The final chapter, Chapter Six, summarises and discusses the main findings of the study in relation to the objectives. This chapter also covers conclusions and proposes policy implications based on the findings of this study.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

Following the second amendment to the 2002 Immigration Act by the Parliament of South Africa, which came into force with the Immigration Regulations of 2014 and became operational on 26 May 2014, unintended consequences of the policy, including increased cases of child smuggling across the Limpopo River into South Africa, started to emerge. This chapter is based on an extensive and broad overview of literature relevant to the topic of the study. The review draws from selected concepts and attempts to pull these together in order to construct a framework through which the study can be understood. The chapter begins by looking at the various concepts that guide the study and include migration, immigration policy, children, human trafficking, child smuggling, and human rights.

This chapter is an outline of migration in South Africa and presents the extent of illegal migration in the country, reasons for migrating to South Africa, and the emerging trends in illegal migration with the intention of providing a historical context to situate human trafficking and child smuggling within this broad historical context. It then discusses the motive behind migrating, the impact on children left behind by labour migrant parents, and the processes towards policy formulation.

2.2. Concepts

This section looks at the key concepts that are used in this dissertation. Some of these concepts are highly problematic and this section attempts to provide working definitions and suggests how these concepts should be understood in the study. These concepts are also key in understanding the framework of analysis adopted by this study.

2.2.1 Human trafficking

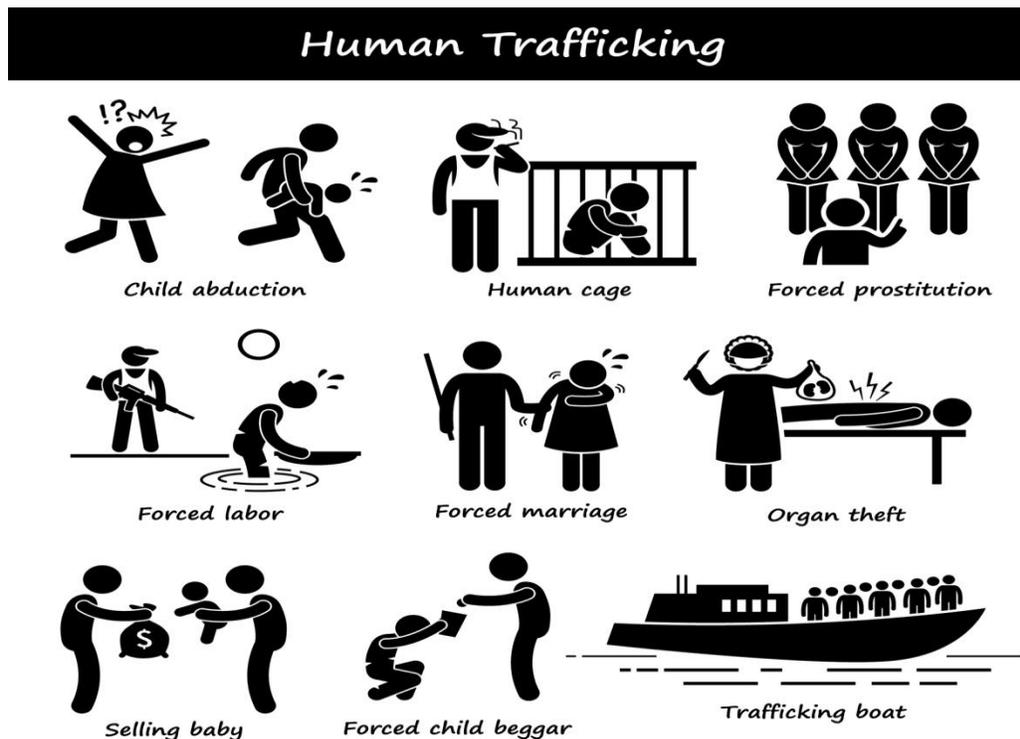


Figure 1: Forms of human trafficking

Source: Google Images (2018)

Trafficking in human beings is a multi-billion-dollar form of international organised crime, constituting modern-day slavery. Victims are recruited and trafficked between countries and regions using deception or coercion. They are stripped of their autonomy, freedom of movement and choice, and face various forms of physical and mental abuse. The Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children supplements the United Nations (UN) Convention against Transnational Organised Crime which was adopted in November 2000. It defines trafficking in persons as the recruitment, transportation, transfer, harboring, or receipt of persons, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices

similar to slavery, servitude, or the removal of organs (UNODC, 2009). Victims of trafficking are subject to human rights violations. Human trafficking is a social phenomenon that affects millions of children, women, and men who fall into the hands of traffickers in their own countries and abroad.

At the launch of a Report on Trafficking in Persons launched by the United Nations Office on Drugs and Crime (UNODC) in 2009 in New York, it was highlighted that reporting on or prosecuting cases of human trafficking is often neglected (UNODC, 2009). The report also noted that the number of convictions for human trafficking is increasing; two out of every five countries covered by the UNODC Report had not recorded a single conviction (UNODC, 2009). According to the Report, the most common form of human trafficking (79%) is sexual exploitation. The victims of sexual exploitation are predominantly women and girls (UNODC, 2009). In 30% of the countries that provided information on the gender of traffickers, women make up the largest proportion of traffickers. In some parts of the world, trafficking of women is the norm.

The Nordic countries (Sweden, Norway, Finland, Iceland, and Denmark) adopted the UN Trafficking Protocol and the Convention on the Rights of the Child. They have introduced special articles or sections in their national criminal laws that prohibit and criminalise trafficking in human beings, including special provisions to criminalise child trafficking, as well as laws around composite crimes such as rape and kidnapping. In all of these countries, except for Denmark, the offence is considered “aggravated” or “gross” when committed against a person under 18 years of age, and it carries a higher sentence. All of the Nordic countries have also developed national plans of action to address trafficking in human beings, all of which provide special measures for children.

In the case of Africa, Adepoju (2005) narrates that the geography of trafficking in West Africa is as complex as the trafficking routes. Ghana, Nigeria, and Senegal are source, transit, and destination countries for trafficked women and children. Dottridge (2002) also notes that trafficking in young children from rural areas to capital cities, especially from Mali, Benin, Burkina Faso, Togo, and Ghana, to Côte d’Ivoire’s commercial farms, from and through eastern Nigeria to Gabon, has increased in recent years.

2.2.2 Child trafficking

Child trafficking is defined as a crime involving the movement of children for the purposes of their exploitation. A child has been trafficked if he or she has been moved within a country, or across borders, whether by force or not, for the purposes of exploiting the child (UNICEF, 2000). In terms of the UN Protocol (2000), child trafficking includes the recruitment, transportation, transfer, harbouring, or receipt of children through threats, force, coercion, abduction, fraud, or deception. Child trafficking takes many different forms. Some children are forcibly abducted, others are tricked, and still others opt to be trafficked, seduced by the promise of earnings, but unaware of the level of exploitation they will go through at the end of the recruiting chain. This process always involves a journey, whether within their country or across the border. At the final destination, trafficked children become part of the underworld of criminality and illegality into which they are plunged (UNICEF, 2005).

The huge transnational industry of trafficking in human beings generates up to approximately \$10 billion per year. Exact numbers of trafficked children are hard to pinpoint since child trafficking is mostly hidden, and victims are often fearful of coming forward. Sometimes desperate children see no alternative to exploitation for survival. They are sold like commodities and suffer brutal assaults on their dignity and safety. Children are forced to work in hazardous conditions; are sold into domestic labour, marriage, or prostitution; are forcibly recruited as child soldiers; and are offered up for illegal adoptions. Girls as young as 13, mainly from Asia and Eastern Europe, are trafficked as “mail-order brides” and commonly forced into prostitution or pornography whilst in West and Central Africa, large numbers of children, especially girls, are trafficked for domestic work.

In 2012, the UNODC reported that the percentage of child victims had risen in a three-year span from 20% to 27%. By then, 20.9 million victims of trafficking worldwide had been recorded. Of every three child victims, two are girls and one is a boy. Gender and age profiles of victims detected globally constitute 59% women, 14% men, 17% girls, and 10% boys. Annually, 600 000 to 800 000 women, children, and men are bought and sold across international borders every year and exploited for forced labor or commercial sex (UNODC, 2009) with 50% of those victims estimated to be children. It is estimated that 76% of transactions for sex with underage

girls starts on the Internet and two million children are subjected to prostitution in the global commercial sex trade (UNICEF, 2005)

Veil (1999) identified six types of child trafficking in West and Central Africa: “Abduction of children, payment of sums of money to poor parents who hand over their children on the promise that they will be treated well, bonded placement of children as reimbursement for debt, placement for a token sum for specified duration or for gift items, and enrolment for a fee by an agent for domestic work at the request of the children’s parents. In the sixth form, parents of the domestic workers are deceived into enlisting their children under the guise that they would be enrolled in school, trade, or training.”

According to Kelly, Maghan, and Serio (2005), there are a number of factors contributing to child trafficking, including poverty, gender discrimination, natural disasters, political instability, culture, weak and corrupt law enforcement, globalisation, family dysfunction, rituals, and technology. These factors lead children along a trail of traumatic experiences with negative physical, social, psychological, and economic impacts and have a negative impact on victims and their families as well as the community and the nation as a whole. It is a human rights violation and a crime. It violates the universal rights of children to life, liberty, and freedom from slavery. Where child trafficking occurs, it increases social breakdown, promotes crime, and interrupts the passage of knowledge and cultural values from parent to child and from generation to generation, making the child more vulnerable to the traffickers and weakening the core pillar of society (Redlinger, 2004). In short, child trafficking leads to social, psychological, physical, and economic trauma for the victim (McDonnell, 2006).

Dottridge (2004) states that children are recruited by their parents, relatives, close friends, government agencies, and commercial agencies. These groups recruit children for both the entertainment industry and as domestic workers. Other recruiters might be community leaders and prominent members in the society such as village headmen, church leaders, police officers, orphanage directors, brothel owners, local doctors, transport workers, and criminal gangs. Furthermore, professionals including schoolteachers and health department officials are also involved in recruiting children and corrupt immigration officials may facilitate the act consciously or unconsciously.

Mertinez (2007) and Kelly *et al.* (2005) provide a number of indicators which are used to identify children who have been trafficked. These include features such as the children being typically malnourished and dehydrated because of poor hygiene and starvation as well as lack of proper care and health deterioration. The children may show signs of rape and sexual abuse, coupled with sexually transmitted infections (Dottridge, 2004), and can experience post-traumatic stress disorder (PTSD). The victims are often kept in isolation in heavily secured buildings, behind locked doors, and in isolated locations. Their travel and all identification documents are confiscated and usually they cannot speak the local language. Furthermore, the victims are usually afraid of the perpetrators because they resort to violence and threats, forcing the victim to comply with their demands. If a family member was involved in facilitating the trafficking transaction, the victims may also tolerate abuse in order to protect their family (Clawson *et al.*, 2008).

Children who are poor have minimal education, lack vocational skills, or have few prospects for job opportunities, are most at risk of being trafficked. These factors, when compounded by gender, racial, or ethnic discrimination, or insecurity caused by armed conflict and civil strife, create the ideal environment for trafficking networks to thrive. Child trafficking violates the human rights guaranteed to children under international law, most notably the Convention on the Rights of the Child. The social and educational developments of children who have been trafficked have often been stunted. They may even be arrested and detained as illegal aliens, often with little or no access to their parents or other support services.

The United Nations International Children's Emergency Fund's (UNICEF) global effort to combat child trafficking focuses on building a protective environment for children, a safety net of interconnected elements designed to safeguard children from violence, exploitation, and abuse. Children can be shielded from trafficking when:

- Governments are truly committed to child protection;
- Attitudes and prejudices that facilitate or lead to abuses are challenged or changed;
- Media and civil society openly confront exploitation, abuse, and violence;
- Protective laws are in place and consistently enforced;
- Children have the information to protect themselves from abuse and exploitation;

- All those who interact with children —teachers, parents, and religious leaders – know how to recognise and respond to exploitation;
- Proper monitoring is in place to identify victims of exploitation and abuse; and
- Services for victims of exploitation are available without discrimination.

2.2.2.1 International trends in trafficking

United States

In the United States (US), children are trafficked out of or into the country from all regions of the world; represent a variety of different races, ethnic groups, and religions; and come from all backgrounds. This includes both boys and girls and spans a wide age range from age one to 18 years old. Sex trafficking victims up to roughly 25 years old were most often recruited as young as 14 (UNICEF, 2011). Victims may be brought into a country legally or smuggled in. The trafficked children may be forced to work in shops, in houses as domestic servants, on the streets as child beggars, on farms, in traveling sales crews, or in restaurants and hotels. Some are forced to work in brothels and strip clubs or for escort and massage services (UNICEF, 2011). UNICEF has played a critical role in putting a stop to all forms of trafficking.

Trafficked children are lured to the US through the promise of school or work and promised the opportunity to send money back to their families. Children are also vulnerable to kidnapers, pimps, and professional brokers. Some children are even sold to traffickers by their families, who may or may not have an understanding of what will happen to the child. US-born children are also trafficked within the US and come from any racial group and socio-economic background, within both city and rural areas. According to non-governmental US sources, many youth, especially US citizens trafficked within the US, run away from problems at home and may be exploited as a result of emotional vulnerability, homelessness, and the need to survive. Youth who run away from home and engage in "survival sex" often find themselves vulnerable to pimps and traffickers involved in prostitution networks. Approximately 55% of street girls, and a good percentage of boys, engage in formal prostitution and some authors think it is much higher than that. This means that a child client who has been homeless or living on the street for any amount of time has a great likelihood of having been sexually exploited or trafficked.

The sexual exploitation of children is not limited to particular racial, ethnic, or socioeconomic groups, although children from poor families appear to be at somewhat higher risk of commercial sexual exploitation. Most of the street children in the study being referred to were Caucasian youths who had run away from middle-class families (UNICEF, 2011). One clear theme is the proportionate number of street youth who have histories of recurrent physical or sexual abuse at home and who took to the streets in a desperate effort to end their abuse. According to these researchers, child sexual exploitation in the US affects as many boys as girls, but boys are not as well-served by social service and law enforcement systems because of the widespread belief that boys are better able than girls to fend for themselves. Without intervention, research has shown many boys shift from being victims of sexual abuse to victimising other boys and girls as pimps and traffickers.

People are recruited through different ways, for example, through fake employment agencies, acquaintances, newspaper advertisements, front businesses, word of mouth, or abduction. Traffickers may be neighbors, friends, returnees, agricultural operators, owners of small businesses, diplomats, and even families. Increasingly, however, the traffickers are organised crime syndicates, and often work in collaboration with corrupt law enforcement entities and government officials or employers who may use several intermediaries from the first point of contact to the final destination of the victim. If the victim is transported, they use both legal and illegal means of transport and various techniques to keep their victim enslaved. They may keep them under lock and key or in isolation from the public, their family members, or support networks.

The psychological effects of torture are helplessness; shame and humiliation; shock; denial and disbelief; disorientation and confusion; and anxiety disorders including PTSD, phobias, panic attacks, and depression. Victims may experience Traumatic Bonding (Stockholm Syndrome) – a form of coercive control in which the perpetrator instills in the victim fear as well as gratitude for being allowed to live or for any other perceived favors, however small.

Nordic Countries (Sweden, Norway, Finland, Iceland, and Denmark)

In a study carried out by UNICEF across the Nordic region, the number of officially identified trafficking victims is low. From existing information, it can be concluded that adults and children are trafficked to and within the region and they experience different forms of exploitation. Sexual exploitation takes place through prostitution and pornography. Labour exploitation was reported or considered probable in labour-intensive sectors and those that primarily employ non-nationals, such as construction, restaurants, cleaning, agriculture, and berry picking. Trafficking is also possible in relation to domestic work, begging, forced marriage, and child marriage.

The recruitment of children into trafficking is believed to take place mostly outside the Nordic region, with traffickers ranging from small groups of people to larger international networks. UNICEF (2011) reported on a case of Sweden outlining differences in forms of exploitation according to the age of the child. Those trafficked into sexual exploitation were mostly between 15 and 17 years whilst children aged 10–14 years were exploited by being forced to beg and steal under the control of organised criminal groups. The age of criminal liability (15 years in Sweden) was considered relevant in this context, since younger children do not risk prosecution when identified by the police. Across the region, there are reports of exploitation of migrant children in various forms at source, in transit, and at destination countries. Such children often face severe risks to their health and even to their lives. The necessity for many migrants, notably asylum-seekers, to engage with criminal networks (smugglers) adds to their vulnerability, although in some cases such networks can also protect children from harm. Studies have suggested that the risk factors faced by vulnerable migrant children tend to be intertwined and cumulative. Children may be victims of trafficking or other crimes while they are also accompanied or unaccompanied asylum-seekers, regular or irregular migrants, or members of minority groups. Moreover, children often move between different statuses or “categories” depending on their options and choices of migration, as well as on decisions taken by immigration authorities when their applications are being assessed or reassessed.

Limited information and analysis is available on the backgrounds of children identified as actual or potential victims of trafficking. Even where common characteristics have been identified among victims, such as difficulties in finding employment in countries or areas of origin, it is not clear whether these factors also apply to non-trafficked migrants or indeed to most citizens of the

countries concerned. This lack of information hampers the development of responses to child trafficking, particularly preventive responses.

The Middle East

The Middle East is a destination for trafficking in children. According to the International Organisation for Migration (IOM), South Asian women and girls are trafficked to the Middle East and Gulf States as domestic house cleaners, while children, especially from Bangladesh, India, and Pakistan, are trafficked to the United Arab Emirates to act as camel jockeys for camel races. These races may be very dangerous and children can be injured or even die in accidents during the race. The United Nations Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography intervened on this issue, expressing concerns in her 1999 Report in stating: “In the Gulf States, mainly in the United Arab Emirates, the lives of young boys are being put at risk for the entertainment of spectators at camel races. For many years the boys, sometimes as young as four years of age, have been trafficked from countries in South Asia to supply the demand for camel jockeys...”

Africa

For decades, countries in Africa have been marred with the issue of child trafficking. In the past few years, this problem has been increasing. In a 2014 Global Report by the UN, it was reported that child trafficking has increased by 5% from 2007-2010. Governments in Rwanda, South Africa, and Ethiopia have all reported a discernible rise in child trafficking cases (Develop Africa, 2017). Most child trafficking victims come from poor neighborhoods and have little to no education. Kidnapped or lured by the prospects of a job, these children are forced to work as domestic laborers, sex slaves, and miners. Their captors subject them to a violent environment, and do not provide sufficient amounts of food and water. Governments are now taking action to combat the trafficking of people. Paul Kagame, Rwanda’s President, declared plans to expand police forces, raise awareness of the problem, and impose stringent penalties on child traffickers (Develop Africa, 2017). South Africa has enacted the Prevention and Combating of Trafficking in Persons Act (PACOTIP) to aid victims and impose punishments for trafficking. Such

measures have liberated hundreds of children from forced labor and led to the imprisonment their captors.

Despite positive developments to end human trafficking, the problem is nowhere near over. Millions of children in Africa are still trapped in this modern-day slave trade. Besides laws and legal forces working to stop the situation, advancements made in education can help prevent children from being deceived into coerced labor. Education will paint a picture of a brighter future and engage children's minds, making the alternative of work at such a young age undesirable. South Africa is also a major destination for regional and extra regional trafficking activities. It is reportedly Africa's major cross-border destination for receiving children trafficked from other countries. Female children are the primary victims, although male children have also been identified as victims (IOM, 2003).

2.2.3 People smuggling

Closely connected to trafficking is the issue of people smuggling in which smugglers procure, for financial or material gain, the illegal entry of an individual into a country of which he or she is neither a citizen nor a permanent resident. Once payment is completed, the relationship between the migrant and the smuggler is terminated. According to the UN Convention Against Transnational Organized Crimes' Smuggling of Migrants Protocol, Article 3 (2004), smuggling of migrants is defined as the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national nor a permanent resident (UNCATOC, 2004). According to the Protocol, illegal entry means crossing borders into the receiving state without complying with the necessary requirements for legal entry (UNCATOC, 2004).

Smugglers use land, sea, and air routes to facilitate illegal migration and abuse the legal migration system to further their illegal business practices. Irregular migration is not a new issue, but is one that has taken on new proportions in recent years. Thousands of people are leaving their home countries to escape conflict and poverty, and are taking desperate measures to reach European countries in search of a better life. Not all irregular migrants are smuggled. However, the reality is that transnational organised crime groups are taking advantage of these

humanitarian crises in order to make huge profits. They facilitate the passage of migrants across borders in return for payment, with little or no regard for their safety and wellbeing.

Smuggled migrants are vulnerable to life-threatening risks and exploitation; thousands of people have suffocated in containers, perished in deserts, or dehydrated at sea. Generating huge profits for the criminals involved, migrant smuggling fuels corruption and empowers organised crime. Currently, data is too scattered and incomplete to paint an accurate picture of the numbers of people who are smuggled each year and the routes and methods used by those who smuggle them. Still, available evidence reveals that criminals are increasingly providing smuggling services to irregular migrants to evade national border controls, migration regulations, and visa requirements. Most irregular migrants resort to the assistance of profit-seeking smugglers. As border controls have improved, migrants are deterred from attempting illegal crossings themselves and are diverted into the hands of smugglers.

Migrant smuggling is increasingly associated with serious human rights violations and deaths, in particular when it occurs at sea. Conditions of transport are inhumane and the journeys are hazardous. The loss of migrants' lives at the hands of smugglers in the Mediterranean Sea is an acute reminder of the need to tackle migrant smuggling, using all of the legal, operational, and administrative levers available. According to the IOM, nearly 3 700 migrants are estimated to have lost their lives in the Mediterranean Sea between 1 January and 23 October, 2016 but for the smugglers, profits are the driving force behind their activities. The fact that migrant smuggling networks are closely linked to other forms of serious and organised crime, including terrorism, human trafficking, and money laundering, increases this urgency even further. As the crime is a clandestine one, accurate global figures are difficult to come by. The UNODC estimates that USD 6.75 billion is generated through the smuggling of migrants through two principle routes alone: from East, North, and West Africa to Europe, and from South to North America (UNODC, 2012).

The UNODC (2018) notes that the smuggling of migrants is truly a global concern. A large number of countries are affected by it as origin, transit, or destination points. Profit-seeking criminals smuggle migrants across borders and between continents. Assessing the real size of this crime is a complex matter, owing to its underground nature and the difficulty of identifying

when irregular migration is being facilitated by smugglers. Smugglers take advantage of the large number of migrants willing to take risks in search of a better life when they cannot access legal channels of migration. The smugglers arrange for migrants who do not have the required visas and paperwork to cross international borders. This can be done by providing fake identification documents, organising transport, and bypassing official border controls.

In South Africa, the most illegal cross-border migration is caused by human trafficking and smuggling of people across borders. The country's porous borders and corrupt police and DHA officials encourages the trafficking of humans across borders. Women are trafficked mainly for commercial sex work (IOM, 2005; Oucho, 2007; Cross *et al.*, 2006; Solomon, 2000). In the absence of specific legislation, there is no protection for trafficked people from being deported because they lack documentation (Crush *et al.*, 2005).

In South Africa, a person is guilty of trafficking if he/she delivers recruits, transports, transfers, sells, exchanges, or receives another person within or across borders of the Republic for purposes of exploitation. This may be done through threats, kidnapping, or directly or indirectly giving or receiving payments to obtain the consent of a person who has control or authority over another. An immediate family member or any other person in a close relationship to the victim may carry out these actions.

Dewhurst (2017) looked at the nature of trafficking in South Africa, in particular at who is involved and where trafficked people come from. Human trafficking in South Africa includes sex trafficking, child labour, organ smuggling, child brides, illegal child adoptions, and forced surrogacy. South Africa remains a primary source, destination, and transit country for human trafficking internally and across borders. Externally across borders, victims are targeted from countries with socio-economic and political problems like Zimbabwe, Malawi, Mozambique, and the Democratic Republic of Congo. The demand for human trafficking is channeled through the tourism industry, certain cultural and religious practices, and the sex and drug trade. Women from poor communities, who are unemployed or seeking work with children and youth, are the most vulnerable. People are trafficked by their friends, families, and community members, most of them being business people, job recruiters, foreigners, or South African nationals (Dewhurst, 2017).

Corruption in government departments is rife; law enforcement units and border crossing patrols play a role in hindering initiatives to prevent trafficking. The location of South Africa makes it easy to travel to and from other countries using road transport, planes, or boats. Another cause for human trafficking in South Africa is South Africa's socio-political and socio-economic context with its high levels of poverty, inequality, and unemployment as well as low levels of education. The legacy of apartheid and patriarchy in South Africa together with certain religious and cultural practices such as "muti" which is related to traditional medicine and "ukuthwala" which is related to child marriage, have led to gross human rights violations, especially amongst women and children (Dewhurst, 2017).

At present, there is no systematic research available that provides comprehensive insight into the prevalence or patterns of trafficking into or out of South Africa. The most methodologically sound research conducted in Cape Town by Gould and Fick (2008) found only eight possible cases in contrast to prior claims that trafficking was a major problem, whilst the IOM found eight cases between 2004 and 2008. A report by the IOM in 2010 reflected that they had assisted 306 victims of trafficking between January 2004 and January 2010, arriving at an average of 51 cases per year (IOM & NORAD, 2010). During 2010, South Africa expected/predicted a rise in human trafficking due to the world cup. An increase from 40 000 to 100 000 trafficked foreign women and children sex workers to South Africa was predicted. Surprisingly, when research was done after the World Cup, no increase in the supply or demand for sex workers was recorded; neither did the Department of Justice and Constitutional Development find any cases of trafficking. This raises eyebrows around the issue of assuming figures. This study will focus on the smuggling of children into South Africa in order to visit their parents. It is not disputed that there are still instances of human trafficking occurring in the country.

2.2.3.1 Differences between child trafficking and child smuggling

A broad distinction can be made between people smuggling and human trafficking. In general, the individuals who pay a smuggler in order to gain illegal entry to a country do so voluntarily,

and the relationship ends on arrival. People who have been trafficked, on the other hand, are exploited on arrival and there are often elements of fraud, force, or other coercion present. Both human trafficking and people smuggling are complex crimes, and it is important to recognise that there is potential for overlap.

Human trafficking is the phenomenon of controlling human beings for exploiting them, as defined by the 2000 UN Protocol. Victims are forced to work in domains where their liberties and freedoms are at stake. They are victims of sexual exploitation, forced labour, removal of organs, and servitude. Therefore, trafficking in humans does not only occur as a cross-border crime, it can also occur within the territory of the same country. Furthermore, criminal networks that exchange these individuals unlawfully with other criminal organisations carry out such illegal activities. Finally, trafficking in people can occur even though they entered the country legally.

Human smuggling, on the other hand, is the phenomenon of illegally entering a country. This is a cross-border crime and cannot occur within the territory of one country. The primary victim of this crime is the state, because its immigration laws are violated and, therefore, its sovereignty is violated. The secondary victims are the human beings. The people who decide to cross borders and move to another country make their own decision to do so, and are not forced to, unlike the crime of human trafficking. Moreover, unlike victims of human trafficking, victims of human smuggling are not controlled by the network that helped them cross borders once they enter their destination country.

Nonetheless, these two crimes can overlap; victims of human smuggling can become victims of human trafficking. In fact, those who have been smuggled into a country cannot report themselves to the authorities and ask to obtain the same rights as legal residents because of their undocumented status. Therefore, they are subjected to low-quality employment, working long hours in bad conditions and earning very little. It is then that exploitation occurs, and they become victims of human trafficking. Of course, there is an issue of child trafficking in South Africa but what emerged from the research conducted, is that most children were not trafficked

but smuggled by arranged transporters known as *omalayisha*, or bus crews. The next section discusses migration, its trends, and background in South Africa.

2.2.4. Migration

Though much of the literature acknowledges that migration is a highly controversial and hugely contested terrain, there is currently no single universally accepted definition of migration (Kok *et al.*, 2003). The term migration, according to Kainth (2009), is so broad that it lends itself to different interpretations and connotations, which are due to the differences in nature, scope, and purpose of discussion. On the one hand, Kainth (2009) notes that sociologists emphasise that there are social and cultural consequences of migration. On the other hand, Kainth (2009) further notes that geographers place emphasis on the time and distance, while economists give importance to the economic aspect of migration. In light of these inconsistencies, it is thus difficult to ascertain what triggers migration.

Consequently, in defining migration, there are main components that ought to be discernible. In essence, migration can be defined as “a process of moving, either across an international border, or within a State” (International Federation of Red Cross (IFRC) and Red Crescent Societies (RCS), 2012: 2). According to Human Migration Guide (2005), migration is typically the movement of people from one place in the world to another for the purpose of taking up permanent or semi-permanent residence, usually across a political boundary. Further, Skeldon (2002) regards migration as the spatial movement of people at various times of their lives for various reasons.

Even though the phenomenon of migration might appear to be outlandish, migration is not a new phenomenon as in reality, has been a part of human history (IFRC & RCS, 2012). A remarkable rise in migration in the global context is consistent with the recognition of the right to move. According to International Migration Report (2002), the right to move was recognised globally over a half century ago with the adoption of the Universal Declaration of Human Rights. In this context, the Declaration states in Article 13 that “Everyone has the right to freedom of movement and residence within the borders of each state” (International Migration Report, 2002: 1).

Historically, a consideration of global migration provides insight not only into the global reaches of an expanding industrial economy but into how an integrative economy grew concurrently with political and cultural forces that favoured fragmentation into nations, races, and perceptions of distinct cultural regions (McEvedy & Jones, 1978: 159). Excessive growth rates in migration trends have been witnessed around the world and have presented new challenges for receiving countries. Immigration rates tend to be uneven within particular regions, with some countries sending numerous migrants while others send hardly any at all. According to McKeown (2004), 19 million overseas migrants from China and 29 million from India seem like a drop in the ocean compared to the several millions from much smaller countries like Italy, Ireland, and England. Massive internal migration also took place within major long-distance sending regions. In Europe, migrants from Ireland travelled to England for work and from Eastern and Southern Europe to industrial areas in Northern Europe, especially France and Germany (McKeown, 2004). In Russia, migrants moved into the growing cities and Southern agricultural areas.

In Africa, labour migration to plantations and mines in Southern and Central Africa increased throughout the late nineteenth and early twentieth centuries, as did movement to agricultural areas and coastal cities in Western and Eastern Africa. Millions of people took part in these movements, some of whom were coerced and many of whom went to work for European enterprises, but many of whom also found independent occupations (McKeown, 2004).

2.2.4.1. Migration trends

Migration has found its niche amongst developing countries. Kainth (2009) regards economic factors as the source of migration. Since the 1990s, there has been a gradual upturn in migration flows, especially amongst developing countries (Organisation for Economic Cooperation and Development (OECD), 2001: 17). These migration flows are attributed mostly to political instability that is characterised by regional conflicts (OECD, 2001). To this point, the number of refugees and asylum seekers has increased exponentially in European countries. Accordingly, migration is also attributed to economic reasons. In this regard, immigration for employment reasons has increased sharply between 1999-2000 in response to economic trends in member countries and the resulting labour shortages in certain sectors. Literature on migration by (OECD, 2001:17) notes that illegal migration is the most disturbing phenomenon because its

volume is not quantifiable. Yet, persistence of illegal migration indicates that host and origin countries are encountering problems in controlling migration flows. In most developing countries, the trend is that people often migrate from rural to urban areas, particularly to big cities, in an attempt to find better social services.

2.2.4.2 Background to migration to South Africa

The issue of migration is not new to South Africa; it dates back to the 1860s with the discovery of diamonds in the Orange Free State and gold in the Witwatersrand. The discovery of these minerals led to the high demand and recruitment of cheap labour from countries like Malawi, Namibia, Mozambique, Zimbabwe, Lesotho, Botswana, and Swaziland (McDonald, 2000; Simelane, 1999; IOM, 2005). With the demise of apartheid in 1994, South Africa became a focal point for trade and travel (Landau, 2007). This led to a rapid increase of immigrants into South Africa (McDonald, 2000). The cross-border movement from Zimbabwe to South Africa has always been male-dominated with labour contracts in the mining industry. The end of apartheid and positive changes in the South African economy led to a high migration of foreigners into the country. Others have pointed to changes in migration patterns to South Africa in the past two decades following the end of apartheid and integration of South Africa within the SADC region and the reconnection of the region with the global economy. The growing rural and urban poverty and unemployment has led to the growing number of illegal cross-border flows (Crush *et al.*, 2005; ILO, 1998).

As compared to other African countries, post-apartheid South Africa is seen to have increased economic opportunities through both legal and illegal migrants (Human Rights Watch, 2006; Maharaj, 2004; PHAMSA, 2005; Solomon, 2003; Tsheola, 2008). Wide differences in income levels and economic conditions led to irregular migration as people will take risks to explore economic conditions to improve their lives (Maharaj, 2004). According to the International Labour Organisation (1998), people migrate to South Africa for the following reasons:

- The perception that South Africa's employment rate is low which means it is easy for migrants to get jobs;
- South Africa has varied opportunities since its GDP is ten times than that of all SADC countries combined;

- The income level in South Africa is above the US\$500 mark when compared to that of SADC countries, which acts as an incentive;
- The South African economy is seen to have the capacity to absorb its own population and labour migrants in the region;
- Population growth, coupled with a decline in the economy, induces people to cross borders to search for a better life;
- Environmental factors like drought and famine; and
- Politically induced ethnic strife and socio-economic disparities promote migration.

South Africa's borders are seen as "porous" and thus encourage illegal migration. Lack of staff, corruption, and bribery by the DHA officials perpetuates illegal migration into the country (Human Rights Watch, 2006; Landau, 2007; Maharaj, 2004; McDonald *et al.*, 1998; Kok *et al.*, 2006). The emergence of South Africa as one of the economic giants in Africa has had an influence on neighboring countries, especially those enduring socio-economic challenges. The progressive position of South Africa has acted as an influence in fueling desire amongst African men and women to migrate and explore better opportunities. South Africa seems to be highly preferred by African migrants from Malawi, Lesotho, Mozambique, and mainly Zimbabwe, which is the focus of this paper. Many Zimbabweans have left their country in search of greener pastures. The relaxation of stringent visa requirements at the beginning of 2009 and the granting of ZDP, which allowed Zimbabweans to work and live in South Africa, have made entry relatively easier, hence the influx of migrants. Despite this, there are still other hovering restrictions.

2.2.4.3. Social network and the deteriorating economic and political conditions in Zimbabwe

While many reasons for increased migration to South Africa during the post-apartheid era can be identified, some have stood out. According to Mello (2008), globalisation has led to porous borders due to growth in trade, communication, and technology. However, for neighboring countries and others in the continent, social network and deteriorating socio-economic and political conditions have by far played the greatest role. Neighbours experiencing social and economic challenges surround South Africa, and, until recently, political challenges in Angola, Mozambique, and Zimbabwe can be cited as push factors.

Kok *et al.* (2006: 227-234) define migrant networks as sets of interpersonal ties that connect migrants, former migrants, and non-migrants in origin and destination areas through ties of kinship, friendship, and shared community of origin. They involve the flow of new migrants from their area of origin to the destination area and contrary flows of previous migrants returning home. Cross *et al.*, (2009) maintain that social networks play a vital role in the migration process as these networks inform prospective migrants of vacant positions and of the best places to search for work. Zimbabwean migrants perceived social networks as playing an extremely important role in assisting them to settle in South Africa and to find work there. However, social networks may also discourage migration if negative information about the possible destination is communicated to prospective migrants by migrants already working away from home. Cross *et al.*, (2009) indicates that different occupational classes tend to use different types of networks with, for example, high occupational groups relying more on colleagues and organisations, while unskilled workers rely more on kin-based networks. These networks are said to have functions such as stimulating migration, facilitating migration, discouraging migration, and channeling migration. The above analysis can be seen by forms of migration mentioned below.

Stimulating migration

The fact that one migrant seems successful when returning home stimulates the desire for non-migrants to migrate. At the end of the year or during the Christmas period, Zimbabweans cross the border with vehicles full of goods bought in South Africa, and that gives an impression that those in South Africa are successful.

Facilitating migration

Networks provide information about accommodation and job opportunities in destination areas. Networks make it easy for poor people to migrate because they offer cash, loans, and gifts to enable migrants to pay for travelling to destination areas. Those who have been in the country before provide money to bribe officials and for agents to smuggle illegal immigrants across borders. Social networks also provide emotional support, friendship, and opportunities to help reduce the psychological impact of migration. If they are concentrated in one area, they create a cultural milieu similar to that they have at the place of origin.

Discouraging migration

Networks may disseminate information about the difficulty of getting jobs and about the extent of xenophobia in destination areas. Such information will ultimately make those who are not yet in South Africa to view it differently.

Channeling migration

The flow of migration can be directed to certain destination areas; hence, migrants from a particular area of origin tend to cluster in specific neighborhoods. Networks also help in channeling migrants into particular occupations or companies in the area of destination. According to McDonald *et al.* (1999) and Solomon (1996), shared history, culture, and kinship ties are responsible for tying people across borders. They share social identities, language, and even political solidarity despite the borders. The majority of undocumented migrants have contacts in the destination area (Cross *et al.*, 2006; Harris, 2001; Maharaj, 2004; Solomon, 1996; McDonald *et al.*, 2000; McDonald *et al.*, 1998). This was confirmed by a study undertaken by Klopper (2006) on the Southern Mozambique and South African borders where social networks were seen to play a role in the migration of illegal immigrants.

2.2.4.4 Conditions in Zimbabwe

Migration of Zimbabweans into South Africa has been on the increase since the 1980s. In the beginning, illegal migrants were from Western and Southern districts of Zimbabwe, areas that are prone to drought and severe food shortages. Recently, however, most migrants now come from all over Zimbabwe (Tevera & Zinyama, 2002). The cost of a visa or obtaining a passport is expensive and the process takes very long. Stringent measures to control migration have been known to lead to an increase in illegal migration (CoRMSA, 2008; McDonald *et al.*, 1999; McDonald *et al.*, 1998; Ranchod, 2005; Tsheola, 2008).

Zimbabwe's economic conditions have deteriorated badly and the lower income group people have no way of coping with the hardship and high levels of unemployment, hence their decision to migrate (Crush & Williams, 2005; FMSP & MLAO, 2007; Human Rights Watch, 2006, 2007; ILO, 1998; IOM, 2005; Tevera & Zinyama, 2002; Ranchod, 2005). The highest rate of illegal Zimbabwean migration takes place during December holidays when migrants go home to visit

their families and travel back afterwards (Tevera & Zinyama, 2002). According to Ranchod (2005), in 1999 the South African High Commission in Harare reported the number of illegal Zimbabweans in South Africa due to the expiry of visas to be about 75 000. Zimbabwe is regarded as one of the countries with the highest supply of illegal migrants in South Africa. This is detected through the number of deportations.

2.2.4.5 Changing trends in migration

The trends in migration have changed. Of recent interest is the migration of women where there are those who also migrate illegally on a seasonal basis for trading purposes to sell arts and crafts in South Africa and to buy commodities for resale back in Zimbabwe. Due to political unrest in some countries in the SADC region, some people have migrated to seek asylum whilst others are trafficked by human trafficking rings. Most migrants face difficulties in accessing proper documentation. For most migrants, police stations are not the most favorable place to go for assistance as that will require producing an identity document, which normally leads to detention and facilitates deportation (Sibanda, 2010).

Feminisation of migration

The migration of women across borders is not a new phenomenon. Most women between the 1980s and early 2000s would migrate and be employed in the agricultural and domestic sectors (Muzvidziwa, 2001). Much of the movement was clandestine as migration laws were strict on women as they were only allowed women entry into the country as dependents. Due to changes in migration, women who migrate now do so for informal trading; they enter to buy goods for resale back in their country of origin (Cross *et al.*, 2006; Crush & Williams, 2005; ILO, 1998; Kok *et al.*, 2006; McDonald *et al.*, 1998; Tevera & Zinyama, 2002). Women usually stay for shorter periods than men (Tevera & Zinyama, 2002). This due to gender inequality as women have limited education and are confined to unregulated sectors of the economy like informal trade, domestic work, and prostitution (Roberts, 2007). Another trend that has been identified in the migration of women is that they resort to illegal migration channels due to the difficulty of migration channels. Although they may have higher education, they are still employed in low-skilled labour settings (Tevera & Zinyama, 2002; Crush *et al.*, 2005). Research on migration of

women is limited, however there is a need for further research on the role of legislative barriers (Crush *et al.*, 2005).

Asylum seekers and refugees

The fact that Zimbabweans are not granted asylum or refugee status by the South African government is said to encourage illegal migration. In 2005 only 114 Zimbabweans were granted refugee status amidst 16 000 pending applications (Human Rights Watch, 2006; CoRMSA, 2008). Asylum seekers are not supposed to be regarded as illegal in the country as the reason they do not have documentation is that they are fleeing from conflict in their countries of origin (Harris, 2001). Under the 1951 UN Convention, a refugee is a person who has left his or her home country and has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion, or a membership in a particular social group. Zimbabwean nationals do not necessarily meet the legal requirements to be granted refugee status in South Africa provided for in section 24 of the Refugee Act No 130 of 1998 read together with the above-mentioned international law. According to this Act, an applicant has to demonstrate a well-founded fear of persecution in their home country but most Zimbabweans cannot do so as they are economic migrants.

Zimbabweans are, however, able to seek asylum status when they enter the country and should be issued with a Section 23 Permit which is a non-renewable “asylum transit permit”. The permit is valid for a period of 14 days only and authorises the person to report to the nearest Refugee Reception Office in order to apply for asylum in terms of Section 21 of the Refugee Act. They will then be granted with a Section 22 permit that is valid for a period of six months and grants the asylum seeker temporary stay in the country pending a final decision on their application. The permit can be extended for a further six months while the process of status determination is in progress. The holder of a Section 22 permit has the right to work and study in South Africa and is protected against deportation to their country of origin. The DHA presumably believes that there is no war in Zimbabwe, which justifies the granting of asylum or refugee status and unsuccessful applicants for asylum, and refugee status are subsequently arrested and deported. It is, however, noted that people from peaceful countries such as Mozambique, Namibia, and Swaziland are known to have applied for asylum status (Landau, 2007).

Illegal cross-border migration

Illegal border crossing is not a new phenomenon. The number of illegal border crossings has, however, increased in the last two decades, especially since 1990 (McDonald *et al.*, 2000; Solomon, 2000; McDonald *et al.*, 1998; Crush *et al.*, 2005; IOM, 2005). Economic inequality within the region has led to the increase of migration and South Africa is the destination place and a transit route of this migration (Tsheola, 2008). During the apartheid era, recruiting companies were utilised to source labour from labour-supplying countries and most of the migration involved illegal border crossing. Hence, many families in the SADC region have an inter-generational history of migration to South Africa (ILO, 1998). Illegal immigrants are divided into two groups: those who enter through official entry points but overstay after their visa expires, and those who do not have legal documents and do not use official entry and exit points (Danso & McDonald, 2000; ILO, 1998; Tevera & Zinyama, 2002; Maharaj, 2004; Ranchod, 2005). On the other hand, Crush *et al.* (2005), distinguish between three streams of illegal immigration: lawful entrants/unlawful stayers, unlawful entrants/lawful stayers, and unlawful entrants/unlawful stayers.

A report by the Secretary General of the UN General Assembly (2006) states that tourists who have no permit to work, but work; those who fail to renew work permits; and asylum seekers who fail to secure asylum status are also regarded as illegal immigrants. According to the ILO (1998), visa over stayers are detected through the computerised National Movement System of the DHA that records every person entering legally and his or her date of exit. It is thus easy to detect visa over stayers. In South Africa, the illegal immigrant population is estimated to be around 80 000 each year. Statistics on the number of foreigners in the country is based on research from the Human Science Research Council research which is said to be flawed, hence its withdrawal in 2001 (Dodson & Crush 2004; Crush, 2001; Crush *et al.*, 2005; Danso & McDonald, 2000; Crush & Williams, 2005). Estimates around the number of illegal immigrants in the country is based on the number of repatriations; the number of immigrants overstaying their tourist and study visas; and information supplied by the DHA, the South African Police Service (SAPS), and the South African National Defense Force (SANDF) (Crush & Williams 2005; FMSP, 2007; Solomon, 1996; Solomon, 2000; Tevera & Zinyama, 2002).

There are, however, no reliable statistics available on the number of illegal migrants in South Africa. It is difficult to establish the number of illegal migrants due to the clandestine nature of entry into the country and their avoidance at being detected for fear of deportation (Maharaj, 2004; Crush 2001, Oucho, 2007).

2.3 Deciding to Migrate

The movement of people across political boundaries has generated considerable debate in Southern Africa (Crush & Tevera, 2010). It has been noted that there is a need for Southern African countries to ensure free movement of people across the region. In countries like South Africa, however, it is feared that, if this is done, there will be a high influx of migrants from countries like Zimbabwe and other countries in the SADC region that have been hit by poverty and economic instability. As Southern Africa moves towards a more globalised future, there is a need for African governments to have valuable information on policymaking. Immigration policies, which are not static, need to be modified all the time as things constantly change in the area of migration.

The DHA captures information on international travelers entering and leaving the country. In April 2016, 80% of the visits to South Africa by foreigners were by road, 19% by plane, and 1% by sea (StatsSA, 2016). Travelers who do not possess a valid passport and low-income migrants are plausibly more likely to enter the country via road. Statistics South Africa (StatsSA) (2016) also noted that the majority of these undocumented and low-income earners are working as farm laborers, domestic workers, and security guards in South Africa. Crush and Tevera (2010) note that there are indications that undocumented and unauthorised cross-border migrations from Zimbabwe into neighboring countries has increased since 1980's. These undocumented migrants are those who both enter through official exit ports and overstay or those who leave Zimbabwe without valid travel documents and do not use official exit points. These individuals rely on transport syndicates for their movement.

Whilst most of these migrants from Zimbabwe do not have documents, they still manage to pay fines for overstaying at the South African embassy in their home country and are able to go back to South Africa. Some of them have even managed to obtain South African documents

fraudulently. According to local media reports, authorised cross-border migration reaches a peak towards the end of the year when migrants go back home to Zimbabwe for the festive season. After spending a few weeks with their families at home, they come back to South Africa across the border and, unfortunately, because they are undocumented, they risk their lives and cross the Limpopo River. This occurs during the rainy season and these migrants often end up facing tragic consequences due to floods and the perils of the crocodile-infested river. Several people have died attempting to cross.

The family unit is of fundamental importance amongst Zimbabweans. Family structures influence decisions to migrate as this has emotional, physical, and spiritual effects. In the early 1980's, white people migrated to South Africa fleeing in fear of their safety after Zanu PF won elections (Sibanda, 2010). Others fled the Gukurahundi massacres in Matabeleland. These massacres mainly targeted the Ndebele people. Later in the 2000's, the trend of migration made a U-turn as it became influenced by political unrest, unemployment, and poverty. Moving to South Africa came with many uncertainties of what the future holds. These uncertainties included psychological stress, anxiety, traumatic experiences, and culture shock (Sibanda, 2010). Majority of these migrants had well-paying jobs but opted to migrate and settle for menial jobs such as security guards and factory workers in search of income to support families back home.

Many Zimbabweans have gone to work in South Africa (Crush & Tevera, 2010). SAMP research shows that over the years, almost a quarter of Zimbabweans had parents and grandparents who have worked in South Africa at some point in their lives. Due to deteriorating economic conditions in Zimbabwe, Zimbabwe has become a far more significant exporter of migrant labour. Unlike countries like Mozambique, Zimbabwe does not have an international bilateral treaty that facilitates migration. As a result, there are limited to opportunities for Zimbabweans to work legally in South Africa. According to Crush and Tevera (2010), the past decades have seen growing numbers of Zimbabweans going to South Africa to engage in both small-scale trading and others seeking employment. The current harsh economic conditions affecting many in Zimbabwe have resulted in an increase in migration, with those mostly affected being in the low-income households that face difficulties coping hence a better understanding of the nature of cross-border movement would assist in the adoption of more enlightened policies in South Africa to assist in dealing with these issues.

Cross-border migration between Zimbabwe and South Africa used to be a male-dominated activity (Crush & Tevera, 2010) but this has changed in the past decade because of political and economic hardships. It used to be a male-dominated activity as it was declared dangerous and risky for women to travel to South Africa to work in mines. Economic conditions have since deteriorated in Zimbabwe to the extent that people, especially women from lower and middle-income households, have resorted to migrating. This meant that women could no longer just be recipients from their husbands. They have had to start looking for jobs in formal or informal domestic sectors while others travelled to South Africa in effort to support their families.

The situation in Zimbabwe continued worsening with the price inflation spiraling and large firms shutting down, having resulted in more than 50 000 people being retrenched (Crush & Tevera, 2010). With all this happening, some chose to migrate, both the poorly educated without skills as well as the highly qualified professionals. A study by the ILO in 2000 estimated some 50 000 had professional jobs whilst the unskilled migrants were employed in underpaid jobs as domestic workers, farm laborers, and security guards. They would cross the border legally if they had passports or enter without documents and, likewise, on returning to South Africa after visiting Zimbabwe over Christmas, they would enter legally or illegally.

It is imperative to note that there has been a lot of stereotyping with regards to the issue of immigrants in South Africa. They have been blamed for being involved in crimes, high jacking, drug trafficking, taking people's jobs, and men taking South African women for marriages of convenience. Resultantly, they have been called "illegal aliens" fleeing political unrest in their home country (Crush & Tevera, 2010). Due to this, the South African government found itself in a position of imposing stringent regulations to tighten access to the country, especially for the unskilled and less educated migrants. These regulations selectively allowed entry to those skilled that could provide capital for investment.

This public perception of immigrants being parasites saw the DHA, police, and other government officials implementing immigration policies and tightening border control. It is worth asking whether the stakeholders involved in the policy formulation mentioned above bothered to involve the very immigrants who were going to be affected in an attempt to hear their views. Moreover, what did human rights institutions and civil society organisations

contribute? It could be argued that the statements that led to the implementation of new immigration policies were xenophobic. This is one example where policy formulation was influenced by public perception. Contrary to this, Crush and Tevera (2010) have argued that South Africa has become a major destination for Zimbabweans because of political unrest, unemployment, and human rights abuse. This has resulted in many Zimbabweans seeking asylum.

According to a study conducted by Crush and Tevera (2010), almost a third of well-educated immigrants that moved to South Africa were unemployed. 90% were employed in their professions but the remaining 10% had to settle for work in the informal sector working as domestic workers, farm workers, drivers, hairdressers, shop assistants, and security guards. In the sample study, it showed that 86% of those working in low paid jobs earned less than R4 000 a month. Despite these earnings, they have rent and groceries to pay for each month and have to send money back home for the upkeep of their children. Life is not easy for most migrants as their wages are low. Most of them remain in a legal limbo state as few can access refugee status and only the skilled can acquire work permits.

2.4 Children Left Behind

With the socio-economic and political situation in neighbouring Zimbabwe resulting in many parents' decisions to migrate to South Africa, there is the sad reality of leaving behind children who remain under the care of close relatives or immediate family. Although a substantial amount of research and policy literature exists on migration and economic development, there is a pressing need to assess the extent of academic knowledge on the impact of migration on children in developing countries in order to achieve a basic understanding and to formulate policy recommendations.

According to Rossi (2008), migrant parents sometimes decide, either by choice or due to forced situations, to leave their children in their country of origin or to reunite later in their country of destination. Usually the decision of one or both parents to migrate and leave their children behind may be the result of an individual's need to send remittances home in order to make their family members' lives better. According to the World Bank, in the last decade, migrants

worldwide sent home a total of \$232 billion of remittances in 2005 (Hernandez, 2006). The possible positive contribution of remittances in combating extreme poverty in recipient's households has been at the center of the debate on migration and development (Rossi, 2008). However, the correlation between remittances and income may not necessarily cause a positive developmental effect on children left behind (Rossi, 2008). The absence of their parents has an effect on their health, educational attainment, lack of parental care, and risks of child labor by caregivers. Living in a family where at least one parent is away for long periods is part of a normal childhood experience for many children in developing countries.

Children in households with migrant parents are less likely to be affected. Remittances play a huge role in the positive contribution of children's health. Social remittances, which are ideas, identities, and social capital, are taken back to the children in the country of origin and have an impact. It is not only financial remittances that are brought back but new information and values that may have a positive impact on the children. This, however, is dependent on constant contact between the migrant parents, their children, and even the caregivers (Rossi, 2008). Where remittances are sent, there is an impact on attendance at school. It is assumed that children of migrant parents perform badly compared to children whose parents are available but where there is an incentive of remittances, the outcome might be different. According to McKenzie and Rapport (2006), there is a negative effect of migration on school attendance and education attainment on children. Most children of migrants are more likely to migrate illegally themselves unless the parents maintain constant physical contact and see their children.

The social costs of migration can be very high due to a lack of parental care (Rossi, 2008). Children left behind inevitably grow up in single-headed families if one parent leaves or with the grandparents and other relatives if both parents migrate. Children can be impacted negatively if their parents move as this leads to permanent disruption of the family unity. Children left behind are not orphans; they do maintain contact with their parents. The impact of the absence of parents on children can be mediated by an extended family net, which is an effective response to economic and social crisis, particularly in Southern Africa. In many developing countries, assistance from extended family members is negotiated by arranging for the children to live with the relatives and providing monetary benefits for both the children and family members. Care by relatives and extended family does not guarantee complete care and protection from abuse and

exploitation, however. Though the lack of parental care can potentially produce adverse effects, remittances compensate for parental absenteeism due to the positive contribution to the household income, access health, education, and work opportunities (Rossi, 2008).

Studies by Nguyen (2017) reflect the same results as noted by Rossi (2008) that parental migration has negative effects on their children's education and academic performance. The children tend to have emotions that are more negative in nature and have trouble in self-assessment. This causes negative behavior in children left behind. As much as remittances are sent home to cover financial needs, the children's health and cognitive abilities are affected. This mainly came out in children whose parents maintained minimal contact.

2.5 Towards Policy Formulation

Contemporary forms of regulation, like South Africa's new regulation on the cross-border movements of children, can be understood only in the context of South Africa's adoption of a "neoliberal economic doctrine" (Crush & McDonald, 2001: 3), adoption of UN and African Union (AU) conventions and with the obligations that accompany such adoptions as demonstrated by the Al-Bashir saga (President of Sudan's attendance of the AU Summit in South Africa) (IOL News, 2015; SABC, 2015). The starting point to understanding the processes of modern governance is the understanding of policy processes in developing countries. Palao (2013) defines policy as a decision-making framework or course of action selected by government, institutions, or groups from among alternatives, and in the light of given conditions, to guide and determine present and future decisions to achieve a desired effect or change.

While Turner and Hulme (1997) regard policy as a process, they emphasise that it is also about decisions and that decisions are about power. With regards to public policy, Hahn (1999) locates the process within the confines of government, defining it as a course of action taken by governmental entities with regard to a particular issue or set of issues. The process of its formulation comprises political and non-political groups, administrative, legal, and parliamentary components. In South Africa, public service institutions play a leading role in the formulation of public policies. These institutions include central agencies, line ministers, and the departments

concerned (Roux, 2002). Thus, human agents construct policy and, as such, there is need to understand their behavior since these human agents often have conflicting and sometimes changing political goals (Turner & Hulme, 1997). In most Third World countries like South Africa, policy choices and outcomes have often been hampered by a lack of knowledge and have consistently been disappointing (Turner & Hulme, 1997). This is evident in the new regulations made to the cross-border movement of children. The lack of knowledge means that the actions of policymakers are more likely to be guided by guesswork than systematic analysis. It is for this reason that Dro (1986: 98) argues that policy is more like “fuzzy betting, attempting to influence the probability of future solutions”.

Going through the policy literature, there is certainly no shortage of explanations or views on policymaking. Over the years, a great number of perspectives or models, albeit with plenty of side excursions, have influenced policy thinking and policy studies. The first is a Marxist view of policy as dominated by the views of the dominant social classes in society; the second is a statist view, which focuses on decision-making within the organisational context of the state; and the last is a society oriented view of power relations between social groups (Jones & Turner, 2011).

2.5.1 Policy models

2.5.1.1 The Marxist model / Elite model

From a Marxist perspective, the world can be divided between those who control the means of production and dominant institutions of society such as the state, and those who own little or no property, who are called the proletariat (Miliband, 1962). The dominant classes mainly comprise the capitalists, or the elites, whose power and proximity to institutions of power means that policy decisions are an expression of their interests (Barry, 1999). According to this model, public policies reflect the role of the state in trying to regulate the economy and ensure social and political stability in favour of the capitalist/ruling class (Barry, 1999). Largely because of their power, the elites control the state and ideas through the media and processes of socialisation (Barry, 1999). However, according to Marxists, the source and existence of power is not always readily apparent and therefore needs to be deciphered (Barry, 1999). Miliband (1962) portrayed the state as an institution that was created to cater to the interests of the bourgeois (rich/upper class) and to perpetuate their vested interests. He argued that the state wears a mask that portrays

it as the protector of the poor, but in actual fact it has a completely different face that is pro-bourgeois (rich/middle class). Nordlinger (1981) also argued that the state is as an actor concerned with long-term objectives.

While it is acknowledged that the state's function is to regulate the economy and ensure social and political stability, it is apparent that owners of capital operate behind the scenes to manipulate the political process while indoctrinating the majority of the working class into accepting the unequal economic structure of society (Barry, 1999). Marx's theory has been subjected to intensive critique. The theory was criticised for overemphasising the importance of power originating in economic relations and paying less attention to non-economic bases of political power (Barry, 1999). The theory was also challenged for exaggerating the potential for class conflict by neglecting the possibilities for non-capitalist classes to harness power and state control (ibid).

Another position similar to the Marxist perspective is the elitist model. From this perspective, developing countries' democracies would not be run by the people (Barry, 1999). As the proponents would argue, even though every citizen is entitled to the right to political participation and membership in different kinds of organisations, only a small portion of the population actually shapes policy and makes binding decisions (Dye & Zeigler, 2006). It is the position of elitist theory to describe how elites "govern" South Africa's democracy and place the people, the other side of this population dichotomy, in a position where they have little or even no influence over the government and the country's direction (Barry, 1999). Elitism represents an opposite view to pluralism. Pluralistic theory argues that there is an on-going competition between groups trying to determine policy, but overlooks the division of society into elites and masses and emphasises the fragmentation of society and competition between leadership groups (Dye & Zeigler, 2006).

Today, elites are not necessarily related to families and name recognition. Rather, power is concentrated in several fields of life, including family, religion, education, professional life, military, politics, etc. (Mills, 1956). According to Mills (1956), a major part of power resides in the economic, the political, and the military domain. Within these areas, it is possible to find what is called "power elite". The power elite is a circle of individuals who make important

decisions and can be concentrated in any of the three institutional areas mentioned above. The fact that these circles of power are in charge of democracy does not lead to the Marxist assumption that masses are necessarily “exploited or repressed” by elites (Dye & Zeigler, 2006). Elitism simply argues that elites hold the power to shape policy and that they work toward the maintenance of the status quo, where masses hold limited or no power at all.

Elitism also has its limitations. Although it is assumed that elites act in the interests of others, as well as themselves, decisions are considered largely symbolic with elites considered to be manipulating public opinion. There is also too much generalisation around the forces that drive public policy. Professional politicians, for example, represent a crucial point of implementation of elite preferences (Barry, 1999). The second limitation is associated with common preferences. According to Dye and Zeigler (2006), elites from different institutional areas share a consensus over “values and goals for society, with disagreements largely limited to means of achieving common goals”.

2.5.1.2 The state-centered model

Another cluster of approaches to policy-making in developing countries is the state-centered model. It is so called because it focuses more on decision-making within the organisational context of the state (Jones & Turner, 2011). Analysis is concerned with the perceptions and interactions of state officials and much less with influence coming from the society (ibid). Several variants can be identified within the state-centered model including the rational actor, bureaucratic politics, and state interests. While the pure version of the rational actor model does not apply to any empirical situation, there are rationalities in which the effect of the constraints and the sub-optimal conditions of the real world are incorporated (Turner & Hulme, 1997).

Another state-centered model of policy-making pays attention to bureaucratic politics in which executives and bureaucratic players compete over preferred solutions to particular policy problems and the use of resources available to them through their positions (Grindle & Thomas, 1991). Sutton (1999) shares the same sentiments, noting that this model focuses on conflict and negotiation between actors within the state machinery. Contests are driven by individual career incentives and wars between ministries trying to maintain control over policy arenas (Sutton,

1999). Public office holders are engaged in political strategies such as coalition building, bargaining, and compromise in order to achieve their personal objectives.

Jones and Turner (2011) note that the state interests approach offers a broader perspective in which the state appears to have some autonomy in defining the nature of public problems and developing solutions to them. Sutton (1999) emphasises that this approach focuses on the specific interests the state has in policy outcomes such as the interests of regime authorities to remain in power and the maintenance of its own hegemony *vis-a-vis* societal actors. This approach differs from social class models as it sees the state as analytically separable from society and as having its own interests such as maintaining law and order, and developing beneficial relations with other countries (Jones & Turner, 2011)

2.5.1.3 The society centered model

The society centered models in developing countries talk of power relations between social groups (Turner & Hulme, 1997). They have a close association with structural explanations of social change, especially in the social class analysis variant. According to this variant, policies are a product of conflicts between social classes and emerge from the interactions between social classes. Pluralism is described as a public policy resulting from the conflict, bargaining, and coalition formation among a potentially large number of societal groups organised to protect interest common to their members (Grindle & Thomas, 1989). This is the ideal type of Western liberal democracy in which power is distributed amongst groups whose interactions determine policy choices. In this instance, the state acts as an arbiter and responds to pressures coming from society (Turner & Hulme, 1997). Unfortunately, this idea is far removed from the reality of many developing countries that have authoritarian regimes in which a large number of their population is excluded from the policy process (Jones & Turner, 2011).

The last of the society centered model is public choice theory, similar to pluralism, which assumes that political society is composed of self-interested individuals concerned with obtaining access to public resources (Turner & Hulme, 2011). The benefits materialise where a particular group or individual obtains some form of preferment from the state. With such behavior, it is evident that public choice theory is based on people that are opportunistic, self-interested maximisers (Turner & Hulme, 2011).

2.5.2. South Africa's policy dilemma

Research carried out on policy-making by SAMP states that a well-informed policy maker or migration manager is more likely to appreciate the viability of different policy choices to develop policies that are workable, democratic, consistent with principles of good governance, and regard cooperation (Crush & Tevera, 2010). Policies based on outdated or misleading information will not only fail but will also have damaging consequences. Africa Check reported that 30 000 minors are being trafficked every year in South Africa. Those figures were not confirmed but influenced the implementation of the regulation on movement of children in and out of South Africa.

South Africa, like many developed and developing countries, faces difficulty with policies with challenges arising from immigration (Stern & Szalontai, 2006). Immigration issues are difficult to tackle because they are spread across many areas of public policy and affect many sensitive interests. In South Africa, two factors complicate the issues and make credible, sustainable policies of migration management more difficult to achieve. The first factor is the widespread belief that South Africa is being swamped by mostly illegal immigrants, largely from neighboring states. It is extremely difficult to accurately estimate the number of foreigners in the country. As a result, the lack of authentic figures gives currency to wildly improbable perceptions of the scope of migration. The second factor is the hostility towards foreigners in South Africa that occasionally manifests itself in outbreaks of social violence usually attributed to xenophobia. The media and the state have played a role in shaping immigration policies, which keep changing. Sibanda (2010) noted that since Zimbabwean migrants have made big news both in print and electronic media, the government has tended to grapple with policy reforms aimed at selecting certain migrants and keeping others out.

The Zimbabwean migration story has a mixed nature. Due to the collapse of the economy in Zimbabwe, Zimbabweans were purely seen as economic migrants. The South African government attempted to use existing economic policies to deal with economic migration without taking into account the specificity of the large-scale collapse of social welfare systems, income opportunities, the systematic exclusion of specific groups and individuals from services and jobs, and the violent persecution of political opponents. Given the complex reality of

circumstances in Zimbabwe, South Africa has been struggling to respond with adequate policies and practices, especially in movement control and access to social welfare services (Polzer, 2010). Before the height of Zimbabwean crisis, with the aim of controlling movement, most Southern African countries were disposed against the free circulation of people in the region and proposals to introduce wide free movement in the 1990's were rejected (Polzer, 2010). As the Zimbabwean crisis unfolded In the 2000's, the restrictive approach to regional mobility was largely reinforced through legislation providing for the immigration of skilled labour, students, tourists, and other desirable classes of migrants. Other countries have restrictive policies that confine asylum seekers to camps but South Africa's asylum system is comparatively progressive in that it allows for free movement and the right to work and study (Polzer, 2010). However, these slow, expensive, and highly bureaucratic immigration and asylum processes in South Africa are not suitable for dealing with the high volumes and mixed nature brought about by the Zimbabwean crisis. New legislations introduced during this period such as the new Immigration Act of 2002 did not make provision for large-scale mixed movements of people in reference to the unfolding Zimbabwean situation.

CoRMSA (2009) looked at the regularisation of Zimbabwean migration to South Africa and showed that the policies set at that time with the aim of regularising movement between South Africa and Zimbabwe represented a positive shift towards a rational, coherent, and regionally beneficial migration management approach. The previous approaches, which were the asylum system and detention, were viewed as inadequate in addressing the nature or scale of movement, thus resulting in high levels of illegal immigration, rights abuses, and negative impacts for South Africa. In addition, South Africa introduced special temporary permits to manage complex mixed migrations and adopting this policy presumed widespread interest in supporting regional stability, especially for Zimbabwe.

Polzer (2010) notes that the politicisation of cross-border migration figures is common across the globe. Receiving governments may want to under-or over play numbers to assure populations or justify particular policies. For example, for many years South African politicians and media have been quoting the figure of three million Zimbabweans in the country, but according to census figures of 2002, it is 1-1.5 million. Even without reliable numerical evidence, it is clear that a high proportion of Zimbabweans have moved to South Africa.

2.6 Chapter Summary

This chapter discussed different perspectives on migration. In an attempt to obtain more information on the background of migration in South Africa, various concepts that are linked to migration were examined and discussed. All the concepts that were highlighted are linked to the migration process and subsequently contribute to the main issue of human trafficking and child smuggling. The chapter also extensively discussed the role played by transporters of children and their involvement in the smuggling of goods, remittances, and people and highlighted why the policy related to the regulation of the movement of children was formulated. Furthermore, the chapter situates the implementation of the regulation of movement of children within different policy models. Different policy models used in formulating policies were discussed, bringing out how policies are formulated, the key role players involved, the challenges, and the impacts of the different approaches.

Overall, the nature of this chapter was aimed at understanding implementation of immigration policies, and if the people it is supposed or intended to cover or protect are actually benefitting from it or not. Consequently, the research utilised qualitative research approaches as outlined in the next chapter.

CHAPTER THREE

METHODOLOGY

3.1 Introduction

The methodology of this study was guided by the research problem identified and the objectives that the study sought to achieve. The study sought to understand the implications of South Africa's policy immigration amendments that affected the cross-border movement of children on the process of reuniting with their migrant parents. The initial point of departure in this analysis was to identify and explore the specific situation of migrant parents in South Africa and their migration intentions, how this was negatively impacted by the policy reforms, and how the parents used their agency in response to the policy impediments.

The study was guided by the assumption that the migrant parents had settled in South Africa, secured employment, had children back home, and that keeping contact in with their children was a priority. The objective of this chapter is therefore to describe the methodology adopted by the study. The chapter begins by looking at the research design adopted by the study and the research techniques employed to collect data. This is followed by the data analysis method used and the ethical considerations. The last section focuses on fieldwork challenges and how they were overcome to ensure that these impediments did not compromise the research.

3.2 Research Design

The research adopted a qualitative design, although this did not prevent the use of numbers and other quantities. De Vos (2005) suggests that a qualitative research design is a multi-method focus and involves an interpretive and naturalistic approach. The qualitative design allowed the researcher the opportunity to study situations as they unfolded naturally. It also allowed for a detailed investigation of the policy implications on migrant parents and their children who have become the unfortunate victims of the policy. In order to understand the effects of the policy on the migrant parents and their children, this research adopted three approaches, namely a review of literature, key informant interviews, and extended interviews with migrant parents. This

chapter also presents and explains each step of the chosen methodology, data collection process, challenges encountered, how the researcher overcame them, and the ethical considerations to inform the credibility of the research process.

3.3 Research Techniques

3.3.1 Review of selected literature

Chapter Three, which is the methodology chapter, reviews available literature to assist in answering the research question. In a study that investigates issues that have attracted scholarly interest and the media, a review of published sources of material is a logical starting point. The approach applied in this research design took off with a review of selected literature on topics relevant to the study. This included topics on child trafficking, cross-border human smuggling, and migration in South Africa.

This research tremendously benefitted from the contributions of key migration scholars including Crush, Dodson, and Neocosmos, who have offered a remarkable coverage of migration trends in South Africa looking at the attitudes of South Africans towards migration, issues of xenophobia, push factors for migration, and changes in migration trends. While Thebe's work on omalayisha proved important in highlighting incidents of people smuggling and negotiating at the border, Crush, Jonathan and Ramachandran (2010) contributed to my study as it discusses mixed migration from Zimbabwe to South Africa. The authors highlighted the country's emigration experiences since 1990 and the shift from temporary migration to permanency by most Zimbabweans as the situation in Zimbabwe did not seem to be improving. With parents having settled, the stringent regulation has an impact on the frequency with which they see their children. Crush also discusses issues of xenophobia and human rights in South Africa, bringing out the elements of negative attitudes towards migrants.

Dodson (2000) offers detailed information on how women experience cross-border migration compared to men and also in depth information on female cross-border labour migration confirming that women continue to dominate in labour markets. It is also discussed that migrants have been on the receiving end of verbal and physical denigration by South Africans on the streets whilst Dodson (2015) reiterates that South African political attitudes and hostility towards

migrants is viewed as a violation of human rights. Murray (2003) feeds into Crush and Dodson, citing difficulties faced by foreigners ranging from discrimination and intimidation. The hostility and violence directed at foreign nationals has been shown to boil down even to other politicians and has been exacerbated by the media.

The SAMP publications offer a detailed analysis of the history and trends of migration in South Africa as they try to promote awareness of migration development and attempt to provide policy advice. Roux (2002) provides detail around policymaking and analysis in South Africa, which is critical in this study as the experiences of the migrant parents are centered on the policies that were implemented. This literature will outline how policymaking is carried out, the players involved in these processes, and will help identify if really these are the procedures, which were adopted by the DHA. Data from UNICEF and the UN has shown that human trafficking is rife in all countries. This paper will look at statistics, how to align them, and will assess if the statistics provided in South Africa are a true reflection of what is being reported. If so, it will assess whether the issues are being addressed in the right manner.

3.3.2 Primary research

Two primary research methods have been employed to address the questions on policy implications and effects on migrant parents and their children in the sending country. An extended study of sixteen selected migrant parents in the Johannesburg area and ten key informant interviews was chosen as a method because it allowed interaction with the migrant parents in their working environment and at home and it enabled the extraction of in depth, detailed information about their experiences with immigration policies. This information informed the writing of Chapter Four and Chapter Five of this study. The key informant interviews were the next step in collaborating the findings from the literature review and study as well as gaining access to important information and statistics that may not have been publically available.

The research conducted with migrant parents and key informants in Johannesburg staying in the suburbs of Edenvale, Isando, Kempton Park, Midrand, Tembisa, and Cosmo City in Gauteng, South Africa was conducted over a period of three months in the year 2017. As a direct result of the researcher's pre-existing familiarity and relationship with two hairdressers in one of the

areas, participants were readily identified to participate in the study in order to begin the data collection of the research. Thereafter snowball sampling and referrals were employed.

3.3.2.1 The extended case study

I conducted my research fieldwork over three months between May and August 2017, two years after the policy became effective. I timed the period of the research so that I was able to capture the dynamics of interaction in the world of these parent migrants, and to ensure that I captured incidents of children's visits during the holiday. I carried out my field research in two major cities in the Gauteng Province of South Africa, the Johannesburg Metropolitan and Tshwane Metropolitan, otherwise known Pretoria. The two cities are very popular with Zimbabwean migrants, not only because they are economic hubs, but because there were networks to accommodate migrants due to the long history of migration and cultural and linguistic relationships with some ethnic groups in Zimbabwe.

As a Zimbabwean migrant woman, I shared a nationality and sometimes the same language with some of the migrant parents. I studied and worked in Pretoria and was familiar with the social life and certain aspects of migrant life. I also have migrant friends that have children back home that have been affected by the new regulations, and was therefore familiar with the situation before I embarked on the study. However, I am a professional and keep a certain company that is different from the migrant group I was interested in, and my perspective was very different from theirs.

More importantly, I have no children of my own, which makes my situation rather different. However, the research problem is very close to my heart as it partly touches my professional life as an official of the Department of Social Development. The very fact that the issue at hand revolved around issues of social welfare, the right of children, and the plight of migrants fuelled my enthusiasm and pushed me into a study that at first sight seemed easy, but ultimately proved challenging. In carrying out the study, I was seeking to enter into the lives of these migrants and understand their situation as migrants in a foreign country where their presence was unwanted and unrecognised (Neocosmos, 2008; Murray, 2003).

It became inevitable that in the process of interaction, I became imbedded in these people's lives, and this had serious bearing on the study. The study, which took an extended approach, was not designed to draw information from the respondents; rather it was designed to understand these migrants from their own perspective. In the words of Eric Worby, "Long term research normally involves sustained engagement in the daily lives of those about whom they are writing, and in the effort to understand the latter on their own terms." As such, I started by familiarising myself with these migrants and their families before any interviews or discussion related to the research could start. This was key if these people were to accept me into their life and share with me intimate details, some of which were incriminating.

I chose my migrant participants selectively from five areas within Johannesburg and Ekurhuleni: Edenvale, Kempton Park, Tembisa, Cosmo City, and Isando in South Africa. The selection of Edenvale, Kempton Park, and Cosmo City as study areas was based on the fact that there is a high population density of Zimbabweans living and working in these areas. Tembisa is generally a poor South African township that has expanded due to the construction of Reconstruction and Development Programme (RDP) housing. Poor migrants rent these RDP apartments, while others rent backrooms. In areas like Tembisa and Kempton, one will find a number of foreign-owned shops and hair salons. As reported by News24 (2015), foreigners own up to three times more spaza (tuck) shops in townships only within Tembisa. South Africans owned 70 whilst foreigners owned 147. Edenvale, Isando, and Kempton Park are suburban areas that may be considered affluent. These areas offer both employment and accommodation for Zimbabwean migrants.

Our extended interactions took place at public places and at the migrants' homes for convenience, but sometimes interaction would take place at work places. The study started out during one particular interview at a hairdressing salon in Edenvale. Zimbabwean migrant parents work different jobs in Johannesburg, and the hairdressing industry is known for accommodating Zimbabweans. I had gone to the salon to have my hair done, but I wanted to use the opportunity to recruit participants for my study. It began with one woman, who was my hairdresser, but soon two more workers joined and I had recruited three participants willing to share their stories and experiences.

For a study that was based on a snowball sampling, this was a perfect starting point. The three participants knew additional people, lived with people in similar situations, and were willing to recommend them. They also offered the best references because they knew me and had no reservations. From the three initial hairdressers, I was able to identify and select 16 migrant parents who participated in the study. These migrant participants were made aware that the study would take place over a period of time and that I would spend time with them and their families as guest and companion. In total, I had planned to visit each participant four times over the duration of the study, but I ended up visiting some more than others, depending on the need and certain aspects of the study. For example, some parents were planning to receive children from home, or sending children that had visited them back to Zimbabwe, while others did not receive any visitation for the duration of the study.

The main technique used during the study was the open interview. For an extended study that spread over months, it was necessary that the process was not constrained, but allowed to unfold naturally. These were therefore not interviews in a normal sense, they were what may be called structured discussions where the researcher plays a minimum role and affords the participants scope to engage with issues in great depth. Sometimes household visits would last hours, and sometimes interactions included attending social events. To maintain control of such a process I was assisted by an interview guide. The guide was meant to maintain focus and to ensure that important aspects were not omitted.

To supplement these discussions, I also made use of the observation technique during the extended interactions. I observed the living situation, family situation, networks, and more importantly, remittance behavior and how the repatriation and expatriation of the children was carried out. One other issue that I came to observe was the relationship between the parents and the transporters of the children, and the relationship between the children and the transporters. This was particularly key given that these transporters have been criminalised and labeled as child traffickers.

While it was not always possible to record these extended interactions, I made sure that I recorded discussion sessions using a recorder. However, the bulk of the recording happened after the interaction session. I over relied on my memory, and I had to keep it sharp, although I would

sometimes scribble down observations on my note pad during the interviews. Emerging issues were always followed up through phone calls or Whatsapp chats, or they were tackled during the following visit.

3.3.2.2 Key informant interviews

My focus on the immigration policy and impact on migrant parents and their children required an understanding of how the process of movement is being carried out and the role players involved in the process. The significance of particular individuals in the transporting sector and immigration sector should not be underestimated. It was relevant to understand the importance and role played by key informants when approaching issues concerning migrants, migration regulations, and child smuggling. To understand this, it was important to interact with specific individuals who had knowledge, had been exposed to, and had experience in this field. The key informants also gave feedback on the data gathered.

I conducted about ten targeted key informant interviews. The key informants chosen for this study were one official from the DHA, three cross-border transporters (omalayisha), the cross-border bus drivers, two SAPS officials at the Beitbridge Border Post, and one Zimbabwean police officer at the Beitbridge Border Post. Each interview was conducted during the phase of my data collection period and lasted approximately 45 minutes on average. The interview with the Home Affairs official was valuable as he gave an account of experiences from the time the regulation was implemented and the impact it has had on officials' experiences. The cross-border transporters and bus crews gave insight and in-depth information on the reality of what is transpiring as they travel across borders. The key informant interviews were unstructured to give participants freedom to address all areas. Most of the questions developed as the interview proceeded due to the responses received from the interviewees, hence the interview questions acted as a guide and for control.

Understanding the relationship between migrants and the state was important in understanding how migrants interact with and are affected by the immigration regulations stipulated by the government of South Africa. As such, it was important to approach particular individuals who had specific insight and knowledge of the study area, who understood the institutions and

regulations, and had access to valuable information. The key informants were further employed to fill any gaps in the literature and to give feedback on the data gathered.

These interviews were very helpful to enhance and confirm literature on human trafficking in South Africa. It attempted to arrange an interview with a representative from the IOM but such an interview was not possible. It would have offered critical immigration information, especially on cases of human trafficking that the organisation is dealing with of and the impact of the immigration policies. However, access to a wide variety of recent online and print publications from their office was useful for the literature review and analysis chapters.

The key informants were interviewed using unstructured interview schedules to collect key points around specific questions relating to the experience and expertise of the informants. I formally requested an interview with the Home Affairs official at OR Tambo international airport. A chance meeting with the SAPS official at the Beitbridge Border Post was also used as a key informant interview that produced a useful source. During the interviews, a series of questions from a prepared schedule were asked as well as questions based on informant's answers to delve deeper into certain topics that developed from conversations. The key informant interviews offered notable insight into the status and reality surrounding the movement of children.

3.4 Data Analysis

The interviews were transcribed and each transcript was analysed using thematic data analysis which is an open coding system used to reduce the information to themes and categories (De Vos *et al.*, 2005). The following steps were undertaken in doing so:

- Reading through all the transcriptions carefully;
- Making notes in the margins of each transcribed interview of ideas as they came to mind in trying to understand the meanings that they gave to interviewees' experiences;
- Clustering together similar themes from the transcriptions to formulate themes and categories for preliminary analysis;

- Ascertaining whether the categories were mutually exclusive and if they make sense in relation to each other and to the larger themes;
- Designing a table (framework) representing these main themes and appropriate categories, and even sub-categories were necessary;
- Using this framework to guide logical sequencing of the discussion on findings;
- The findings were written up using the coding framework as a guideline and actual quotes were used to illustrate the themes, categories, and sub-categories. These quotes were linked to various authors in the literature review.

The data in this study was analysed through a process of coding through which themes and phrases were established and which assisted me in interpreting individual responses. Coding data refers to reducing large amounts of raw data into manageable sizes that may be analysed. In this study, the data passed through three kinds of qualitative data coding, namely: open coding, axial coding, and selective coding. The first level of coding, also known as open coding, involves identifying different themes and meanings from the data as expressed by the participants. During open coding, I focused on labeling and categorising the data into multiple themes. The second type of data analysis is referred to as axial coding. In terms of this type of coding, data is developed and reformulated into words that are more theoretical by establishing relationships among the categories and sub-categories that have been identified. In this research study, the axial coding involved going through the multiple themes that had been established during open coding and then going through these themes again in order to break them down into similar categories and precise themes.

With selective coding, I was able, in this last stage, to establish the core themes for the analysis and interpretation of the data from the study. Neuman (1997) explains that open coding usually involves forming themes from the data received and assigning code labels, whereupon the researcher then focuses more on the codes and may even include more categories. After the researcher has identified the major themes, he/she will be in a position to interpret the results of the research both empirically and theoretically. In this research study, the data analysis process started with my going through all the data collected in order to examine the information and meanings so as to answer the research questions that had been formulated at the beginning of the

research process. I then sorted the data into different categories, assigning to each category a phrase, heading, or label that described the findings of the data in that particular category. In order to develop the different themes from the data collected, I sorted the coded data as well as the chunks of data either with similar labels or with labels closely linked and assigned the sorted data to piles according to topics and headings in order to understand the subcategories that had been established.

Each pile of data was assigned a label, either a word or phrase that captured the meaning of what that particular pile was about. The following was taken into account: whether the data in each pile related to the label assigned to that pile and whether it would be possible to combine or delete some piles because they were irrelevant to the objective of the study (Foss & Waters, 2003).

Foss and Waters (2003) explain that it is essential that the researcher be able to organise the themes in a way that offers useful information and meaningful interpretation. In addition, it is important that the researcher not make the mistake of concluding the process of coding with simply identifying and making a list of the themes, as it is vital that these themes be organised and translated in a way that they can explain or support a theory.

The ultimate aim of interpreting data was to come up with findings and to draw conclusions based on substantial evidence that emerged from the data collected. The explanations and responses from the key informants and reviewed literature were grounded in themes in order to answer the different research questions of this study. The themes were also drawn up and identified from some of the concepts discussed in the literature review. The main themes that emerged from the analysis were factors influencing policy amendments, South Africa as anti-immigration, factors not considered by policy, and reuniting with children. I used these themes to achieve the objective of this study. Within these themes, I also made use of raw data in the form of quotations and cases to further emphasise specific findings.

3.5 Ethical Issues and Challenges Encountered

3.5.1 Ethical issues

The issue of ethics should not only be taken into account but should be dealt with the utmost importance. Ethics are meant to protect the welfare of the participants and social research should not harm or injure the people being studied. Researchers must therefore take all the necessary precautions to ensure that the respondents are neither emotionally nor physically harmed throughout the research process (Babbie & Mouton, 2001). To ensure that this happened, the research was carried out independently and impartially in accordance with the rules and regulations set by the University of Pretoria. In engaging with the migrant parents and key informants, the following ethical considerations were applied in this study: voluntary participation, informed consent, anonymity and confidentiality, prevention of harm, and debriefing of respondents.

Voluntary Participation

Voluntary participation is one of the basic principles of research and that prescribes that people should not be coerced into participation (Babbie & Mouton, 2001). I therefore ensured that this happened. All participants were thoroughly made aware of the entire research process and their right not to participate if they were not comfortable to do so in the beginning of the interviews. They were also made aware of their right to withdraw at any time if they were not comfortable with continuing with the interview. The participants were also made aware that withdrawal of consent will neither result in any penalties nor loss of benefits in any way.

Informed Consent

Written informed consent was sought from every participant. The researcher provided all participants with full disclosure of all information necessary for making an informed decision of whether to participate or not in the research. Information on the consent form included a statement of the research purpose, the identity of the researcher, the identity of the institution from which the researcher is from, an invitation to participate, the expected duration and nature of participation, a description of research procedures, and an explanation of the responsibilities of the participant. Assurance was also given to prospective participants that they will not be

under any obligation to participate and can freely withdraw at any time without prejudice to pre-existing entitlements. Before commencement of each interview, the researcher ensured that each respondent gave consent by signing the consent form.

Anonymity and Confidentiality

The issue of anonymity and confidentiality concerns protecting participants' interests and identity (Babbie & Mouton, 2001). Confidentiality refers to the researcher safeguarding the respondents' answers within the interviews and anonymity refers to withholding the respondents' names (De Vos *et al.*, 2005). Taking into account the sensitive nature of this research, in order to ensure anonymity and confidentiality, the participants were encouraged to make use of pseudonyms. This also ensured that the respondents freely expressed themselves.

Prevention of Harm

Social research should never injure the people being studied (Babbie & Mouton, 2001). Respondents should not be harmed emotionally, psychologically, or physically. The research presented some significant potential to evoke emotional responses from participants. However, to ensure that the participants were not harmed physically or emotionally, the researcher took necessary precautions such as informing the respondents that they were in control of the extent to which they responded to questions. In addition, before the commencement of each interview, the respondents were made aware of the nature and goals of the study as well as making participation voluntary and informing them that they could terminate the interview if they found it necessary.

Debriefing of Respondents

In order to minimise harm to the participants, it is always necessary to have a debriefing period after an interview (De Vos *et al.*, 2005). The researcher therefore ensured that the respondents had enough time to express any comments, concerns, or questions once the interview was completed.

3.5.2. Challenges encountered

Three main difficulties were encountered during the course of this research relating to the obtaining of information and interpretation of data. The first involved sensitivity of the subject and the lack of willingness by people to participate, given their legality status in South Africa, particularly the undocumented migrant parents. More importantly, sharing these sensitive issues with a stranger who was invading their social space and intending to write about their lives, proved to be a major obstacle. There were issues of confidentiality, particularly on who would end up with information provided and issues of objectivity that I had to overcome.

Reluctance of participants

Migration has become a controversial issue in South Africa, especially as it relates to the legality of foreign migrants living in the country. Hostility towards migrants from South Africans has been reflected in the laws, institutions, and attitudes towards migrants living in the country. This has made foreigners reluctant to engage with others, especially local South Africans, on particular issues that relate to their migration status in the country, largely for fear of persecution, either socially or by law-enforcing authorities. Conducting the interviews with migrant parents was always going to be difficult because of the sensitivity of the subject. Migrants feared that they would be putting their lives and security at risk by sharing detailed accounts of their personal experiences and legal status in South Africa. Several steps were taken in order to overcome this challenge and ensure relevant collection of data without putting the participants at risk or causing any discomfort. These steps include the use of the snowball sampling technique that ensured that there was trust between the researcher and the participants, by ensuring that trust was established before the study commenced, and by ensuring that data is not collected in a normal interview process but through an extended process.

Objectivity

As a student and a foreigner in South Africa, I paid a significant amount of attention to my own objectivity during the study. Having family members and relatives that are experiencing the same challenges, there were incidences of deviation and a tendency to sympathise and be overly emotionally sympathetic with the migrant parents' experiences. I had to promptly reposition

myself to avoid risks of being biased and distorting information. I paid attention to specific questions asked and made sure that the information gathered informed the research and its themes. I paid attention to data analysis to reflect the views and experiences of the participants interviewed in the same light that they were expressed and from there drew conclusions and identified themes. Throughout the research, I reminded myself that this was the migrant parents' experiences that should be reflected the way they were stated.

3.6 Chapter Summary

This chapter presented the methodology chosen and followed by the author of this research study. The steps within this chapter and the subsequent information presented formed the greater majority of this research paper, informing the themes identified, arguments of the selection of the methodology, and conclusions drawn. This chapter began by outlining the assumption guiding the study and providing background to the study and objectives. The sections as presented in the chapter outlined the study area, which were areas in Ekurhuleni and Johannesburg; the research design; research strategy; and sampling techniques employed in this study.

The research design used was qualitative in nature although the researcher also made use of numbers and other quantities. A snowball sampling technique was used to identify different key informants that the researcher engaged with during data collection. This chapter also described in detail the research strategies that were employed to gather data, namely, the extended case study and key informant interviews. Within the case study, interviews with migrant parents, transporters, relevant government officials as well as a review of literature on the topic were used. The last sections of the chapter presented detailed information of the data analysis procedure, which involved a content and thematic analysis, as well as ethical considerations and challenges encountered during the study. The next chapter discusses the outcomes of the methodology, presenting and analysing the data collected.

CHAPTER FOUR

UNDERSTANDING THE IMMIGRATION AMENDMENT POLICY CONTEXT

4.1 Introduction

There is little doubt that the new immigration policy regulations were passed to protect children and prevent child trafficking in South Africa. South Africa has the highest flow of both documented and undocumented migrants from neighboring states and abroad and its borders are extremely porous. At the time of looking into amending the policy, it was estimated that about 30 000 children were being trafficked through the country's borders every year, with about 50% of them being under the age of 14 years (Africa Check, 2013). It is therefore not surprising that the government, through the DHA, saw the reform in immigration regulations as presenting an obvious opportunity through which to address the problem of child trafficking and to honour South Africa's international obligations. This chapter provides a broad overview of the immigration policy and unpacks the issue of people or migrant smuggling, explaining all the activities that are involved in the smuggling of children from Zimbabwe to South Africa by the well-known transporters called "omalayisha". It also focuses on South Africa's regional and international obligations to curb child trafficking and smuggling.

Omalayisha have been key role players in the illegal cross-border movement of people and goods, particularly along the South Africa-Zimbabwe corridor. Similar activities also take place in other corridors, including the South Africa-Zimbabwe via Botswana corridor, the South Africa-Mozambique corridor, and South Africa-Swaziland corridor. Through engaging with literature, reported incidents of child trafficking and child smuggling will be discussed to show the history of these activities well before the implementation of the new policy together with the role of omalayisha in transporting remittances and people. The chapter is divided into three parts. It begins by looking at the immigration policy reform on the movement of children before looking at some of the possible reasons for the policy amendment, and lastly, it addresses the factors that the policy failed to take into consideration.

4.2 Immigration Policy Reform on the Movement of Children

A key feature of the new immigration amendments are the restrictions placed on children who travel across the country's borders. Having amended the 2002 Act in 2007, Parliament further amended the Act in 2011 culminating in the Immigration Amendment Acts of 2007 and 2011, which came into force with the Immigration Regulations of 2014 on 26 May, 2014 (DHA). The new regulations, which completely changed how the country handles cross-border movements, require minors (children under 18 years) to have, in addition to a valid passport, an unabridged birth certificate, an affidavit signed by one parent or both (in cases where the minor is accompanied by any person other than the parents), and court orders where applicable. On paper these amendments non-discriminatory and apply equally to all people travelling into and out of South Africa (foreigners as well as South Africans on both departure and arrival). The new regulations continue to govern the movement of children across the country's borders despite concerns raised by various sectors of the economy. The regulation stipulates that, when travelling abroad with children, one has to familiarise themselves with the requirements. This study's focus is on unaccompanied minors, children travelling with someone who is not their biological parent(s), and children travelling with one parent.

For unaccompanied minors, the following documents are required and should be produced at any point of entry:

- Proof of consent from one or both his/her parents or legal guardian, as the case may be, in the form of a letter or affidavit for the child to travel into or depart from the Republic; provided that in the case where one parent provides proof of consent, that parent must also provide a copy of a court order issued to him or her in terms of which he or she has been granted full parental responsibilities and rights in respect of the child;
- A letter from the person who is to receive the child in the Republic, containing his or her residential address and contact details in the Republic where the child will be residing;
- A copy of the identity document or valid passport and visa or permanent residence permit of the person who is to receive the child in the Republic; and
- The contact details of the parents or legal guardian of the child.

For children travelling with people that are not their biological parents, which was common in the case of children of these migrant parents, the following documents should be produced to the immigration officer at the border:

- A copy of the unabridged birth certificate of the child;
- An affidavit from the parents or legal guardian of the child confirming that he or she has permission to travel with the child;
- Copies of the identity documents or passports of the parents or legal guardian of the child; and
- The contact details of the parents or legal guardian of the child provided that the Director-General may, where the parents of the child are both deceased and the child is travelling with a relative or another person related to him or her or his or her parents, approve such a person to enter into or depart from the Republic with such a child.

For children travelling with one of the parents:

- Such parent must produce an unabridged birth certificate of the child reflecting the particulars of the parents of the child;
- Consent in the form of an affidavit from the other parent registered as a parent on the birth certificate of the child, authorising him or her to enter into or depart from the Republic with the child he or she is travelling with;
- A court order granting full parental responsibilities and rights or legal guardianship in respect of the child, if he or she is the parent or legal guardian of the child; or
- Where applicable, a death certificate of the other parent registered as a parent of the child on the birth certificate;
- Legally separated parents should also provide a court order when the other parent does not give consent.

Because of the policy, the border became an increasingly inaccessible space for the majority of children – both South African and foreign. For children separated from parents even the remote possibility of crossing the border became slim, even if they were in possession of valid travelling documents. Access to the border became highly dependent on documents that had nothing to do

with travelling: to cross the border children had to have consent from both parents or carry many documents, which were not easy to access. One mother explained the constraints:

People with legal documents can get their children across the border. They can approach the police for an affidavit here in South Africa. Then they can send the documents home to people accompanying the children. For people whose legal status is unclear, this is not possible. Legally, these people cannot receive legal visitation (Interview, Edenvale, July 12, 2017).

Barriers to visitation were aided by the requirement that an unabridged birth certificate of the child reflecting the particulars of parents should be produced at the point of entry. Unabridged birth certificates are recent documents, and the most commonly issued document was the abridged birth certificate.

4.3 Explaining the Immigration Policy Amendments

The immigration policy amendments have divided opinions in South Africa. Not all stakeholders have accepted the policy although the DHA has refused to waive it. It is worth noting, however, that as of September 2018 a statement from the then-DHA Minister, Malusi Gigaba, was released announcing that parents would not need to provide a birth certificate and this could be seen as being cognisant of the impact that the policy has had on migration. The only intervention in the post-policy period was the setting of an inter-ministerial team to look into the unintended consequences of the policy. Otherwise, the policy has remained operational despite scepticism by sections of the South African community. The following section looks at the possible reasons for the policy amendments, and why it became necessary for South Africa to enforce an unpopular policy.

4.3.1 Growing incidents of child trafficking

South Africa has had numerous incidents of child trafficking that have been disturbing and have subsequently contributed to the policy amendments. There are recorded cases of trafficking of children in South Africa whereby between January 2004 and January 2010, IOM reported assisting fifty-seven victims whilst between 2012/13 and 2014/15, they detected twenty-three

victims, although the true scale of the crime is hard to quantify due to its hidden nature (News 24, 31 January 2018).

In one incident, two siblings from the Mpumalanga Province aged 14 and 20 years were abducted and trafficked to Malawi in July 2014 by a woman who posed as a former teacher. The woman allegedly promised the children better education in the United Kingdom, especially for the 14-year-old who needed a special school. None of that materialised and the state, together with Malawian officials, got involved in the case, resulting in the repatriation of the children (News 24, 26 June 2016).

According to News 24 (2017), 15 cases of child trafficking were reported between January and March 2017. The children were aged between two and ten years old. In one incident, a Nigerian national made attempts to traffic three children who had South African passports. Immigration officials interviewed believed that a syndicate in a Home Affairs office was helping human traffickers. Within the year 2017, 15 children were saved from being trafficked at OR Tambo International Airport. The traffickers had fraudulent travel documents. It was reported that the Home Affairs officials at the airport were puzzled at how the traffickers managed to obtain fake documents at the same time government seriously suspected a syndicate at work. This is contradictory to reports that claimed 30 000 children are being trafficked every year.

In another case, a woman was transiting through South Africa with a child who had been paid for and adopted by a Czech national. The child transited through South Africa from the Democratic Republic of Congo to Mauritius and was going to meet up with the “parent” for the first time before travelling to their final destination, Europe.

4.3.2 South Africa’s international commitments

This section will highlight South Africa’s commitment to curb child trafficking and child smuggling.

South Africa signed international treaties and conventions that protect children from trafficking as follows: the UN Convention on the Rights of the Child of 1989; the UN Convention against Transnational Organised Crime of 2000; the Protocol to Prevent, Suppress, and Punish

Trafficking in Persons, Especially Women and Children; and the African Charter on the Rights and Welfare of the Child of 1990, which is a regional instrument. Section 231(4) of the Constitution of South Africa states that international agreements bind the Republic but only become law when enacted into law by national legislation. The regulation adopted seeks to achieve this.

The adoption in 2000 by the UN General Assembly of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children marked a significant milestone in international efforts to stop the trade in people (UNODC, 2000). As the guardian of the Protocol, the UNODC addresses human trafficking issues through its Global Programme against Trafficking in Persons. A vast majority of States have now signed and ratified the Protocol though translating it into reality remains problematic. Very few criminals are convicted and most victims are probably never identified or assisted.

4.3.3 South Africa as anti-immigration

4.3.3.1 South Africans' attitude towards foreigners

With regard to South Africa and migration, Crush and McDonald (2001: 4) have argued that the country has shown “little appetite for immigration” and state officials have shown “minimal support for immigration”. These attitudes have spilled down to the general public (Crush & Ramachandran 2010; McDonald, 2000) and the media (McDonald & Danso, 2001; McDonald & Jacobs, 2005; Fine & Bird, 2006; Vigneswaran, 2007).

There are some who see the immigration policy amendments as a product of South Africa’s “politics of fear” and being generally at odds with the realities of post-apartheid migration that point to a country built on migration. Such a view also completely ignores the country’s porous borders with neighbours (Dodson, 2000; Peberdy, 2001). From the time of independence when South Africa joined the global community, migration trends shifted as the country experienced an upsurge in international migration (both regular and irregular) (Croucher, 1998; de Villiers & Reitzes, 1995; Minaar & Hough, 1996; McDonald *et al.*, 2000). Despite these shifts in migration patterns, they were not accompanied by a shift in policy; the post-apartheid era continued to be

characterised by “xenophobic and exclusionary discourses centered on migration from the rest of Africa” (Peberdy, 2001: 16).

As others have pointed out, these discourses have succeeded in shaping immigration legislation and regulation around notions of exclusion and control (Crush, 1999; Murray, 2003; Neocosmos, 2008). Tough immigration control appeared to be a necessary condition for preventing these “illegal aliens” “pouring into the country, undermining the new nation, and depriving citizens of scarce resources” (Mattes *et al.*, 1999; cf. Crush & Ramachandran, 2010: 214). Thus, to prevent future migrant inflows, migration policy placed considerable constraints on population movements into South Africa (Dodson, 2000). Such a policy depended on policing migration, criminalising irregular migrants, and summary expulsion through deportations (Crush, 1999; Murray, 2003).

Critical scholarship has identified the “politics of fear prevalent in both state and society” as guiding South Africa’s phobia against immigration – fear of migrants pouring, invading, flooding, and ultimately swamping society and the job market (Crush & Ramachandran, 2010; Murray, 2003; Neocosmos, 2008). Others have particularly blamed the media for negative, unanalytical, and sensational reporting, which has perpetuated and entrenched these stereotypes of migration and migrants (McDonald & Danso, 2001; McDonald & Jacobs, 2005; Vigneswaran, 2007). Crush and Ramachandran (2010: 2016) have argued:

They are typecast as bringers of disease, crime, and a variety of other social ills. They steal jobs and compete unfairly with citizens for resources, shelter, and public services. All migrants are generally homogenised as ‘aliens’, ‘foreigners’, and ‘illegals’. They are called derogatory names, denigrated in insulting language and repeatedly told to ‘go home’.

Thus, the corollary assumption has been that it is migrants who are responsible for all the country’s challenges. As the HSRC (2008) most fully expressed as evidence for the rejection of the SADC Migration Protocol, open borders would contribute to an increase in the “already unmanageable flow” of economic migrants from poor neighbours and would “again mean added pressure of work seekers on available jobs” (Oucho & Crush, 2001: 146).

Since 2008, the South African government introduced immigration policy reforms that eased the legal requirements demanded when travelling to South Africa from Zimbabwe. However, despite all these changes, illegal migration between the two countries is still rampant (Ncube *et al.*, 2014). A national survey by SAMP in 2008 found that South African antipathy to migrants affects the way in which citizens think about migration and what policy options should be pursued to curtail it. The more migrants settled in South Africa, South Africans believed that migrants came into their country to look for jobs and commit crime and they feel that migrants and refugees should not enjoy the same basic rights as citizens.

South Africans are said to be intolerant of foreigners and support restrictive policies (Crush & Williams, 2005: 16; Crush *et al.*, 2005: 27; Landau, 2007: 63-65), unlike people from Swaziland, Zimbabwe, and Mozambique who are said to have a more relaxed attitude (McDonald & Jacobs, 2005: 5). From a study done by SAMP in 1998, one in every five South Africans felt that all foreigners from neighbouring countries in South Africa, legal or not, should be sent home. South Africans feel that the government should put more effort into policing, like turning the electric border fence to lethal mode (the fences were erected during the apartheid era to deter African National Congress (ANC) guerillas and Mozambican refugees), increasing border patrols, enforcing foreigners to carry identity documents, and penalising those who employ illegal immigrants (Crush, 2001: 13-16). What is interesting about the attitudes of South Africans is that most of them have had little or no contact with foreigners, yet they are xenophobic.

South Africans are generally seen as xenophobic, with immigration policies based on control measures which are said to be “cruel and unsuccessful” (Crush, 2002: 139; Solomon, 2000: 11; Vigneswaran, 2007: 1-2). The influx of illegal Zimbabweans into South Africa has led to humanitarian concerns where South Africa is accused of violating human rights. According to McDonald and Jacobs (2005: 13), xenophobia refers to a “deep dislike of foreigners”. It is a behavior that manifests itself in government, public, and the media. According to Crush (2008: 36) and Harris (2001), xenophobic prejudice is subtle, blunt, and even violent. It is said to be dehumanising and damaging. The xenophobic violence that erupted in May 2008 in the South African areas of Alexandra and Soshanguve is an example of how violent it can get. Xenophobia is said to thrive where there is competition for scarce resources and employment (CoRMSA, 2008: 26-27; Maharaj, 2004: 7; Mello, 2008: 22). It is also caused by stereotypes that

help justify the behavior (Crush, 2001: 15). A 1996 HSRC survey indicated that individuals from disadvantaged communities were the ones who showed more xenophobic tendencies (Solomon, 2000: 4). South Africans feel that foreigners bring diseases, crime, and steal their jobs (Crush, 2008: 28; McDonald *et al.*, 2000: 813).

4.3.3.2 The South African media as role players in generation of xenophobia

The end of apartheid in South Africa has seen a rise in xenophobia captured by the press, especially towards Zimbabweans and Mozambicans (Tevera & Zinyama, 2002: 29). The South African media is seen as playing a role in the exacerbating xenophobia (Crush, 2001: 16; Crush, 2008: 42; McDonald & Jacobs, 2005: 5). A large amount of South African newspaper coverage is said to be “anti-immigration and non-analytical”. The press is responsible for painting the image of foreigners as “criminals”, “illegals”, and “job stealers”. This perpetuates ill-considered stereotypes of immigrants as the media misrepresent cross-border migration in a negative light and it seems like they feed off each other’s opinions because they report in the same way without analysing the situation. The negativity is aimed towards immigrants from Africa whereas foreigners from Europe and North America are painted in a more positive light.

Although the South African policy on migration is being changed to reflect positive elements that embrace immigration, with policies being more liberal and exhibiting a managerial approach instead of just controlling the flow of migration, the attitudes of politicians and officials do not echo the same sentiment. Polzer (2010) states that the politicisation of cross-border migration figures is common globally. Receiving governments may want to under- or over play numbers to assure populations or justify particular policies. For example, for many years South African politicians and media have been quoting the figure of three million Zimbabweans in the country, but according to census figures of 2002, the figure is 1-1.5 million. Even without reliable evidence of numbers, it is clear that a high proportion of Zimbabweans have moved to South Africa.

4.3.3.3 Perceived political and state influence

South African politicians and officials are perceived to have added to the negativity towards migrants (McDonald & Jacobs, 2005: 13). Government departments, parliamentarians, the

police, the Lindela detention centre, and the law itself have all been reinforcing a one-way message since the 1990s: we are being invaded by illegal immigrants who are a threat to national stability, the RDP, development, our social services, and the very fabric of our society (Neocosmos, 2008).

Dating back, the then-South African Minister of Justice between 1994-1998, Penuel Maduna, once indicated that migrants bring diseases and are parasites rather than adding to the improvement of the South African economy (Maharaj 2004: 7; Tevera & Zinyama, 2002: 29-31). Even the then-Minister of Defense in 1999, Joe Modise, noted that migrants add to the crime rate in the country. According to Human Rights Watch (2007: 60), state officials extort money, kill, and assault illegal immigrants. People like the then-Home Affairs Minister, Mangosotho Buthelezi, who today cries tears for the victims of xenophobic violence, stated in 1998:

If we as South Africans are going to compete for scarce resources with millions of aliens who are pouring into South Africa, then we can bid goodbye to our Reconstruction and Development Programme.

In fact, Buthelezi became notorious for his infamous xenophobic statements, which included *inter alia* the suggestion that all Nigerian immigrants are criminals and drug traffickers and that migrants should not be employed as they take away jobs from South Africans, drawing on the RDP and health systems (Neocosmos, 2008). Not only Buthelezi, but also politicians of all shades of opinion, asserted their politics of fear for the flow of migrants. By 1998, Human Rights Watch (1998: 4) concluded that:

...in general, South Africa's public culture has become increasingly xenophobic, and politicians often make unsubstantiated and inflammatory statements that the "deluge" of migrants is responsible for the current crime wave, rising unemployment, and even the spread of diseases.

The migrant parents who were interviewed, like other migrants, understand their position in the country and know that they are unwanted:

The South African government does not want us here. The only reason we are still here is to survive. We came here to survive and are surviving under tough conditions. The evidence that we are not wanted can be seen from the new laws, but even on television you see them accusing us for overcrowding buildings in Johannesburg CBD. They want people out, but we have gotten used to this treatment....we experience it in our interaction with police and when you go to Home Affairs (Interview, Edenvale, 20 June, 2017).

4.3.4.4 Social exclusion

Social exclusion is a form of discrimination from the prevailing social system and its rights and privileges. This includes being blocked from or being denied full access to various rights, opportunities, and resources that are normally available to others.

Many Zimbabweans believe that Zimbabweans are singled out for unfair treatment, both at the borders and inside South Africa, and a number of developments give some credence to this view. One is the exclusion of Zimbabweans from border entry visas until 2009. While other SADC nationals, from countries such as Zambia or Malawi, were not required to apply for visas in their own countries, Zimbabweans and nationals of the DRC were required to apply for visas before they came to South Africa (Muzondidya, 2010). One of the migrant parents recalled:

The time when I came to South Africa I had to apply for a visa, so I jumped the border, I came with a truck. What is funny is it was only us Zimbabwean who had to apply for visa, other people were not [required to], this just shows that they don't want us, they will find any way of getting rid of us even with this law, and they just want to frustrate us (Interview, Cosmo City, 17 August, 2017).

Migrant parents claim that this regulation is aimed at education because schools in South Africa reportedly cannot accommodate the demand on education:

We know they do not want our children here. They want our children to stay in Zimbabwe because they think if they can come here, their schools will be flooded. It is just a way of eliminating our children to not access education (Interview, Isando, 23 August, 2017).

4.4 Factors the Policy Failed to Consider

This section looks at the factors that the policy failed to consider. These are the changing migration trends and cross-border smuggling that has been taking place long before the policy amendments came into force.

4.4.1 Changing migration trends

Feminisation of migration

In scholarly literature on international migration, even literature with a gender focus, women have featured only in relation to male migration (Brown, 1983; Gordon, 1981; O’Laughlin, 1998) and have remained invisible as migrants in their own right.

One exception is the more recent research on migration trends in Southern Africa that has focused on women as migrant laborers rather than their migration taking place as secondary movements where women accompany men to keep families united. The focus on women and labor migration followed structural changes in the region, which saw an upsurge in international migration by women for work from countries like Lesotho and Zimbabwe. After the 1990s, neighboring countries like Lesotho and Mozambique became suppliers of female labor to South African farms as well as domestic and industrial sectors (Griffin, 2011; Ulicki & Crush, 2000, 2007).

The absence of the migrant women parents and their children from debates on South Africa’s immigration policy amendments on the cross-border movements of children reflects, in part, the general stereotypical characterisation of migration in the region as a male-dominated terrain (Moodie, 1994; Murray, 1981). It should also be understood in the context of South Africa’s “inarticulate fears and anxieties about an alleged ‘alien invasion’ of illegal (and unwanted) immigrants” (Crush & Ramachandran, 2010).

Rights for women to work

Although some of the migrant women were undocumented, some had legal rights to work through bilateral labor arrangements and special dispensations (Ulicki & Crush, 2007;

Rutherford & Addison, 2007). In this respect, one can draw from feminist discourse, which can potentially illuminate how the actions of women can become crucial in transforming gender relations and other domains of social life (Hodgson & McCurdy, 2001). The idea of crossing the border with an unemployed husband and children demonstrates what Hodgson and McCurdy (2001) suggest to be disclosing issues of gender, power, and social change, in that the decision to migrate can initiate changes in power between marriage partners.

Circular migration

Despite South Africa's tough immigration regulations and anti-migrant attitudes within South African society, Zimbabwean women have crossed the border in large numbers, as either circulatory migrants or migrant workers (Zinyama, 2002; Muzvidziwa, 2001). The majority of women from the research conducted were post-2000 migrants. Women have been recognised as labor migrants, particularly in Southern Africa, and their migration has been portrayed as rather temporary and circular (Griffin, 2011; Ulicki & Crush, 2000, 2007; Muzvidziwa, 2001; Posel, 2004).

An assumption is that migration from Zimbabwe to South Africa is short-term and circular in nature. Although temporary migration is still quite common, this characterisation applies more to the period before 2005. More and more Zimbabweans increasingly view South Africa as a place where they want and expect to live for an extended period of time. The post-2005 migrants return to Zimbabwe less frequently and they see residence in South Africa as much more than a quick fix. South Africa provides them with the economic and income-earning opportunities that are badly lacking in Zimbabwe. While the possibility of return to Zimbabwe is left open and few say they want to remain in South Africa forever, this paper has demonstrated that Zimbabweans now see South Africa as a long-term destination.

4.4.2 Cross-border smuggling

People smuggling

People smuggling by omalayisha has a long pedigree along the South African and Zimbabwean migration corridor, and is as old as the cross-border movement of goods. Thebe associates the

smuggling of persons to the search for economic opportunities in South Africa (Thebe, 2011). Omalayisha have certainly played a big role in the smuggling of people and children into and out of South Africa, although they entered the industry rather late. While admitting that people smuggling occurred on the Zimbabwe-South African border, Thebe (2011) argues that omalayisha were not initially involved in such activities.

Syndicates that transported migrants in long-distance haulage trucks mainly via the Botswana route carried out people smuggling. There have been incidents where long-distance haulage trucks were caught with migrant's en-route to South Africa. One such incident involved 18 Zimbabweans who suffocated in an unventilated container truck. Their bodies were discovered near a village 20km from Gaborone. It was reported that this incident came just two weeks after a larger group of Zimbabweans were caught by South African border police in Botswana in a container truck (Panafican News, 23 October, 1998). Omalayisha, according to Thebe (2011) then later joined the people smuggling business, which was increasingly becoming lucrative with the increase in migration from Zimbabwe.

By the 2000's, political unrest, continued loss of employment, food insecurity, and soaring food prices in Zimbabwe led to the massive increase in migration to South Africa (Tevera & Zinyama, 2002). This shifted both the outbound and inbound cargo and human smuggling became a lucrative business for omalayisha. The fact that certain laws and processes could be evaded through the exchange of money enabled both cross-border transport systems in the form of omalayisha and taxi services to move anything across the border (Thebe, 2011). This became a lucrative business known for overloading, people smuggling, and the challenges it presented on the road. The system could transport anything at a price, from ill people who had to be taken back home to be cared for by their relatives, healthy people who needed assistance to get to South Africa, and coffins transporting the dead for burial.

Relationships inform the kind of contract that the parties enter into and these contracts are not written and nor enforced by legal documents (Thebe, 2015). These contracts operated well before the policy change and even included the moving of children through borders. Migrants were prepared to fund the repatriation and exportation of relatives and omalayisha became central role players in these movements. Transportation contracts are usually entered into in

South Africa on cash and deliver terms where payments were settled in advance before any service was rendered. In cases that involved the smuggling of people into South Africa or the repatriation of corpses, omalayisha accept payment in the form of assets, usually livestock, or furniture (Thebe, 2015). Pay forward arrangements are payments settled at the destination by the host rather than the passenger whilst pre-paid contracts are usually entered into between migrants in South Africa and omalayisha to smuggle relatives into South Africa. In this case, the migrant settles the transportation fee in advance before omalayisha departs for Zimbabwe.

Movement of remittances



Figure 2: Movement of remittances by omalayisha

Source: Google Images (2018)

The 1990's and 2000's witnessed a major shift in the movement of remittances after the relocation of urban base livelihoods from cities such as Bulawayo to various South African cities, especially in the Gauteng Province. The informal transnational movement of remittances and people became big business. In rural South Western Matabeleland, omalayisha began to take over the role of the rural bus service, which had been the center of worker peasant survival. The same day and overnight service they offered bridged the geographical gap between Johannesburg and remote rural areas. By moving people, goods, and cash remittances, they provided a sustainable exchange between labour and its earnings. After 2009, the future of omalayisha as an industry and informal channel of remittances came under threat.

In a study undertaken by Thebe (2015) between 2007 and 2009, the origins of omalayisha are usually traced back to the late 1980's and early 1990's when migrants returning from holidays would take home goods, money, and letters from relatives and neighbours (Thebe, 2011). The omalayisha industry was initially an informal remittance channel linking Johannesburg to rural Matabeleland in the 1980's, initiated by the migrants of Ndebele/Kalanga ethnic origin. The industry built on the decade's old practice of moving goods, letters, and money between cities and the rural areas in Zimbabwe. Men working in Bulawayo would take goods; money; or letters from relatives, neighbours, and friends to families in the rural areas when they visited. This movement of remittances was more of a gesture than a business.

The demand for a regular and efficient informal channel for remittances grew with increased migration (Thebe, 2011). The pioneers of the new system were mostly the same migrants who started engaging in full-time transportation but the residue of the old system remained. The new system included more frequent home trips, the home-to-home pick-ups, and the delivery service, which was convenient for both migrants and families in rural Matabeleland. The service was unique and operated on trust earned, reliability, friendship, kinship, and good references (Thebe, 2011).

Smuggling of children

Incidents of people smuggling have been rife on South African borders and have mostly been recorded along the South Africa-Zimbabwe corridor. Scores of children have been smuggled into South Africa from Zimbabwe everyday as traffickers, especially omalayisha, take advantage of lax immigration systems at the borders (Chronicle, 2014). Omalayisha have become a central agent for migrant parents in the movement of children and infants in and out of South Africa. The movement of children across borders was nothing new for omalayisha. Parents in South Africa would send for their children during school holidays and this task was often entrusted to omalayisha who were paid R300 for a child holding a passport or R1 500 for undocumented children. For omalayisha, transporting children has always been good business, even before South Africa adopted new anti-trafficking measures in 2012 (Thebe, 2015). Despite the risks involved and highly publicised incidents of arrests of smugglers, omalayisha have continued with their activities. Migrant parents are prepared to pay and understand that omalayisha have to

pay bribes at the border and other state agents to bring their children to them. Of the 16 migrant parents interviewed, 12 (75%) in the study have utilised the same transport operator for years while others have a list of trusted individuals. The relationship may have been formed as a business transaction but due to its sensitivity and continuous nature, the transport operators, children, and parents have developed a close relationship.

In 2012, a man was arrested for trying to smuggle 24 children into South Africa through the Beitbridge Border Post. The children were between the age of 4 and 12 years. He was arrested following the interception of his vehicle, a South African registered truck, at a roadblock along the Beitbridge Bulawayo highway. Upon searching the vehicle, police discovered there were children on board who were being illegally transported to South Africa. Inside the vehicle were five adults and 24 children who did not have travel documents (The Chronicle, 2014).

The same report referred to another incident that transpired in 2012 when an omalayisha was arrested for attempting to smuggle 21 undocumented children. He was reportedly spotted by South African police while loading the border jumpers into his taxi near Musina. The children were then taken to the DHA and later handed to Zimbabwean authorities. In this instance, the children had been assisted by smugglers to cross through the bush and the omalayisha found them on the South African side where he picked them up. The Chronicle (2014) also reported another 2012 incident in which 19 Zimbabwean children were detained for two months at a home in South Africa after a failed attempt to smuggle them into the country. The officials reportedly had to search for their parents who were in Cape Town for two months.

News 24 (2015), reported that the Botswana government repatriated 13 Zimbabwean children found in the country without travel documents. The children were found in December 2014 in a minibus in Francistown on their way to South Africa with two men. The two men appeared in court and were sentenced whilst the children were repatriated. The children were being transported to their parents in South Africa. Similarly, Mail & Guardian and News24 (August, 2011) reported that a 32-year-old Bulawayo man was arrested for allegedly smuggling 21 children into South Africa through an illegal crossing point along the Limpopo River. The children were between one and 16 years of age and the smuggler claimed that the children's

parents had hired him. The smuggler was reportedly caught loading the children into the car in a bushy area near Musina on Wednesday 10 August 2011.

In 2013, Times Live reported on two Somali men who were arrested for allegedly trying to smuggle six children and a woman into South Africa. Of the children in the car, one of them was a four-month-old baby whom the woman claimed to be the mother of. Surprisingly, two of the children were found in the boot of the car.

Another omalayisha was also involved in the repatriation of infants from their parents in South Africa to their grandparents in Zimbabwe. This was reported in an article headlined *'Migrant mothers need our help'*. Equal Times (2015) reported that migrant mothers require the services of omalayisha to smuggle their children back to Zimbabwe where they can be looked after by family or friends. Other female passengers care for the infants and the role of omalayisha is to negotiate the border processes and deliver the children to the assigned address where prior arrangements had been made. In the article, the driver is quoted as saying, "There is a need for what I do. The babies arrive alive, the mothers trust me and I get paid." The driver said that he "posts" more than 60 babies every year aged from four months at the cost of approximately R3 600 per child. It was reported that the mothers provide an end address; the details of the person receiving the baby; and a package of milk, nappies, bottled water, and food before surrendering their children to the driver. On arrival in Zimbabwe, anxious grandmothers and family members meet their small relatives, usually for the first time. The drivers carefully study identity documents to make sure they hand over the right baby to the right person. Meanwhile, relatives sign makeshift affidavits as proof of the baby's safe arrival. Although this is a rather unique function of omalayisha, the omalayisha interviewed had all done it before and said they would continue doing it. On interviewing omalayisha on cases of arrest, this is what one had to say:

I have been a driver for 10 years now and have been bringing children to their parents. I was arrested at one time when the person who was supposed to assist me at the border was off duty and I encountered a new official just as I was leaving. He asked for the children's documents. I was detained for five hours until I paid them (Interview, Johannesburg, August 2017).

Similarly, another omalayisha reported:

They police caught me at that big Baobab tree near the border in 2012 when I was going back to Zimbabwe carrying my neighbour's children. The children were asked many questions and they had to call the mother back in Johannesburg and tell her they were detaining her children. I negotiated with them but they refused. We were threatened to be taken to Musina Police station until I paid more money (Interview, Johannesburg, August 2017).

4.5 Chapter Summary

This chapter outlined the new immigration policy that governs the movement of children across South Africa's borders and South Africa's regional and international commitments to curbing smuggling and trafficking. It highlighted instances of child smuggling by omalayisha before the new policy came into effect. This chapter discussed the long-standing issue of smuggling; omalayisha's role in smuggling people; the payment of omalayisha; and the movement of remittances, goods, and people. The chapter also included responses from the migrant parents and the key informants.

As much as we can say that child smuggling and child trafficking are of serious concern and that South Africa has international obligations and commitments to fulfill concerning human rights and children's rights, it is difficult to detach the policy from South Africa's migration phobia. Crush and McDonalds (2001) have portrayed the government as being anti-immigration. Furthermore, the DHA's argument for implementing the regulation on the movement of children was to curb human trafficking but migrant parents have a different perspective of this move as per responses gathered during interviews.

It is well known that Zimbabweans have densely populated South Africa, especially in Johannesburg. South Africans have not really tried to hide their dissatisfaction, which first manifested during the xenophobic attacks in 2008. Many commentators in South Africa have understood the May 2008 violence against foreigners as a public response to Zimbabwean migration.

CHAPTER FIVE

MIGRANT PARENTS AND IMMIGRATION POLICY AMMENDMENTS

5.1 Introduction

Chapter Four provided a context for understanding the implications of the policy amendments on the migrant parents and their children. The chapter provided an overview of events and incidents that preceded the passing of the regulations. The chapter took cognisance of the fact that the policy amendments came on the back of reported incidents of child trafficking both locally and internationally and took the reader through issues of migration, which have long been debated in South Africa. With regard to immigration, South Africa has been described using many terms: as “anti-immigration”, as having “migration phobia” and as having “little appetite for immigration at all” (Crush & McDonald, 2001). While the chapter recognised the challenges of child trafficking, it sought to distinguish child trafficking from incidents of child smuggling, which are very common in the South African-Zimbabwe corridor.

This chapter continues the discussion on the immigration policy changes, but focuses specifically on the case study of Zimbabwean migrant parents in South Africa, their situation, and responses to the policy change. The objective of the chapter is to understand the situation of these parents *vis-à-vis* the policy changes and to understand how, as migrants parents, they were able to utilise their agency to deal with the policy impediments. The chapter draws data, mainly from an extended study of migrant parents from suburban areas of Kempton Park, Isando, Edenvale and the township areas of Tembisa Township and Cosmo City. It also draws on interviews carried out with omalayisha, the agents involved in the cross-border movements of these children.

The chapter is divided into two main sections: the first section is the profile of the migrant parents in South Africa. This section analyses the situation of these parents in an attempt to understand the implications of policy on their reunion with their children. The second section is a discussion of parents’ responses to the policy changes. The assumption guiding this section is that the policy changes provided an added layer of challenges for parents in their attempt to

negotiate the border. The border increasingly became a major barrier in parents' migration intentions, forcing parents to use their agency. The chapter focuses on this agency and how it was deployed in such a way that parents' relationship with their children remained uninterrupted.

5.2 Understanding Migrant Parents from Zimbabwe in South Africa

In order to understand the implications of South Africa's immigration policy reforms on the cross-border movements of children on migrant parents and their children, the chapter turns to the case study of Zimbabwean migrant parents working in the Gauteng Province of South Africa. Here, it focuses specifically on the situation of these migrant parents and attempts to understand them as parents and migrant laborers on foreign territory where their presence is unwelcome. It also looks at their relationship with their home country and their interaction with their children remaining in Zimbabwe.

The parents in the study were mostly economic migrants who came to South Africa in search for better opportunities in order to improve their own welfare and those of their families back home. This is also a fact recognised by the South African government in their determination of the status of Zimbabwean migrants in the country. This is captured in the government proclamation that "there is no war in Zimbabwe" and all Zimbabwean migrants in the country are economic refugees who do not satisfy the criteria or right to asylum status (SPT, 2004).

Some of the women in the study came to South Africa as married adults to join their husbands who were already migrant workers, but others were single and came to South Africa on their own volition, particularly after the Zimbabwean economic crisis of the 2000s. This crisis led to a flood of migrants fleeing social and economic challenges (Crush and Tevera, 2010). Although they originated from different regions in Zimbabwe, they all had responded to similar push factors: they were all driven by an economic motive, although the initial migration intentions differed. Some initially saw their migration as temporary, while others saw South Africa as a stable work environment. Literature has shown that migrants from South-Western Zimbabwe see migration to South Africa as a rite of passage. From time immemorial, these migrants made South Africa their first job destination (Mlambo, 2010). As others have highlighted, earlier

migration from Zimbabwe was purpose-specific and circular and migrants initially did not spend long periods in South Africa (Makina, 2013; Muzvidziwa, 2001; Zinyama, 2002).

The push factors are particularly important for analysis because they point to new forms of divided families and the time migrants, in particular women as labor migrants, spend away from their children. Before any discussion of the motives ensues, the section begins with a profile of these migrants in an attempt to understand them from their demographic, social, and economic situations, and in order to understand their migration intention and therefore the situation of children.

5.2.1 Age

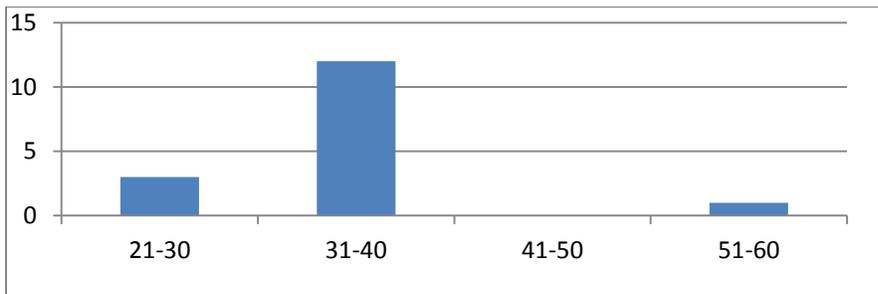


Figure 3: Age group of migrant parents

Source: Author (2018)

In the study, the parents were between the ages of 21 and 55, with an average age of 35. The study was biased towards young and middle-aged parents. Adepoju (1998) and Lauby (1988) suggest that the events and types of behaviours, which commonly precipitate migration, are typical of younger adults, and the rate of movement is higher among women in their early twenties and middle thirties. This reasoning is possibly because these young women are likely to have family responsibilities and are thus more prone to migrating.

In the study, there were three parents in the age category 21-30 years, 12 parents in the category 31-40 years, and one who was 53 years old. The distribution of parents by age is depicted in Figure 3. The reason for looking at the ages of migrants was to understand how migrants could

be affected by the new policy, assuming of course that people in the age group 21-53 are likely to be parents, and as migrants they had left children at home in Zimbabwe.

As shown in Figure 3, the greater number of migrant parents who are involved in the cross-border movement of children fall between the ages of 31–40. This shows that the majority of youth from Zimbabwe migrated to South Africa in search for jobs due to the economic crisis to enable them to support their families back home. On average, the parents that participated in the study had at least one child left in Zimbabwe, with the highest number being five children. Thus, the majority of these migrant parents have more than one child and have the responsibility of taking care of the caregivers and the children by sending remittances.

5.2.2 Gender

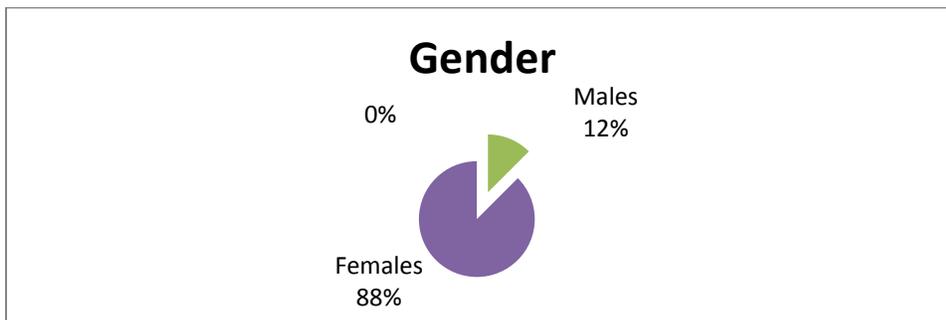


Figure 4: Gender of migrant parents

Source: Author (2018)

In the study, as shown on Figure 4, there were more female participants comprising of 88% and 12% males. The study could have been biased towards women because of the feminisation of migration, but also because of the referral system that was used in choosing the parents to participate in the study. This is also in line with Dodson’s (2000) gendered analysis of migration from Lesotho, Mozambique, and Zimbabwe in which she focused on how women experienced cross-border migration compared to men.

The most significant studies on female cross-border labor migration were conducted on Basotho migrant farm workers in the Free State commercial farms. These studies did not only confirm that women continue to dominate foreign labor on farms, but they also found that they were the

most preferred labor force (Johnston, 2007; Ulicki & Crush, 2000, 2007). Results from these studies have dispelled the myths about migrants and challenged the general stereotype that migrants are illegal and involved in criminal activities. Rather, they showed that the majority of migrants were legal and law-abiding and used cross-border migration as a livelihood pathway to better their lives and that of their families' (Ulicki & Crush, 2000, 2007).

In order to understand female migration from Zimbabwe to South Africa in the 1990s, it is important to explain the socio-economic situation in both countries. As has already been stated, cross-border migration between South Africa and Zimbabwe has been associated historically with the labour migration of males who came to work on mines and farms in South Africa. Yet, the volume of cross-border migration between Zimbabwe and South Africa has increased since 1990 (Rogerson, 1997).

In addition, political and economic conditions have changed considerably in both South Africa and Zimbabwe. After independence, the Zimbabwean government expanded health care services in rural areas under its policy of Equity in Health (Wilks, 1998). The health care policy required that patients with an income below Z\$400 and those in rural areas be treated for free. The policy resulted in an increase in child immunisation from 25% in 1980 to 85% in 1990, and a decrease in maternal mortality from 150 to 80 per 100 000 during the same period (Wilks, 1998).

However, the health sector was faced with declining funds, loss of personnel, increased costs, and greater demands for health care services after the implementation of the Economic Structural Adjustment Programme (ESAP) (Mhone, 1998). This illustration serves to give an overview that after Zimbabwe's independence, living conditions improved in Zimbabwe.

The situation deteriorated when the ESAP was introduced in 1991. The concept of structural adjustment programmes (SAP) was introduced in developing countries and sub-Saharan countries in the early 1980s as an antidote to growing socio-economic crises. Developing countries were desperately reaching out for assistance from developed countries, and SAP were introduced. While developing countries claimed that SAP would provide an effective response to ailing economies, in effect it proved to be economic-growth-unfriendly and anti-poor. After its introduction, people in countries affected noted that rates and taxes were increased; subsidies on

food, education and health were decreased in real income; and the plight of the poor deteriorated (Bernstein & Boughton, 1993; cf. Degefe, 1994).

The programme included, amongst others, the removal of price control and subsidies on basic commodities and liberalisation of the economy. This resulted in increased commodity prices, reduction in access to basic services, retrenchments, and high inflation rates (Tichagwa & Maramba, 1998). The Poverty Assessment Survey Report of 1996 showed that 62% of the Zimbabwean population lived in households with a per person income below the level that could provide for basic needs (Chinake, 1997).

Women have withstood the worst of these hardships. While their husbands, brothers, and other male relatives were out in the mines and in urban areas, women stayed at home, denied access to credit, and unable to provide financial support for their relatives and children (Vukasin, 1992). The situation must have been generally overwhelming for women, and they adopted migration as a strategy that would relieve them of their “burdens”. The Zimbabwean situation is arguably similar to that of Peru back in 1993 where the combined effects of economic crisis and structural adjustment led to an increase in poverty with more severe outcomes for households headed by women (Moghadam, 1994).

Studies conducted by SAMP have shown that there has recently been an increase in the movement of Zimbabwean women to and from the neighbouring countries (Tevera & Crush, 2002; Zinyama, 2002). Both the decision to migrate and the choice of destination are often determined by the promise of better socio-economic opportunities (Todaro, 1976). Within this process, migration is considered the primary way of improving occupational status by obtaining employment for those who do not have jobs in their places of origin, and by obtaining better jobs for those who have previously been employed.

5.2.3 Marital status

About 37% (6) of the 16 parents were married and 12% (2) males of parents were married fathers staying with their wives. The other 25% (4) were married mothers. Of the women, 14% were living permanently with husbands; others were living independent of their husbands who worked out of town and sometimes outside the country.

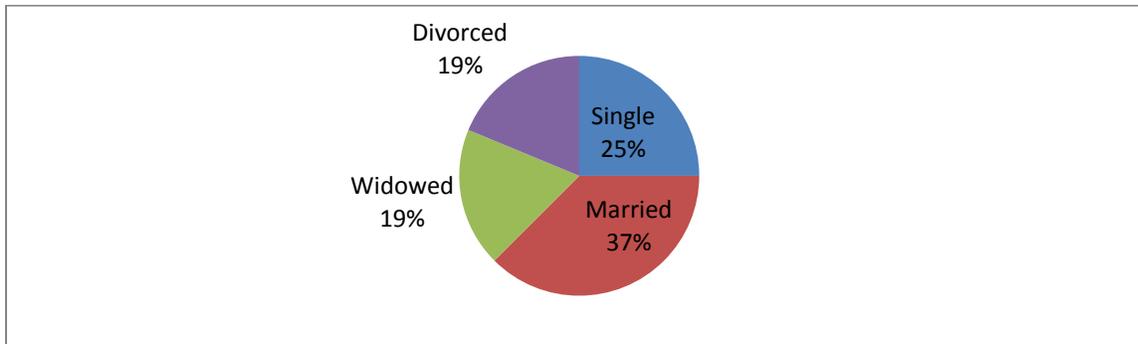


Figure 5: Marital status of migrant parents

Source: Author (2018)

Some of these women had come to South Africa as married adults together with their husbands; others had followed their husbands who worked in South Africa, while yet others married after moving to South Africa. Nearly 38% of these women were technically married, but had been separated from or abandoned by their husbands.

Of the parents in the study, some women were widowed. Many women were *de jure* heads of households: around 18% had lost husbands before coming to South Africa. Some of these husbands were working in South Africa at the time of their death and were the only income earners at the time of their death. A further 18% were divorced and left with children in their care. For women in this category, who generally lacked the support from male partners, the need to work cannot be overstated. The responsibility for the family, including children that still attended school, fell entirely on their shoulders. For the majority of these parents (about 69%), they were the only regular wage earners in the family, and had to send regular remittances to those back home and pay for children's schooling.

The last category was that of parents who had partners but were not legally married. In contrast to the first group, these parents lived independent of their partners, mainly on rented or shared apartments. Of them, 31% had children outside these relationships. Only a few of these parents received support from the children's fathers or the new men, others said they only received minimum and irregular support from either. The majority of these parents (82%) said they had left children at home with their parents, and were solely responsible for the children's welfare. For others, the children's fathers had either disappeared or remarried.

Of these women, only 23% had registered the children in their own surnames while 77% had registered the children in the fathers' surnames. Thus, the children could not visit the women legally without an affidavit from their fathers who, in most cases, had lives elsewhere. Overall, 38% of these parents had no contact with the children's fathers, 38% did not know the whereabouts of the children's fathers and only 24% said the fathers were still playing a part in the children's lives. More significantly, of the latter group, the children's fathers do not reside in South Africa or Zimbabwe.

A case in point is a 34-year-old parent originally from Harare who never married and has two children from different fathers. The whereabouts of the children's fathers are unknown. She migrated to South Africa in 2012 after giving birth to her second child and subsequently losing her job as a shop assistant. She is working as a hairdresser in Edenvale to make money to take care of her family back home whilst staying in a one-bedroom apartment. She has no contact with the fathers of her children and has no way of obtaining consent and affidavits from them to allow her children to travel to South Africa. According to her:

I am not married but have two children with different men. My children use their fathers' surnames. I cannot get permission for them to travel. I don't know where they are, they just disappeared (Interview, Edenvale, July 2017).

Similarly, another 37-year-old parent migrated to South Africa just after divorcing her husband. She has two children from the marriage. The father remarried and his whereabouts are known. The divorce was sour, hence they have no communication at all, and the father sends money for the children when he feels like. She is working as a hairdresser in Kempton Park to send money home to her children and parents who stayed behind in Zimbabwe. As she puts it:

It is difficult; I am working for my children and parents. The father does not maintain them, he does not even know what his children eat and wear every day. We were happily married but our divorce was bitter, we never communicate but I know he stays in Highfields (Interview, Kempton Park, 18 July, 2017).

Another parent of two children had a different story to tell. She is divorced and the father of the children refused to consent for the children's travel. She said:

I am no longer with the father of my children. He was very abusive and I took him to court and I have custody of the children. He tried to fight to have the children but he lost the case. Now when I wanted the children to travel it meant I had to go back to him and ask for permission. I phoned him the first time and he told me he would not sign the papers. The whole of 2016 I could not see the children because of that. I just told myself I am not going to beg him. My friend saw that I was much stressed, she then referred me to a driver that she knows who has been helping since then. This thing has created problems for us, it will now force you to speak to people you do not want to talk to (Interview, Tembisa, June 2017).

Connecting the above to the new policy shows how the parents' legal reunion with their children was made difficult, and how the new policy has exacerbated the geographical distance between the children and their parents in South Africa that was long bridged by available transport services (Thebe, 2011). Thus, even when the children had the necessary travel documentation, their movement was still dependent on the availability of the male or female parent to provide the necessary legal consent, and even if the parent was available, they still needed another affidavit from the other parent in South Africa. Some of these parents' legal status in South Africa could not allow them access to such documents. Legality is thus one of the major determinants for migrant parents to reunite with their children. The following section will describe the legal status of Zimbabwean migrant parents in South Africa.

5.2.4 Legal status

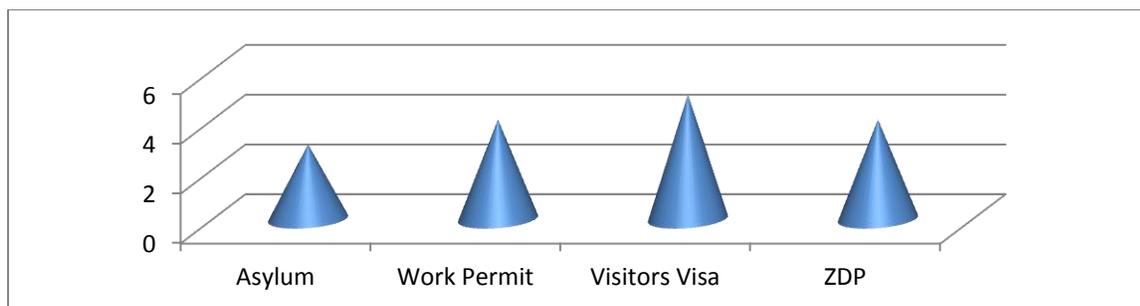


Figure 6: Immigration status of migrant parents

Source: Author (2018)

In the study, as shown in Figure 6, three parents have asylum/refugee status, four are work permit holders, four have the ZDP permits, and five parents were on visitor's visas. In South Africa, an idea that is deeply entrenched in public opinion and popular discourse is the illegality in Zimbabwean migration: that millions of Zimbabweans have illegally crossed into South Africa and live illegally in the country. It is important to stress that Zimbabwean migrants in South Africa are not necessarily illegal.

Basing my argument on evidence from the study, I emphasise that illegality has never been a permanent status for the majority of migrant parents, and that it has always been normal for migrants to move between the legal and illegal categories, with implications to their earnings and economic motives. The majority of the parents (about 75%) had entered the country legally, mainly on 30-day visitors' permits/visas and only 25% had entered the country through clandestine means. They had all arrived in South Africa and attempted to legalise their presence either by extending their visitors' visas through normal channels, or clandestine means.

There were of course some who allowed their permits to expire, but the normal practice among migrants was to pay bus crews and informal cross-border transporters, otherwise known as *omalayisha*, to process passports out and back into South Africa before their visas could expire and render them illegal. Others would process their passports out into Zimbabwe and remain working as irregular immigrants in South Africa. They would then either use cloned documents or apply for asylum-seeker permits. About 19% of migrant parents were holders of asylum seeker permits.

One parent, for example, is 39 years old and works as a domestic worker in Isando. She is a widowed mother of three and migrated to South Africa soon after the passing of her husband who was the breadwinner and working in Cape Town. With no qualifications to enable her to get a job, she decided to migrate, as she was now the breadwinner. As she put it:

I came to South Africa for the first time in 2010. I came on a bus and was given 90 days at the border. I stayed with friends in Pretoria until I got a job as a maid here in Isando. My visitor's visa expired. I used to give my passport to drivers to stamp out but it is too expensive so I do not do it anymore and I do not have a permit. When I see police or Home

Affairs officials, I just change direction. But, in case I am arrested, I will simply bribe them. You know they like money a lot (Interview, Isando, August 2017).

The asylum system is certainly still used by Zimbabwean migrants in South Africa, despite South Africa's official position that there is "no war in Zimbabwe" and as a result, Zimbabweans are economic migrants who do not meet the criteria to seek refuge. This was made clear after the launch of the ZDP when asylum permit holders were encouraged to apply for ZDP permits (Thebe, 2017).

Another parent is 35-year-old and has asylum status. She migrated to South Africa in 2011 after being promised a job as domestic worker by a relative. On arrival, she was informed the job was no longer available. Days went past and her visitor's visa expired. As she put it:

Moving around in Johannesburg town became difficult as there was police everywhere asking for documentation. I was advised to go to Pretoria and apply for asylum. I met a guy at the gate who directed me to a Home Affairs lady who helped me to apply, but I paid. I was tired of running away from the police as I slept at Lindela before. I can work with my asylum and I renew it all the time, I just pay someone and they renew it at Home Affairs. However, I am scared to go home using asylum so when I go to Zimbabwe and come back, I go with omalayisha (Interview, Edenvale, August 2017).

About a quarter of the parents had been in the asylum system before switching to the ZDP. They had used asylum seeker permits for work and to legalise their stay. In total, 25% of the parents had rights of work and stay through the ZDPs, while others said they were in possession of cloned documents. Parents that used cloned documents were technically illegal and used these documents only for work purposes, while those holding asylum seeker permits were legally not expected to re-enter Zimbabwe.

Although the future of these parents in South Africa remains unclear, indications are that they are here for the long haul. Some live with children. Married parents with stable jobs normally live in rented apartments and can afford to live as families with children. Although these parents live with younger children who mostly attend pre-school, children of school-going age attend schools in Zimbabwe. Around 35% of the women have older children attending secondary school in

Zimbabwe while 28% have children younger than seven years, including nine who had left children younger than one year with parents in Zimbabwe.

Some of these migrants entered South Africa without the necessary documents and through being smuggled by omalayisha, truck and bus drivers, etc. (see Zinyama, 2002; Solidarity Peace Trust, 2004; Araia, 2009). Some, among these same migrants, did not seek asylum because of the prohibitive costs of doing so. Bloch (2008: 6) argues that:

The prohibitive costs of seeking asylum, including reaching the refugee reception office to make a claim, translation costs and fees to file claims, though they are meant to be free, mean that some who might try to seek asylum end up dropping out of the system and staying in South Africa as undocumented migrants instead.

As shown in the study, a number of parents are undocumented and some are on asylum, which they cannot even make use of or produce at the Police Station because they are fraudulent. Some of the requirements of the new regulation are for a parents to provide copies of identity documents which are certified at the police station together with pages where a permit is attached (to show legal status), an affidavit which has to be signed and certified at the police station, and proof of address. For an undocumented migrant, these requirements are unrealistic as can be observed at the infamous Lindela police station where migrants are held for deportation. According to one of the parents:

For goodness sake, I do not even have a wok permit, not even a visitor's visa. How do I then get all those documents for my two children to come? Police station is a no for me; otherwise, I will find myself back in Zimbabwe. Since this law, I have not been able to see my children this year (Interview, Edenvale, August 2017).

5.2.5 Employment and salaries

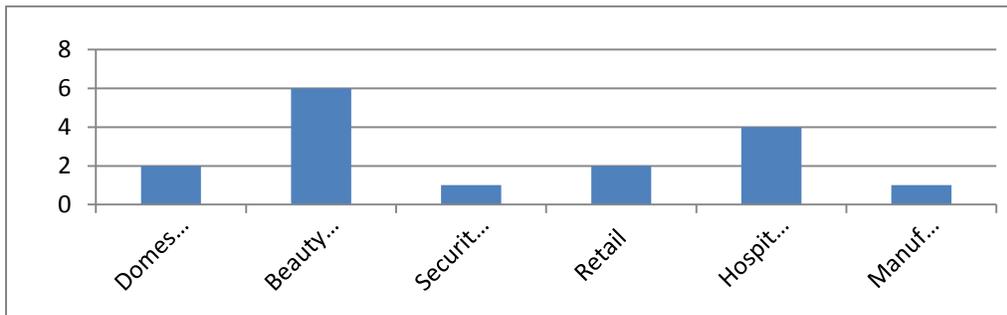


Figure 7: Occupation of migrant parents

Source: Author (2018)

At the height of the crisis in Zimbabwe, Pendleton, Crush, Campbell, Green, Simelane, Tevera, and Vletter (2006) discovered that migration was no longer a rite of passage but a livelihood strategy and a career. As shown in Fig 7, these migrant parents were mainly involved in informal, low-skilled employment activities. In addition, with this type of employment which paid them little, before the new regulation, migrant parents would only have the expense of making sure their children have a passport to travel and transport money. However, as of 2015, parents had more challenges coming their way.

For the majority of the migrant parents interviewed, income is often limited by low wages. As shown in Figure 7, some of these migrants work in low-wage occupations, including the security sector (6%), hospitality (13%), manufacturing sector (18%), domestic services (13%), beauty industry (38%), and the retail sector (12%). While many of the parents did not have partners in South Africa, they were entirely responsible for both financial and material sustenance of those left behind in Zimbabwe.

Of the migrant parents, the men migrants were working in the manufacturing sector and in the security sector, which paid better than that of the women migrants who did different kinds of jobs in South Africa, ranging from the domestic sector to the hospitality sector. Of the 14 women, four were waitresses, two were domestic workers, six were hairdressers, and two were shop assistants. Differences in earnings were observed between those in the hospitality and domestic industries, manufacturing and security sectors, and those in the beauty industry relied

on income dependent on the number of customers they attended to. On average, waitresses earned between R6 000 and R10 000 in a single month, in either basic pay or commission and tips. Many migrant parents therefore had a stable income and could afford rentals, either backrooms in the townships or flats in the inner cities of Johannesburg.

Literature suggests that female migrants tend to be concentrated in low-paid occupations, with difficult working conditions, and with little or no prospects for upward mobility (Carr & Chen, 2001). As proven in this study concentrated on women, female migrants are mostly found in informal sectors where they work as domestic workers, shop assistants, hairdressers, factory workers, and waitresses. Participation of women in the informal economy is not a new phenomenon. Available evidence suggests that, during periods of economic downturn, due to economic reforms or economic crises, the informal economy tends to expand. Bozzoli (1991) confirmed this in her case study of women in Phokeng. Women see participation in the informal economy as a way of dealing with their difficult economic and social situations.

When countries experience little or no economic growth, not enough jobs are created to accommodate all the job seekers. Many of these jobless people find or create employment in the informal economy. This was also evident in this study. Most of the women who participated derived their income from participation in the informal economy as domestic workers or working in shops and hair salons. It was difficult to establish how much other participants earned as only eight participants disclosed an approximate amount of money that they sent back to Zimbabwe – between R800 and R1 500 a month. The other participants were reluctant to disclose the amount of money they sent back home.

5.2.6 Education status



Figure 8: Migrant parents' level of education

Source: Author (2018)

Lack of formal education or qualifications that could allow migrants to be absorbed into the skilled labour sector in South Africa was stated as one of the reasons for opting for low-salaried jobs. In the study as shown in Figure 8, of the 16 migrant parents, 6%, (1) parent obtained an Advanced Level certificate but could not proceed with tertiary education due to lack of funds. 38% (6) had only reached Ordinary Level but did not qualify to proceed to Advanced Level and the rest, 56% of the parents, did not hold any certificate or qualification.

5.2.7 Migrant parents' employment situation before migration

In the study, the migrant parents were between the ages of 21 and 53, with an average age of 35. Before moving to South Africa, the majority of the women were not formally employed in Zimbabwe. About 33% were housewives, 17% were cross-border traders, 11% operated flea market stalls in the cities of Bulawayo and Harare, 16% worked in industries or retail, and only 9% were professional teachers. There were also some who had never worked or had only worked as domestic laborers back in Zimbabwe.

Generally, few women were financially secure before coming to South Africa, except for the three former teachers and maybe the five cross-border traders and flea market vendors. The

majority of the women who were working before coming to South Africa had left their jobs because their pay had been rendered useless by hyperinflation after 2000. There were others (4) who said they had lost their jobs, which influenced their decision to migrate to South Africa.

5.3 Migrant Parents' Responses to Policy Change

Although the policy amendments to the cross-border movement of children under 18 imposed restrictions on the movement of children into and out of South Africa, it did not entirely stop children from visiting their parents. Rather, it actually saw a rise in the cross-border smuggling of children into and out of South Africa as highlighted by reported cases of *omalayisha* being arrested for smuggling children.

However, instances where *omalayisha* were arrested were relatively fewer than those where they successfully executed their responsibilities. The average Zimbabwean migrant in South Africa, whether male or female, has a relationship with *omalayisha* through the monthly disbursement of remittances, and occasional home visits for undocumented migrants and rural migrants where *omalayisha* provide the most convenient form of transport (Maphosa, 2010; Thebe, 2011, 2015, 2017). Some migrants are also related to these *omalayisha* agents. On average, all parents had used *omalayisha* to transport goods, and over 66 % had used *omalayisha* for their home travels.

By their own admission, migrant parents fell back on already existing relationships with *omalayisha* and created new ones with the cross-border bus crews. The cross-border bus service is not a recent entrant to the cross-border movement of people and goods. South African-based luxury services like Grey Hound and Translux have been plying the Bulawayo/Johannesburg route since the early 1990s. While Translux pulled out of the Zimbabwean routes, Inter Cape and other new entrants joined the route, and Grey Hound introduced an economy services to main cities in Zimbabwe. Zimbabwean operators have also taken advantage of the demand following the flood of migrants after 2005 and now provide regular services to Johannesburg from most major urban areas in Zimbabwe. These buses have been key players, along with *omalayisha*, in moving people illegally into and out of the country.

The implications of the new restrictions placed on the cross-border movement of children are key to understanding of the dynamics in being migrant parents. While the law restricted possible

legal cross-border movements for children, the parents themselves faced certain constraints in travelling to Zimbabwe. As described, for the women their migration intentions were to stay longer in South Africa and, to achieve this, they made efforts to legalise their stay, including applying for asylum. This placed limits to the migrants' return home. Practically, the parents could only be reunited with their children in cases where the children pay visits to South Africa. As one of the mothers explained:

There is nothing much I can do...I have an asylum seeker permit and cannot travel home. The only way I can see my children is for them to visit me (Interview, Cosmo City, 17 July, 2017).

Of the migrant parents who had left children back home, regular contact with children, and remittances in the form of money and goods, were always an issue of major concern. The parents understood the importance of not only sending material items, but also attempting to arrange regular visits from their children. As highlighted earlier, the parents spent most of the time at work: restaurant workers worked irregular shifts and domestic workers were paid low wages. These arrangements made it difficult for the women to pay regular visits to Zimbabwe. On average, the parents visited their homes once in a year, although around three quarters had not visited home for the past two years. Explanations such as the one below were popular among the migrants:

My job does not allow me to go home frequently. I am a domestic worker and I work for an Indian lady. When my boss gave me this job, I told her that I have children at home. My husband died years ago and my children stay with my sister. So I told her in April can I take leave to go and see my children, but she refused. She said I have to take care of her children I can only go on leave in December. But she offered to have my children come visit me and I sleep with them in my back room. Therefore, I agreed. At least I can see my children (Interview, Kempton Park, July 2017).

Besides the parents' busy schedules, there were certain restrictions to some parents' travels to Zimbabwe, which necessitated the movement of children into South Africa to spend time with their parents. Parents who had no legal documents could not travel to Zimbabwe as regularly as

they would have preferred due to the difficulties imposed by their illegal status, and asylum seekers could not officially return to Zimbabwe.

Some parents could not travel to Zimbabwe due to time constraints for some, thus the most common means of reuniting with their children left in Zimbabwe was through the occasional visits by children to South Africa. Parents with children attending school in Zimbabwe were receiving slightly more visitations than those with younger children. Of the seven migrant women who had older children back in Zimbabwe, two reported that their children visited every school holiday, 11 were visited once in the last year, and their children visited others once during the past two years. Five of the women with children under the age of 10 years also indicated that their children visited them regularly, although none of these children had passports that allowed them legal entry into South Africa.

These parents mostly relied on omalayisha to smuggle children into South Africa and back to Zimbabwe after the visit. For these women, family members back home were certainly important since these minors had to be accompanied. Even parents with older children who had no legal travel documents arranged with omalayisha for the safe passage of their children into and out of South Africa. Thus, both older and younger children would enter and exit the country clandestinely in the company of these agents.

Unable to depend on the formal immigration process, migrant parents fell back on already existing relationships with omalayisha and created new ones, including with the cross-border bus crews which operate on an exchange of money in the form of an agent fee for omalayisha or bus crews. The need for women to bring children to South Africa, along with the country's porous borders, means that children can be smuggled into and out of South Africa at a price. Moving children across the Limpopo River does not present any logistical problems for these agents. As has been highlighted before, besides smuggling goods, many of these agents were already in the business of smuggling people and had been transporting children for some of the mothers even before the policy amendments.

The crucial difference is that, whereas previously they also transported children with legal travel documents, there was no legality in the transit of children after 2015. Despite the new restrictions

placed on the cross-border movement of children, omalayisha still manage to move children across by bribing border officials. As well as facilitating the cross-border movement of children, omalayisha also provide door-to-door convenience, both in Zimbabwe and South Africa. The most important element in the movement of children is the parents' ability to pay an agent fee. As one interviewee said: "Siyakhokha (we pay)...we often pay omalayisha to bring the children and take them back again at the end of the holidays" (Interview, Edenvale, July 2017).

The price paid is determined by the method used to move children across. There are differences in the costs for moving children through formal channels and moving them through undesignated entry points, and the mothers said they paid as much as R2 000 for the use of formal channels. However, a significant proportion of this money is given as bribes to social networks at the border post for omalayisha to access formal entry points, ensuring that migrant mothers receive value for their money. The parents are fully aware of these illicit payments, and see them as necessary collateral:

The fee that we pay covers the bribes at the border. We are happy to pay if the children can be allowed through. It has become the only way to have children here (Interview, Tembisa, July 2017).

I have a good relationship with omalayisha. We come from the same village. He has been coming with my children and I pay him when they arrive, he takes care of them along the way and when they arrive. I give him his money, but he tells me how much he is charging depending on the situation at the border. If things are a bit tight with patrols, the price is high... (Interview, Kempton Park, July 2017).

Alongside the omalayisha system are new entrants in the form of the cross-border bus service, operating between Johannesburg and major centres in Zimbabwe like Bulawayo, Gweru, Harare, and even as far north as the Victoria Falls. This represents a new and safer way for moving children across the border for the parents, unlike omalayisha who have no scheduled times and sometimes would move children through undesignated entry points. The bus service, for example, has strict time schedules and can only move people through designated entry points. This works for the parents:

I have been using the bus drivers. I saw they were reliable when I once sent a bag of groceries. The bus crews agree to take your child. At least in a bus there are two or three drivers and they all know your child needs care. I know when to pick her up from the bus terminus because they tell you the time they are arriving even when they are delayed at the border....The challenge with omalayisha is that you will never know when your child will arrive (Interview, Cosmo City, June 2017).

Each service has its own advantages and disadvantages, and the women said a number of factors guide the choice of a particular service. The bus service tends to be formalised and leaves little room for negotiations. The omalayisha system, on the other hand, is relatively flexible, depending on the nature of the relationship between omalayisha and the client. Some of these mothers are people who have been loyal patrons and sometimes are neighbours or close relatives of these transporters. These transporters, in turn, offer a range of payment options for both the movement of goods and people, including children. They offer ‘cash and deliver’, ‘pay forward’, and ‘prepaid’ options – which do not necessarily ease the financial burden on the women, but offer convenience.

With regards to the ‘cash and deliver’ contract, someone back home does the settlement of the omalayisha fee other than the women in South Africa. Sometimes these agents will also accept payments in assets, usually livestock, which is a far cheaper option. In practice, certainly with regard to the movement of children, the women prefer the ‘pre-paid’ arrangements, not just to ensure that children are guaranteed seats for the journey, but also to avoid the risk of children being moved through undesignated entry points, exposing them to the dangers of the Limpopo River and Musina forest. Omalayisha themselves did not enjoy the use of undesignated entry points. Thebe (2011) noted that omalayisha would avoid using points because of the dangers and delays on the journey.

...in most circumstances, we move pre-paid clients, returning migrants and people willing to pay higher fares through the formal channels (Interview, Johannesburg, August 2017).

However, they still see unofficial channels as the most cost-effective method of moving people into South Africa. They often move people who have not fully paid their fares into South Africa

by paying local people smugglers called “izimpisi” (hyenas of the Limpopo) a small fee, who assist people across the Limpopo River, the fence, and through the Musina forest. They have reasons for doing so:

You need more money to access designated entry points....you have to pay a ‘cold drink’ fee. If no money is paid up front, but the person is going to Johannesburg, what do you do? Leave them behind? (Interview, Edenvale, June 2017).

Another was even more explicit:

I move clients that have paid fully through designated entry points since they have paid their money and I can use that money to bribe along the way. There is a lot of bribing that has to happen at the border. If someone has not paid and has only made a promise to pay, how am I going to pay the immigration officials and the police? I try as much as possible to use designated entry points, but it is not always possible (Interview, Johannesburg, July 2017).

Since omalayisha have relations with people who help potential migrants to cross the Limpopo River and walk through the bush, they make use of them when necessary. However, these human smugglers can be compared to the Mexican coyotes who smuggle undocumented migrants across the US-Mexico border (Krissman, 2005; Donato, Wagner & Patterson, 2008; Dolfin & Genicot, 2010). A coyote is a prairie wolf, a fierce wild animal. The imagery is meant to instill confidence in their clients that they can handle the jungle because they live in it like predatory wild animals. However, it could also mean that the clients run the risk of “being eaten” by the same animals as prey.

On the other hand, the parents sometimes make ‘pay-forward’ arrangements with omalayisha. This works in a more straightforward manner. The agent picks the children up in Zimbabwe and transports them to their mothers in Johannesburg where he is paid his full fee. This arrangement is convenient since the visitation of children is not entirely dependent on the availability of money, and even in some cases, payment can be made at a convenient date.

Another notable contractual arrangement is the ‘pre-paid’ contract, which is a departure from the previous two arrangements in that payments are made in advance, and the women pay their

agents before they even depart for Zimbabwe. Notwithstanding the fact that the agents and clients have an on-going relationship, it is important to note that this entails an element of trust, which can only develop through long-term interaction. Furthermore, it provides safety assurance for the parents on the movement of the children. Even when taking into account the levels of trust involved, the movement of children is a stressful experience for the parents, and advance payment ease their fears and anxieties that their children may be forced to cross via the Limpopo River.

Women preferred agents called “abahambisana phezulu” who use designated entry points and are reliable people they can trust with the lives of their children. Thus, trust was earned, and the women chose agents carefully. Trust might quite plausibly have been earned through a long-term record of reliability. In this case, the women’s social networks were fully exhausted as they searched for the right agent. Such a process would inevitably result in a list of agents who have a good track record, and could be recommended by those who had used their services before.

Nevertheless, there were initially no such complications for parents whose children were older and were in possession of passports since these children could travel on their own, which made the process much cheaper. Compared to children smuggled by omalayisha, it was cheaper for children travelling alone, and the parents reported that they paid a normal taxi fare of about R300 per child, while they were more likely to pay R2 000 or more for every child successfully smuggled into the country. One parent had this to say:

Things have just become worse. With the little money that I am earning, I have found myself now paying more since this law. Paying omalayisha R2 000 the first time and the second time I asked for a discount and paid R1 800. It is not easy, when your children come to visit they also need to eat and when they go back they go back with groceries and money. That is all I am working for now. Sometimes omalayisha will not negotiate far, it is either you take it or leave it (Interview, Tembisa, July 2017).

Thus, despite the dangers involved in the exercise, many migrant parents have accepted omalayisha as the best option to circumvent policy restrictions, but others have found alternatives in the cross-border bus service. There are additional safety issues in the use of

omalayisha in that some of these agents smuggle children through unofficial channels and expose children to the risk of drowning and attacks by crocodiles in the Limpopo River. Parents understand these dangers and, although they agree that it is an emotional process, this is often offset by careful choice of omalayisha. There is a general preference by the parents for those agents who do not expose children to danger by using undesignated entry points, and the parents pay exorbitant agent fees for their children to be transported through formal entry points.

Over half of the parents have used the same agent for years while others have a list of individuals called “abahambisana phezulu”, people who move people through the border post. However, even in these relationships, the burden can be far too great for parents who have to bear the costs of this luxury treatment by paying more for the journey; if their agent runs into trouble with the law, the parents also have to pay the bribes for the safe arrival of their children:

Just when they were about to leave at the border, apparently a SAPS official approached the driver and demanded documents for the child. Obviously he didn't have everything else except the passport. He was reportedly asked to return to the Zimbabwean side with the child or pay R2 000. When he told me I had to agree, I had no option because he was already telling me that he cannot proceed unless he talks to some people to cross with him through the bush and they meet him on the other side. I cried... (Interview, Edenvale, June 2017).

As noted by Thebe (2011), the channel used to smuggle people into South Africa is determined by the clients through the fees they pay. People pay higher fees to access formal entry points while lower fees and, in some cases, ‘pay forward’ arrangements necessitate the use of informal entry points. Around 60% of female parents prefer ‘advance payment’ arrangements, and while they had also entered into ‘pay forward’ arrangements, they reported that they receive assurance from their omalayisha that the children would only be moved through the border posts.

Thus, migrant parents depend on omalayisha for both contact and the safety of their children, and make all attempts to ensure that omalayisha protect the children in their custody. To this end, they have so far succeeded. The parents and children appeared to be close to their omalayisha. The children appeared comfortable around certain individual operators. It should be noted that, if

the relationship with omalayisha is well managed, the parents are assured of reuniting with their children, despite the constraints imposed by the policy amendments. (Thebe, 2011) notes that, omalayisha can move anything across the border at a price and has been rated the most reliable and efficient of all the transporters as they are known for safe delivery.

All the parents need to do is pay what is due. This makes the travel smoother although a few still complained of their children being badly treated by their transporters, especially the omalayisha taxi operators. Some use buses, as they are also generally believed to be safer than the omalayisha taxis. The reason for this is that if the agents have been paid an adequate amount of money (which includes money for bribing officials), the children can cross the border properly without having to sneak through the bushes or by simply remaining in the bus while the transporters had their passports stamped. The immigration officers who inspect buses ignore such individuals when they have been given a “reasonable” amount of money of up to R200. Buses and omalayisha usually charge between R1 000 and R1 500 for such cases.

However, omalayisha are the preferred mode of transport used by undocumented migrants for their children:

This is my job, I am a taxi driver and I transport anything, including people. To be honest with you we are helping a lot of people. It is money for me, the people we carry are looking for life, and the children we carry go and see their parents. I cannot refuse because it is easy for me. As long as they pay me, I know people at the border, we are friends, and I also give them something to allow the person to cross. Even the police on the road, we pay them something (Interview, Johannesburg, June 2017).

Because of the flexibility of movement of children before implementation of the regulation in 2015, migrant parents could have their children visit regularly, at least during all school holidays, but post-2015 implementation, it has been difficult for some. This causes negative behavior in children left behind :

My eldest child has just started high school. I could not go home to see him off as he starts this new journey because I was working. Now my mother has been telling me that his behavior has changed and that he does not listen to anyone. I feel if only he could have been

visiting here, I could be able to talk to him as a parent, but now we cannot produce the documents required and my mother is refusing to let him come with omalayisha, she is scared (Interview, Kempton Park, August 2017).

From the study, it emerged that some children have only been visiting their parents once a year. This has had adverse effects on the psychological well-being of the children who are detached from their parents for long periods and are restricted from reuniting with them during the course of the year.

5.4 Chapter Summary

The analysis in this chapter began by looking at the profile of the migrant parents that participated in the study. It focused in particular on their marital status, age, gender, legal status, employment, and education levels, and how these presented challenges to their physical relationship with their rural home, and why it was necessary for children to pay regular visits to South Africa. The chapter highlighted that the vast majority of migrant parents left children at home with their parents. They support and send their children to school and these children regularly visit their parents on school holidays. The shortcomings of paying less attention to the impact of the immigration policy are particularly apparent with regard to migrant parents and their children whose occasional opportunity for reunion has been curtailed, and their economic motive of migrating severely threatened.

The chapter also discussed the responses by migrant parents to the new policy challenges. The chapter presented the policy changes as a major impediment to the migrant parents' migration intentions since it presented an added layer of challenges in negotiations at the border. The parents simply fell back on existing networks with omalayisha and created new ones to facilitate the continued visit of their children. The chapter presented the migrant parents as central to the policy and a part that needs to be considered in immigration policy-making. In a context where the border is porous, migrant parents exposed the gaps in the policy by deploying their agency so that the movement of their children is not affected by policy changes.

CHAPTER SIX

DISCUSSION AND CONCLUSION

6.1 Introduction

The debates on the immigration policy changes made to the cross-border movement of children focus broadly on economic effects and, in particular, the reforms were blamed for the decline in tourism that subsequently started to affect the country's fiscus. Using a case study of Zimbabwean migrant parents in South Africa, my contention was that the effects of the policy changes extend beyond economics into the social sphere, affecting both local citizens and the growing migrant population already in the country. Migrants are more affected because of their specific circumstances, which have led to divided families. Therefore, any debates around the amended immigration policy should incorporate the migrant population in South Africa, as migrants are likely to be permanently separated from the children they left behind in their countries when they escaped economic, social, and political upheavals.

This departure led to one central objective – understanding the effects of policy change on migrant parents already living and working in South Africa, specifically looking at how they responded to the policy changes. Thus, the study explored four themes: policy reforms were necessary, the new policy presents an added layer of challenges for migrant parents when it comes to negotiation at the border, and that this has led migrant parents to seek out alternative means to negotiate the border. This conclusion aims to pull these themes together in a discussion, and to discuss the policy implications arising from the study.

6.2 Discussion

South Africa is a migrant-receiving country. It drew migrant labour from neighbouring countries to work on fixed contracts in the mines since the 1860's with the discovery of diamonds in Kimberley and gold in Witwatersrand. Secondly, illegal migrations have occurred alongside contract legal migration despite tough migration policies. Thirdly, the country has also received refugees from countries affected by war and civil unrest. The country's borders have remained

porous and smuggling of both goods and people take place across the border, which has resulted in immigration headaches for the government. The immigration policy amendments to cross-border movements were made on the back of these events. This section provides a discussion of key issues raised in the study.

6.2.1 The policy reforms were necessary for South Africa

As discussed, the immigration policy change for South Africa was a response to incidents of child trafficking across the country's borders that were reported in the mainstream media. As a signatory to international treaties relating to human rights, including the Convention of the Rights of the Child and the UN Protocol Against Trafficking in Persons, South Africa had an obligation to align its policies. Therefore, the policy, which started as a pilot enforced at the Beitbridge Border Post, became law, resulting in a drastic change in how the borders are managed.

6.2.1.1 Incidents of child trafficking

As discussed in Chapter Four, the DHA saw one possible reason of implementing the policy to be South Africa's recorded growing incidents of child trafficking since 2004. The government may have acted on unconfirmed reports that 30 000 minors were being trafficked every year in South Africa. The media also reported on popular incidents of child trafficking, including that of two siblings who were abducted from Mpumalanga and taken to Malawi.

Strong reasons to implement the policy include South Africa being named a hub and destination for human trafficking and the increasing number of child trafficking incidents. As victims of trafficking, children are often used in prostitution or forced labour. South Africa already had these existing records of child trafficking dating back to 2004 and the problem had since been persisting with no solutions being put in place until at such at such a time the incidents were increasing and evident through media reports.

6.2.1.2 South Africa's international commitments

UNICEF's global effort to combat child trafficking focuses on building a protective environment for children through government's commitment to child protection. These commitments are

binding to signatory countries. As a signatory to international treaties, particularly the Convention of the Rights of the Child, the UN Convention Against Transnational Organised Crime of 2000, as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Protocol, South Africa has an obligation to align its policies to these commitments.

6.2.1.3 South Africa as anti-immigration

The policy reforms may also be linked to South Africa's challenges with immigration. South Africa has been labelled as an anti-migration state. This has often been demonstrated in its handling of the immigration question, and behavior towards migrants, who are often labelled and loathed. This was particularly displayed towards Zimbabweans who at some point had stringent visa requirements imposed on them whilst other nations had no restrictions but were then relaxed in 2009. Crush and McDonald (2001) have observed that the country has shown "little appetite for immigration" and state officials have shown "minimal support for immigration".

As discussed in the literature review, foreigners, whether legal or illegal, are regarded as a threat to the economy, job sector, housing, and security of South Africans (Maharaj, 2004; Tevera & Zinyama, 2002). Immigrants are seen to be taking jobs away from South Africans and adding to the increase in the unemployment rate in the country because they accept low wages.

6.2.2 An added layer of challenges for negotiating the border

The new policy did not take into account the broader implications on the migrants already in the country. Most of the migrants with children in Zimbabwe relied on their children coming to visit them during the school holidays as some of them did not reside in South Africa legally and were thus not able to travel flexibly. For those without legal papers, as evidenced in the interviews, it is very difficult to obtain an affidavit at a police station. Furthermore, most migrants are scared of going to police stations, as they would be required to produce valid identity documents that can, in turn, expose their illegal status. Before the policy was introduced, it was easy for the migrants' children to cross the border, sometimes even unaccompanied. However, the policy as outlined requires all minors to be accompanied with the requisite documentation. This presents various difficulties for the migrant parents. Some of the participants interviewed indicated that

they had lost contact with the fathers of their children and therefore could not easily acquire the required parental consent for their children to travel across the border. Other migrant parents did not have an unabridged birth certificate for their children, yet another requirement listed in the policy. It is therefore no surprise that the media reported, as stated in Chapter Four, that scores of children have been smuggled into South Africa from Zimbabwe. The new immigration policy created a barrier for access to the border. These difficulties have led to an increase in illegal entry into South Africa, in particular child smuggling using *omalayisha* and buses.

It made the legal cross-border movement of children difficult and cumbersome, and increased the risks for children that had to be smuggled into and out of South Africa on a regular basis. The children whom the policy was meant to protect became victims, together with their migrant parents. The policy changes reinforced the clandestine cross-border movement or smuggling of children, and compromised the safety and security of these children.

6.2.3 Renegotiating the border

The policy reforms closed the door to legal cross-border contact between migrant parents and their children. This analysis has demonstrated the difficulties of legal cross-border movement by children, forcing migrant parents to resort to alternative means of negotiating the border. They fell back on social networks such as *omalayisha* that have been key in negotiating the challenges of being foreign and created new ones with cross-border bus crews. Chapter Five showed that *omalayisha* have been central in moving remittances and people across the border and the women interviewed had all used *omalayisha* to send remittances home. The new policy created a role for these cross-border transporters as a link between migrant parents and their rural home and children, smuggling them across the border at a price. As Thebe (2011) has shown elsewhere, these agents can move anything across the border with little difficulty. However, this is done at the risk of the children who are sometimes smuggled through undesignated points.

Continued contact with their children was made particularly easy for the migrants by the range of contractual terms available to the migrant parents for moving their children across the border. While they paid as much as R2 000 per child, they considered *omalayisha* a more reliable means of having contact with their children because of their negotiating skills. Through the activities of *omalayisha*, parents maintain contact and constant visitation of their children. The policy

therefore failed in its objective to curb the illegal cross-border movement involving children, which was already a common phenomenon between Zimbabwe and South Africa. As has become apparent, children cross the border as and if the parents wish, depending on the transaction of money – whether pre-paid, paid cash, or paid upon delivery.

6.3 Conclusion

This study identified inconsistencies between South Africa's immigration policy reforms to the cross-border movement of children, and the post-apartheid migration realities. While concerns within South Africa have been focused on the negative impacts of the policy amendments on tourism and returns from the tourism industry, this study has drawn attention to impacts that extend far beyond the country's fiscus, and brought into question how South Africa understands realities of migration in the post-apartheid era. South Africa's migration question is complex, and as the analysis has shown, the profiles of migrants are complex. Migrants migration intentions have changed from circular to semi-permanent or permanent (Crush *et al.*, 2015). As the study has shown, migrants are not necessarily always illegal, although their status may create difficulties for free cross-border movements. The study's portrayal of the migrant parents as labour migrants who are not necessarily illegal leads to the conclusion that their presence in South Africa has been recognised, making us see them as having a stake in the policy.

From this perspective, the real victims of the policy reforms were the children it was meant to protect. Some migrant parents, with legal status in South Africa, left children in Zimbabwe and have limited opportunities to visit home. They previously used the window of opportunity offered by school holidays for the children to visit them in South Africa. These opportunities were severely compromised by the policy amendments, and the opportunities for legal contact between parents and children were severely impacted.

The new regulations made the legal cross-border movement of children difficult and cumbersome, and increased the risks to the children as migrant parents sought alternative ways of negotiating the border. As such, the policy changes reinforced the clandestine cross-border movement, or smuggling of children, and compromised the safety and security of these children as migrant parents fell back on past relationships with cross-border transporters, who also act as

people smugglers, to ensure that visitations continued. This dissertation has highlighted the role of cross-border transporters, or omalayisha, in linking migrant parents and their rural home and children, and how the relationships between the parents and these agents have developed and become key in the movement of children in the post-policy amendment period.

6.4 Policy Implications

This study has identified and analysed the social implications of South Africa's immigration policy changes to the cross-border movement of children. It has raised critical policy questions that are pertinent to South Africa's migration realities. This section looks at the specific policy lessons arising from the study, and considers what may have been done differently.

6.4.1 The need to take into account changing migration realities

The immigration policy changes affected the cross-border movement of children, whether into or out of South Africa. The new law required children crossing the border with or without parents to possess additional documents other than their travelling documents. In contemporary South Africa where the phenomenon of single motherhood is dominant, some of the documents are difficult to access, rendering the legal cross-border movement of children unattainable.

On its part, the DHA misunderstood prevailing realities in contemporary South Africa and the implications of such failure. While the department has a duty to protect children, the new requirements created difficulties that some parents could not satisfy. In an era where single motherhood is dominant in society, it has meant that women would struggle to take children out of the country. In the context of migrants, the majority of whom left children in their home country and whose migration status in South Africa is unclear, contact with their children became increasingly difficult. Certain dynamics in contemporary migration create difficulties for migrants to visit their countries of origin regularly, and depend mainly on children paying visits to them in South Africa.

The analysis in this study has revealed that some migrant parents are on the asylum system and left children home with relatives. As such, their status does not allow them to visit their country of origin. The new law, therefore, separates them permanently from these children if their

children cannot visit them. The analysis also showed that a majority of migrant mothers have lost contact with the father of the children and, as such, cannot satisfy the condition for both parents to provide an affidavit. If the DHA recognised immigration and understood migration realities in contemporary South Africa, things might have been done differently.

6.4.2 The need for consultation and involvement of other stakeholders

Results from this study have shown that immigration stakeholders and beneficiaries are not extensively involved in discussions and formulation process of immigration policies. Their involvement is limited and instead it seems the DHA's decisions are based or heavily reliant on political and state influence as well as the media. It is recommended that the DHA should develop strategies that increase the effectiveness and inclusiveness of stakeholder participation and engagement processes, especially during the initial stages of gathering information. This will enable stakeholders dealing with migration and children to contribute and to be involved in making final decisions concerning the policies. The study has shown that there are key civil society organisations working directly with migrant families and their contribution can be crucial. Furthermore, the South African Human Rights Commission should also prioritise and ensure that it monitors and investigates any human rights violations that occur in order to provide advice to the DHA on how best to address these issues.

6.4.3 Finding a solution to the porous borders

While the policy changes were well intended, the results of this study point to certain areas that must be attended to before any successful policy can be implemented to curb smuggling and trafficking. Migration scholarship has often pointed to South Africa's porous borders and the challenges this poses for any policy on immigration. Without paying attention to the porous borders, any immigration policy will fail to achieve its objectives. The study has shown how Zimbabwean migrant parents are able to exploit the porous borders in order to continue receiving visits from their children.

The study also showed that these parents have always managed to negotiate the border when travelling home or back into South Africa and sending remittances to Zimbabwe. The chief agents they used in their attempt to negotiate the border were omalayisha who used their

networks at the border or outside to overcome border obstacles. It is of interest that these same agents played prominent roles in renegotiating the border when it became inaccessible following the policy reforms. Without addressing the issue of porous borders, people will always exploit this loophole and render any policy ineffective.

6.4.4 Social protection

South Africa signed international treaties and conventions that protect children from being trafficked as mentioned in Chapter Four. There is growing support in academic literature and development discourse that, in order to develop effective, efficient, context-specific and gender-based policy responses to the problem of migration and children, it is necessary to develop a framework directly linking migration and social protection. Social protection policies must be geared towards protecting and providing services to children. They should also include protecting children from exploitation and abuse.

The government is responsible for the formulation and monitoring of policies related to child protection. Through the Department of Social Development, the government provides institutional care to vulnerable children. Results from this study have shown that children's lives are being put at risk and their safety is being compromised more by the new policy. Instead of protecting the children as per the treaties, there has been an increase in the smuggling of children into and out of South Africa. It is recommended that the DHA collaborate with other government departments like the Department Of Social Development and other stakeholders when amending such policies, especially those that affect the vulnerable, so that key areas are attended to.

6.4.5 Relaxing the requirements

The recent statement made by the then-DHA Minister, Malusi Gigaba, on relaxing the requirements that will allow children to enter the country without having to present a birth certificate, is definitely welcome and points to how the implementation of the new policy could have affected various issues. Relaxing the requirements might ease some of the challenges faced by migrant parents.

In his words, Minister Gigaba said, “Our immigration officials will only insist on documentation by exception in high-risk situations, rather than for all travelers, in line with practice by several other countries.” He added, “Rather than denying entry where documentation is absent, travelers will be given an opportunity to prove parental consent. South African minors will still be required to prove parental consent when leaving our borders” (Times Live, 2018). Essentially, he said that not every person would be asked for these documents, only in high-risk situations. One could conclude that this statement shows how the DHA was not entirely thorough when it adopted the policy. Although it has not been passed yet, this statement is a good move in order to make travelling to South Africa easier.

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APPENDICES

Appendix 1: Consent Form for Migrant Parents



UNIVERSITEIT VAN PRETORIA
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CONSENT FORM

Title of Project: Balancing Policy and Needs of Target Groups: The Unintended Effects of South Africa's Regulations on the Cross-border Movement of Children and Impact on Migrant Parents

Name of Researcher: Pamela Maombera

Level of study: Masters

Please initial all boxes

1. I confirm that I have read and understood the introductory letter and information sheet for the above study. I have had the opportunity to consider the information, ask questions, and have had these answered satisfactorily.

2. I understand that my participation is voluntary and that I am free to withdraw at any time without giving any reason, without my legal rights being affected or any relationships affected.

3. I understand that I may stop participating at any time and my decision not to participate will not influence other participants or relationship with the researcher

- 4. I understand that my identity will not be revealed to anyone, and that pseudonyms will be used as a form of identification.
- 5. I understand that I am voluntarily participating without expecting any benefits
- 6. I understand that the information obtained during the study will be treated with confidentiality and will not be revealed to any unauthorised person. I agree to take part in the above study

Name of Participant Date Signature

Name of Person Date Signature
taking consent

Appendix 2: Consent Form for Key Informants



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

University of Pretoria

Department of Anthropology and
Archaeology

Faculty of Humanities

Pretoria 0002, City of Tshwane, South
Africa

Tel. +27 12 4204661, Fax +27 86 542 9204

CONSENT FORM (KEY INFORMANTS)

Title of Project: Balancing Policy and Needs of Target Groups: The Unintended Effects of South Africa's Regulations on the Cross-border Movement of Children and Impact on Migrant Parents

Name of Researcher: Pamela Maombera

Level of study: Masters

Please initial all boxes

1. I confirm that I have read and understood the introductory letter and information sheet for the above study. I have had the opportunity to consider the information, ask questions, and have had these answered satisfactorily.
2. I understand that my participation is voluntary and that I am free to withdraw at any time without giving any reason, without my legal rights being affected or any relationships affected.

- 3. I understand that I may stop participating at any time and my decision not to participate will not influence other participants or relationship with the researcher
- 4. I understand that information obtained during the study is going to be treated with confidentiality, and will not be revealed to any unauthorised person.
- 5. I understand that I am voluntarily participating without expecting any benefits
- 6. I agree to have my name and title used as a form of identification
- 7. I agree to take part in the above study.

Name of Participant Date Signature

Name of Person Date Signature

taking consent

Appendix 3: Interview Schedule



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9204**

INTERVIEW SCHEDULE

1. Opening

- Introduce myself to the research participants
- Thank the interviewee for agreeing to participate in the study
- Inform the participant of the title of the study and its objectives
- State benefits of the study or information obtained
- Outline the interview timeframe
- Outline the use of the results of the research
- Explain ethical issues

2. Body

<u>THEMES</u>	<u>SUB-THEMES</u>
2.1 Personal information	<ul style="list-style-type: none"> • Background • Work information • Legal status in South Africa • Frequency of home visits • Number of children and their whereabouts • How often do they meet children and how to they meet them
2.2 Knowledge and understanding of regulations on children	<ul style="list-style-type: none"> • How much they know about new regulations • Effects of new regulations on them uniting with children • Responses to the new policy and how effective their responses are • Risks involved
2.3 Moving children into and out of South Africa	<ul style="list-style-type: none"> • Mode of transportation? • Payments and settlements arrangements? • Documentation and contract arrangements with transporter? • Choosing and trusting a transporter with safety of children? • Risks involved? • Relationship between parents and transporter/children and transporter?

	<ul style="list-style-type: none"> • Any incidents they remember?
2.4 Choices	<ul style="list-style-type: none"> • Alternative ways of reuniting with children? • Making a risky choice? • To stop or to continue? • Perception of a better policy alternative?

3. Closing

Summarise:

- Appreciate the respondents for participating in the study
- Inform the participant that it has been a pleasure finding out more from them.
- Briefly summarise the information that you have gathered from the interview

Maintain Rapport:

- Appreciate the time they took for this interview
- Ask if there is anyone else they would recommend to interview

Action to be taken:

- The researcher informs the participant that she has gathered the information that she needs for now. Ask for permission to call them at home if she has more questions
- Inform the participant that there would be communication to give feedback and any follow up

Appendix 4: Research Study Information Sheet



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RESEARCH STUDY INFORMATION SHEET

Good day,

My name is Pamela Maombera and I am a Masters student in the Department of Anthropology and Archaeology at the University of Pretoria. I am carrying out/undertaking research on the unintended effects of South Africa's regulations on the cross-border movement of children on children and the impact on the migrant parents in the Gauteng Province.

I would like to invite you to participate in this project. I have specifically chosen you to participate in this study because I myself am an immigrant from Zimbabwe and have been affected by implementation of the policy and have seen and heard what my fellow countrymen are experiencing are going through with efforts to see their children. You also have experience and information which will greatly assist in this study. If you agree

to take part, each interview will take about an hour, and if need be, there will be follow up interviews depending on your availability.

I am undertaking this study/project because I hope it will provide useful information to identify gaps in the policy and come up with recommendations. Records from your participation will be kept confidential will be stored in all published and written data from the study.

The objectives of my study are mainly to assess the amended regulation on the cross-border movement of children into and out of South Africa in relation to South Africa's migration crisis. Secondly, I want to investigate the policy implications or effects on migrant parents and their children in sending countries. Lastly, I want to provide an analysis of migrant parents' responses to the threats imposed by the policy amendments.

If you consent to participate, please kindly sign the consent form and thereafter we will agree on the time that we will meet which is convenient for you and at a place that is appropriate for you. There will be one interview and possibly follow up interviews if the need arises. When I have completed the study, I will produce a summary of the findings which I will be more than happy to send you if you are interested.

Participation in this study is purely voluntary. You are not obliged or coerced to participate if you are not comfortable. If you choose not to participate, I assure you there will be no problem and you can withdraw at any time. Even if you agree now and decide to withdraw later, you are free to do so.

If you agree to take part, I will not be recording our interviews and when noting my records, I will make use of pseudonyms (a fictitious or false name). Your responses to the questions will solely be used for the purposes of this project. You can be assured that if you take part in the project, you will remain anonymous. All the other records and information you provide will be kept confidential and may only be reviewed by the University.

Please note that there are no risks foreseen in this study. It could be that you are not comfortable discussing how your children travel to come and see you, but I guarantee you confidentiality. In some instances it might become emotional for you in during the interview, if that is the case, we can pause the interview for that moment.

There are no benefits to participating in this study. However, your responses will assist the Department of Home Affairs and the government in taking into consideration important factors when developing policies.

The study has been approved by the University department and is awaiting approval by the Ethics Committee. If you have any questions concerning the ethical aspects, or if you feel that I am subjecting you to uncomfortable conditions, do not hesitate to contact the Department on the above number or my Supervisor on the number below.

For further information concerning the study, clarity, or progress on the study you can communicate with me.

Researcher:

Email Address: pmaombera@gmail.com

Cell phone Number: 076 963 5889

Supervisor:

Name: Dr Vusi Thebe

Telephone Number: 012 4204661

Thanking you in advance

Pamela Maombera

PLAGIARISM DECLARATION

1. I know that plagiarism is wrong. Plagiarism is to use another's work and pretend that it is one's own.

2. I have used the convention for citation and referencing. Each contribution to, and quotation in, this essay/report/project/..... from the work(s) of other people has been attributed, and has been cited and referenced.

3. This essay/report/project/..... is my own work.

4. I have not allowed, and will not allow, anyone to copy my work with the intention of passing it off as his or her own work.

Signature _____