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**THE MANAGEMENT OF MIGRATION AT SOUTH AFRICA'S PORTS OF ENTRY: AN  
ANALYSIS OF THE POST-1994 TRADE-IMMIGRATION POLICY NEXUS**

By

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I dedicate this thesis to my wife and children as we are people constantly on the move due to my career, which has enriched us through interminable learning from God's most treasured creation, the people, from all around the world.

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## DECLARATION

I, **Lwandiso Arthur Mpepho**, declare that this thesis on International Migration, titled, “*The management of migration at South Africa’s ports of entry: an analysis of the post-1994 trade-immigration policy nexus*”, is a result of my own single-handed endeavours, and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references. The thesis is being submitted for the degree of Doctor of Philosophy in the Department of Political Sciences at the University of Pretoria, South Africa. It has not previously been submitted for any degree or examination at this or any other university.

Full name

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Pretoria, June 2021

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## **ABSTRACT**

International migration is one of the key features of globalisation and a critical part of the international agenda on development. Globalisation processes have induced a kind of thinking that challenges nations to be involved in intellectual discourses on how best to manage relations, and to cooperate to address common human challenges. One of these challenges is the management of international migration. This study examines the nexus between South Africa's immigration and trade policies post 1994. The study seeks to demystify the artificial dichotomy between trade and immigration policies, and it examines the link between the two, insofar as these relate to the management of international migration in South Africa.

International migration is viewed differently by different people in different places, who may be at different levels of socio-economic development. Some people view international migration as a security and risk issue that should be prevented and controlled, using all available resources. Others view international migration as a development issue that ought to be understood and interpreted from the prism of human progress. The differences are manifested through the legislative and policy frameworks which are developed, adopted and implemented by governments. This study takes a position that posits that trade and immigration policies are the cardinal instruments that can be used to regulate the movements of people, goods and services across national borders. Thus, these policies ought to be examined and understood together, as these are joined by an unbreakable umbilical cord that connects people across national frontiers.

The mixed methods approach has been utilised to collect data. The findings of the study affirm that trade and immigration policies are indeed interlinked, although this is not equally recognised and fully appreciated by the two departments selected for the study. The study asserts that even when in the formulation of the respective policies, some form of consultations are conducted; however, these do not necessarily translate to tangible cooperation in practice and policy alignment at strategic level. In order to develop more appropriate policy interventions and responses to address the management of international migration in South Africa, a paradigm shift is required from viewing migration as a security issue to also addressing it as a crucial developmental question.

## **LIST OF ACRONYMS**

ACMPD - African Common Position on Migration and Development

AU - African Union

BRICS - Brazil, Russia, India, China and South Africa

CARICOM - Caribbean Community

DHA - Department of Home Affairs

DTIC - Department of Trade, Industry and Competition

EAC - East African Community

ECOWAS - Economic Community of West African States

EPA - Economic Partnership Agreements

EU - European Union

GATS - General Agreement on Trade in Services

GATT - General Agreement on Trade and Tariffs

ICBT - Informal Cross-Border Trade

ICMPD - International Centre for Migration Policy Development

ILO - International Labour Organisation

IMN - International Migration Network

IOM - International Organisation for Migration

ITN - International-Trade Network

MPFA - Migration Policy Framework for Africa

NAFTA - North American Free Trade Agreement

NROMP - New International Regime for Orderly Movements of People

OECD - Organisation for Economic Cooperation and Development

OSCE - Organisation for Security and Cooperation in Europe

REC - Regional Economic Communities

SADC - Southern African Development Community

SDGs - Sustainable Development Goals

UN - United Nations

UNFPA - United Nations Population Fund

UNGA - United Nations General Assembly

USSP - Union for Scientific Study of Population

WTO - World Trade Organisation

## **CHAPTER ONE: INTRODUCTION TO THE STUDY**

### **1.1 Introduction**

The movement of people within and between country borders has long been a subject of research in political science. Terms such as migrants, immigrants, refugees, asylum-seekers all refer to the movement of people, though these refer to different aspects of this phenomenon. Combined, all these different aspects of the movement of people are referred to as migration. When people move from their country of origin, that is generally considered as emigration; that is, to leave a country of origin to stay in another country. Immigration, on the other hand, generally refers to inward movement from another country. In both cases, these people are considered as migrants.

In the context of globalisation, beginning in the late 20<sup>th</sup> century, where people, goods, and services had moved around the globe at a rapid rate, the term human mobility has come to refer to the more or less constant swirl of people moving in multiple directions. There are many forms of human mobility or movements of people, as has been mentioned above. However, this study focuses on the management of the movements motivated by economic imperatives of trade and investment. The study is concerned with the management of the movements, at the ports of entry, of people with high skills, entrepreneurs with capital to invest, high level retailers and manufacturing companies, merchant bankers and traders, rather than those that conduct “informal” or less formal cross-border trade.

The study argues that the movement of the categories of the people mentioned above is regulated by immigration and trade policies. The study explores what immigration regimes are implemented to manage such movements. It is observed that there is a lack of combined or mixed scholarly research on what the immigration policy and regimes promote in terms of trade. Therefore, this study distinguishes itself from the previous studies by undertaking a simultaneous and joint analysis of the trade and

immigration policies, aiming at demonstrating that these policies are inseparably linked, and are better understood when they are formulated, implemented, analysed and evaluated jointly, to improve their efficiency and effectiveness.

## **1.2 Research problem statement**

International migration takes place in a global context, wherein goods and services are being traded more freely across borders, and “more and more people are looking to live and work overseas” (Keeley 2009: 31). Some studies have found that freedom of movement for the people is not necessarily increasing along with the free movement of goods, capital and services. However, regional economic zones or communities such as the European Union, Caribbean Community (CARICOM), North American Free Trade Agreement (NAFTA), East African Community (EAC), Southern African Development Community (SADC), have all recognised the increasing role migration plays as a component of globalisation.

What is worth underscoring is the reality that the recognised role of migration on globalisation is not generic and universal, but rather a managed and restricted process which tends to benefit certain categories of people, such as traders, investors, intra-company transferees, business visitors and a myriad other professional. Another important point to note is that this movement is for a specific purpose and benefit for the people concerned, and for the countries involved in the movements, which is business development, economic cooperation; and, in some instances, integration. The success of this process bodes well for economic development; which, in turn, is measured by, inter alia, increased employment opportunities at national level, production of high quality and value-added products which are traded across national borders, as well as the expansion and foreign representation of large firms, to mention just a few.

The increasing movement of goods, capital and services is viewed by some people as “the necessary complementarity between movements of persons and flows of capital and goods or, conversely, as an alternative to the international movement of workers. In the first case, globalisation would lead to the growth and diversification of

migration flows, while in the second, it would result in the movements of goods and capital substituting migration, with the result that free trade would lessen the need for regional or international migration” (Delaunay & Tapinos 2000: 36). The main manifestation of the free movement of people is the rise in international mobility for work. The mobile human resources are seen as “critical resources for development whether as a factor of production in receiving states or in state of origin as a source of skills acquisition, investment and foreign exchange earnings through remittance” (IOM *et al* 2004: 3).

Individual countries, such as South Africa, due to their economic and political influence, play a critical role in the governance of globalisation processes related to the management of the movements of goods, capital, services and people. States play a key role in managing international migration, because they design enforceable laws and policies. However, international migration “has become an archetypical example of a global issue that is still largely governed at a national level (Koser 2010: 302). At the global level, international frameworks such as the General Agreement on Trade in Services (GATS) Mode 4, provide broad policy parameters within which signatory states ought to design their trade policies, taking international migration into account. At continental level, agreements such as the Abuja Treaty’s Article 6(e), the Migration Policy Framework for Africa (MPFA) and the African Common Position on Migration and Development (ACMPD) all serve as reference policy documents to aid the formulation of national trade and migration policies.

At regional level, the SADC Protocol on Trade in Services and, though not yet in force, the Protocol on the Facilitation of the Free Movement of Persons, provide guidance to member states on how they ought to manage international migration. At the national or domestic level, the migration and trade policies are formulated, implemented and evaluated in isolation from each other. But, at international level, the available literature suggests that the linkage between trade and migration policies is observable in the texts and analysis of the instruments referred to in the preceding paragraph, and closest to home, it is reflected in bilateral agreements such as the means with which to facilitate trade liberalisation; and not specifically focused to manage

international migration (Koser 2010: 307 & 312; Nshimbi & Fioramonti 2014: 60; Landau & Segatti 2011: 23). The study examines the two interlinked questions of, migration (in particular) and trade policy regimes which are implemented by the government of South Africa post 1994, favour foreign traders. The second question is why these categories are favoured by such policy regimes?

### **1.3 The aim of the study**

The study aims to critically analyse the nature of the relationship between South Africa's trade and immigration policies, in relation to the movement of people. Findings of the study will highlight the degree of the alignment of the two policies, or lack thereof.

### **1.4 Research question**

The primary research question of the study is: what is the relationship between South Africa's trade and immigration policies and the management of international migration at its ports of entry. Put differently, the primary research question of the study is: what are the immigration policy provisions regulating the movements of foreign nationals entering or exiting South African borders as traders, to the overall management of international migration at South Africa's ports of entry?

#### **Sub-foci questions**

- (i) What are the categories of migrants targeted in the formulation and implementation of South Africa's trade policy, and why?
- (ii) What are the trade policy provisions that are linked to immigration policy, in relation to the management of international migration at South Africa's ports of entry?
- (iii) What are the provisions of the immigration policy that are linked to the trade policy, in relation to the management of international migration at South Africa's ports of entry?
- (iv) How do trade and immigration policies and their mechanisms govern the movements of traders at South Africa's ports of entry?

- (v) Why trade and immigration policies often formulated and implemented separately?
- (vi) And, when, if it all, do trade and immigration authorities engage each other on policy issues related to the management of international migration?

## **1.5 Objectives**

In academic research, the objectives of a scientific study entail two elements, namely; the units of analysis that are a focus of investigation; which are normally divided into four categories of individuals, groups, organisations and social phenomena. The second element is the variables, which are the features of the objectives that are supposed or expected to be observed (Durrheim 2014: 41-42). The unit of analysis of the current study is organisations. Variables are “concepts that can take two or more values” (Durrheim 2014: 42). In this study, the independent variables are the trade and immigration policies, and the dependent variable is migration management.

The main objective of this study is to examine the provisions of trade and immigration policies that are aimed at contributing to the management of international migration at South Africa’s ports of entry.

The study also seeks to achieve these secondary objectives, namely;

- (i) To critically analyse and interpret sections/chapters of South Africa’s trade policy which have particular implications on the regulations of immigration;
- (ii) To critically analyse and interpret sections or chapters of South Africa’s immigration policy which have particular implications on trade policy, especially with regard to regulating the movement of people into the country for trade-related purposes;
- (iii) To examine whether or not there is a deliberate attempt on the part of the policy-makers to link trade and immigration policies with the objective to regulate international migration in South Africa;



(iv) To examine the nature of the relationship between trade and immigration authorities, and how these entities relate to each other, insofar as management of international migration is concerned.

## **1.6 Motivation for the study**

In the late nineteenth century, through to the twentieth and twenty first centuries, the management of international migration had increasingly been a subject of academic enquiry. The available literature demonstrates that migration has been largely induced by factors such as growing industrialisation in the different parts of the world, which contributed to the emergence of new and varied economic opportunities; while the outbreak of natural disasters also causes people to migrate. Social challenges, such as civil wars, poverty, famine, climate change are also contributory factors to migration. For the most part, the academic research on migration management had focused on issues such as migrant labour, as well as social challenges such as political conflicts, natural disasters and poverty.

In the twentieth century through to the current era, academic research has increasingly interrogated economic aspects of migration, such as the movement of people in search of better living conditions and employment that offers improved remuneration than at home, and the selling of goods and services beyond national borders, etc. The emergence and increased development of international protocols on the regulation of migration have also contributed to the increased academic interest on the phenomenon. The establishment of global, continental and regional organisations dealing with an ever-broadening scope of issues and agenda, including the management of migration, has also contributed to the development of academic disciplines that have increasingly focused on migration management and governance. The latter is also referred to as the global governance system.

The dawn of democracy in South Africa in 1994 has enabled the country to, not only deal with internal and domestic aspects of migration, but also its international variant. International migration has long been a subject of debates and academic research in

South Africa, owing to the country's long history of labour migration and cross border trade. Furthermore, in some of the related literature, South Africa has been classified as being among the countries that are of origin, transit and destination for migrants. As the most economically-advanced and diverse country in the region and continent, South Africa offers a wide scope for academic research into the question of migration management, as it serves both as a source of goods and service for some countries, and as a transit route for landlocked countries in the conduct of their international trade and business.

It is against the foregoing background that the study seeks to investigate South Africa's management of international migration through the lens of the nexus between trade and immigration policies. The interconnectedness of South Africa both physically through the land borders she shares with her neighbouring countries, as well as the country's diverse international trade relations, stimulated an interest in the topic of this study. Of particular interest, is the study of the relationship between trade and immigration policies, and how each deal with the question of migration management, taking into account the global environment and context within which regional and continental organisations advocate and advance the opening of borders to enable free movement of goods, services and people.

### **1.7 Delimitation of the study**

The focus of the study is on two public policies in South Africa, namely trade and immigration, which both have historical roots at the inception of the concept of the nation-state. Due to scientific considerations on matters such as context, reliability, credibility and accuracy of data collection, the study only focuses on the post 1994 period, which witnessed the dawn of a new political order in the country.

In the 1990s, the Europeans dominated immigration to a South Africa that had disintegrated with the demise of Apartheid, and the country had opened up to nationals from other countries (Morris 2001: 9). The increase in the movement of people across South Africa's ports of entry post 1994, coupled with the increase in the

number of its trading partners, presented a number of costs and benefits for the country. In relation to the costs, the country has had to jerk up its border management capacity and mechanisms, in terms of infrastructure and personnel.

On the benefit side, the country has diversified its trading partners, and more products are traded with the rest of the world. Given this rising and dynamic international migration being seen at South Africa's borders, this study examines the interconnections between trade and immigration policies, as these both serve as mechanisms that have been designed to manage international migration. The study further contributes to the academic literature aimed at bridging the conceptual gulf between trade and immigration.

### **1.8 Limitations of the study**

The main limitation of the study is that it is conducted within a particular political environment of a single country, South Africa. The history and background that underpin the thinking and factors influencing South Africa's public policies are not necessarily transversal. Therefore, the findings of the study may not necessarily have universal application. However, this limitation is mitigated by the fact that public policies are generally widely consulted on, including international experts, before these are promulgated. Furthermore, trade and immigration policies, naturally, have international connotations, and South Africa is a highly influential country on regional and continental integration initiatives. South Africa also plays a key role in advocating for close international cooperation and partnerships in multilateral fora, and this provides the country with an opportunity to infuse in its international policy framework perspectives promoted in the forums in which it participates.

Another limitation of the study is access to classified information owing to legal considerations and concerns of national security. In order to access certain documents, the researcher has endeavoured to comply with the relevant regulations, particularly where written statements on confidentiality were required. Furthermore, this compliance was also aimed at dealing with potential bureaucratic and managerial resistance to grant access to information.

## **1.9 Definition of key concepts**

### **Globalisation**

Globalisation is a highly contested concept. One of the most concise, concrete and clear definitions include the following, which is employed in this study.

Globalisation is “the process of international integration of goods, technology, labour and capital” (Oramah & Dzene 2019:401).

### **Globalisation theory**

The globalisation theory of international relations captures all factors associated with transnationalism, interdependence and interconnectedness (Kauppi & Viotti 2010: 145).

### **Global governance theory**

For the purposes of understanding the context of the discussion in this study, one definition, among many others, was selected as it best defines the global governance phenomenon. “Global governance encompasses the totality of institutions, policies, norms, procedures and initiatives through which states and their citizens try to bring more predictability, stability and order to their responses to transnational challenges” (Committee for Development 2014: vi).

### **International migration**

Scholars in the field of international relations agree that international migration is “the movement of persons away from their place of usual residence and across an international border to a country of which they are not nationals” (IOM 2021).

### **Liberal theory**

Liberal theory is one of the oldest theoretical paradigms in the field of politics and international relations. For the purpose of this study, liberal theory is defined as: “Liberalism is the guiding perspective for migration policies, globally and regionally, as

it is important for states to come up with solutions that will ensure regional integration and cooperation, without diluting sovereignty, national interests and security” (Dithebe & Makhubu 2014:135).

### **Regionalism**

Regionalism is a “political landscape characterised by an expanding cast of actors (state or nonstate) operating in the regional arena and across several dimensions of security, trade, development, environment, identity, and so on” (Söderbaum 2012:13).

### **Research problem**

A research problem is “the issue that exists in the literature, theory, or practice that leads to a need for the study” (Creswell 1994: 50).

### **Primary Research question**

A primary research question is “a more precise and detailed expression of the research problem” (McGaghie et al 2001: 924).

### **Mixed Methods Research**

The mixed method “provides a stronger understanding of the research problem than utilised either by qualitative or quantitative design” (Creswell 2014: 215). Also, the mixed method “involves the collection of both qualitative (open-ended) and quantitative (closed-ended) data. It includes the analysis of both forms of data. The two forms of data are integrated in the design analysis” (Onwuegbuzie & Turner (2007) in Creswell 2014: 217).

### **Policy research**

The common definition of policy research is that it refers to “a process that attempts to support and persuade the various actors by providing them with well-reasoned, evidence-based and responsible recommendations for decision-making and action. Policy research involves working with evidence (data, facts and experience) and

meaning (assumptions, theories, opinions and values)". (Majchrzak & Markus 2014:1).

## **1.10 Organisation of the study**

### 1.10.1 Chapter two: Theoretical Framework

The discussion in this chapter is centred on the nexus between trade and immigration policies. The theory of global governance became popularised at the turn of the twentieth century, and gained momentum in the current epoch as an intellectual perspective through which to analyse and understand the increasing number of issues that have international implications, such as migration. Confusion about the practical meaning of global governance has also increased with its popularity.

### 1.10.2 Chapter Three: Literature Review

In this chapter, an in-depth analysis of the 20<sup>th</sup> and 21<sup>st</sup> centuries literature on international human migration, movements or mobility, is critically discussed, with the aim at highlighting the inherent linkages between trade and immigration policies at a global level. Among others, the seminal works of eminent scholars such as Balibar (2002); Coleman (2007); Nevins (2002); Rumford (2008); Vaughan-Williams (2008), on international migration trends, challenges and opportunities on border crossing triggered the underlying interest in this study. The selected literature conjures up arguments that are both pro-and-anti border control, particularly defending and advocating for free human mobility.

### 1.10.3 Chapter Four: Research Methodology

In this chapter, the study presents a discussion and analysis of the mixed methods in this research, which is employed to examine the subject under investigation. The Mixed Methods approach has been selected and implemented in the study,

as this is one of the most preferred and utilised methods which are used to study international migration.

#### 1.10.4 Chapter Five: Presentation of the data findings

In this chapter, attention is given to the presentation of the findings of the research data which is primarily obtained from the questionnaire which would have been completed by the respondents.

#### 1.10.5 Chapter Six: Analysis of the trade and immigration policy-nexus

This chapter brings the two South African policies into a dialogue with each other, specifically highlighting where the two may be interconnecting. The main aim of the chapter is to analyse how the two policies intersect, and distils the nature of the intersection. Additionally, the purpose of this chapter is to promote policy cohesion and coordination for better service delivery to the public.

#### 1.10.6 Chapter Seven: Conclusions and Recommendations

Taking into consideration the outcomes of the analysis in the preceding chapters, the objective of this chapter is to provide advice on areas that may need improvement, and to highlight areas requiring further research and analysis.

### **1.12 Conclusion**

The chapter has introduced the theme of the study, and has also explained the rationale behind the choice of the topic. In this regard, the chapter provided an argument that, owing to the growing interconnectedness of states which increases trade relations and by implication, levels of cross-border migration, trade and immigration policies ought to be studied and understood as being inseparably

intertwined. The main objectives, as well as the key questions of the study, have been presented and discussed in this chapter.

The chapter further provided an outline of the organisation of the study, in order to draw a mental picture of how the research data, information and findings are presented, discussed and analysed. Consequently, the following chapters delve deeper into the discussion on the specific provisions of the trade and immigration policies that cover the management of migration in South Africa. The following chapter, being Chapter Two, is a presentation of the theoretical framework that has been applied to this study to examine how trade and immigration policies help to regulate migration at South Africa's ports of entry.



## CHAPTER TWO: THEORETICAL FRAMEWORK

### 2.1 Introduction

The management of international migration requires cooperation between three groups of countries, namely; those of origin, transit, and destination. South Africa belongs to all three categories because of the country's geographical location on the continent, which position her as a trade route for some countries, whereas she also serves as a producer and supplier of international trade goods and services. The geographical location and the level of economic development of South Africa facilitate, among other things, migrants' movements from their home countries to their target destinations, as the country offers a diverse network of international travel options, trade and shipping routes, as well as access to local and international products for the neighbouring countries.

The UN included migration in the list of seventeen interconnected 2015-2030 SDGs. Undoubtedly, this inclusion has highlighted the significance of migration as a global issue that should be addressed, internationally, through an integrated and comprehensive policy paradigm that takes into account the social and economic perspectives of the phenomenon. Unequivocally, migration is one of the driving forces of the interconnected world, and brings to the fore, attention to matters such as employment creation, economic development, and the facilitation of the movement of people as goods and service providers across national borders. Thus, international cooperation is critical in ensuring that migration and its management takes place in a safe, orderly and dignified manner.

The UN SDG 10 makes provision for the facilitation of "orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies" (UN 2015). As a matter of public interest, nationally and internationally, safe, regular and responsible international migration demands that countries ought to balance in their public policies, issues that take into cognisance the balance of the interests of migrants and those of the countries

of origin and destination. Since migrants contribute to the economies of the countries of destination, through active employment and business activities, their movements have an impact on trade, and also affect the immigration policies of the countries of origin and destination. The call for well managed migration policies is an acknowledgment of the fact that the cross-border movement of people is not a once-off event, but a constant phenomenon that warrants public policy intervention at different levels; that is, nationally, regionally, continentally and globally.

The governance of international migration, owing to the three aspects of origin, transit and destination at cross-border levels, inevitably demands some form of policy standardisation, as well as the related management procedures and processes. At a practical level, international organisations such as the SADC and the AU and its agencies, participate in the formulation and implementation of the strategies which are aimed at exchanging information, knowledge and expertise on the best practices related to the regional and continental management of international migration. The cooperation within and between regional organisations, notwithstanding the inherent challenges, further assists in the development of a common approach on how countries ought to treat the management of international migration. Regional and continental protocols such as the SADC Protocol on the Free Movement of Persons, the AU Migration Policy Framework, demonstrate the interests of countries to address migration as an international issue of common concern.

Some scholars have observed that promoting international migration governance actions at a regional level does not only contribute towards the recognition of the positive contributions of migrants in the economies of destination countries, but that the regional approach also helps to reduce prejudice towards them. International protocols and agreements on cooperation in migration governance also help to promote regular migration as a viable and accessible option, and thus help to discourage irregular migration. The latter further facilitates the social integration of migrants in business environments, work, health and other spheres, thus lending credence to the importance of an international approach to migration management.

At the turn of the twentieth century, the study of global governance had gained momentum. But, on the other hand, confusion about the practical meaning of global governance has also increased with its popularity. Some scholars of global governance have viewed this as a paradigm shift from the state-centric “theorising and research” in the study of international relations, to the inclusion of other non-state actors in global affairs, such as non-governmental organisations, multinational corporations, and civil society organisations, among others. The management of international migration has formed part of the global governance agenda, and its prominence has been vigorously promoted by the International Organisation for Migration (IOM), which started in the 1950s as a provincial organisation in Europe. The IOM’s successes on lobbying governments to adopt migration-friendly policies over the years, has led to its recent integration into the UN system in the twenty-first century.

The IOM has also advocated relentlessly for migration-friendly public policies, and has also lobbied governments across continents to view migration, not only a social challenge, but also as being an opportunity for development for both countries of origin and destination for migrants. The popularisation of the global efforts to manage international migration has inexorably influenced continental and regional intergovernmental engagements. Continental and regional engagements on international migration management have further influenced the relevant institutions to call, advocate and encourage states to harmonise their migration management policies and strategies in line with the global, continental and regional protocols. It is therefore against this background that the study of the management of international migration in South Africa also takes into account the global, continental and regional efforts and contexts which directly influence the national policies.

A number of international relations scholars argue that increasingly, transnational relations transcend the confines of the nation-state. The academic attention given to economic, cultural, social and other social sectors in the study of international affairs

and of global governance, which are interrelated, requires government attention across national borders.

The global governance theory has been instrumental in the conduct of international relations in various ways, and has contributed to the evolution of the study of global governance, which includes the management of international migration. Among others, the growing focus on global governance has helped to study the distinction between governmental and nongovernmental international activities, and the related effects of each on the other. Socio-economic issues such as migration and trade also contribute to the increasing academic interest, including but not restricted to growing cooperation between states in the same region, continent and globally on public policy and other related issues (at least insofar as holding debates and adoption of protocols) such as migration, trade, illegal traffic, security; transnational crimes; development of common norms; and on standards such as regionally-recognised common passports; economic communities and common tariff policies, etc. It must also be stated that, in this study, global governance refers to activities, actions, deliberations, decisions and resolutions of intergovernmental institutions which seek to address a challenge or problem considered to have a global impact.

## **2.2 Management of international migration in a globally connected world**

Literature on the trade-migration nexus clearly demonstrate that there are clear linkages between the two phenomena. Hatzigeorgiou & Lodefalk (2021) provide a thorough literature review of the trade-migration nexus, covering this from a micro (subnational, intra-firm level) to macro level (inter-state trade relations and contribution of migrants). At the practical level, evidence does exist, thus demonstrating a trade-migration nexus. However, theoretically, there is insufficient literature that explains the related relationship of the two. Thus, the global governance theory as it seeks to explain the relations between states at macro level attempts to bridge the theoretical gulf in the trade-migration nexus, by taking into consideration the related activities at a micro level, such as the intra-firm movements of people, migrants' networks, etc.

In the 20<sup>th</sup> century, “emigration restrictions and immigration barriers were in their infancy. It was still a world with neither passports nor visa requirements” (Ebeling 1993:66; Samaddar 2015: 49; 51; McMahon 2017:42). But, with increasing global connectivity through global multilateral organisations, increased air transport services, expanded options of cruise and merchant ships, availability of across-continent sea freight, growing modes of conducting international trade (e.g., sea, air, online, land borders), global mass media, states have gradually ceded, albeit involuntarily, some of their sovereign control of emigration and immigration.

People move from one country to the other to explore economic opportunities, as well as to experience new things in life, such as cultural expositions, or general tourism. Some international migration scholars have called for the opening of borders; and among these were, Cole (2000); Ypi (2008); Huemer (2010); Wellman and Cole (2011); Carens (2013). Countries in the global South (in other words, developing countries which include South Africa) like those in the North, actively participate and take firm positions in relation to global issues, such as trade and migration. In this regard, formations such as BRICS (Brazil, Russia, India, China and South Africa) are in favour of coalitions in support of trade liberalisation and migration governance through global structures (Pew Research Centre 2014:8; Zürn 2018:143).

The central argument of the open borders advocates, or proponents of global governance of migration, is that human mobility should not only recognise the right to exit one’s country in case of unrest or natural disaster, but that this right should also include the right to enter into any other territory or jurisdiction. The right to exit should, at all material times, be balanced with the right to enter (Ypi 2008: 394). This position is also advanced in Article 5 (2)(d) of the 1992 SADC Treaty, read with Article 17(1) of the 2012 SADC Protocol on Trade in Services, which states that member states shall “develop policies aimed at the progressive elimination of obstacles to the movement of capital and labour, goods and services, and the peoples of the region generally”. Though international migration lacks authoritative government and institutional framework at the global level, some international agreements bind and influence signatory countries when formulating their national policies.

With the exception of the International Labour Organisation (ILO), the lack of the global institutional framework dedicated to comprehensive and coherent international migration management is also attributable to the reluctance of states to cede their right and responsibility to determine who enters, leaves and remains in the country (Koser 2010: 302). The reluctance to form global governance institutions to manage international migration is also based on the belief that such architecture constitutes an “intrusion on sovereignty and national security” (Newland 2010: 332). However, the reluctance is counterproductive, since the states “never had full sovereign control over migration and have lost much of it in the height of globalisation” (Newland 2010: 334). Consequently, “the governance of human mobility has suffered at both national and international levels” (Ghosh 2010: 319).

On 19 September 2016, the United Nations General Assembly (UNGA) had committed itself to the strengthening of global governance of migration. In this regard, the global organisation resolved to bring under its wings the IOM, which operated outside its ambit on migration policy and governance issues. The IOM Member States regard the IOM as the global lead agency on migration, and over time has built “a closer legal and working relationship with the UN as a related organisation” (UNGA 2016: 10). Interestingly, the IOM has accumulated a wealth of knowledge and insights on global migration governance and has also made numerous declarations which were acknowledging that the phenomenon “is neither location nor time restricted” (Larik 2018: 65). Clearly, global migration governance challenges transcend national borders, and has wide ranging ramifications.

The UNGA declaration above clearly demonstrates the need for a global governance institution for the management of migration. It also highlights the growing significance attached to the global management of migration by UN Member States, as well as the declarations and commitments made therein as being steps in the right direction in the quest for peaceful, orderly and legal global management of migration. The current study is best located within the theory of global governance which permeates the key arguments of the globalisation and liberal theories.

The application of the global governance theory at continental, regional and national levels is examined. Newland (2010: 334) argues that “global governance can be either top down or bottom up”. The top-down approach refers to the creation of supranational governance institutions, where governments cede some part of their sovereignty to a structure that “makes rules, constrains actions, monitor compliance and sanctions defiance” (Newland 2010: 334). However, deep differences between and among states about the management of migration make it difficult to implement this top-down approach. The bottom-up approach refers to increased cooperation between states, which in turn informs the negotiation of global agreements on international migration. The bottom-up perspective is informed by the desire to “address the issues and resolving the problems that result from citizens going global from crime to commerce to civic engagement” (Newland 2010: 334).

States tend to formulate migration policies that place a high premium on regulating entry and exit of various groups of migrants. Guided by global, continental and regional organisations, some states put emphasis on the need for cooperation among states, especially origin, transit and destinations countries (Grugel and Piper 2007: 43). The main objective of the policies regulating the entry and exit of migrant workers “is to control the movement of people with a view to maintain labour market flexibility and national security” (Grugel and Piper 2007: 43). This study examines the nexus between the movement of people seeking to do business with South Africa, especially in relation to trade policy provisions.

Towards the end of the twentieth century, there had been a shift from “migration control to migration management” (Doormenik *et al* 2005: 35). This indicates a paradigm shift, as has been reflected in the policies of regional organisations including the European Union. Some policies of regional blocs such as the European Union are primarily concerned with limiting and keeping migration patterns, especially those of immigration from outside the region, to the lowest levels possible. The management of international migration through state policies is, “first and foremost, tied to

immigration policies and only secondarily to labour market, employment and other public policies” (Grugel and Piper 2007: 44).

One example of the other public policies that are linked to the management of international migration is the trade policy. International trade agreements such as the Economic Partnership Agreements, Regional Economic Integration Protocols and bilateral agreements have clauses which are related to human mobility or the movement of people (Grugel and Piper 2007: 55). For an example, the 1992 SADC Treaty makes provision for the “lifting of obstacles, not only to capital and goods circulation, but also to the circulation of people” (Landau and Segatti 2011: 22). South Africa has signed a number of bilateral agreements with her neighbouring countries such as Mozambique, Swaziland, Lesotho, in order to “regulate irregular movements at particular ports of entry, and to facilitate survival trade through cross-border passes” (Landau and Segatti 2011: 23).

International migration and trade are cross-cutting issues in political, economic and social sectors. So, it is important to acknowledge that matters that are considered to be a part of global governance are inherently complex, and are subjected to “rules and regulatory institutions that apply to trans-planetary jurisdictions and constituencies” (Scholte 2011a: 8; Zürn 2018:138). For global governance institutions and rules to be effective, it is important that the exercise of their authority across national borders is consented to through “norms and rules beyond the nation-state, both of them being justified with reference to common goods or transnational problems” (Zürn 2018: 138). The management of international migration is viewed as one of the transnational issues that require norms and rules which are consented to by actors beyond nation-states.

As the phenomena that cuts across national boundaries, international migration and international trade always involve the interplay between national, regional, continental and global regulatory arrangements. Sometimes, if migration and trade patterns involve more than two neighbouring states, all these interplays take place



simultaneously. The theory of global governance “distinguishes itself from more traditional notions of international politics by explicitly pointing to a greater variety of steering mechanisms and spheres of authority, thereby better reflecting the reality of contemporary world politics as we are observing it in many different policy areas” (Dingwerth & Pattberg 2006: 196).

As the study of the interlinkages between two public policy areas, this study presents evidence that states which belong to the same regional organisation or continental body, tend to treat and manage migration differently, based on their national considerations. In relation to trade, regional organisations tend to have a more common approach and a more effective implementation of regional protocols and arrangements. However, migration is treated differently and often with varying policy positions and approaches on how to manage it. The absence of an international government does not necessarily translate into the lack of common norms, practices, rules, and procedures for the management of international migration above the nation-state level.

What is particularly important to highlight, is the changing regulatory capacity of the state and the role of the private networks in the link between migration and trade. The literature review chapter demonstrates the link between the private migrants’ networks and the bilateral trade of their countries of origin and destination. The adoption of the Global Compact for Safe, Orderly, and Regular Migration in 2018 has been regarded as “the first comprehensive framework of principles and objectives to guide international cooperation on migration that has been negotiated and adopted by states” (Newland 2019:1). In the current century, the Global Compact will be the centre of attention in efforts to manage international migration at all levels of national and international politics.

### **2.3 Application of the theory to migration and trade policies**

The management of international migration, despite varying approaches, is largely viewed as a global issue, and thus warrants a global governance architecture. At the outset, and for a better understanding of the context and discussions in this study, it is worth stating that, practically, “global governance encompasses the totality of institutions, policies, norms, procedures and initiatives through which states and their citizens try to bring more predictability, stability and order to their responses to transnational challenges” (Committee for Development 2014: vi).

Migration is viewed through different lenses by different countries. For instance, in the economically advanced countries, the immigration of low-skilled and culturally distinct migrants is considered a problem that should be controlled (IOM 2011:4). In other words, immigration tends to be viewed as a security issue, thus, posing a threat to the jobs of nationals and migrants, who are likely to compete for the public services which are being enjoyed by citizens. The foregoing perspective is largely prevalent in countries that are more economically advanced than others in a particular region, like South Africa in Southern Africa. Some scholars have argued that governments in migrants-receiving states, have responded to the problem by formulating stricter immigration policies and increased border security measures.

In the past two decades or so, international migration has been growing apace, facilitated by, among other developments, commercial revolution, agricultural revolutions, industrial revolution, the emergence of free market societies, modern education, and technological advancement (Wickramasinghe & Wimalaratana 2016: 13). The process of globalisation has further enhanced migration, mainly through revolutionary changes in information technology. Regional and continental economic blocs such as the EU, AU, EAC, Economic Community of West African States (ECOWAS), SADC and many others have, to varying degrees, adopted international protocols that seek to open the national borders in their member countries to international migration, primarily for trade purposes.

In relation to trade policy, Strange (2013) provides an in-depth analysis of the genealogy of global trade governance. The scholar argues that “global trade governance signifies the plurality of distinct meanings” (Strange 2013:27). Some of the contestations on global trade governance are traced back to its predecessor, which is the General Agreement on Trade and Tariffs (GATT), that was established in 1948, and whose aim was to reach consensus on rules and regulations which are related to international trade. However, the challenges which were faced by the GATT and its predecessor initiatives have clearly demonstrated that “trade governance as a policy problem at the global level exceed the identity of the nation-state” (Strange 2013:29). The current study restricts its attention to the current configurations and global trade governance within the context of the globally recognised World Trade Organisation (WTO), which was established in 1995.

Some of the recent developments that are linked to global trade governance processes include the Kimberley Process, which is implemented for the control of the export and sale of “blood diamonds”, the Kyoto Protocol, and efforts to control the use of land mines. The establishment of the WTO, expansion of the reach of the UN agencies and their policies, and the strengthening of the global anti-money laundering regime have all contributed to the advancement of the global system in the management of trade and international migration. These developments have also invariably led to the “contemporary situation in which the establishment of practices of governance is seen as the answer to a host of problems in international politics, from climate change to small arms, and from infectious diseases to global financial turmoil” (Harman et al 2013:3; Rosenau 1995: 13).

Policies dealing with trade and migration are inevitably influenced and shaped by global governance since their implementation “exert externalities” on other states, as has been argued by Woods (2013). In practice, global governance “processes of decentralisation and burden sharing” (Duffield 2014: 44) remain a competency of national governments, hence states still play a critical role in the formulation,

implementation and management of trade and migration policies. Undoubtedly, public policies in areas such as trade and migration affect, not only relations between states, but also individuals and communities. This is, thus, acknowledging that, “global governance is not only about getting states to respond to challenges, but to changes in the behaviour of individuals and communities, whether in regard to their consumption patterns, eating habits or neighbourliness, in a way that addresses common global problems” (Harman et al 2013: 3).

Available literature on global governance of trade and migration indicates that there has been a standing connection between the respective fields as far as their public policies are concerned. To illustrate this point, MacMahon (2017) provides an analysis as it cites other scholars such as Moses (2003), who argue that early attempts at migration governance had been designed to exclude potential migrants entry into another country on economic grounds; while, on the contrary, economic contribution such as industry development and building of trade relations were of primary consideration (MacMahon 2017:45).

It can be argued that the link between trade and migration is, among other factors, also influenced by the considerations of economic benefits such as the acquisition of the scarce skills possessed by migrants, so as to contribute in the development of local industries; and, further, to expand the market penetration of the manufactured industrial goods through trade with their countries of origin. The same contention could hold at regional level, where bigger markets are created through regional trade agreements which naturally expand the size of national markets through removal of tariffs and facilitation of movements of goods, capital and people.

Woods *et al* (2013) applied the global governance theory to study global governance in the fields of finance, health, security and migration. Of interest to the current study is the study of international migration. The scholars argue that the surge in the numbers of migrants, worldwide from 70 million in 1970, to more than 200 million in 2013; and, given the increasing significance of migration “for both human development

and national security, there has been a renewed demand from states to establish international rules” (Woods *et al* 2013: 12). It is important to state that, “by definition, migration affects more than one state. One state’s immigration or emigration policies will inherently exert externalities on another state, and it is beyond the scope of any one country to address migration in isolation” (Woods *et al* 2013: 12).

It is precisely the consideration of migration as an issue of international concern that the global governance theory is utilised in the current study. Migration is dealt with at multilateral, regional and bilateral levels. States have different visions of what global migration governance should entail, and which related institutional strategies ought to encompass (Woods *et al* 2013: 12). Thus, the study of international migration has to be aggregated at global level, and also disaggregated at continental, regional and national levels. In fact, global governance is the internationalisation of what national governments do, locally, with the intention of developing well-informed public policies (Finkelstein 1995:369).

Stephen (2017: 487) argues that global governance is shaped by dominant preferences and social purposes of strong social groups in Western, developed, and liberal democracies. But, be that as it may, developing countries also play a visible role insofar as international trade and international migration management efforts are concerned, especially through their regional and continental blocs. In the context of trade, the WTO plays a critical role in trade policy matters such as dispute settlement, trade policy monitoring and technical assistance, for its member states (Heidrich 2016:190).

In a number of recent studies, scholars including Strange (2013); Radu & Straubhaar’s (2013); Hira & Cohn’s (2005); Weber’s (2017), sought to implement the theory of global governance in their analysis of trade and international migration. Some of these studies examined the impact and influence of international trade agreements and the workings of the WTO on national policies, through the prism of the global governance theory. Furthermore, in the 1990s, the study and implementation of public policy in

fields such as trade, investment, health, and the environment, were largely conducted through the application of global governance, which had “appeared as the only path through which conflicting or diverse interests may be accommodated and cooperative action could be taken” (Stephen 2017: 484).

According to Woods *et al* (2013), there have been noticeably sharp differences between migrant-sending states in the global South and the receiving states in the global North. The observation of Woods (2013: 12) is that, in general, the migrant-receiving states in the developed countries of the North have been far more sceptical about the need to develop binding global protocols on the management of international migration; and these countries were preferring to preserve their sovereign authority over their immigration policies, instead, and were also preferring to use unilateralism or bilateralism to cooperate on migration. The differences in preferences and priorities have therefore polarised the global governance initiatives on the management of international migration. It is worth adding that these differences are also discernible in regional organisations in the global South, as has been demonstrated in the literature review chapter, because some countries put a high premium on their sovereignty and national interests.

The management of international migration has also been considered within the context of inter-continental organisations such as the BRICS. Woods *et al* (2013: 13-14) argue that countries like China had abstained or avoided debates on the management of international migration due to, among other things, their desire to, “safeguard sovereignty, while attempting to ensure that its citizens have access to foreign labour markets to the greatest extent possible”. In contrast, South Africa has attempted to play a leadership role on behalf of the AU in global debates on migration, and has tried to build regional cooperation through the SADC (Woods *et al* 2013: 13-14).

The comparative analysis of the BRICS countries above clearly demonstrates the complex nature of global migration governance. This also attests the fact that, “global

governance is a complex of rules and regulatory institutions that apply to trans-planetary jurisdictions and constituencies” (Scholte (2011a: 8). Thus, global governance framework, in relation to international migration, should be assessed in terms of the efficiency of the rules and regulations in maintaining stable and predictable environment and in, “providing a transparent regulatory framework, to the advantage of all participants” (Committee for the Development Policy 2014:27).

Scholars such as Woods et al (2013) recommend that certain actions ought to be taken in the study and implementation of global migration governance, which include a pluralism approach that takes into account the multilateral efforts, as well as the regional and inter-regional mechanisms. Also, bilateral agreements ought to be taken into consideration as these influence the positions countries and regions take at multilateral fora. “There is a potential to promote the global governance (of migration), based on subsidiarity; but it must pursue the inclusion of all states which are significantly affected by policy externalities” (Woods et al 2013: 14).

## **2.4 Relevance of the theoretical framework to the study**

The works of Hewson & Sinclair (1999); Ba & Hoffman (2005); Harman *et al* (2013), provide a comprehensive and insightful literature on the theory of global governance. The scholars trace the global governance theory from various studies in the late twentieth century. What is particularly important and relevant to this study is how the scholars group the studies, thematically, that is; studies concerned with global change, and those concerned with international regimes and world organisations. The discussion of the themes is not to be repeated in this study, though. However, it is worth highlighting that migration and trade fall into all these three thematic areas; and that is what makes the theory of global governance relevant and applicable to this study; with all its challenges discussed in the works mentioned above. Nonetheless, no political theory is perfect.

Groom & Powell (1994: 81) state that, “global governance concerns the identification and management of those issues which necessarily have an impact on all parts of the

globe”. The issues are wide-ranging and include ecology, human rights, and development, as well as refugees, migration, drugs, and epidemics. As a result of increased awareness of such issues since the 1960s, there is a heightened need for global governance (Groom and Powell 1994: 82; Weiss & Wilkinson 2014: 213). The inclusion of migration in the list of the issues justifies the use of the theory in the current study. Furthermore, it validates the argument that migration, as well as trade, are issues that affect all parts of the globe, including Southern Africa.

Recognising the global character of migration, the United Nations Member States adopted the Global Compact on Migration in 2018. However, the related implementation “require resources, policy changes, collaboration across borders, political commitments, and a positive, realistic narrative”. (Newland 2019: 6). The global character of international migration, as well as the actors involved, have increasingly contributed to the complexity of trans-border problems, and demonstrate the incapacity of the state to address this in isolation, thus drawing from the untapped potential of global actors, such as regional organisations and plurilateral mechanisms (Weiss & Wilkinson 2014: 209).

It is worth stating that, in relation to trade policy and related issues, the post-Second World War and Cold War periods led to the formation of multilateral institutions, not just the UN, but also the Bretton Woods institutions (World Bank and the International Monetary fund - IMF), which had then “created conditions under which a multitude of actors could benefit from economic activity, forming corporations, investing abroad, developing global production chains, and engaging with a plethora of other social and economic processes associated with globalisation” (Held 2016: 839). In this study, it is presupposed that the immigration and trade policies encapsulate certain policy provisions emanating from the global multilateral institutions such as the UN and the WTO, albeit adjusted to national conditions.

International relations literature is filled with challenges that require global approach and cooperation, and these include trade and immigration. For an example, for most



of the post-Second World War era, trade negotiations had focused on reducing tariff levels on manufactured products. Held (2016:840) argues that, currently, “negotiating a trade agreement requires also discussing a host of social, environmental and cultural subjects, such as intellectual property, health and environmental standards, biodiversity, labour standards; and about which countries often disagree sharply” (Held 2016:840). Trade and immigration policies are complex, extensive and intensive, as these are domestically administered; but equally, these have implications, and are influenced by factors beyond national borders.

Furthermore, Held (2011: 227) argues that, “all major government policy areas involve issues at regional and global levels which require intensive transboundary coordination and control”. The issues mentioned by Held (2011) include, but are not limited, to migration, peace, security, global division of labour, location and investment strategies of multinational corporations, controls of capital, etc. It is worth noting that these issues are dealt with in different government policy areas; but what is common in all of these, is that these policy areas have an element of international migration; either as causes thereof, or as people move between countries, to pursue them.

Some theories still place a high premium on the role of the states in global affairs. This notwithstanding, there are other theories such as global governance, for instance, which argue that “state power is being transformed, both by the intricate relationship between states, markets, and various civil society associations” (Weiss & Ozgercin 2009:139). Migration and trade are among the top issues that have occupied the agenda of multilateral organisations in the twentieth and twenty first centuries. The two phenomena form an integral part of the issues that are at the centre of global governance debates. In this regard, UN agencies such as the High Commissioner for Refugees, have engaged in processes to address the mixed flows of migrants, while the WTO has pursued the question of the “movement of natural persons as a form of trade” (Newland 2019:3).

The management of global phenomena such as trade and migration tend to effectively challenge the capacity and efficacy of existing international organisations to address their pressing and contemporary challenges associated with these challenges. Furthermore, “in today’s international system, state capabilities matter (the same) as in the way that formal and informal institutions mediate relations between states, and the way that goods and services (in other words, trade) are exchanged and managed” (Weiss & Wilkinson 2014: 2010). The United Nations and its supporting institutions at regional and continental levels, play a key role as interstate actors in dealing with international issues such as migration and trade. The efficacy of these institutions is a subject of another study; but in the following chapter attention is given, regarding their respective roles insofar as the management of migration and trade policy issues are concerned.

Unequivocally, trade and migration policies are the key instruments that regulate relations between neighbouring states and other states far afield. In this context, the Member States of international organisations and their roles influence and power within the international system, ought to be studied individually and collectively. The current study and many others which have been conducted in other parts of the world, albeit with different focuses, seek to contribute to this goal. South Africa is an influential country in the SADC region and the continent; and, by extension, in the international groupings of developing countries. In essence, the role that South Africa plays is not only influencing, but is shaping the global governance system in her region and continent.

In relation to the disaggregation of complex issues and social phenomena, De Haas (2014: 7) argues that “it would certainly be unrealistic to expect that a one-size-fits-all theory explaining migration for all places and times will ever arise”, hence global governance theory is preferred for this study, because of its flexibility. In this regard, it is not surprising that the nature of the relationship between trade and migration differ from one context to the other, depending on the variables including the kind of migrants (skilled or unskilled); economic capabilities and migrant social structures

(absence or existence of organised networks); economic situation and level of development in the countries of origin; and the numbers of migrants in the host countries. The literature review chapter present studies that demonstrate these variables, which underline and shape the nature of the nexus between trade and migration.

As has been argued in this study, migration and trade are immensely complex and diverse global issues which need to be studied through a theoretical lens that does not unnecessarily restrict the scholars' scientific adventures. In this regard, Hewson & Sinclair (1999:10) argue that one of the future projects of global governance could "cohere around the post-Westphalian movements of indigenous peoples or migrants".

## **2.5 Conclusion**

At the practical level, various studies have demonstrated that there is a clear connection between trade and migration. The connection is manifested at different levels of analysis, such as the nation-state, for example, as well as the transfer of workers from one country to another, as part of global operations of a firm. The link is also visible at macro level, where countries trade certain goods and services; and some of these include new trade patterns which are introduced by the arrival or preferences of migrant communities in foreign countries. The various levels of the connections between trade and migration make it difficult to find a theoretical framework that adequately encapsulates all the aspects of the nexus. Thus, the global governance theory, albeit, not sufficient, better captures the nexus, as it makes provision to study the relationship between trade and migration at difference levels, and with different actors, and beyond the nation state.

South Africa's role in global governance is interesting. On the one hand, it seeks to represent and advance the interests of sub-Saharan Africa in international forums on addressing the question of international migration. On the other hand, as one of the origins, transit and destination countries on the continent, South Africa has interests

and strategies that manifestly diverge from those of its neighbours. So the country's policy priorities on trade are mainly driven by the broader economic interests; whereas, on migration for instance, security considerations seem to take centre stage. These positions clearly demonstrate the contested nature of migration governance, as well the inherent complexities of the global governance theory.

Global governance is being used and practiced by both established and emerging powers; even though, at times, pursuing competing goals. Clearly, the changing nature and complexity of issues and ever widening scope of issues subjected to global governance will continue to attract debates about the utility and relevance of the concept and theory of global governance; but it will remain as one of the schools of thought in the study of international relations for the foreseeable future.

## CHAPTER THREE: LITERATURE REVIEW

### 3.1 Introduction

The study of the linkages between immigration and trade policies as the main instruments utilised to manage international migration, is founded on the observation that many studies have been conducted on the two policies but in isolation from each other. In a rapidly globalising world, it is imperative that the phenomenon of the movement of people across national borders receives equal attention as the ever-increasing movement of goods and services, also known as international trade. The management of the movement of people and that of goods and services forms an integral component of the studies in the dynamic field of international relations.

Interestingly, one of the scholars in the field of international migration, has remarked that the scale of international migration is “considerable, though our knowledge of it is sketchy” (Livi-Bacci 2010: 109). A number of scholars including Livi-Bacci, himself, have also admitted that considerable literature has been generated over the years in relation to international trade and the movement of goods and their volumes, however, not much is known about the characteristics of the human beings who cross those same borders. Significantly, Livi-Bacci’s observation forms the nucleus of this study, as it draws attention, not only to the necessary, but also the natural link between trade and immigration policies.

Most of the available literature covers trade-related issues in the form of quantity, type, and the price of the goods and services, although there is insufficient literature and knowledge about the people crossing the same borders. Therefore, this study is not only timely, but also relevant, and will play a significant role in bridging this literature and information gap on the linkages between trade and immigration policies, particularly in the South African context post-1994. Historically, cross-border movements into South Africa started in the early years of the discovery of minerals. The early mining activities in South Africa had subsequently stimulated the recruitment of unskilled and semi-skilled migrant labour from the homelands and

neighbouring countries (Ncube & Parshtom 2017: 5). The dawn of democracy in 1994 had then gone on to pave a way for South Africa to, not only adopt policies which have been considered as having been progressive in the management of migration, but also for the country to play a meaningful role in the governance of international affairs. The post-1994 South African Government adopted and entered into bilateral, regional, continental and global agreements dealing with the management of international migration. However, it is worth adding that these bilateral agreements on and covering migration, and the movement of labour in particular, are a continuation of the agreements that had been signed prior to 1994, and was actually dating back to the 19<sup>th</sup> and 20<sup>th</sup> centuries, following the discovery of diamonds and gold in South Africa (Nshimbi & Fioramonti 2014:55).

The agreements which had been entered into by the post-apartheid South Africa include a Memorandum of Understanding between the SADC and the UN Commission for Refugees (UNCR), which was considered as “welcoming and more open to migrants and refugees” (Ncube & Parshtom 2017: 6). However, the two authors argue that the regional body, SADC, in which South Africa plays an influential and meaningful role, “lacks comprehensive migration governance policies allowing free movement of people” (Ncube & Parshtom 2017: 6). Additionally, Nshimbi & Fioramonti (2014:54) argue that, at the regional level, freedom of movement ought to be viewed in the context of four freedoms, namely the free movement of capital, persons, goods and services. Patently, all these factors or kinds of freedom of movement, have a direct bearing on the natural relationship between trade and migration.

### **3.2 The politics of the management of international migration**

As a prelude to the discussion of the politics of international migration, it is perhaps necessary to first describe the parameters within which such a discussion takes place. These parameters are aptly provided by Massey (2006) in an attempt to provide a synthesised theory of international migration. Massey states that the International Union for Scientific Study of Population (USSP) researchers were

tasked to evaluate existing migration theories to identify areas of conflict, complementarity and overlap, and to assess the validity of different theoretical explanations (Massey 2006:49). The focus of the USSP researchers was on six theories, namely; *neo-classical economics* (Todaro 1976); the *new economics of labour migration* (Stark 1991); *segmented labour market theory* (Piore 1979); *world systems theory* (Sassen 1988); *social capital theory* (Massey et al 1994); and the *theory of cumulative causation* (Massey 1990, in Massey 2006:49).

In the context of the current study, it can be argued that the politics of international migration are largely influenced by the globalising economy which had “introduced markets and capital-intensive methods of production” (Massey 2006: 49). The scholar further argues that globalisation-induced production methods also disrupt the prevailing social and economic practices and contribute to the displacement of people “who actively search for new ways of achieving economic security and advancement” (Massey 2006: 49). Therefore, international migration stems from countries whose markets are connected to the world markets through global trade, information and production networks. Scholars like Massey helped to inform a conclusion that the globalisation factors manifested by global trade, information and production networks, encourage the development of markets rather than the lack thereof.

Goldin & Reinert (2006: 14) write that “the effective management of migration flows is a difficult and controversial, but very important challenge for the world community”. The genesis of the notion of managing migration is attributed to Bimal Ghosh, who presented a report to the UN Commission on Global Governance in 1993, and to the Swedish Commission on Global Governance in 1995 (Geiger & Pécoud 2010: 1-2). The main thrust of the reports by Ghosh in 1993 and 1997 for United Nations Population Fund (UNFPA), which had called the New International Regime for Orderly Movements of People (NROMP), was that, “in the post-Cold War era, migration had the potential to generate real crises, and that a global and holistic regime of rules and norms was needed to successfully address the phenomenon in the way in which the Bretton Woods and General Agreements on Trade and Tariffs

(GATT) regimes had improved the governance of international finance and trade (Ghosh 2000 in Geiger & Pécoud 2010: 2).

Mainly, the NROMP had sought to find ways to manage global cross-border movements and migration in all forms of human mobility. “It was an attempt to turn migration into a more orderly, predictable and manageable process; and to make it beneficial to all stakeholders involved. This implied a regulated openness toward economically needed and beneficial flows and the continuation of restrictions regarding unwanted migration” (Geiger & Pécoud 2010: 1-2). To achieve this, Ghosh proposed a three-pillar model. The first pillar was to possibly harmonise the policies and interests of all states concerned with migration. The second pillar concerned the development of a new international framework on global mobility and migration. The last pillar related to the role of non-governmental actors, including intergovernmental, private companies and experts, which were to “become more influential in migration policy-making, and whose activities were therefore to be better harmonised” (Geiger & Pécoud 2010: 2-3).

The politics of international migration management find expression in the public policies and other initiatives such as international conferences that seek to address the management of the movement of people across national borders. The term, “management of international migration”, has been actively utilised by the IOM, the International Centre for Migration Policy Development (ICMPD), the Organisation for Security and Cooperation in Europe (OSCE), the Council for Europe and other international agencies (Geiger & Pécoud 2010: 1). The mentioned organisations’ main focus has been on the management of the effects of politico-economic globalisation as espoused by the neoliberal ideology such as the free movement of goods, services and the controlled movement of people. The political dialogue on the management of international migration in the twenty first century, is increasingly integrated to the foreign policy domains such as development, trade, security, and the establishment of cooperation mechanisms between states; both those sending and receiving migrants (Van Criekinge 2013: 258).



Geiger & Pécoud (2010: 1-2) argue that the term, management of migration, refers to three different trends, namely “(i) it is mobilised by actors to conceptualise and justify their increasing interventions in the migration field; (ii) it refers to a range of practices that are part of the migration policies that are promoted and performed by institutions (such as counter-trafficking efforts, capacity-building on border control, etc.); and (iii) it relies on a set of discourses and on new narratives regarding what migration is, and how it should be addressed”.

The politics of migration governance play themselves out at global, continental and regional levels. The study has examined the literature at all these levels of migration governance. However, following the observation that the same sort of issues, albeit demonstrated and advanced by different actors, it has been established that these levels of migration governance also find practical expression at regional level. For the main objectives of this study, focus has thus been given to regional efforts on migration governance; and this is the level where South Africa plays a prominent and most influential role in the direction and discourse on the phenomenon.

### **3.3 The link between international migration and international trade**

The most recent literature review on the link between migration and trade has been selected largely from the period 2010 and 2020. The selection was done with the aim at keeping the discussion and analysis of the research topic relevant and current, making use of the latest information and existing modern analytical tools. It must also be highlighted that the link between migration and trade has not been studied closely or intently in the past centuries, meaning that it is seemingly a fairly new academic field, though some related studies were conducted in the late twentieth century by David Gould (1994); Head & Ries (1998); Dunlevy & Hutchinson (1999), as has been highlighted in Chapter One.

The available literature from 2010 onwards, makes the link between migration and trade at three levels. The first level is the immigrants’ network and their trade-

influencing effects, which are contained in the studies of Sangita (2013); Fagiolo & Mastrorillo (2014); Aleksynska & Peri (2014); Parsons & Vézina (2018). The second level of the linkage is related to skills (“those with high skills enjoy relatively better opportunities and chances of benefiting from migration”) of immigrants and their benefits to both origin and destination countries as has been discussed by Felbermayr & Toubal (2012); Nathan (2014); Kahanec & Zimmerman (2014); Thomas (2016); Weber (2017); Admassu (2017); Conrad & Meyer-Ohle (2019). The third level is in relation to international trade policies and agreements, as has been examined by Gaston & Nelson (2013); Davis & Gift (2014); Venturay (2015); Hatzigeorgiou & Lodefalk (2015); Lodefalk (2016); Gülzau et al (2016); Menard & Gary (2018).

Migrants have a potential to generate international trade flows through information and taste effects. (Sangita (2013: 266). The migrants use their business networks to reduce information barriers and create cost-effective trade partnerships (Gaston & Nelson 2013: 115). To elaborate this point, Sangita (2013:267) argues that a study conducted by Anna Lee Saxenian in 1999 had reported that, “half the foreign-born entrepreneurs in the United States of America (USA) have business relations in their home countries”. The scholar further argues that the diaspora-based professional migrants, through their networking organisations, help to build bridges through their business deals, and help promote the flow of information between migrants, and between the host and home countries (Sangita 2013: 267).

Fagiolo & Mastrorillo (2014:2) further strengthen the argument on the utility of the migrants’ knowledge and information-sharing; positing that, through their networks, migrants also aid the importation of goods which would have been produced in their mother countries, or reduce import transactions costs, thanks to their better knowledge of both their home and host countries’ laws, habits and regulations. Migration networks are also instrumental in the conduct of bilateral trade operations, because this help to create linkages, not only between pairs of countries that are the origin and destination of migrants, but also among countries that are the destinations of migration flows from “third” countries (Fagiolo & Mastrorillo 2014:3). In other words,

migrants help to boost bilateral trade with their home country, as they will continue to order goods they are familiar with, especially foodstuffs. In this way, the host countries' benefit from new the business deals from the migrants' countries of origin.

In relation to the taste effect, an example has been provided on the increase of the African population in France, which has led to that country's increased importation of cassava from Africa (Sangita 2013:267). Indian migrants have also contributed to the promotion of commodities such as Apple computers, Nike shoes, and other products which have since become fashionable in India (Sangita 2013:267). These examples highlight the influence migrants have on bilateral trade relations, both in their origin and destination countries. However, the self-recognised shortcoming of Sangita's literature is that there is still lack of adequate scientific information to determine the "direction of causality between migration and trade" (Sangita 2013: 277). The generation of this causal information will contribute immensely in the formulation of improved trade and migration policies.

It's important to highlight that the works of Sangita (2013) and Fagiolo & Mastrorillo (2014) are similar, although the scholars had applied different methods to study the link between trade and migration. Both works sought to examine the causal and correlation between migration and trade. In the case of Sangita, the scholar employed "instrumental variable analysis" to establish bilateral flows of people and goods. She found that, whereas migrants reduce information barriers, one could not draw a conclusive finding related to the statement that migration has led to an increase in bilateral trade. (Sangita 2013: 273). On the other hand, the study of complex-network perspective model, which had been applied by Fagiolo & Mastrorillo (2014:2), sought to fill a literature gap in the correlation and causal links between migration and trade.

Similar to the current study, Fagiolo & Mastrorillo (2014:2) took issue with the fact that migration and trade have been treated as the two phenomena that are completely independent of each other. In other words, the scholars argue that, the International-Trade Network (ITN) and the International Migration Network (IMN) have been

investigated as if migration and trade were two fully disconnected layers of the same multigraph. The scholars found that the networks of trade and migration were strongly correlated, and that this can be explained by a country's economic and demographic size and geographical distance (Fagiolo & Mastrorillo 2014:17). It is important to highlight that Massey (2006) also draws attention to the geographical and economic size of countries in their ability to attract migrants, even though he does not directly link that to trade per se, but to the broader economic opportunities.

Aleksynska & Peri (2014:436) argue that the migrants' business networks generate trade with their country of origin in an amount double of that generated by a non-business network migrant. The scholars provide a classification of business network migrant by occupations which are directly-related to the creation of international business relations and trade opportunities. These include, but are not limited to, government officials, economic interest organisations, production and operations managers, directors and executives, and research and development managers (Aleksynska & Peri 2014:436; 454; Admassu 2017: 2079-2080).

What is important to note, in the foregoing finding, is that, clearly not all migrants are seen to be contributing to the creation of trade relations between countries; and most importantly, actively employed and professionally organised migrants have a positive influence on trade relations. However, the significant effect on trade is based more on the importation of the differentiated goods from the migrants' home country (Aleksynska & Peri 2014:449; Admassu 2017:2088). This conclusion is also supported by Sangita's (2013) comparative analysis of the increase of imports from Africa in France, owing to the increased number of African migrants in that country. Furthermore, Aleksynska & Peri (2014:451) argue that in order to capitalise on the effect of migration on trade expansion, receiving countries ought to promote entrepreneurship, and to facilitate and enable the establishment of businesses by migrants.

Parsons & Vézina (2018: 210) cite studies conducted by Steinwender (2013), Allen (2014) and Chaney (2014) as presenting an empirical evidence that highlights that lack of appropriate information can serve as an inhibiting factor to trade flows. Therefore, immigrants lower the costs “through their knowledge of their home country’s language, regulations, market opportunities and informal institutions”. (Parsons & Vézina 2018: 210; Felbermayr & Toubal 2012: 928; Admassu 2017: 2080). The authors used what they call “natural experiment” to analyse the causal effect of migration to trade, using Vietnamese immigrants in the USA for the period 1995-2010 (Parsons & Vézina 2018: 210). The findings of the study reveal that, for the period 1995-2010, and due to the presents of Vietnamese migrants in the USA, exports from the latter to the former grew between 45% and 138% (Parsons & Vézina 2018: 231).

Parsons & Vézina (2018: 223) argue that the increase in the number of Vietnamese migrants in the USA had led to increase in exports to Vietnam. The scholars attribute the positive effect on trade relations between the two countries to migrants, because – before the distribution of Vietnamese refugees to different USA states – there were information constraints, which were likely high (Parsons & Vézina 2018: 223; Felbermayr & Toubal 2012: 935). However, the study does not go deep enough to reveal whether there are no trade agreements, protocols or arrangements between the USA and Vietnam which could have equally or more contributed to the increase in trade flows. Furthermore, the study is silent on the nature of traded goods, and whether the goods were marketed by Vietnamese the migrants’ networks in their home country, or whether it was inspired by the Vietnamese’ demands for USA products.

The failure to address the possible contribution of the governments’ deliberate efforts and interventions to develop and promote trade between the two countries, leaves room for further research on the subject. The Parsons & Vézina (2018) study also fails to break down the classification of the type of migrants that have contributed to trade flows between the two countries, as had been done by Aleksynska & Peri

(2014:449), who have since concluded that, “it is the business migrants with the highest education that have the most unambiguous pro-trade effect”. The foregoing argument is also supported by Gaston & Nelson (2013: 121), who argue that the migrants’ networks and their facilitation role in bridging information asymmetries, may lead to the conclusion that migration and trade are complements, rather than substitutes.

The second level of the connection between trade and migration is the skills possessed by the migrants. Kahanec & Zimmermann (2014: 2) explained the purpose of their study, saying that it was aimed at examining “the relationship between economic inequality, the quality of the labour force and international migration, from the perspective of developed countries receiving inflows of migrants”. The scholars’ study made findings that suggest that, in the selected countries which are members of the Organisation for Economic Cooperation and Development (OECD), demonstrated consistent similar outcomes that the level of education of foreigners and the quality of their labour force are positively associated (Kahanec & Zimmermann 2014: 2).

In their study, Kahanec & Zimmermann (2014:9) also made an interesting finding that had stated that the better skills which are brought by migrants in a receiving country decrease inequality, and the opposite holds for low-skilled immigration. The two findings by Kahanec & Zimmermann (2014) lend credence to the argument of Aleksynska & Peri (2014), which asserts that it is the professionally-trained and economically-active migrants that bring a positive contribution to trade flows. However, both studies deal more with the effects of migration on trade and not on whether or not the two phenomena are, as a matter of public policy, meant to be mutually-reinforcing each other. This is the policy gap the current study seeks to contribute to, and to address, using South Africa as the subject of investigation.

Nathan (2014), has observed that the broader positive economic impacts of highly skilled migrants are yet to be fully appreciated and understood. The author is of the

view that policy-makers ought to be aware that the question of skilled migrants offers an opportunity (to attract more skilled migrants) and present a challenge (the development of policies that optimise welfare gains and minimise losses). The impact of skilled migrants could include innovation, production functions, trade, entrepreneurship, and the development of cities (Nathan 2014: 3-6). All these identified fields which have just been mentioned above, have a direct impact on a country's overall economic performance. However, what is of interest to this study is the trade-migration nexus.

Nathan (2014: 4) argue that highly skilled and economically-active migrants bring improved international market knowledge, leading to better buyer-seller matching. What is not clear in the study is whether the positive impacts of skilled migrants as far as trade relations are concerned, can be achieved purely as a private business, or if the migrants ought to also have government networks in order to be able to facilitate the international business. As to how, and how much skilled migrants have an impact on trade, and how they are able to affect trade, depends on the size of the diaspora, which contributes to the value and volume of trade. However, a counterargument is that, though migrants may possess all the qualities Nathan (2014) refers to, it remains the responsibility of the host government to create an enabling environment for migrant businesses, investments and entrepreneurial projects to take root.

The third level of the link between trade and migration is related to trade policies and agreements. The level of trade policies and agreements is inextricably linked to the preceding discussion on the migrants' networks. For instance, Gaston & Nelson (2013:114) argue that, given the fact that migrants possess economic knowledge and expertise about both home and host countries, they – therefore -- play a critical role in increasing trade, and in creating markets. In this regard, migrants help both suppliers, largely based in the home market and consumers in the host market with economic information exchanges, especially on important trade matters such as: (i)

the differentiated products; (ii) the enforcement of commercial contracts; and (iii) the protection of property rights (Gaston & Nelson 2013:114).

Hatzigeorgiou and Lodefalk (2015) use a case study of Sweden to present the evidence of the trade-enhancing role of migration. The scholars argue that their case study was the only country, at the time the study was conducted, where the policy-makers had exclusively emphasised the notion that migration has a direct connection; or put differently, can help to facilitate trade (Hatzigeorgiou and Lodefalk 2015: 2013). The authors tested the policy-makers' interest in the trade and migration nexus by scrutinising the trade statistics of Sweden in relation to the migrants' countries of origin. The findings were a positive relation of exports to migrants' countries of origin, and imports that were not affected (Hatzigeorgiou and Lodefalk 2015: 2032).

The findings of Jansen & Piermartinini (2009), which were also cited in Lodefalk (2016:735), reveal that the United States' skilled labour visa programme and its impact on that country's trade with the countries of origin of the recruited workers was positive for both exports and imports. The differences in the studies of Hatzigeorgiou and Lodefalk (2015) and Jansen & Piermartinini (2009), highlight the fact that the trade-migration nexus is difficult to declare conclusively, as being positive in all situations and, or regions of the world. Therefore, the link between trade and migration should always be contextualised in order for policy-makers to design appropriate public policy interventions.

The Hatzigeorgiou and Lodefalk (2015) study also does not make any specific reference on whether or not Sweden's trade and migration policies are interlinked. This is a glaring shortcoming of all the literature which has been reviewed in this section, and throughout this chapter. Seemingly, the positive link that has been drawn between trade and migration is borne largely, and if not solely, out of the voluntary initiatives of migrants, without any visible public policy support. As a result, the migrant networks initiatives, including high-skills acquisition, importation of products from the migrants' home countries and the exportation of goods from their host



country seem to be generated by migrants as private initiatives. In other words, the positive linkages drawn are seen more as consequences of default, and not as deliberate public policy driven initiatives to link trade and migration policies.

The above observation, notwithstanding, it is worth stating that the study by Hatzigeorgiou and Lodefalk (2015) makes a significant contribution in the development of public policies designed to enable and unleash the potential of the economic benefits of the trade-migration nexus. In this regard, the study makes several useful recommendations, including: (i) encouraging countries to weigh the policy options aimed at promoting trade and internationalisation among their firms, beyond the conventional trade policy; (ii) the policy-makers' ability to promote trade by improving the integration of the immigrants' labour market; (iii) and the policy-makers ability to encourage entrepreneurship among migrants (Hatzigeorgiou & Lodefalk 2015: 2033). However, these could be regarded as more liberal immigration policies that could attract controversy and resistance in some sectors of society, but considering the potential economic benefits, these are worth the effort.

The other aspect of the linkages between trade and migration, in relation to the related trade policies and agreements, have been investigated by Ventura & Witte (2015). The scholars investigated the effect of migration networks (in terms of their size and statistical trade influence) on the denomination of trade transactions. The study acknowledges the findings of other cited works, especially that of Boly *et al* (2014), regarding the link between trade volumes and the sizes of the migrant populations. The importance of the findings of Ventura & Witte (2015) is that they focus, directly, on the practical trade-immigration nexus at administrative level. The authors' main finding was that the migrant networks have a substantial impact on the decisions affecting the denomination of currencies. The latter implies that migrants are a significant source of decision-making regarding international trade terms and contracts (Ventura & Witte 2015: 472).

A question that arises from the currency denomination impact and effect is whether the acceptance of a country's currency or (or effectively a country's exports) does impact the acceptance of migrants from that country. This is a critical question in the examination of the trade-migration nexus from a public policy standpoint. In view of the reviewed literature, this question could be addressed from two fronts; on the one hand, this could be through the bilateral and multilateral agreements which may have been signed by countries; and on the other hand, it could be a standing policy prescription of a country, which could be based on the same criteria of Ventura & Witte (2015), Boly *et al* (2014), regarding the size of the migrant population and the interrelated trade volumes.

The study by Lodefalk (2016) adds an important aspect to the literature on the trade-migration nexus. The study focuses on the link between temporary expatriates at firm level, and on trade flows. The study found that there is a positive relation between temporary expats and the growth in exports. This is explained by the fact that firms prefer to recruit expatriates, directly from the countries where they have business relations, or the firms may wish to establish a presence, and grow their exports. (Lodefalk 2016:763). The author expresses a disappointment with the fact that prior to his study, there were only two studies that were conducted to investigate the relationship between temporary expatriates and trade-related services (Lodefalk 2016: 737).

According to Lodefalk (2016:765), while the GATS provides an international framework for trade in services, in reality, there has been very small share of this aspect of trade and its relation to the temporary movement of service providers. This is an area that requires further research, as it is also an integral part of the trade competitiveness of firms and countries. At the policy level, trade in services requires the "liberalisation of the temporary movement of persons" (Lodefalk 2016: 765). The lack of information on trade in services and the lack of interest by developed countries to negotiate agreements that accommodate the movement of temporary expatriates and skilled migrants is examined by Weber (2017).

Significantly, Weber (2017) studied the Small Island Developing States in the Pacific Ocean. He argues that, “many countries in the region see little incentive to remain at the negotiating table and the governments are prepared to let the Pacific Agreement on Closer Economic Relations negotiations fail if Australia and New Zealand make no movement on the matter” (Weber 2017: 1097). The same challenge is also experienced with the European Union, which seems reluctant to agree on the movement of skilled migrants in its EPAs (Weber 2017: 1097). Clearly, there is some level of protectionism in some countries, including the SADC region, regarding migration governance which also affects its connection to trade.

Davis & Gift (2014) investigated the effects of the Schengen Agreement on regional trade, labour mobility and cross-border commerce. The study found that the movement of labour enhances trade. The study reveals that labour mobility generates hundreds of millions of dollars of increased trade each year. The findings were based on the fact that the Schengen Agreement had introduced immigration policies in its Member States which had helped to boost cross-border commerce by, (i) stimulating the migrants’ demands for familiar products in their home countries; (ii) the migrants’ sharing of information and knowledge on business opportunities from home and their host countries, thereby decreasing costs to producers; and (iii) that the migrants networks lower the risks of importing and exporting (Davis & Gift 2014: 1555).

It seems that the reasons which have been advanced by Davis & Gift are more coincidental than intended outcomes of a public policy design. Arguably, the citizens of the Schengen countries take advantage of the incentives of the agreement to migrate; and that, at their destinations, they make use of their skills and expertise to make ends meet. In other words, it seems as if there is no deliberate government interventions that link trade and migration policies with the aim to attract migrants for the purpose of enhancing cross-border economic relations. The reviewed literature makes a strong case in support of the strong link between trade and skilled migrants. Perhaps it is advisable for countries like South Africa, instead of focusing on security aspects of migration, to pay careful attention to the overall economic benefits of the

trade-migration nexus, and to design appropriate policy interventions that would regulate and govern this phenomenon.

### **3.4 Regional efforts on management of international migration**

Regional efforts on the management of international migration should be considered within the context of regionalism or broad regional integration processes. On the African continent, regional integration processes, or put modestly, regional integration rhetoric, was introduced as early as the 1950s, after some states had gained independence from colonial powers. Since the 1950s to date, various efforts at regional integration have been pursued at various levels of regional organisations, and through the continental body, the AU. The latter had later adopted what are called the Regional Economic Communities (RECs) as the building blocks toward an ultimately united continent.

A number of scholars have produced commendable works on regionalism and regional integration theories. The theories include, but are not limited to, Market Integration Approach, Neoliberal Economic Theory, Dependency Theory or Development Cooperation Approach, New Economic Geography Theory, to mention a few. Oloruntoba (2015) took the discussion on regionalism closer to Africa, and had even evaluated each of these theories; but his contribution – which is relevant to this study – is the argument that none of these theories are applicable to the continent, since these largely place a high premium, almost exclusively, on economic considerations. Therefore, an appropriate regional integration theory that better captures the African situation ought to encompass social, political, security and environmental issues. Furthermore, such a theory is supposed to be informed by processes that are “driven from below with the cooperation of non-state actors such as civil society organisations and the private sector” (Oloruntoba 2015:176).

For a discussion in this section, it is therefore important to highlight that, efforts on the management of international migration are also considered as forming the broader theoretical agenda of what Oloruntoba calls a “New Regionalism Approach”, which

largely falls within the school of thought of the “critical-constructivist theory of international political economy” (Oloruntoba 2015:177). The latter theory incorporates other important themes, such as security, politics, as well as culture; and not just economic concerns. International migration is a cross-cutting issue which transcends the economic or security concerns, to also include a broader international agenda for development, and challenges the traditional definitions of what constitutes the boundaries between states, or within regions.

The 1995 SADC Draft Protocol on the Free Movement of People sought to: (a) “confer, promote and protect (i) the right to enter freely and without a visa the territory of another Member State for a short visit; (ii) the right to reside in the territory of another Member State; and (iii) the right to establish oneself and work in the territory of another Member State. The ultimate objective of the Protocol was to encourage the progressive abolition of controls on movements at the internal borders between Member States” (Oucho & Crush 2001:144). Owing to resistance and the objection to the 1995 Draft Free Movement Protocol by three countries led by South Africa, supported by Botswana and Namibia, the Draft Free Movement of People Protocol was rejected; and revised and a watered-down version was adopted in 2005, and is yet to be ratified (Ncube & Parshotam 2017: 6-7).

As a response to the 1995 Draft Protocol, South Africa proposed a more general initiative, called the “Facilitation of Movement Protocol”, which included provisions that have delayed the harmonisation of the related policies, and has also put a high premium on sovereignty and national interest above those of the region. The South African proposal was revised in 2005 as the Draft Protocol on the Facilitation of Movement of Persons, which has reinforced the 1995 objective of reducing the barriers on the movement of people within the SADC region. However, only six SADC countries have ratified the Protocol; namely; Botswana, Mozambique, Namibia and South Africa (Ncube & Parshotam 2017: 7; Nshimbi & Fioramonti 2014:56; Machette 2014).

Oucho & Crush (2001:149) argue that South Africa's proposed Draft Protocol on the Facilitation of the Movement of Persons, which was not adopted in its entirety by the SADC, had advanced three main aims, which had resulted in the current state of the lack of an operational Protocol on the management of migration in the region. The aims of the South African proposal were expected to, among other things, ensure the protection of the nation's sovereignty and national interests over regional considerations; emphasise policing and the control of national borders; assure that a delay is not intended to halt the process of the free movement of people across regional borders but is – as far as possible – designed to avert committing the government to any fixed timetable on the implementation of the free movement of people; as well as to provide exit options for the government, in cases of any possible disagreements.

In view of the above literature review, it can be deduced that South Africa's position can be viewed as leaning toward the securitised management of international migration. Observations by Oucho & Crush (2001) point to a single conclusion that can be made on the South African approach or position, pointing out that migration is a security issue that needs to be dealt with as a threat that requires to be controlled and prevented. Furthermore, there seems to be no other considerations of the possible link between the movement of people and the movement of goods and services, or, in other words, a link between trade and migration, which is missing in the approach.

Oucho & Crush (2001: 155) argue that South Africa's objection to the radical 1995 SADC Free Movement Protocol was not based on any "clear understanding of the dynamics of regional migration or any unequivocal demonstration of the supposed costs of the Protocol". However, (Ncube & Parshatom 2017: 6) differ with this position by arguing that, "of main concern to the three countries (South Africa, Botswana and Namibia) were and remain the effects that the free flow of people would have, bearing in mind the sharp economic disparities within the region". It is such evidence which this study seeks to lead to the assertion that the management of international

migration is not only a political issue related to state sovereignty, but that it is also an issue of economic importance, of which trade is an integral part.

The delay in the ratification process of the Protocol on the Facilitation of the Movement of Persons can be attributed to the anarchical nature of international politics, which is characterised by ineffective regional institutions, such as SADC. SADC, like many similar regional bodies, lacks the necessary authority to implement regional protocols, and has a chronic shortage of resources, while also having no political power over national governments; and, thus, little or no ability to shape the migration governance agenda in the region (Baylis *et al* 2011: 89, and Crush & Dodson 2015: 23). Sovereignty and national security concerns seem to surpass regional integration objectives regarding the question of migration. The latter is a contentious issue, and national governments are extremely cautious of what they perceive to be the threat to national sovereignty, including the free movement of people.

The absence of a central government beyond national borders to enforce international agreements and to impose sanctions on non-compliance, derails the implementation of the migration governance protocols. However, in the context of ECOWAS and EAC, regional migration governance norms are generally supported and advanced, as these blocs also have regional passports, and have since abolished visa requirements. The achievements could be attributed to the fact that major immigration countries such as Nigeria, Cote D'Ivoire, (to which Kenya could be added), have experienced conflict or economic downturn from time to time (Dick & Schraven 2018: 102).

Scholars such as Manganite & Formica (2018:2) have advanced a position that has asserted that regional migration management should be viewed as a developmental and socio-economic issue, rather than being viewed as a security concern. The governance and management of migration should not be preoccupied with security interests at the expense of other equally important socio-economic factors contributing to development, such as trade. The well-managed movement of people contributes to better economic relations between neighbouring nations, as there is minimal red tape

procedures at the ports of entry; and the turn-around times for the transportation of goods and services is also prioritised. Security issues are important, but these are not supposed to be made a possibly-hindering factor in the management of the movement of people across national borders.

The SADC region's approach toward migration management has found the regional body at odds with the continental organisation, the African Union (AU), which has anchored its position on the promotion of continental economic integration through regional economic communities; which the AU believes ought to, among other things, enable the free movement of persons within the continent; and the AU also encourages the positive role of migrants within their host communities; and the AU also seeks to ensure the Member States' socio-economic development. Migrants are not only security threats to national sovereignty, but are also an important player in the economic and social development of their host and home nations (Ncube & Parshotam 2017: 7; Dodson & Crush 2015:14; Nshimbi & Fioramonti 2014:60).

The SADC Draft Protocol on the Facilitation of the Movement of Persons does make provisions that also consider migrants beyond just security threats. However, it is not all doom and gloom in the region. In this regard, some SADC Member States have already entered into bilateral agreements to lift visa requirements as a way of promoting tourism and facilitating trade across their borders. In fact, South Africa has long signed labour migration agreements with then labour-intensive countries such as Malawi, Mozambique, Lesotho, and Swaziland (now Eswatini). The workers in these other countries had been recruited to work in South African mines in the last two decades of the late 19<sup>th</sup> and early twentieth centuries (Segatti 2017: 57).

Launched in August 2008, the SADC Free Trade Area, is one of the many regional integration efforts that is expected to benefit immensely from the Protocol on Facilitation of Movement of Persons. The SADC Trade Protocol, through which the Free Trade Area has been created, is aimed at facilitating the movement of capital, goods and services across borders. However, critics have argued that a Free Trade



Area, without facilitating the movement of people, is meaningless, since trade is conducted by persons. In fact, visa requirements are among the most significant non-tariff barriers to trade (Madakufamba, 2005).

Unlike the European Union, which has supranational processes as a unique and distinguishing feature, the SADC has no supranational institutions or processes. The advantage of a supranational regional structure and its related processes, is that the interrelated protocols, treaties and agreements have to be turned into political processes and laws that bind state parties (Geddes & Scholten 2016: 147). In order to effectively implement, coordinate and harmonise regional agreements, the SADC should learn from other similar organisations within and beyond the continent. The Free Trade Area Agreement requires harmonisation as well as certain types of arrangements, if not a formal agreement, regarding the orderly management of the movement of people who are conducting trade and businesses that produce tradable goods and services.

In addition to the Draft Protocol on the Facilitation of the Movement of Persons, in 2013 the SADC crafted the Draft Labour Migration Policy. The policy seeks to develop a common regional policy framework to govern migrant labour; and Section 2.1.2 of the Draft Labour Migration policy states that labour migration is supposed to be regulated through national, bilateral or multilateral policies which would have been crafted within the region. The policy further argues that national policies govern the entry, stay, and employment of foreign workers, “although these are often disconnected from each other internally”, these being the labour and migration policies (SADC 2013). It should be added that the SADC Draft Migration Policy was preceded by a number of bilateral labour agreements which had been formalised and signed in the 1960s and 1970s, to fulfil mining and farming labour demands in South Africa and then Rhodesia (currently Zimbabwe). The era of the 1960s and 1970s saw the professionalisation of the migrant labour system (IOM 2016: 1; Moyo & Nshimbi 2020: 136).

The Draft Labour Migration Policy looks at migration from a rights-based approach, which is centred on integrating migrants into their host societies and providing for their safety. Interestingly, the policy does not only cater for professionals and highly-skilled migrants, but it also provides for the rights of poorly-skilled workers and informal traders within the region (Ncube & Parshotam 2017: 8). Article 19 of the 2014 SADC Protocol on Employment and Labour calls for the harmonisation of the “national migration legislation and policies, and for the adoption of the regional migration policy, in accordance with international conventions, to ensure the protection of the rights of migrants” (SADC 2014; ECDPM 2019: 2).

Taking the issue of adoption and harmonisation of regional labour migration policies, in their retreat on 2 March 2018, the SADC Labour Ministers had noted that, in order to achieve this objective, the regional body should also take into account the historical dimensions of labour migration, and to consider the income and economic disparities, which in some countries, are a source of instability; and the need to create information-sharing platforms on labour migration, especially the role of the different stakeholders (SADC2018). The position communicated by SADC Ministers in the 2018 statement gives hope for a better migration governance direction for the region, and placing a high premium on the value of migrants as human-beings could go a long way in assisting the region to craft a more appropriate and effective regional policy on migration governance, taking into account the interconnected facets of migration as a socio-economic issue.

It is worth stating that, although the SADC migration governance framework has been put in place in terms of adoption and signature, ratification remains a stumbling block regarding implementation. In this regard, Crush et al (2017:33) identify a number of challenges which are seemingly impeding the ratification of the SADC migration protocols, and these include: (i) high economic disparities (inequality and poverty) in the countries of the region which lead to protectionism by economically stronger countries, which tend to prioritise addressing these challenges domestically, rather than at regional level; (ii) the lack of political commitment (or will) at national level also

contributes to the lack of the implementation of the SADC migration protocols; and, lastly, other challenges include the lack of funding for regional migration governance programmes, xenophobia, lack of data and information, so as to inform appropriate policy interventions.

In order to address the challenges related to the ratification of the SADC Protocols, Crush *et al* (2017:33); Moyo & Nshimbi (2020: 134); Nshimbi & Fioramonti (2013:11); Maunganidze & Formica (2018: 2), list a number possibilities, and these include: the establishment of a SADC Commission of government officials and experts, to make recommendations to fast-track the ratification; the collection of accurate and reliable data to dispel myths and misconceptions about migration and migrants; the standardisation of border control processes; the formulation of timeframes for the ratification processes which would build on existing labour migration regimes in the region as stepping stones to boost the implementation of regional migration governance; the implementation of advocacy workshops, liaising with parliamentarians to lobby the SADC Heads of State for the ratification of the protocols; and, lastly, holding diplomatic negotiations with, and among SADC countries on the value and benefits of the ratification of the protocols, while also creating an enabling environment for the effective, profitable, safe and secure regional governance of migration.

### **3.5 South Africa's management of international migration**

Massey (2006: 57) argue that the demise of the dreaded system of apartheid in 1994, had facilitated the “forceful reintegration of South Africa” into the global economy, which had been characterised by an increase in the country’s international trade, investment and immigration. These were primarily from African neighbours near and far, and close trade partners linked to the SADC. The geographic pattern of immigration to South Africa indicates that the inflow of the Europeans is gradually decreasing, whereas the migration of other Africans to the country is increasing (Massey 2006:59-60).

Contrary to Massey's argument that, South African immigration statistics is dominated by neighbouring countries, Moyo & Nshimbi (2020: 134) argue that the 1996, 2001 and 2011 censuses which had been conducted by South Africa, had all indicated that the country continues to receive immigrants from various parts of the world, such as Africa, Asia, Australia, New Zealand, Central and South America, Europe and North America. Therefore, the authors argue, "it is not only immigrants from Africa who enter South Africa; the country attracts immigrants from other regions of the world, as well". Moyo & Nshimbi (2020: 134) back their argument by presenting the official statistics from Statistics South Africa.

The compelling argument of Moyo & Nshimbi (2020) that, not only African migrants are attracted to South Africa, notwithstanding, other scholars, including Manganite & Formica (2018), seem to support Massey's view that there are more migrants from Africa in South Africa than from elsewhere in the world. According to Manganite & Formica (2018: 6), seventy five percent (75%) of African migrants in South Africa are from the SADC region. Therefore, Massey's argument that people from countries that are geographically and economically connected to South Africa are more attracted to enter the country as migrants, is persuasive. However, the disconnect between Massey and Moyo & Nshimbi's arguments seems to accentuate the challenge related to the lack of accurate and reliable data on migration movements in the region, which can seemingly be solved through enhanced regional cooperation and information-sharing by the SADC countries.

According to Massey's argument, it can also be deduced that a trend can be observed, showing that migration also follows the structural formations that accompany market penetration under international trading systems. Therefore, the countries that send migrants to South Africa are those that are becoming more regionally integrated through expanding economic and political ties, which are buttressed by closely-related social and cultural traditions (Massey 2006:60). However, this argument falls short in explaining the statistics presented by Moyo & Nshimbi above, which clearly indicate that the people who enter and obtain temporary residence permits in South Africa also originate from the far-

flung regions of the world. A plausible explanation could be that people will travel to destinations anywhere in the world where they feel that their aspirations, these being economic or otherwise, would be best fulfilled, hence migration being a global phenomenon.

The profile of South Africa's skilled immigrant population was captured by Crush *et al* (2000: 2) following South Africa's pre-1994 immigration policies, which had previously attracted 47% of migrants from Europe; and the most important source country was the United Kingdom with 31%, while 41% of the sampled population were from Africa, with 18% of these having come from the SADC region. Furthermore, Crush *et al* (2000: 2) had recorded nearly 73% of South Africa's skilled immigrants from Europe having entered the country before 1991. In contrast, 87% of the non-SADC respondents had actually entered after 1991, highlighting the recency of South Africa's reconnection to the continent. Lastly, most of South Africa's skilled migrants can be put into two groups: (a) white immigrants who entered before 1994, complete with the security and other rights conferred by permanent residence; and (b) black immigrants or migrants who have temporary residence status only (Crush *et al* 2000: 2).

Golden *et al* (2000:190-192); McDonald *et al* (1998: 32-35) and Frayne and Pendleton (1998: 34-35), had presented converging recommendations on how South Africa's immigration policy ought to be framed and structured. The scholars had also recommended that, since migration into and out of South Africa is an eminently manageable phenomenon, the country ought to build on its highly-regularised and legal processes, which are being conducted by responsible people; and that it is important to build on this process, rather than forcing migrants and migration into more clandestine modes. Furthermore, the de facto and de jure criminalisation of migrants as a result of media stereotyping and difficulties in obtaining official documentation have led to serious human rights abuses of foreigners by some people among the South African Police Services personnel, immigration authorities, as well as the general public.

It is advised that new immigration legislation should address these human rights abuses and make policies on immigration more consistent with the Bill of Rights in the South African Constitution. Economic issues serving as the pull factors of immigration into South Africa, such as jobs and other income-generating opportunities, should be at the centre of regional integration processes and economic parity programmes that are critical aspects of any Southern African immigration policy regime. Integration and parity are long-term goals, but it is essential that policy-makers and practitioners recognise both the immediate importance of cross-border movement for socio-economic stability in the region, and the need to address more micro-economic impacts that immigration policies can have on household opportunities and welfare outside the country (Golden *et al* 2000:190-192; McDonald *et al* 1998: 32-35 and Frayne and Pendleton 1998: 34-35).

As a historical phenomenon, with a continuity that is foreseeable in the near and distant future, migration into South Africa is also considered as a pan-African phenomenon. It is also important that policy-makers become sensitive to regional differences (in respect of SADC and non-SADC migration trends), and that the politicians acknowledge the new role South Africa has begun to play with respect to the movement of peoples on the continent as a whole. Also, the impact of migration on women has to be studied and understood, properly, as their experiences are different from those of men. Therefore, policy-makers ought to pay attention to these gender-sensitive dynamics regarding the legislation and management of immigration policy in South Africa; and, last but not least, the provision of public services such as housing, education, healthcare and other social and welfare services ought to be factored into the immigration policy (Frayne and Pendleton 1998: 34-35).

According to the 2017 White Paper on the International Migration for South Africa, the government's policy on international migration is implemented through the Immigration Act 2002 (Act No. 13 of 2002), as Amended; and partly through the Refugees Act 1998 (Act No.130 of 1998), as Amended (DHA 2017: iii). The White Paper recommends policy and strategic interventions in eight areas, namely: the management of admissions and departures (or immigration), management of residency and naturalisation; the

management of international migrants with skills and capital; the management of ties with South African expatriates; the management of international migration within the African context; the management of asylum seekers and refugees; the management of the integration process for migrants; and, lastly, the management of enforcement (DHA 2017: iii).

On the most relevant aspects of this study, such as management of admissions and departures, the White Paper states that the policy seeks to 'strengthen a strategic, modern, integrated and risk-based approach in managing the secure and efficient cross-border movement of people, goods and conveyances. The policy further seeks to increase South Africa's international competitiveness for critical skills and investment (such as the attracting and retention of high-valued migrants' (DHA 2017: v-vi). In the succeeding chapters, the 2017 White Paper on Migration for South Africa will be critically-scrutinised, especially its linkages, or lack thereof, to trade policy imperatives. The White Paper makes a direct link between immigration and trade by referring to the management of admissions and departures, and to the secure efficient cross-border movements of people, goods and conveyances.

### **3.6 Central issues in the literature and gaps**

In the late 20<sup>th</sup> and in the beginning of the 21<sup>st</sup> centuries, studies conducted to link trade and immigration policies were carried out by David Gould in 1994; Head & Ries (1998); Dunlevy & Hutchinson (1999); Girma & Yu (2002); Bardhan & Guhalhakurta (2004). These studies had focused mainly on the role of immigrants in promoting bilateral trade. The empirical findings had also produced outcomes that were similar to those that had intimated, earlier, that in one way or another, immigrants play a positive role in promoting trade (Gould 1994: 303). In the 21<sup>st</sup> century, the prominent works of Blanes (2008); Qian (2008); Bettin & Lo Turco (2009), had confirmed the positive effects of immigrants on promoting trade; albeit with the exception of the latter study.

Bettin & Lo Turco found had that, “immigration has a significant but negative effect on North-South exports” (in Garmaza 2011: 20). White (2010) had argued that in his findings he had discovered that skilled migrants had contributed more to trade facilitation than those who were unskilled. This is due to knowledge and information-sharing, as well as through the economic contribution of the skilled migrants to both the host and origin countries. On the other hand, though, the impact that migrants have on trade decreases with the number of years which the immigrants spend in the host country (Garmaza 2011: 20). This finding is in sync with that of Bettin & Lo Turco, regarding the negative effects of trade and immigration.

Peters (2015) laments the lack of attention to the study of the effects of trade policy on migration. The scholar argues that, “trade and immigration policies are rarely opened together” (Peters 2015:115). The determination on whether or not to open trade or migration policy, largely hinges on whether a certain country considers itself as being labour-scarce; and, in that instance, it will open migration policy and restrict trade policy. In essence, this is carried out to satisfy the demands of the domestic economy for labour, and trade has a potential to drive the prices of local products down, thereby leading to the closure of local manufacturing firms. It can thus be deduced that trade restrictions in labour-scarce states lead to an increase in production in labour-intensive industries; and, when it is open, there is a decrease in labour-intensive production, as the labour-intensive firms go out of business (Peters 2015:115).

Trade and immigration policies are interlinked, and it is imperative that policy-makers should consider the impact one has on the other (Ewing 2014: 215). Therefore, a thorough understanding of immigration policy requires the study of its interlinkages to trade policy. Similarly, trade and other foreign economic policies should be examined in light of an immigration policy which enables the facilitation of the movement of people who are the centre of the trading in goods and services. It was until the beginning of the 21<sup>st</sup> century that political science literature had attempted to draw direct links between trade and immigration policies. The current study seeks to expand on this evolving academic work in analysing and interpreting trade and immigration policies, together with



the view to enhance the related public policy formulation, coordination and implementation.

The literature review in this chapter clearly demonstrates that international migration is not a recent phenomenon. For example, among other studies, the literature on migration in Africa clearly depicts a picture of an age-old human experience before the erection of the artificial colonial borders that had divided people who had been sharing similar cultural and blood lineages (Ricca 1989; Adepoju 1995). Since the inception of the colonial boundaries and nation-states, migration ceased being a natural life experience for millions of Africans, and became a modern state public policy and governance issue. This is the realisation that makes the current study valuable in the development of knowledge and literature on how the South African trade and immigration policies are linked together, as border management mechanisms.

The delimitation of the current study focuses on the period post-1994, but migration to South Africa has long been a subject of various academic investigations in different periods. However, the literature review exposes the fact that the focus of most studies has been in two main fields; namely, labour migration and the security aspects of migration policy, especially those dealing with illegal cross-border movements of people. In other words, migration has largely been considered a threat to national security, and not as an opportunity to enhance economic development through trade, better utilisation of migrant skills, migrant business networks, expertise and entrepreneurship. As the literature has been able to uncover, studies that had started to look at the economic benefit of migration and its positive effects on trade were conducted in the late twentieth century, and have been growing in the current century.

The link between trade and migration is still understudied, and the findings of the available studies remain inconclusive about the causal relationship between the two fields. As a matter of fact, some of the studies clearly avoid to make universal or generally applicable findings. This could be attributed to the many variables that determine the causes of migration and trade, such as conflicts, climate change, underdevelopment, poverty, inequality, etc. Some of the studies also make a direct link between trade and migration

in relation to the trade in services which naturally entail the movements of skilled people from one geographical location to the other.

In most countries today, people are free to leave the boundaries of their states. This is also acknowledged by the Universal Declaration of Human Rights (1948), which states that, in Article 13 (2), “everyone has the right to leave any country, including his own, and to return to his country” (Nita 2017: 10). Therefore, the support for the free movement of people can be seen as an act of giving practical expression to the Universal Declarations that have been buttressed by the liberal theory of international relations, which argues that the removal of barriers to commerce in the form of free trade, free movement of capital and labour, would reduce tensions and increase economic collaboration among the member countries of the same geographical region (Burchill 1996:36). However, this is easier said than done, as the literature, below, demonstrates.

For instance, the, right to emigrate is not complemented by an equally internationally recognised right to immigrate (Nita 2017: 10). Consequently, the decision of whether a person is allowed to enter another country is still in the discretion of the sovereign nation-states. Discussions have been brought up, frequently, regarding whether or not to introduce a universal right of entry; but progress, in terms of concrete output, has been limited, so far (Nita 2017: 10). These discussions justify the current study; in that, it seeks to locate these deliberations in the context of public policy processes; particularly the nature of the nexus between migration and trade policies.

The available literature reveals that there are countries and regions that have not yet embraced the idea of ceding sovereignty to regional organisations, for the purpose of public policymaking, and would rather reserve the right to make their own policies (Oucho & Crush 2001:154; IOM 2005: 17). Therefore, this situation makes the development of migration governance challenging, and the development of integrated public policies, such as the dealing with trade and migration even more difficult. This also poses challenges to the argument that has been made by Burchill (1996) and others, who argue

for the removal of barriers to the movements of people, goods, services, capital and labour.

At global, continental and regional levels, there is an acknowledgement that, in certain circumstances, migration could result in some people establishing their businesses or trade practices away from their country of origin; and, thus, national policies should take this into account. Regions such as East and West Africa have even adopted protocols to this effect, so as to enable their citizens to be able to enjoy economic benefits outside their countries of birth or origin (Nshimbi & Fioramonti 2013: 49). However, the admissions of migrants to host countries remain largely the determination of the host country. The critical consideration in this point, is that countries, though they belong to the same regional and continental organisations, tend or choose to reserve the right to develop their own policies, rules and regulations on international migration. In the case of trade, countries tend to agree on the harmonisation and alignment of the regional protocols to their national policies.

The discretion of countries on how to manage migration poses challenges to the associated global, continental and regional international migration management efforts. Furthermore, this had also tended to empower countries to devise policies and regulations that would have allowed only certain categories of people to be admitted, and others who would have required to be rejected. The administrative red tape, such as the lengthy and costly formalities at border posts, or cases of corruption at the border, have hindered the free flow of persons and trade (Urso & Hakami 2018: 40). Some of the countries choose to prioritise security considerations of migration, while others consider economic benefits as being more important (Urso & Hakami 2018: 42). Some countries, like South Africa, seem to have a combination of security and economic considerations in their migration policy; and, also, attempts are being made to devise what is known as the integrated risk-based international migration policy (DHA 2017: v-vi; Oucho & Crush 2001: 155).

One of the clearest gaps in the literature review deals with the link between migration and trade in South Africa, which has not been conceptualised and factored into the interrelated public policy studies. This is the gap that the current study seeks to address. Academic work on regional trade issues focuses, largely, on the description of the products and the related facts and figures, as has been argued by Livi-Bacci (2010). The academic studies on international migration beyond labour considerations had gained traction in the late twentieth century, and had gathered momentum in the beginning of the twenty first century, as has been demonstrated by Ghosh (2000), in Geiger & Pécoud (2010).

In the context of globalisation, the multiplication of economic agreements that were aimed at liberalising trade, finance or investment flows often increases the pressure on governments to liberalise certain movements of people; and this is a type of pressure that is compounded by the recent emphasis which has been placed on the linkages between development policies and international migration; along with the idea that better migration management at the regional level cannot only favour the economic development of the concerned countries, but can also contribute to regional stability (De Lambaerde *et al* 2017: xix). Closer home, and in the context of the SADC, it is the Member States which have made significant progress in the area of trade liberalisation; and the same cannot be said about migration governance. The latter is due to the prioritisation of sovereignty and national security by some of these members.

The literature also reveals that a number of regional organisations in Africa have adopted one or some of these different types of approaches to migration governance; namely, the agreements which offer the full mobility of labour; arrangements by countries of granting access to their labour markets only for certain categories of people (mostly high-skilled workers); arrangements following the GATS model by granting labour markets the access only to service providers on a temporary basis; and, lastly, the arrangements by the countries, not aiming to regulate market access, but to protect the rights of migrant workers (Nita 2017:18). In the reviewed literature, there is only one study, by Lodefalk (2016), that links trade in services and migration; and, significantly and sadly, the literature in this specific area is very scant.

Challenges to the implementation of multilateral and regional agreements on migration governance include ratification processes; the scope and degree of the liberalisation of the free movement; the administration capacity of the implementing bodies; lack of financial and human resources; the absence of monitoring mechanisms; the absence of regional enforcement mechanisms and legal remedies (Nita 2017: 35-37). These challenges can be considered as the elephant in the room for all the global, continental and regional efforts towards the effective and universal governance of migration.

The AU has taken a position that, “better migration governance can be achieved through the development of evidence-based policies, through a whole of government approach”. (AU 2018:10). In relation to Agenda 2063, this is the continental body’s development programme which, among other things, calls for the free movement of people, as part of the continental integration agenda. For the AU, the free movement of persons will contribute to substantial increases in trade and investment within the continent, which would in turn strengthen Africa’s position in global trade (AU 2018:24-25). It would be logical to expect that AU Member States would do precisely what is explained in the position above.

It has been demonstrated in the literature of this study that, states prefer to adopt policies and approaches that help them to achieve their national interests. It would not be surprising that AU member states not all equally abide by the continental body’s position on the management of international migration. As a case in point, South Africa prefers to enter into bilateral agreements and arrangements insofar as migration issues are concerned (Segatti 2017: 57). It is a well-known fact that, through bilateral arrangements, countries negotiate for what is in their best interest, and use whatever means at their disposal to achieve this. Successes in bilateral agreements, as has been witnessed in the SADC region, have resulted in some of the countries moving very slowly or not moving at all, regarding the efforts that had been aimed at developing commendable and progressive regional migration governance protocols.

Despite the different perspectives which had been presented in the studies and other literatures on the link between trade and migration, there seem to be similarities between the AU position on Migration, the IOM and the recently-adopted Global Compact on Migration. What is worth highlighting, here, is that these organisations make a crucial point that there is a positive relationship between economic development (fight against poverty, inequality and unemployment, trade) and migration. Thus, it can be concluded that policy-makers ought to strive to integrate policies dealing with these issues.

Nathan (2014) went a step further than the other scholars, who had simply presented the findings of their studies on the trade-migration nexus. Though Nathan's proposals are not discussed in detail in his study, these are useful in informing future or desirable public policies in relation to the link between trade and migration. The policy proposals include the development of programmes which had been aimed at selecting migrant "stars", and those with high entrepreneurial potential; encouraging skilled migrants into urban environments, where they may pay dividends, because of the economic affordances of the cities; and policy-makers to be careful to avoid the adverse distributional impacts of native workers or firms (Nathan 2014:2).

The studies which had been conducted in the late twentieth century and the first two decades of the twenty first century have contributed positively to the development of the literature on the link between migration and trade. Significantly, the studies had developed and generated growing interest in the analysis of migration and trade, together, as the two sides of the same coin, rather than being mutually exclusive and divorced phenomena. This positive element, notwithstanding, the reviewed literature is inadequate in addressing the correlation and causality of migration and trade. Some of the scholars attribute an increase in trade to the increased number of migrants in a given country. Others argue that, it is the organised professional business networks of migrants that has a pro-trade impact. None of the scholars, thus far, makes a conclusive argument about the causal link, and the correlational link between the two border management policies.

Thus far, the available literature still falls short of providing information and knowledge on whether or not the influence which migration has on trade or vice versa, is by design or default. Thus far, the literature reveals that the linkages between trade and migration is, by default, or as demanded by circumstances such as the high number of migrants importing certain goods from their country of origin, thereby boosting import-led trade relations. The current study examines the link between migration and trade from a public policy perspective, with a view to make findings on whether or not trade and migration policies ought to be formulated, implemented and evaluated, in concert, as interlinked instruments of border management.

### **3.7 Conclusion**

The discussion on the existing literature demonstrates that, albeit not being conclusive, there is available evidence that proves a positive link between trade and migration. The literature further proves that the trade-migration nexus is not the same everywhere; as it depends, largely, on a number of factors; such as the type of migrants, including high or low skilled migrants, economic opportunities in the host and home countries, communication and network channels, etc. The bulk of the evidence prove that the highly-skilled and business-connected migrants play a more prominent role in advancing pro-trade relations between countries through their business networks, and merchandise preferences, among others.

Some scholars have made calls and provided advice on the changes to be considered for more integrated trade and migration policies. Some of the policy proposals include the removal of barriers to the movement of people, thus, leading to liberalisation of migration policies, for these to be in sync with the same processes which are related to trade. A call is also made for a paradigm shift on how migration is viewed, especially a move away from a security-inclined perspective to a more economic consideration. In other words, migration does not only pose security risks; but it also offers economic opportunities such as the recruitment of highly-skilled migrants who can boost relations between their home and host countries in various ways, including trade, commercial deals, entrepreneurship,

and innovation. It is for this reason that countries have to cooperate with each other in the design and implementation of migration policies; hence the regional blocs have a critical role to play in ensuring that the interests of the migrants and countries are well balanced.

The 2018 AU MPFA calls for the setting up of a dialogue between all the government agencies dealing with migration, trade and labour issues, so as to deal with the temporary movements of people supplying services; and, thus, avoid delays on matters related to visas and work permits. It remains to be seen as to how all the AU Member States would go about heeding this call, since some of the regions, such as the SADC, have influential countries, particularly, South Africa. Such countries, like SA, in particular, hold strong views on the issue of regional migration governance. This is one of the challenges that justify this study to be undertaken, as trading and migration take place daily between countries that share land or even sea borders, as people can shuttle to and from markets in these different countries.

One of the critical observations, in the available literature, is that, migration is a multi-layered phenomenon, and ought to be studied and analysed thoroughly and comprehensively. For instance, some of the related studies had proved that there is a positive relation between immigration and trade, depending on the country of origin of immigrants. The latter, who come from conflict-prone regions and countries, contribute more on the import aspect of trade, by importing the products they are familiar with in their home countries. Some studies proved that there is a positive relationship between migration and trade in both the imports and exports perspectives.



## CHAPTER FOUR: RESEARCH METHODOLOGY

### 4.1 Introduction

Owing to the simultaneous study and analysis of the trade and immigration policies, the mixed methods approach has been utilised in this research. However, the quantitative component has been used on a small scale. In respect of the expertise required for both qualitative and quantitative methods, the study is biased towards the qualitative method, due to the nature and quantity of the data which has been collected, and analysed. The limited use of the quantitative method adds value in addressing matters related to the statistics and interpretation of the literature on the relationship between trade volumes and immigration statistics.

The mixed methods research has been hailed for its strengths which, among other things, is to provide a 'stronger understanding of the research problem than utilised either by qualitative or quantitative design' (Creswell 2014: 215). Many phrases are used to refer to the mixed methods; such as integration, synthesis, quantitative and qualitative methods, multimethod and mixed methodology. The mixed methods is preferred, because it draws its strength from both the qualitative and quantitative research; and, more practically, it provides an advanced complex approach to research, which appeals to those on the forefront of designing new research procedures (Creswell 2014: 218).

The effectiveness of the mixed methods is further expounded by McKim (2015:2013). Citing a number of scholars, such as Coyle & Williams (2000); Sieber (1973); Morse & Chung (2003); Tashakkori & Teddlie (2003b); Hurmerinta-Peltomaki & Nummela (2006); O'Cathain, and Murphy, & Nicholl (2007), to mention just a few, McKim summarises the value of the mixed method as increasing the validity of the findings, informing the collection of the second data source, and assisting with knowledge-creation; the integration of the components of research, which gives readers more

confidence in the results and the conclusions of the study; and it also help the researchers to cultivate ideas for future research.

In this study, the quantitative method has been utilised in two ways, firstly, as a part of the literature review that has been analysed by the researcher, particularly the studies that may have covered the relationship between trade and immigration through trade volumes and value. Secondly, the quantitative data which has been collected and analysed from the primary sources of the study; and some of which may have been supplied by the competent authorities that have been interviewed; particularly the DHA, which provided statistics regarding the work visa permits which would have been issued by South Africa over a particular period, following the introduction of the electronic system. The use of the quantitative data, though limited, adds value in addressing matters related to the statistics of the issuance of travel documents for trade and business purposes, as well as understanding the impact of immigration to trade in quantifiable terms, as has been presented in literature review.

The inductive analysis has been used to sift through the volumes of literature relating to the link between trade and immigration policies. The literature covers a wide range of perspectives involving the link between the two policies. In some instances, the link has been demonstrated through quantitative studies that examined the impact of immigration on bilateral trade relations, with some findings reporting a positive link (that is, when the numbers of immigrants increase, trade between the country of origin and the immigrants host country tends to increase); and, in some instances, a negative link has been found (meaning that, the more immigrants settle in the host country, the less they would import familiar products from their home country). The literature has been, mainly, collected and analysed from regional and national perspectives; but references have been obtained at the global level, as well.

In relation to the new data which has been collected in the study, an effort has been made to analyse this, deductively, focusing on the main themes that help to examine the nature and impact of the link between the trade and immigration policies. In this

regard, Chapter Six focuses its attention on the deductive analysis of South Africa's trade and immigration policies. The deductive analysis has further enabled the drawing of inferences on South Africa's theoretical leanings in the ongoing global discourse on the management of international migration. In other words, though the study commences with the inductive analysis of the literature, it ends with the deductive interpretation of its own findings, though. Finally, the study has been approached from an interpretative and critical analysis standpoint.

#### **4.2 Applicability of the Mixed Methods to the current study**

Some of the most recent studies, that had employed the mixed methods research, were those that had been based on various fields; such as education (Johnson ;2017; McKim 2017); Schieber *et al.* (2017), in health sciences (Nielsen *et al* (2017), in the business field (Manoharan & de Munck; 2017), and in the field of psychology (Chui and Cheng ;2017). In the context of migration, Bergman (2018) provides an overview of the complexities involved in the study of this phenomenon. Among other things, the scholar argues that, "migration shapes much of the history and destiny of humankind. Studies on citizenship, migration, and inclusion have been with us since the beginnings of politics and academia" (Bargman 2018: 371).

Bargman (2018: 373; Soureshjani 2015:388) advance an argument that intimates that the study of migration in the twenty-first century ought to take into account an increasing number of factors, issues, and different contexts. Therefore, the "Mixed Methods Research and designs are well-suited for dealing with complexity, mutability, and transdisciplinary (issues)" (Bargman 2018: 373; Soureshjani 2015:388). Also, the Mixed Methods Research is designed to capture, not only different entry points, but is also versatile enough to accommodate various stakeholders, different positions and perspectives. The Mixed Methods Research has been successfully utilised to develop new ways of thinking, especially in studying both the known or new phenomena. This same method has also been used to replace or improve other outdated or unsuitable

ways of studying phenomena, or in confirming the relevance of known phenomena in a new context.

Mertens *et al* (2016a: 225) supports the use of the mixed methods to study complex phenomena, such as international migration, because multiple interacting systems (as are trade and immigration), are “replete with social and institutional uncertainties, and for which there is no certainty about their nature and solutions”. Therefore, the complex and interrelated social systems of trade and immigration “demand methods (that are) able to investigate a problem from multiple viewpoints, with (the) flexibility to adapt to changing situations, yet (being) able to produce credible results” (Bazeley 2018: 3). As has been demonstrated in the literature review chapter, the nature of the relationship between trade volumes and immigration varies from situation to situation, and from country to country; and this makes it difficult to make generalised conclusions on the causal relationship, or lack thereof, between the two phenomena.

Over the past decade, there has been an observable reality that the study of migration has shifted from studying mobility practices or identifying its formation; and, onwards, to investigating how migration is being regulated (Horvath & Lacheva 2019: 128). The developments in migration regulation, which is relevant to the current study, has been discussed as, “the rise of regime perspectives”, by Horvath *et al* (2017). In this regard, the study of regime perspectives in migration demonstrates the manifold interactions of actors and institutions involved in the governing of borders and mobilities, as well as the relevance of public discourses and global relations of power and inequality (Horvath & Lacheva 2019: 128).

The current study focuses on the economic aspects of international migration, as it examines migration regulations or policy provisions related to trade policy. The value of the mixed methods research is “its ability to make sense of the world, increase confidence in findings, improve accuracy and completeness, and inform and contribute to overall validity” (McKim 2017: 203). Creswell & Plano Clark (2007) argue that, “the value of mixed methods is the combination of two methods with the goal of

providing readers with a better understanding than a singular method can". Migration is one of the high priority issues in the study of international relations; and it is essential that the current, related studies contribute to the generation of knowledge and literature that is accurate, valid and which helps all those working in the migration field to improve their contributions to the development of regulations and policies that are sound and well-informed.

Fauser (2018: 395) argues that, "globalisation and the spread of transnational flows of capital, goods, and information and, (last but) not least, of persons and their cross-border connections have created new social realities and have led to new research questions and sometimes entirely new fields of inquiry". One of the fields of enquiry is the study of the various transnational perspectives on the management of migration. According to Fauser (2018), the transnational migration research advocates the need to account for the cross-border ties and practices of migrants, the resources which are exchanged, and the emerging transnational subjectivities. The foregoing argument aptly captures the relevance of the mixed methods research to the current study; in that, the main focus is meant to examine the public policies of trade and immigration which facilitate the cross-border ties and practices of migrants and the resources exchanged.

Furthermore, Fauser (2018: 395), argues that, "contemporary globalisation and the deep-seated changes in communication, travel, and trade, together with new global inequalities, have facilitated, shaped, or forced intensive transnational ties". Undoubtedly, this statement strengthens the relevance of this study, which suggests that, trade and migration are phenomena that have transnational impact and effects. Thus, the management of trade and immigration require international and global cooperation. Schulze's (2003), in (McKim 2017:213), has found that mixed methods research provides more breadth, depth, and richness, as compared with either the quantitative or qualitative research methods, alone. In demonstrating the strength of the mixed methods research, McKim (2017: 213) cites the important works of scholars such as Morse & Chung (2003); Coyle & Williams (2000); Johnson & Turner (2003);

Morse & Chung, 2003; Schulze, 2003), who argue that the mixed methods research provides a more balanced perspective; and is, therefore, valuable.

In the literature review chapter, it is being demonstrated that the management of migration is a matter that is handled at various levels of government and public institutions, especially at the national, regional, continental and global levels. Therefore, the mixed methods research is a, “means of expanding the possibilities for further insights that would in turn support a more comprehensive understanding of the phenomenon, thereby contributing to a more in-depth understanding and “sophisticated rigor” (Fauser 2018:402). This complexity already justifies the demand for mixed methods research (Latcheva & Herzog-Punzenberger, 2011). Admittedly, migration research is a multidisciplinary and multi-methodological field that covers, among others, survey and interview research, various sorts of text analysis, and ethnographic methods (Horvath & Lacheva 2019: 128). Many texts on mixed methods research tangentially touch upon this point; but these, subsequently, urge the researcher to be pragmatic (e.g., Creswell, 2003; Creswell and Plano Clark, 2007; Tashakkori and Teddlie, 1998; 2003).

Based on the views that have been espoused on the mixed methods research, so far, it is apparent that the use of the mixed methodology is not only about a combination or integration of qualitative and quantitative methods, but can also be used to study complex phenomena, such as international migration governance, from different perspectives and varying contexts. The mixed methods further help to conduct the exploration, complementarity, and convergence of complex social phenomenon; hence it is highly pertinent to the study of the management of migration. Migration is one of the fields, in the increasingly globalised world, that require much further fundamental and applied research in the 21<sup>st</sup> century. The mixed methods research and designs make an important contribution to the capturing of the multiplicity of associated phenomena, in order to propose the policies and solutions that are suitable for all the relevant stakeholder groups (Bergman 2018: 373).

### **4.3 Data collection instrument**

The data collection plan for the study covered a mixture of qualitative face-to-face interviews with groups of people who had been purposefully targeted, namely, government officials, as the policy practitioners; migrants organisations as the target sector of society for the purposes of trade and immigration policy interventions; migrant recruiting agencies, as the facilitators of migration; as well as policy-makers. The interviews were to be complemented by the collection of data from primary and secondary sources, such as official government policies, strategies, regulations, statements, position papers, published books, etc. However, the outbreak of the Coronavirus (COVID-19) global pandemic in the beginning of 2020, had made it impossible to conduct the face-to-face interviews. Consequently, questionnaires were used; and these were supplemented with data from several other sources.

In this study, the research data has been collected through the use of a semi-structured interview schedule. The questions have been designed to assist the researcher to gather, from the respondents, as much data, insights, knowledge and information as possible. The number of participants was significantly reduced due to the imposition of government restrictions to contain the spread of the COVID-19, and these particularly applied to restrict the physical human interactions and movements. The restrictions negatively and severely disrupted normal business operations and in some instances, they led to closure of many businesses and organisations. Consequently, the collection of primary data was restricted to the two government institutions that are responsible for the management of international trade, the Department of Trade, Industry and Competition (DTIC) and immigration, that is the Department of Home Affairs (DHA).

The questionnaire was emailed to the identified respondents, and subsequent follow-ups were made through electronic mail (email), Short Message Services (SMS) or text messages, and telephone calls. The content of the questionnaire was exploratory, due to the complexity and nature of the research problem. Exploratory questions help to

deepen the understanding on the known and unknown phenomenon; and these also aid the generation of new insights and knowledge.

Open-ended questions constituted the main thrust of the questionnaire, as these allow the interviewee an opportunity to expand on answers, without restricting the respondents to predetermined “yes” or “no” responses. The questionnaire was also designed to gather and collect data that responds to the two interlinked main objectives of the study, namely; (i) to analyse the provisions of the trade policy that have implications or link to the immigration policy, and (ii) to analyse the provisions of the immigration policy that has implications or links to the trade policy of South Africa, post-1994.

Furthermore, in order to contribute to the development of new knowledge in the study of international migration, the questionnaire was designed to also collect data on the nature of the relationship between trade and immigration policies in South Africa, given the growing international significance of migration as a development issue that features prominently on discourses on global governance. As a development and global governance issue, and as has been argued in the literature chapter, migration is increasingly driven by globalisation factors such as the opening of national borders for international trade in goods and services, expansion and search for economic opportunities across continents, etc. Put differently, migration is no longer a phenomenon that is linked to involuntary acts, but as one to which people are subjected to by social problems, meaning that it is also a socio-economic, and development issue, which offers people an opportunity to decide on how and where to pursue their economic interests.

In order to gather the data that is relevant to the study, the questionnaire has also included questions that required the respondents to explain and, or discuss their organisational policy formulation processes, because trade and immigration policies require consultations with stakeholders who are affected by, and are targeted for the regulations and interventions. The last part of the questionnaire sought to examine



South Africa's theoretical framework within which the trade and immigration policies are formulated and implemented. The data which has been gathered in the study was expected to assist the researcher to make findings and conclusions on how to fit South Africa's position in the greater global discourse on migration as a development or a security issue; or, perhaps both. In the literature review, it was clearly argued that South Africa views migration as both a development and security issue, although the latter seems to take a centre stage.

Furthermore, the complex nature of the research topic has also warranted the research questions to be open-ended, so as to afford the researcher an opportunity to explore the phenomenon from different perspectives. In addition to the questionnaire, the primary sources that had also been consulted were the public documents such as the government trade policy, government migration policy, government immigration regulations, the 2002 Immigration Act (as Amended), public statements of the Minister of Trade, Industry and Competition, and the Minister of Home Affairs, respectively; as well the respective Home Affairs and Trade, Industry and Competition departments' official statements and policy positions.

Secondary sources of information for the study also included scholarly articles that were written by qualified academics, and had also been published in accredited academic journals. These were complimented with books (both electronic and hardcover). All these sources have been duly acknowledged and cited in the study. The data collected was deemed to have been the best to enhance the ability of the researcher, and these were not only limited to the materials which were considered relevant, valid (as contextualised in the data) and reliable, as had been based on the credibility of the sources.

It is important to mention that the data collected in the study contains quantitative components albeit on a small scale. The latter has been studied in two ways; firstly, as part of the literature review that has been analysed by the researcher, particularly studies that had covered the relationship between trade and immigration through trade

volumes and value. Secondly, the quantitative data has been collected and analysed from the primary sources of the study; and some of the materials have been supplied by the competent authorities who have been interviewed; particularly the DHA, which had, significantly, provided statistics on the work visa permits that have been issued by South Africa over a particular period since the introduction of the electronic system.

#### **4.4 Data analysis**

The data collected in this study has been organised into chapters and thematic sections. The organisation and interpretation of data has been carried out through the triangulation of the primary data from the interview questionnaire, policy documents, opinion pieces of authorised persons (such as the relevant Ministers and senior officials), and the official statements from the DHA and the DTIC. The official statements have not necessarily been cited, exclusively, but the insights which have been obtained from these have been infused with the data from the other sources, such as those involving matters of legislation, thereby informing the crafting of the thematic sections.

As a policy study, the collected data has been analysed through a lens of applied research, whose main aim is to contribute to, among other things, coherent public policy formulation, implementation and evaluation. Such a contribution is naturally preceded by an informed decision-making process on the best options available from the evidence gathered in the data. Beyond a mere policy analysis, this study also contributes to public policy discourses on the management of international migration. In this regard, the study concludes the analysis by making policy recommendations for consideration by policy-makers, policy practitioners, activists on migration-related issues, as well as by scholars in the field.

The topical nature and complexity of the management of international migration demonstrated in this study requires a more practical and applied approach by the researcher. In this context, the researcher analysed the data with the full appreciation

of the fact that, due consideration ought to be given to the implications of the recommended policy actions. It is with this understanding in mind that the researcher considers the findings as being of strategic nature, as these also require intellectual engagements at the high echelons of the decision-making structures of the trade and immigration authorities.

#### **4.5 Sampling of research participants**

The research topic and the primary research question have informed the decisions on the selection and recruitment of participants in this study. The participants were recruited through formal written communication, which had also explained the purpose of the study, its objectives, and the requested, suggested role of participants. Assurance was provided that the participants' identities would be protected through the signing of the Written Consent, which guarantees their rights. An undertaking was also made that only authorised persons would have access to the research data and the signed Written Consent. The participants were further requested to share any official information at their disposal relevant to the study and to assist in securing approval for access by the researcher.

As a policy study, the research method required that the interviews be conducted with selected policy practitioners in the relevant government departments. Professional organisations of the interviewed migrants and their employers have been approached and duly recruited to participate in the study. The selection was done in order to obtain first-hand information on their practical experiences about the management of their movements at South Africa's ports of entry. The interviewees were selected on the basis of their individual and collective practical knowledge, expertise, position and influence in the organisations they worked for or represented.

The professional organisations and businesses that were recruiting, advancing interests of and those that are run by the migrants, themselves, were selected for the study. The selection was aimed at ensuring the proper representation of stakeholders.

The selected organisations were found on the database of legally-registered organisations and businesses by the accrediting authorities in South Africa. The organisations which had been approached were mainly those that are in the field of trade and migration, in relation to their professional activities. The latter was to ensure that the focus of the study is not diverted to other areas of migration, since this is a very broad field, with many sub-fields, some of which do not have relevance to trade. In other words, a more focused, or to be exact, purposive sampling was employed in the study.

The size of the participation sample in relation to the government authorities was purposefully restricted by the clear focus and delimitation of the study to only two departments. Trade and Immigration policies are a mandate and competencies of the DTIC and the DHA. The two departments are responsible for the formulation, implementation and evaluation of their respective policies, as well as for the related interactions with their stakeholders. For example, the DHA is responsible for the accreditation and issuance of authorisation for organisations and agencies that issue travel documents, such as visas and work permit, and has a division that has to service those relations.

The DTIC, on the other hand, maintains relations with traders, both as business people in their own right, and as members of professional organisations called Export Councils. Therefore, the sample has been representative of all the main stakeholders that are key in trade and immigration policy issues. The two departments also have various divisions that deal with the specialised aspects of the research. In this regard, the departments were requested to expand participation in the study, beyond a single section. Consequently, at the DTIC, two divisions (namely, the Trade Agreements and Trade Policy divisions) had participated in the study; and in the DHA two divisions (namely, the Port Control and Permitting divisions) had participated. The third selected division in the DHA was the International Relations Unit, which does not necessarily have a policy mandate on migration, but acts as a liaison accessory of the department, cooperating with other international stakeholders.

The selection criteria were also informed by, inter alia, relevance, verifiability, accuracy, credibility and reliability of the sources of data. These have been achieved through, among other things, the provision of data by the officials who participated in the study in their official capacity; and who have been duly authorised through formal organisational processes to take part in the enquiry. The participants were all asked the same questions; and their responses were recorded, coded and analysed in the study. The literature which has been used in the study has been sourced from accredited academic journals, registered official websites, official-published books, and officially-published statements and documents. The use of the quantitative data, though limited, adds value in addressing matters related to the statistics of the issuance of travel documents for trade and business purposes, as well as in understanding the impact of immigration on trade, especially in quantifiable terms; as has been presented in literature review.

#### **4.6 Conclusion**

The chapter discussed the research method which has been employed in the study, as has been outlined under the sections that covers topics including application, data collection, data analysis and sampling. The mixed methods research is frequently used to study a plethora of social phenomena, especially when this done with the aim of generating new knowledge and understanding about how to address these various issues. For policy-related studies such as this one, the mixed method has proven more effective to examine the efficacy of the policies in question, the interconnectedness of issues, as well as to gather feedback from the affected persons. Such an examination is conducted through the use of primary and secondary sources of information, such as interviews, surveys, questionnaires, images, videos, written texts, documents, etc.

The inclusion of the qualitative method in the study enabled the researcher to engage in the critical interpretation of the findings in the data, and to connect these to the primary research question. The focus in the study applied to only two departments

that are legitimately-mandated to craft and implement the policies under investigation, and this has helped to keep the scope of the study within its proper context, without venturing into the many aspects and actors involved in the management of international migration at the ports of entry. The participation of the relevant and authorised persons in the study has contributed to the generation of authentic and original findings of the study. The analysis of the finding of the study is presented in the following two chapters, these being Chapter Five and Chapter Six.

## CHAPTER FIVE: PRESENTATION OF THE DATA FINDINGS

### 5.1 Introduction

Migration has long been a feature of human existence, even though this may have been encouraged by varying causes and circumstances. As has been demonstrated in this study, there are various competing theoretical and practical paradigms regarding how international migration is viewed and managed. The contribution of the findings of this study will not only benefit the scholars of international migration in the academic realm, but these will also assist in the formulation, implementation and evaluation of the trade and immigration policies; as well as in the interpretation of how these policies ought to be understood and be related to each other as a policy imperative.

The majority of the literature on migration has been focused, predominantly, on involuntary migration as had been caused by social factors such as conflicts, wars, famine, climate change, persecution, etc. However, in the age of globalisation, which has been marked, largely, by an increasingly interdependent and interconnected world, migration is more of a voluntary decision taken by people who seek better opportunities elsewhere. This is what has led the United Nations University scholar, Megha Amrith (2014), to appeal in the context of the securitisation of borders, and for the recruitment of migrants far from home, that it is important to, “reflect urgently on how migration is being governed in the world today and on the responsibilities of states in this regard”. The findings of the study will, therefore, contribute towards addressing the question about how migration is being governed in the world, today, using South Africa as a case study.

The study further makes a contribution to the pertinent global governance issue, as well as to the thematic and academic discourse on how the migration phenomenon ought to be understood. There are competing schools of thought on how international migration ought to be managed; and, by combining the study of trade and immigration

policies, this study contributes and leans toward the discourse of international migration, as being both a socio-economic and a development issue.

## **5.2 South Africa's informal trade-immigration nexus**

A number of sources, including online Migration Data, has reported that, in 2020, there were about 2.9 million immigrants living in South Africa. The move to South Africa has been predominantly caused by attractive economic opportunities for semi-skilled labour in sectors such as construction, mining and services. The origins of the immigrants are largely other African countries, especially the neighbours from the SADC region. In the beginning of this century, South Africa has been the largest destination country for voluntary and involuntary migrants from Zimbabwe (OECD 2018:22; Chereni & Bongo 2018: xxvi). Immigrants living in South Africa actively participate in economic activities, including those who are conducting informal trade between their host and home countries.

The high number of immigrants living in South Africa is also accompanied by high trade volumes in and around the southern Africa region. The total trade between South Africa and the African continent was valued at R202 billion in 2018; and, within the SADC region took 70% of the total value of trade with Africa (DTIC 2020:23). South Africa's neighbouring countries such as Namibia, Zimbabwe, Zambia, Botswana, Mozambique are considered key markets for both exports to, and imports from the region. Along with the formal and recorded trade with the SADC region, there is informal cross-border trade; or, in short, ICBT. Chikanda & Tawodzera (2017) provide a quantitative account of the intersection between informal trade and immigration in their study of the, "informal entrepreneurship" and cross-border trade between South Africa and Zimbabwe.

The ICBT generates significant economic benefits, which consequently, also generate an appetite for cross-border migration. The value and statistics of ICBT is limited and difficult to verify. However, in 2018 the Trade Law Centre reported that the ICBT in the



Southern Africa was between 50-60 per cent of the total intra-Africa trade which was valued at USD 907. 63 billion in 2017 (Afreximbank 2017). Sommer & Nshimbi (2018) further breakdown the statistics that ICBT in Southern Africa contributes between thirty to forty percent (30-40%) of intra-regional trade. Both the continental and regional perspectives indicate that ICBT is an important component of international trade, albeit, remains informal and challenging to quantify scientifically. The trade volumes of ICBT clearly demonstrate that, in general, trade in Africa and Southern Africa, in particular, is to a significant extent informal. Be that as it may, the benefits of informal trade include, but are not limited to; the provision of goods and services that are not available in the local market or selling these at a cheaper price (especially in the context of Zimbabwe), job-creation, spill-over benefits to the transport and hospitality sectors, injection of the profits in wholesale suppliers, revenue collection in taxes and import duties (Chikanda & Tawodzera 2017:2; Stuart 2020).

The ICBT is largely conducted by unemployed immigrants and by micro, small, and medium-sized enterprises. Thus, the ICBT is important for inclusion in government strategies (Sommer & Nshimbi 2018). Thus, it can be concluded that the ICBT are an integral part of the trade and immigration policies both as stakeholder and policy target. Informal economic activities, including the performances of these related activities in cross-border trade, are a characteristic feature of many developing countries, including Sub-Saharan Africa. However, the informality of immigrant-driven trade does not necessarily warrant its neglect from the broader trade-immigration nexus. Nshimbi (2018) and Medina et al (2016) provide potent arguments on why the informal economic activities ought to be taken seriously, as these help to address issues such as unemployment, the fight against poverty, boosting international interconnectivity between countries, and their general positive impact in generating economic growth and development.

### 5.3 Participation and response rate in the questionnaires

The research participants were recruited on the criteria that was grounded on two main considerations; firstly, the respondents' positions in the participating or targeted organisations, that is, seniority and involvement in policy-related decision-making processes and structures; and, secondly, the duration of the respondents' length of service in the organisation, as this would influence the depth and insights provided in the responses. Table 1 below depicts the representation and participation in the questionnaires. It should be noted that, in Table 1 below, that there are no migrant organisations or businesses that are recruiting migrants that had participated in the study. The selected institutions were invited to participate in the study, but had declined, albeit without providing any written or verbal explanation regarding their reasons for not participating.

Table 1: Participation and representation in the questionnaires (Section A of the questionnaire):

<b>Institution</b>	<b>Position</b>	<b>Division</b>	<b>Years of service</b>	<b>Highest education qualification</b>	<b>Expected and actual response</b>
DHA	Chief Director	Port Control	30 years	Bachelor of Arts Honours	1
DHA	Director	Permitting	7 years in the Department and 24 years in the public service	Master of Business Administration	1

DTIC	Chief Director	Trade Policy and Research	30 years	Masters in International Relations and Development Economics	1
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The following section deals with the thematic questions and issues of the questionnaires.

## 5.4 Thematic issues in the data findings

### 5.4.1 Implications of South Africa’s trade policy to regulation of immigration

The study found that South Africa’s trade policy is largely shaped and determined by the needs of the industries, or political directives. The needs of the industry commonly refer to matters such as the type of technologies, the skill requirements, the kind of products consumers need to be supplied, etc. According to the data collected, the initial stages of the policy formulation process is called “evidence-based”; referring to, among others, research, consultation with stakeholders, political determinations, etc. However, according to the collected data, the stakeholders consultations were not dissected into specific entities or categories, but reference was only made to them as being, “in and outside” of government.

It was also found that the South African Trade Policy and Strategy Framework does not pronounce on immigration, or even, broadly, on migration, itself. An observation was made that shows that international trade in services sometimes requires people to visit or settle in another country to supply a certain service, or certain services. In some cases, it requires foreign nationals to travel to the supplying country in order to receive/buy the service there, as in the case of “inward tourism”, for an example; or the so-called “medical tourism”. From the evidence that had been gathered, it can be deduced that, though acknowledgement of the movement of people as providers of services is

recognised as part of international trade, however, this is not equally-acknowledged as an important component of the factors that ought to be considered as constituting a link between trade policy and immigration policy.

The questions related to the impact of trade policy on the regulation of immigration were crafted with the objective of examining how the DTIC coordinates its interactions or relations at institutional and policy level with the DHA, which is primarily responsible for the immigration policy. The data demonstrate that the DTIC's contribution to the regulation of immigration, is largely conducted through bilateral trade agreements signed by South Africa with other countries for trade in services, which also include matters related to the residence status of foreign nationals. However, the link of those bilateral trade agreements to the immigration policy is also not clearly articulated, either in the agreements, themselves, or in their interpretation by the DTIC. The latter (the DTIC) simply refers all the issues related to the application for travel documents, to the DHA, without any clear formal engagement between the two on how such applications should be handled or processed. From the language used in the questionnaire responses, it can be inferred that this might be a political issue, whereby the DTIC officials do not want to be seen as encroaching in the execution of the mandate of another department.

The data gathered on this thematic issue also indicate the fact that the DTIC has no institutional or formalised mechanism to share insights, information and expertise on matters that should be of common concern and interest, with the DHA, such as migration management, as a matter of policy requirement. The emphasis by the DTIC that immigration is the mandate of the DHA seems to absolve the former of the responsibility to engage and establish formalised institutional relations in order to work together on cross-cutting policy matters, such as the management of international migration at South Africa's ports of entry. Undoubtedly, the lack of formal and institutionalised relations between the two departments is a demonstrable weakness in public policy coordination, which directly impacts service delivery to the public.

#### 5.4.2 Link between South Africa's immigration and trade policies

The data on the policy-formulation process at the DHA highlights the fact that the department has a dedicated policy unit which deals with all policy-related issues. The officials known as “subject matter experts” (SME), are responsible for the institution of policy-formulation issues and the completion of the policy-making process. Recent policy developments include the Immigration Policy White Paper on International Migration and Refugee Protection; the Identity Management Policy; the Repositioning of the DHA; the OSBP (One-Stop-Border-Posts) policy, to mention a few. The White Paper on International Migration is of particular importance to this study, as it covers the matters or issues that are related to the management of migration at different environments, such as land, rail, maritime and air ports of entry. However, the study does not necessarily dissect the different environments of the ports of entry, neither separately, nor collectively. Of high importance to the study are the provisions of the White Paper, primarily linking immigration and trade policies.

The collected data highlights the fact that the various stakeholders such as government departments, academics, organised labour, business, civil society, traditional leaders, and international community as represented by diplomatic Missions in South Africa had participated in the formulation of the White Paper; and in the writing of its various chapters. In responding to the questions related to the theme of this section, the DHA has affirmed the argument that has been made in the methodology chapter; and it is also highlighting the fact that the management of international migration is complex, and that it involves multiple stakeholders.

The consultations between the various departments such as the Departments of Labour on Scarce Skills issues, Department of Agriculture on the trade in agricultural products, Department of Health on sanitary and phyto-sanitary issues demonstrate that international migration does not only present intricate challenges, beyond national borders; but also within the country, especially in relation to policy-

formulation, as well as in the management of the movements of people. An expanded discussion on the White Paper on Migration is presented in the next chapter.

The responses on this theme from the DHA had categorically separated the two policies from each other. For example, the DHA stated that the, “Immigration Policy does not regulate trade”. In other words, there is no direct link or relationship between the trade and immigration policies. However, the DHA had continued, “all policies that are drafted with the view of doing business with foreign nationals or companies should be drafted with the consideration of the prescripts of South Africa’s immigration legislation” (DHA 2020, *the management of migration at South Africa’s ports of entry: an analysis of the post-1994 trade-immigration policy nexus/ Lwandiso Arthur Mpepho/September*). The artificially dichotomous approach that, on one hand, says that the immigration policy has no link to trade policy; and that, on the other, all other policies that are aimed at doing business, internationally or with foreign companies, ought to take into account immigration legislation, clearly demonstrates policy disunity insofar as the management of international migration is concerned.

The recognition of the implications of other policies to immigration legislation and regulation, as the data demonstrates, is a clear evidence that there is a direct link between the trade and immigration policies. However, such a link in the South African context is not yet fully-appreciated and properly contextualised, in order to craft an appropriate policy intervention. Thus, the aspects of other policies, such as trade, and which happen to have an impact on immigration legislation, ought to be crystallised, analysed and interpreted, with a view to align these policies’ interconnected aspects to a common policy, in order to better serve the public.

What is also equally important is the observation that was made regarding the response of the DTIC, that there is, “no explicit link (that) is made in the trade policy” to immigration policy. In light of this assertion, a clear conclusion can be

drawn; and, this being that, though the DHA, to a certain extent, has some understanding that other policies, which are aimed at establishing international businesses, have an impact in the execution of its mandate; the DTIC on the other hand, clearly distances itself from the management of international migration. The DTIC data does, though almost in passing, create room for, “liaison between the trade and, or investment promotion authorities with the DHA, regarding immigration measures for business people” (DTIC 2020, *the management of migration at South Africa’s ports of entry: an analysis of the post-1994 trade-immigration policy nexus/ Lwandiso Arthur Mpepho/September*). As is the case with the DHA, the link between trade and immigration policies is somewhat noted by the DTIC, but it is perhaps not strong or forceful enough to warrant the attention of trade policy-makers.

#### 5.4.3 The nature of the nexus between trade and immigration policies

The DHA data, on this theme, draws attention to the visa policies and further states that, “visa exemption policies and bilateral agreements aim to promote the ease of movement of persons and categories of persons that contribute to international trade” (DHA 2020, *the management of migration at South Africa’s ports of entry: an analysis of the post-1994 trade-immigration policy nexus/ Lwandiso Arthur Mpepho/September*). The foregoing response firmly confirms that there is a direct relationship between the trade policy as articulated in the bilateral agreements into which South Africa enters with other countries; and the immigration policy which is further cascaded into the related visa regulations. However, other than the specific reference to the two frameworks, visa regulations and bilateral trade agreements, there are no further facts and insights provided by the DHA.

For its part, the DTIC only refers to the relationship between trade and immigration policies in the context of trade in services. It must, however, be stated that trade in services, though being an integral part of international trade, remains one of the challenges in the international management of migration; as has been discussed

in the Literature Review. The relationship between the trade and immigration policies in the context of the management of international migration is further discussed in the next chapter, and examines each of these policies' specific provisions regarding how each of these related elements relate to the other.

The nature of the nexus between the trade and immigration policies is difficult, if not impossible, to discern from the questionnaire's pooled data. With the limited references to certain immigration legislation requirements by the DHA and none by the DTIC, which are not aimed at any synergised systematic relationship between the two policies, but rather to enforce compliance with ports control regulations, it can be stated that the nexus between the two policies is really weak, and remains unrecognised as a policy matter. The nexus is treated in an ad hoc manner, and is based on the somewhat peculiar needs of consultations on specific matters, such as the movement of business persons, and the trade in services.

#### 5.4.4 Management of international migration in South Africa post 1994

The main objective of this study was to obtain, not only first-hand insights of policy the participating practitioners, but also to gather information on the interconnection or lack thereof, between South Africa's immigration and trade policies. The DHA's responses were very informative and insightful. And, from their responses, a number of thematic issues had emerged; such as security considerations, and the protection of the sovereignty of the country; while, at the same time, attempting to balance the national interests of South Africa, insofar as the national development programme is concerned.

On its part, the DTIC comprehend the management of international migration, as an exclusive competence and mandate of the DHA. Ironically, though, the department's response to the question on policy formulation was that, "policies are triggered by the needs of the industry, or political directives" (DTIC 2020, *the*



*management of migration at South Africa's ports of entry: an analysis of the post-1994 trade-immigration policy nexus/ Lwandiso Arthur Mpepho/September).*

The DTIC's response raises two questions, given what the DHA's statement about the need to balance security considerations with the national development goals. The first question is; as the department that formulates and implement a public policy that has implications beyond the national borders, shouldn't the management of migration be also a matter of policy interest to the DTIC, since trade involves movement of both goods and persons? The second question is; to what extent does the DTIC comprehend the phenomenon of the management of international migration as a development issue which the DHA has attempted to hint at? These questions present other possible areas or analytical perspectives, for a different study, to further examine the nexus between the two policies.

It can be deduced from the research data that the management of international migration in the context of South Africa, is an exclusive mandate of the DHA. The information which has been provided clearly demonstrates that the Ports Control Division of the DHA formulates and implements policy insofar as management of international migration is concerned. Of particular importance is the theoretical paradigm within which international migration is viewed by the DHA; which, according to the data which had been gathered, "must be risk-based across international borders and domestic environments" (DHA 2020, *the management of migration at South Africa's ports of entry: an analysis of the post-1994 trade-immigration policy nexus/ Lwandiso Arthur Mpepho/September*). Furthermore, the DHA data state that the, 'the current immigration value chain is largely driven by regulatory compliance as opposed to the pro-active management of risks'.

In its strategy to manage international migration, the DHA is guided by these three main principles:

- i. Ensuring sovereignty and national security;*
- ii. Ensuring stability and public safety;*

*iii.* And advancing the national development agenda.

The third principle is broad enough to also include trade as an integral component of national development. However, based on the data and information collected in this study, the trade aspect is not discussed, explicitly, by the DHA respondents. Therefore, it can be concluded that two of the three main strategic principles of the DHA migration management strategy are skewed in favour of security or risk considerations; and that there is only one principle that is broadly-related to trade, though with marginal attention to the finer, related details of the three principles.

## **5.5 Synthesis of the data findings**

The data collected from the respondents highlights a number of issues; which, on the one hand, prove and confirm the information discussed in the previous chapters; particularly in the Literature Review, which asserts that there is a link between trade and immigration. On the other hand, the data from the respondents demonstrates that in the context of policy formulation, the link between the trade and immigration policies is not particularly obvious or patently articulated.

The data presented in this chapter illustrates that there is an acknowledgment by both DHA and DTIC that there is a link, albeit weak, between the trade and immigration policies; although this is seen as being acknowledged in limited areas. The particular areas are the issuing of visas to potential investors, and the facilitation of the movements of persons in relation to trade in services. The responses from both these departments to the question about the nature of the relationship between the two policies affirms the link. However, the limited information provided in the answers to the questionnaires also demonstrate that the link is more of a coincidence, rather than a deliberate coalescing of the two policies.

The response provided by the DHA Ports Control Division on how international migration is managed in South Africa, post-1994, emphatically demonstrates that security interests override other considerations. The department had stated that the management of international migration has to be risked-based, while, “contributing significantly to promoting development through faster, easier, facilitation of legitimate travellers” (*DHA 2020, the management of migration at South Africa’s ports of entry: an analysis of the post-1994 trade-immigration policy nexus/ Lwandiso Arthur Mpepho/September*).

In the chapter on the theoretical framework, mention is made that, within the international relations theory, realism is the school of thought that firmly prioritises the security interests of the state above other priorities. From the collected data, the DHA undoubtedly affirms the realist school’s position on the primacy of security interest over issues such as the promotion of national development and facilitation of faster and easy passage of legitimate travellers. However, the global governance theory expands the scope and the growing significance of other issues in international relations, which include global public policies on matters such as trade, migration, climate change, illegal trafficking and smuggling. Though mentioned almost in passing, the South African immigration legislation does take into account the issues encompassed in the global governance theory, as has been obtained in this research data.

The DTIC’s response on the question of management of immigration in South Africa failed to draw the link between the trade and immigration policies. The failure to address the question generated more interest on how the link made by the DHA in relation to bilateral and multilateral agreements which had been signed by South Africa, is realised in practice. This shortcoming, notwithstanding, on the related matter regarding the theoretical principles underpinning South Africa’s trade policy, the DTIC stated that the, “trade policy work also relates to international rule-making with regard to trade” (DTIC 2020, *the management of migration at South Africa’s ports of entry: an analysis of the post-1994 trade-immigration policy nexus/*

*Lwandiso Arthur Mpepho/September*). International rule-making is another reference to global governance, of which migration takes a centre stage. With this reference, a conclusion can be drawn that South Africa is actively involved in global governance processes and practices.

The clear articulation on the contribution of the DTIC in international rule-making processes affirms the global governance theory's assertion that international relations is seized with a growing portfolio of issues, than just security; and that these are increasingly receiving similar attention, including the military-security complex. In view of the gathered data, it can be deduced that security interests still play a dominant role in South Africa's approach to the management of international migration. This fact aside, the country's participation in international fora such as regional, continental and global institutions, has contributed to the consideration of other important issues in international migration, such as the facilitation of legitimate travellers, contribution to the development of rules-based international trading system, climate change (which contributes to involuntary migration), to mention just a few. Therefore, the examination of international migration in South Africa should be executed through the application of more accommodative theoretical and research frameworks, such as the global governance theory, and the mixed methods, which broadens the scope and scale of the analysis.

## **5.6 Conclusion**

In this chapter, attention has been given to the presentation of the thematic findings of the data. In the presentation of the data findings, there has been particular focus on the thematic issues of the data provided in the questionnaires. A synthesis of the main themes emerging out of the data has been presented and discussed. Admittedly, some responses in the questionnaire were inadequate to make conclusive arguments in the findings. Consequently, this has provided room for criticism of the study, however, that is negated by the fact that the challenge also presents an opportunity

for further research in those areas, such as the theoretical principles underpinning immigration and trade policies in South Africa.

It can be concluded from the findings that the DHA, though it consults more than it collaborates with the DTIC, has the primary responsibility and mandate to draw the linkages between trade and immigration policies as it is its officials that are responsible for the immigration policy implementation at the country's ports of entry. The data from the questionnaires also demonstrates that the relationship between the two departments is not institutionalised; and this is demonstrated by the fact that none of the respondents from the two departments had provided any information about the structure, frequency and scope of their interactions. In essence, this state of affairs raises a question as to whether the two departments consult each other whenever they are formulating their respective policies; or whether it is only on a specific matter that it would require a specific rule or regulation.

It can be conclusively stated that the relationship between the two departments is ad hoc and not policy-driven; but it does show that there is a need for a more cohesive and proactive cooperation between the two departments, as has been witnessed by references to visa requirements for certain categories of people covered in a signed bilateral trade agreement. However, this arrangement has resulted in what the DHA has referred to, as "regulatory compliance rather than proactive management" of international migration. An effective arrangement could be to have a more institutionalised and structured mechanism of cooperation between the two departments for both joint policy formulation and implementation.

The findings presented in this chapter highlight the researcher's attempt to, not only draw connections to the literature review, but also to underscore and bridge the gaps in it. The findings further contribute to the generation of new knowledge and the expansion of existing literature in the study of international migration, not only for academic purposes, but also for public policy-making. The discussion on the findings

is continued in the next chapter, as the interconnections between trade and immigration policies are scrutinised further.

## **CHAPTER SIX: EXAMINATION OF THE NEXUS BETWEEN TRADE AND IMMIGRATION POLICIES**

### **6.1 Introduction**

In chapter five, it was highlighted that the findings of the study would be discussed in two parts; and these being, firstly, the presentation and analysis of the questionnaire data; and, secondly, the analysis of the provisions and aspects of the trade and immigration policies that demonstrate the nexus, or lack thereof, between the two. Therefore, the focus of this chapter is on the analysis of the provisions of both the trade and immigration policies that draw connections to each other, and also to highlight the divergence of these policies, as far as the management of international migration in South Africa post 1994 is concerned.

As it has been presented in the preceding chapter, the DHA plays a leading role in the management of international migration. And the department has a constitutional mandate to formulate and implement policies that are geared toward the management of the movement of people in and out of the national borders of the country. Accordingly, the presentation of the second batch of findings in this chapter will commence with the analysis of the immigration policy since 1994. However, it must be stated that this chapter is not aimed at presenting the literature review, which has already been covered in chapter three of this study. But the focus is only on the aspects and provisions that relate to the trade policy. The analysis will be presented by quoting the Immigration Act, which had been passed by the South African government, post-1994; and this is Act 13 of 2002, which lays a legal foundation for the country's immigration and migration policy framework.

The discussion on immigration and the related migration policy (as the former is the subfield of the latter) will be followed by the analysis of the provisions of the trade policy, which relates to the management of migration, thus linking this to the immigration policy. The discussion in this section also follows the same approach that

has been adopted in the analysis of the immigration policy; as well as the act of focusing on legal and policy documents, which had been adopted by the government after 1994. It must be emphasised that the entire discussion in this chapter only focuses on the provisions of the policies that relate to each other; and not a generic or broad examination of these two policies. But, where necessary, attention will be given to the specific categories of migrants that are of interest to this study, as these may be specifically and expressly mentioned in the respective policies.

## **6.2 Connecting South Africa's immigration policy to trade policy in the post 1994 era**

In the post-1994 era, the South African Government had largely continued with the main immigration policy of the apartheid state, which had been grounded on the 1991 Aliens Control Act; and this changed with the adoption of the more liberal 1998 Refugees Act and the Immigration Act 13 of 2002 (Crush & Dodson 2007: 436; Carciotto & Mavura 2016:5; OECD 2018:56). The transformation process, from the apartheid migration policy to the post-apartheid regime, was slow and protracted (except on refugee issues), hence the real post-apartheid immigration policy framework is considered to have been in place from 2002, when the new Immigration Act was promulgated. The 2002 Immigration Act was preceded by the 1997 Green Paper on International Migration, and the latter was followed by the 1999 White Paper on International Migration, which had culminated in the act, itself, in 2002 (Carciotto & Mavura 2016:7).

Crush and McDonald (2001:2) argue that the apartheid immigration policy framework had centred on four pillars; namely; "racist policy and legislation, the exploitation of migrant labour from neighbouring countries, tough enforcement legislation, and on the repudiation of international refugee conventions". This reality is also acknowledged by the 2017 White Paper on International Migration, which states that, "from 1994, the vision of South Africa's first democratic government was to reverse racially-based and



exploitative laws, and integrate South Africa into the SADC, the African continent and the world” (DHA White Paper 2017:9).

The post-apartheid government had to implement a transformational immigration legislation and policy in order to address, among other things, the developmental needs of the country (Tati 2008:424; OECD 2018:57). In this regard, the 2017 White Paper on International Migration argues that the South Africa Government has a sovereign right to craft the immigration policies that support the promotion of national interests. The definition of these national interests in question should be guided by the principles which are enshrined in the nation’s Constitution, and which advance the cause for the promotion and protection of national security, development, human rights, peace and stability (DHA White Paper 2017:32).

After 1994, South Africa undertook numerous protracted processes to develop international migration legislations and policies. The processes had included, but were not limited to, the 1997 Green Paper on International Migration, the 1999 White Paper on International Migration, a related Draft Immigration Bill and the adoption of the first comprehensive Immigration Act, in 2002, which has since been amended (Crush & Dodson 2006: 436; DHA White Paper 2017: 10; Krensel 2020:2). Other recent processes include the 2017 White Paper on International Migration, which was a product of a myriad of consultations, conferences, workshops with stakeholders as well as parliamentary proceedings. In 2020, Parliament enacted the Border Management Authority Act 2 of 2020. The Act’s main objective is to create a single authority to oversee all the movements of goods and people, and to expand the mandate of the DHA to include all aspects of the management of international migration, which are currently performed by other departments, such as customs administration, defence, policing, etc.

The Preamble of the Immigration Act 13 of 2002, (as Amended in 2004, 2005, 2007 and 2011) states in part that, “in providing for the regulation of *admission* of foreigners

to, their residence in and their *departure* from the *Republic* and for matters connected therewith:

- a) *security considerations are fully satisfied and the State retains control over the immigration of foreigners to the Republic;*
- b) *interdepartmental coordination and public consultations enrich the management of immigration;*
- c) *economic growth is promoted through the employment of needed foreign labour, foreign investment is facilitated, the entry of exceptionally skilled or qualified people is enabled, skilled human resources are increased, academic exchanges within the Southern African Development Community is facilitated and tourism is promoted;*
- d) *the role of the Republic in the continent and the region is recognised”*  
(Immigration Act of 2002 as Amended).

In total, there are sixteen (16) points that constitute the Preamble of the 2002 Immigration Act, and nine of these have, in one way or the other, relevance to the nexus between immigration and trade policies. In particular, the five points above capture the contribution of immigration to the economic growth of the country; and, that in essence, is a view of migration as a development issue. This fact is further strengthened by the realisation that, under conducive conditions, trade enables countries to address some of the social ills which also contribute to international migration; such as unemployment, the transfer of modern technologies for economic production, economies of scale, structural transformation, etc., (UN 2018: 21).

The 2002 Immigration Act (as Amended in 2014), makes reference to the Minister and, or the DTIC, ten times in the following sections: six times in section 15 (Business Visa for mainly investors and workers); once in section 21 (Corporate Visa-employment of foreign nationals in corporate entities); and, three times in section 27 (residence on the specific grounds). The references to the DTIC clearly indicate the natural nexus between the two departments, albeit, only in certain aspects of the migration policy's formulation and implementation. Sections 15 and 20 clearly

demonstrate that the DHA cannot formulate the immigration regulations without any consultations with the DTIC.

The immigration regulations envisaged in section 15 of the Immigration Act or what can be referred to as the joint or consultative immigration policy-making process, include the following provisions, which are apply to business visa applicants:

*An application for a business visa by a foreigner who intends to establish a business or invest in a business that is not yet established in the Republic shall be accompanied by 1(a)(i) at least an amount in cash to be invested in the Republic as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, and (ii) at least an amount in cash and a capital contribution as determined from time to time by the Minister, after consultation with the Minister of Trade and Industry, by notice in the Gazette (Immigration Act 2002).*

The foregoing provisions of the Immigration Act can be said to direct the two departments, not only to coordinate and consult each other, but to cooperate and work together in formulating an immigration policy that takes into account the investment priorities of the country, which are open to foreign investors. The data and information received from the DHA related to the issuance of business visas in the past six years since the introduction of the electronic data capturing system at the department's Head Office, and is presented in Table 2, below. Prior to this period, the business visas were issued manually at various South African diplomatic Missions abroad. Table 2 below depicts the statics of business visas issued by the DHA from 2014 to 2020:

Table 2: Business Visa processed by the DHA from 2014-2020

<b>Period</b>	<b>Number of Applications received</b>	<b>Approved applications</b>	<b>Rejected applications</b>	<b>Pending/not assigned applications</b>
<b>2014-2020</b>	1435	259	1171	5

Source: DHA Permitting Division 2020 (transmitted by email on 21 September 2020)

In the explanatory note pertaining to the statistics in Table 2, the DHA Permitting Division explained that the rejected applications had not met some of the requirements related to the application and issuance of a business visa, such as the minimum amount required to invest in South Africa. Upon the examination of the supplied data by DHA, it was observed that, between 2015-2020, there were no new business visas issued, but only renewals of temporary residence permit for business purposes; and changes in the existing visa conditions were cited as reasons for the business visa applications. Though not in the scope of this study, it would be interesting to find out what could be the explanation for the non-issuance of new business visas in the past five years.

The requirements for a business visa are listed in the Act of 2002, and include a *certificate issued by a Chartered Accountant or Professional Accountant registered with the South African Institute of Professional Accountants to the effect that one has at least R5 000 000 available in cash, or at least R5 000 000 in cash, and that the capital ought to be invested in the Republic; a recommendation from the DTIC regarding the feasibility of the business and the contribution of the business to the national interest of the Republic.* An interesting observation, which has been made in Chapter Five, is that the DTIC's responses to questions on the nexus between trade and immigration policies, did not even mention this clearly-articulated requirement for the consultations regarding, and writing of a recommendation for a business visa application. A conclusion that can be drawn from this is that international migration and its impact on trade policy is not adequately understood by policy practitioners at both the DTIC and DHA. One of the interviewed practitioners' responses on this question of the nexus was that, "immigration policy doesn't regulate trade".

The DHA categorically states in its webpage that the Critical Skills list had been "developed in conjunction with the occupations in high demand and the scarce skills

lists of the Department of Higher Education and Training”. Furthermore, “the main objective of the critical skills work visa is to assist the government to realise the achievement of the National Infrastructure Projects and Key National Strategic Projects in support of the Department of Trade and Industry” (DHA 2020). It is worth noting that the DHA makes a direct connection between the immigration legislation and the DTIC’s policy on industrial development insofar as the skills requirements are concerned. From the critical skills list and the theoretical perspective of the DHA’s immigration policy, it can be deduced that South Africa does view immigration as a development issue; and this is, seemingly, as far as the immigration policy framework is concerned.

Chapter 9 of the 2017 White Paper on International Migration deals with the management of international migrants with skills and capital. The policy’s scope on the management of migrants with skills and capital contends that the 2017 White Paper, “address policy and capacity weaknesses that constrain South Africa’s ability to compete for international skills and investment in the permitting environment” (DHA White Paper 2017: 45). Undoubtedly, the 2017 White Paper draws a direct connection between the skills and investment capital required by the South African economy. Thus, this connection proves the timeliness and relevance of the current study, particularly its theoretical and methodological approaches to study trade and immigration policies jointly as being intrinsically interrelated phenomena.

Further expanding on the connection between the trade and industry-related policies of the DTIC and the DHA’s immigration policy, the 2017 White Paper on International Migration states that, “South Africa has not been able to adequately attract and retain international migrants with the requisite skills and capital to invest in the country. This could be attributed to the following factors:

- a) *The international migration policy is not linked to the skills development and investment priorities of the country;*

- b) *The current permitting regime is not proactive and flexible so as to enable South Africa to effectively compete for requisite skills and investments;*
- c) *There is a lack of an inter-sectoral and intergovernmental proactive approach for attracting and retaining international migrants with skills and capital; and*
- d) *Until recently, South Africa didn't have a special permitting regime for international students who are studying towards occupations that are needed by the economy” (DHA White Paper 2017:45).*

It is important to take note of the point mentioned in the 2017 White Paper that there is a lack of policy connection between the skills development and investment priorities of the country. Skills and investment are the core and twin pillars of a trade policy, since these operationalise the policy's priorities and principles through the production of goods and services required for trade. The realisation of the 2017 White Paper of the connection between migration policy, skills and investment, (thus trade policy), reinforce the argument that international migration can be best managed through coherence and convergence of the trade and immigration policies. Skills development plays a critical role in trade in services and international migration. Trade in services involve the temporary movements of people which, in most instances, tend to be restricted by quotas, labour market tests and durations of stay, visa and work permit rules, and the lack of recognition of qualifications and licenses (UN 2018: 23). It is important to highlight that trade in services is a critical component of trade policy.

The explicit mentioning of the lack of inter-sectoral and intergovernmental proactive approach for attracting and retaining international migrants with skills and capital, is a clear demonstration of the reality that policies dealing with interlinked and interconnected phenomenon such as trade and immigration to migration governance, ought to be studied and understood as being inseparably linked. Thus, any attempt to formulate, implement, evaluate and analyse each in isolation would yield to incomplete and inaccurate conclusions. The apparent desire to develop a migration policy that is proactive, intersectoral and intergovernmental

lends credence to the argument advanced by the African Union in Chapter Three that, “better migration governance can be achieved through the development of evidence-based policies through a whole of government approach” (AU 2018:10).

To further demonstrate the connection between trade and immigration policies, the 2017 White Paper makes provision for access to a long-term visa for migrants with, “the needed skills, investment and business interest” (DHA White Paper 2017: 46). Clearly, the DHA migration policy envisages a closer, integrated and coordinated interdepartmental planning in relation to the management of the migration of people with skills and investment capital required by the South African economy. How this will be realised in practice remains to be seen. From the strength of the evidence in this study, it can be stated that the current interactions between the DTIC and the DHA are unstructured, that is, there is no interdepartmental structure to manage policy realized coordination.

As a matter of fact, the 2017 White Paper admits that, “what is lacking in South Africa is an institutional arrangement and responsive policy framework” (DHA White Paper 2017:48). The required institutional arrangement should address policy coordination and cooperation, not just consultation. The immigration policy’s responsiveness ought to take into account the legislative imperatives on which the DHA and DTIC should work closely, strategically managing the interlinking policy provisions.

### **6.3 Connecting trade policy to immigration policy in the post-1994 era**

The majority of the literature, and an analysis of the South African Trade Policy, post-1994, largely focuses on the performance of the economic sectors and the reforms implemented to bolster economic activity. The notable analysis of the post-1994 trade policy includes, but is not limited to the following work; South Africa’s Trade Policy (2005) by the Southern African Regional Poverty Network, the State of Trade Policy in South Africa (2004) by Trade and Industrial Strategies, and

South Africa's Trade Policy and Strategy Framework: An Update to the 2010 Document (2012) by the Department of Trade and Industry, to mention but a few.

The 2010 South African Trade Policy and Strategy Framework provides a review of the processes that have been implemented since 1994, to develop the country's trade policy and strategy. In the review, there is neither explicit nor implied mentioning of the link or relationship between that policy and the immigration or the migration policy. This state of affairs may perhaps be explained by the assertion that, "trade policy remains an instrument of industrial policy in a context of narrowing options under multilateral and bilateral trade agreements" (DTI 2010:16). Thus, trade policy is narrowly focusing on the development of industries and economic development. The narrowness referred to is in the context of the lack of acknowledgement of possible implications the trade policy might have to deal with in the other sectors of society such as international migration.

In the 2012 update on the South African Trade Policy and Strategy Framework, the DTIC argues that the update "does not purport to provide a comprehensive review of South Africa's trade policy since 2010 or address the relationship between trade policy and other dimensions of economic policy" (DTI 2012:5). The other dimensions of economic policy include issues such as the exchange rate, labour market and skills, transport policy and logistics, innovation and technology, and productivity. The DTIC is of the view that these issues are addressed, specifically, by the sector on government departments, which it considers as its principal aim, and as that of identifying selected issues that "lie at the heart of the DTIC's work and international trade and trade negotiations" (DTI 2012:5).

The DTIC's approach to policy-making in trade may perhaps work relatively smoothly for the department, but this does not augur well for public policy coordination. The latter assists to, among other things, resolve divergences between sectoral priorities and respective policies; and it promotes mutually-reinforcing actions across sectors and institutions. Policy coordination is a point



that is envisaged and is being explicitly acknowledged in the Amended 2002 Immigration Act, that there is a lack of intersectoral and intergovernmental proactive approach to the management of international migration. The lack of policy coordination also exposes the lack of the intellectual appetite to make a comprehensive assessment of the implications of trade policy to other social sectors. It is also difficult to comprehend why a trade policy would not have an appetite for the provision of cooperation; and, at the very least, consultation with other stakeholders in the trade environment. No human activity takes place in a vacuum, and trade is driven by people through their economic activities; and that includes their movements beyond the national borders.

The absence of any reference to migration in both the 2010 and 2012 Trade Policy and Strategy Framework, presented a clear finding for the study, that, unlike the migration policy and the 2002 Immigration Act (as amended), both of which make provisions for trade-related issues, the trade policy is divorced from the immigration policy at both conceptual and practical levels. The main focus of the 2010 and 2012 trade policy and strategy documents is on tariff related issues and the structural reforms of the South African economy. However, the reference which has been made to the narrowing of options at multilateral and bilateral agreements prompted this study to also examine the texts and provisions of some of the selected bilateral agreements which had been signed by South Africa since 1994. The agreements were selected, randomly, based on access to the signed official texts. Furthermore, the agreements are considered as being the secondary sources of information for the study, as these are products of trade policy.

According to the information obtained from the website of the DTIC, since 1994, the South African Government has signed more than twenty (20) bilateral trade and multilateral agreements with a number of countries and regions of the world. The countries and regions include, but are not limited to, India, Iran, Philippines, Malaysia, Cuba, Indonesia, Egypt, Ukraine, Vietnam, Nigeria, Bulgaria, Kenya, Algeria, to mention but a few. A number of these agreements, like the 1994 Trade

Agreement between South Africa and India (Article VI), 1997 Trade Agreement between South Africa and Cuba (Article V), make no explicit mentioning of migration in its provisions, except for a generic reference to participation in fairs, exhibitions, demonstrations, and seminars, conferences by either party.

A more specific reference to migration-related issues is made in Article 3 of the 1997 Trade Agreement between the Republic of South Africa and the Republic of the Philippines, which state that, “merchant cargo-bearing vessels/cargo-bearing airplanes including their master and crew shall be granted most-favoured nation treatment in respect of entry into, stay in, and departure from the harbour/airport of the other Party, in accordance with the domestic laws in force in the country of the said other Party” (Trade Agreement 1997:3). However, the agreement does not provide further guidance on how the treatment of the said persons ought to be governed, except when referring that to domestic laws; and, in the case of South Africa, this would mean laws of the DHA.

It was only at the turn of the twenty-first century that the bilateral trade agreements signed by South Africa had made explicit mentioning of the facilitation of visits by businesspersons and trade delegations, as is contained in the 2002 Trade Agreement with Uganda in Article 4, 2005 Bilateral Trade Agreement with Gabon in Article 12, 2005 Bilateral Trade Agreement with Kuwait in Article 4, 2005 Bilateral Trade Agreement with the Republic of Congo in Article 4, and the 2007 Bilateral Trade Agreement with Sudan in Article 4, to mention just a few. It is also worth noting that, in all these signed bilateral trade agreements, there are no explicit provisions linking the agreement to the migration policy or immigration regulations flowing from the Immigration Act. The language used in the agreements is rather too vague, as to just encourage and facilitate the said movements without any clear stipulation of how this should be carried out.

Upon the examination of the bilateral trade agreements, it was further observed that, though in some instances like in the cited agreements, reference is made to

the facilitation of movements of the businesspersons and trade delegations, and in all the agreements, it is stated that the implementing authorities are only the trade authorities of the parties that had signed the agreements. Therefore, it is apparent that the trade authorities in South Africa do not view the implementation of the trade agreements as a shared responsibility with the DHA. This observation further confirms the findings in the literature review that the formulation and implementation of trade and migration policies is carried out in silos. The previous chapter in this study, has also demonstrated that the response or non-response obtained from the DTIC about the link between the two policies as being indicative of this state of affairs.

In the area of trade in services, the Trade Policy and Strategy Framework documents only cover the issues which are related to the services sector, and is silent on the movement of service providers, who are largely people with high skills and professionals. The DTIC has also argued that the 2012 Trade Policy and Strategy Framework “should be read in conjunction with the 2010 Trade Policy and Strategy Framework. The work on services aims to improve data and statistics, especially on services trade, and take into account and promote value-added exports such as tourism” (DTI 2012: 5). The crafting of the document seems to imply that trade in services is self-generating and facilitated, as there is seemingly no human involvement or element. This is lamentable as the movement of people across national borders as service providers is a major component of trade in services.

The 2010 and 2012 trade policy and strategy-related documents do make reference to the issues that are related to the production of tradable products by skilled workers in various sectors, such as technology-intensive manufacturing. However, the related policy documents are mute on the matters that are related to the acquisition of such skills; particularly the contribution of highly skilled migrant workers. It can thus be concluded that the exclusion of migration issues in this aspect of trade policy is attributable to the DTI’s focus on issues that lie, “at the

heart of the DTI's work and international trade and trade negotiations" (DTI 2010: 41; DTI 2012:5).

When examining the bilateral agreements signed by South Africa since 1994 in the area of labour and services, it has been observed that, so far, only one agreement has made explicit provisions in relation to cooperation between South Africa and the Russian Federation. The 2014 Joint Statement on Social and Labour Cooperation signed by the two countries' Ministers of Labour and Manpower, outlines the areas of top priority in their cooperation, with migration policy as being one of these. Other agreements specifically deal with labour matters such as the social protection of migrant workers, including issues related to the rights and obligations of migrant workers, issues of their residence status, the payment of taxes, etc. Labour migration is a well-researched phenomenon; hence, it is not the focus of this study.

#### **6.4 Observations and conclusions on the policy nexus between trade-immigration in South Africa post 1994**

##### **6.4.1 Observations**

The findings in this chapter clearly demonstrate that the management of international migration in South Africa is practically the responsibility of the DHA, despite the identified policy linkages captured in the immigration legislation and policies. Notwithstanding the provisions of the 2002 Immigration Act (as amended), and the White Paper on International Migration calling for consultations between the DHA and other departments such as DTIC, such consultations do not translate into, nor do they influence the trade policy formulation and implementation, which is an anomaly. Trade by conception and reality, involves movement of people either to procure goods or to render services, and as potential investors.

The trade policy and strategy frameworks make reference to new generation trade issues in international trade negotiations. The issues include the trade dimensions of investment, competition, intellectual property, government procurement, and the environment, to mention but a few. The management of international migration does not feature in this list of new generation trade issues, which is quite concerning considering the clearly demonstrated interconnection between trade and migration. This study has presented literature from various sources to prove this link, and Chapter Five and Chapter Six presented evidence of the connection between trade and immigration and, or migration policies in the South African context, based on legislation; and, to a limited extent, trade policy through bilateral agreements.

The predominance of the security and risk-inclined perspective of immigration in South Africa is an area that needs a deliberate and decisive attention of policy-makers on both trade and immigration regulations. In addition to the references made in the immigration regulations to trade policy, there is no evidence that suggests that immigration policy practitioners actually operationalise these relevant provisions of their policy. Instead, though the immigration policy blueprints seek to close the artificial divide between trade and immigration at the implementation and practice levels, little or no effort is being made to align the two policies insofar as the management of international migration is concerned.

International migration is increasingly considered as being a part of the global discourse on development, as well as being central to the concept of trade for development. In fact, international trade and international migration, “are (the) two key facets of globalisation which are therefore likely interconnected” (Karagöz 2016:128). In the context of South Africa and weight of this research findings, the country is still entertaining these concepts as only being worthy of intellectual engagements, rather than as important factors that ought to be factored into trade and immigration governance. Therefore, this level of the understanding of the interconnections between trade and immigration signal either reluctance or

resistance to effecting radical policy changes that could perhaps shake the security establishment.

The literature which has been presented, in terms of the related evidence, shows that migrants networks, especially those of people who are professionals with skills and are economically-active, contribute to the reduction of the costs of doing business between the host and home countries. In turn, the reduced costs contribute to positive trade relations through exports from the home country and establishment of new industries in the host country, which translate to employment-creation, thus translating to economic growth. It is information such as this that ought to interest the South African trade and immigration policy-makers to expand their scope of consultations in the policy-formulation processes, as well as the implementation thereof; to also involve and invite the organised immigrants organisations to participate in the crafting of more responsive policy interventions and proposals; so that the vision in immigration legislation of enabling the country to benefit from the economic contribution of migrants can be realised.

#### 6.4.2 Conclusion

In light of the findings which have been made in this chapter, a conclusion can be drawn that there is either ad hoc, poor or no policy coordination between the trade and immigration policy-makers. Thus, the reference that had been made in the 2002 Immigration Act and in the related immigration legislation to the required consultations between the trade and immigration departments, is either non-existent or ineffective. The trade policy ought, to a certain extent, acknowledge that trade (whether in goods or services) is driven by humans who ought to move from one country to another at different intervals of their international engagements. Thus, “migration is a typical human activity” (Karagöz 2016:128).

The evidence which has been presented in the study, contributes to the development of academic literature and public policies on the management of

international migration. The artificial dichotomy which has been created between trade and immigration policies in South Africa perpetuates the misunderstanding that trade issues ought to be managed separately and almost exclusively from international migration. The policy implication for this situation is that it makes it difficult, if not impossible, to develop proactive and management-oriented international migration policy. The current dispensation is evidently, reactive and risk-oriented. The immigration legislation presents avenues for alignment with the trade policy, especially in terms of closer cooperation on matters that are related to the entry of foreign nationals in South Africa. Related opportunities, if the status quo were different, include the possible establishment of new industries, based on the knowledge of migrants and the involvement in the movement toward a more proactive, cooperative and collaborative synergy between the DTIC and the DHA, which recognises and acknowledges the advantages of the trade-migration nexus.

## **CHAPTER SEVEN: CONCLUSIONS AND RECOMMENDATIONS**

### **7.1 Introduction**

The current study has examined, at great length, the available literature on the nexus between the trade and immigration policies. The first chapter addressed issues related to the choice of the topic, its rationale and relevance, the objectives of the study, methodology and the theoretical framework. The latter was further expanded in the second chapter. The link between trade and immigration, and broadly, between trade and migration as well as governance issues at various levels of government, be it national, regional, continental and global, were investigated and interrogated throughout the study, especially from Chapters Two to Chapter Six.

The evidence and information presented in the preceding chapters had patently demonstrated the natural and practical linkages between trade and immigration. The nexus between the two phenomena has been studied from varying perspectives and, principally, through a cause-effect prism. Several studies have examined the link between the trade and immigration policies, largely from trade flows or lack thereof. Available literature and the evidence which has been presented in this study, prove that there is an indisputable link and relationship between the two phenomena, albeit more manifestly, this is evident from a practical trade in goods, than it would be the case on policy alignment. The case study, being South Africa, clearly demonstrates this reality, as has been presented in the research findings which can be found in Chapters Five and Six.

The current study is the first of its kind known by the researcher, to examine and investigate the nexus between trade and immigration at policy level. The study objectives sought to:



- (i) To critically analyse and interpret sections or chapters of South Africa's trade policy which have particular implications on immigration regulations for foreign nationals with high skills, foreign entrepreneurs with capital to invest and foreign traders, and;
- (ii) To critically analyse and interpret sections or chapters of South Africa's immigration policy which have particular implications on trade policy provisions regulating the movement of foreign nationals with high skills, foreign entrepreneurs with capital to invest and foreign traders.

In relation to the first objective, the study clearly demonstrated that the trade policy is conceptualised, formulated and, to a large extent, implemented almost in complete isolation from the immigration policy. Only a limited reference is made on the migration policy, with regard to trade in services and in bilateral agreements that cater for the broad and vague reference to the movements of businesspersons. Other than these broad provisions to migration policy, the South African trade policy is operated in its own artificial world, which are seemingly separated from the realities of migration; and this is a cause for concern.

On the second objective, the immigration and, broadly, the migration policy, substantive references are made to the provisions for trade policy. In other words, the immigration policy is sensitive to the interconnections between trade and migration as international phenomena that have direct impact on each other, hence the explicit provisions are made for the envisaged regular consultations between the DHA and the DTIC. Furthermore, there is a semblance of the provisions for the link between trade and immigration, from the legislative framework in the form of the 2002 Immigration Act (as Amended), to the most recent 2017 White Paper on International Migration, which articulates the South African Government's theoretical perspectives, position and ideological leanings toward the broader, global governance of international migration.

## **7.2 Recommendations on the trade-immigration policy nexus**

Building on the literature presented and discussed in this study, the nexus between trade and immigration policies ought to be thoroughly, comprehensively and scientifically studied. The current study is an attempt at examining the genesis of this nexus, from the grassroots, which should be at a policy level, and digging deeper than the previous studies which largely studied the cause-effect relationship between the two policies. The academic work conducted prior to this study and reviewed in the literature chapter, focused more on two aspects of the link between trade and migration. Some of the studies cited in this research examined the impact of migration on trade flows, volumes or patterns, and generally, as a development issue. Other studies focused on migration from a security perspective, as being influenced by domestic matters.

None of the studies reviewed in this research, have analysed migration as an independent and equally-important socio-economic phenomenon, like trade is, which warrants dedicated and undivided attention. Put differently, in most instances as revealed in the related study, migration is viewed as either caused or a consequence of other social phenomena, such as conflict, natural disaster, famine, etc; and, unfortunately, not as an autonomous academic variable that is worthy of scientific examination; or a phenomenon that takes place on its own merit, as has been viewed in this study. The study also sought to demonstrate that migration can be an independent policy variable that can be activated by people who move from one country to the other, consciously, to pursue interests linked to migration, such as trade, investment, or to provide services as high-skilled professionals.

The findings of this study affirm some of the literature that migration and trade have a direct link; though, in some instances, this is positive (through participation of

migrants in business and trade related activities in the host country); and in other situations, it is negative (where migrants primarily move from their home country fleeing from social problems in search of a better life or living conditions without offering much in terms of economic participation except as low-skilled or general workers); primarily depending on the cause of migration and how it is viewed by the researcher.

The evidence in this research supports some of the global debates which suggest that migration is a multifaceted and complex phenomenon due to its nature and the stakeholders that have vested interests in it. Thus, the DTIC needs to review its policy position, especially the seemingly misdirected view that trade policy only deals with the issues that are only within its primary mandate. The findings of this study demonstrate that migration is inextricably linked to trade, especially when bilateral trade agreements are examined, and ought to be crafted. Therefore, migration should not be precluded in the consideration of matters that are considered to be within the purview of the DTIC, especially in relation to investment and the setting up of local business with foreign capital, trade in services and general trade, since government officials and business persons travel between countries to negotiate business (including investment) and trade-related issues.

The reality of the situation is that trade is driven by people, whether as policy practitioners or traders. In this regard, the commendable growing reference in the twenty first century to the facilitation or encouragement for exchanges of business delegations between South Africa and its trading partners as captured in bilateral trade agreements ought to be further nuanced by providing more detail on the context of the facilitation of the movements and the management of such movements by the DHA and DTIC. Trade policy and bilateral trade agreements are doubtless critical mechanisms through which to promote and execute South Africa's national interest insofar as legal and regular migration is concerned.

The targeted facilitation of the movements of people with capital to invest in the country, such as traders and service providers would not only increase the contribution of migrants to the South African economy, but will also contribute to the global governance efforts which are aimed at regulating migration as a development issue. A more coordinated approach on establishing cooperative networks, not only with local organised business, but also with business organisations that promote and represent South African interests abroad could contribute, immensely, to the formulation of a trade policy that takes into account the need to harmonise aspects that are related to migration.

The choice of the specific categories of migrants in this study was, *inter alia*, an attempt to contribute to the discourse on the perspective that suggests that migration is a development issue, not just as a consequence of war, conflicts, or natural disasters. The growing global efforts aimed at developing a consensus on the governance of international migration are testament to the fact that migration can no longer be deemed as a crisis to be managed, but as a development issue that warrants its own complete public policy attention. It has been noted in this study that labour migration has been studied, extensively, over many decades; however, the temporary migration of highly-skilled people who travel as service providers has not received due adequate attention from academia, trade policy-makers and practitioners, albeit, only or sparsely in the context of global discourses. This is, among other things, due to the fact that trade in services primarily entails heightened international movements of people, which could potentially pose migration governance challenges.

The literature review chapter's subsection that deals with regional efforts aimed at migration governance, highlighted the fact some regional organisations, such as the EAC, have moved further with the agenda on migration governance to include policy provisions that permit the free movement of persons within a related community of nations or countries, and the easier facilitation of the movements of business persons, including the establishment of business with foreign capital in

another country. South Africa and SADC ought to learn from the EAC experience, with the aim of emulating the best practices that could contribute to the shift from the country's position of primarily viewing migration as a security issue.

The visions and ideals contained in the 2017 White Paper on International Migration ought to be followed through with a comprehensive and multidimensional approach to migration governance. In this regard, different categories of migrants ought to be managed differently in terms of their purpose to travel to South Africa or their presence in the country. Immigration regimes managed at the ports of entry, be it airports, land borders or sea ports, need to have a clear policy and regulatory requirements determining the objectives of a migrant's visit to or presence in South Africa. The aim is not to discriminate on certain categories of migrants, but to formulate appropriate policy interventions that address the needs of the South African economy and those of the migrants, thereby contributing to more targeted and responsive migration governance.

Better and institutionalised cooperation between the DHA and DTIC is desirable as a policy requirement, rather than the current ad hoc and need-to-know status quo. For South Africa to better position itself, globally, the country has to develop cohesive interdepartmental cooperation between the DHA and the DTIC, as is being envisaged in the 2002 Immigration Act (as Amended). A structured and collaborative, rather than merely consultative interdepartmental engagements could birth policy certainty and predictability in the management of migration. Such an approach ought to be grounded on evidence-based and knowledge-driven migration governance regime in South Africa. The recognition and acknowledgement of the centrality of the movement of people in the execution of both trade and immigration policies should be one of the central considerations for policy-makers in both fields. Goods and services do not trade themselves in the market, because, essentially, people conduct the economic activities; and part of this process includes movements across national borders.

The crafting of bilateral trade agreements ought to transcend the mere reference to the facilitation of business delegations or visits, participation in international trade fairs and exhibitions, to also make provisions on how such as the impact of the facilitation of the immigration regulations. For practical purposes, the agreements ought to state, among other things, which of the immigration policy requirements would be applicable to persons who enter the country as potential investors, traders or service providers. The implementation of these agreement should cease being the sole preserve of the DTIC, to also include the DHA for purposes of policy coordination and coherence.

The positive link drawn between trade and immigration policies in this study validates and lends credence to twenty-first century approaches of the South African Government to include provisions in bilateral trade agreements that make reference, albeit in vague terms, to the migration policy. It can be concluded in this study that the facilitation and management of the movement of certain categories of migrants, namely, businesspersons whether as investors, traders or service providers, in bilateral trade agreements contribute positively to the management of legal migration; which is a matter of global concern. Thus, it is logical that the management of the movement of the categories of people catered for in bilateral trade agreements is co-managed by the DHA and DTIC for purposes of policy coherence, coordination, monitoring and evaluation. Such structured cooperation will help to assess the effectiveness of the immigration regimes which are currently in place, especially with regard to their impact on growing international trade and business relations.

The DHA has stated, in Chapter Five of this study, that the South African Government takes more of a risk-oriented approach to migration than a pro-active management policy orientation. The risk-based approach contributes to the negative perceptions about migration as a security issue, rather than this being a development phenomenon. The government ought to conduct periodic scientific studies on the impact of migration to the country's development, with a keener

focus on aspects such as the contribution of migrants to trade patterns and establishment of local businesses owned by foreign nationals. The scientific approach will help produce an empirical evidence that will inform the formulation and implementation of effective and well-targeted trade and immigration policy interventions. For example, a scientific study on local businesses owned by foreign nationals would assist the government to evaluate and monitor economic growth and industry development trends based on the areas of interest of local businesses owned by foreign nationals or established with foreign capital. The developmental aspects of migration ought to be studied, understood and considered when formulating the trade policy.

In order to manage legal migration of the categories which have been researched in this study, all stakeholders that benefit or get affected by migration policies ought to participate in its formulation. In this regard, local companies that employ foreign nationals with high skills should be encouraged and invited to contribute to policy discussions in order to contribute to the formulation of a well-informed, cohesive, effective and impactful migration policy. The envisaged benefit of such broad participation would include among others, the attraction of appropriate, scarce and requisite skills into the South African economy; and legal migration would discourage illegal migration, as the related, proactive policies would make provisions for the regulated movement of people in and out of the country. The DHA and DTIC ought to close the gap in their respective policy formulation processes; and, these should particularly deal with developmental migration issues, in order to attain an appropriate and well-crafted policy trajectory on migration governance.

### **7.3 Recommendations on the international migration theoretical framework**

The study demonstrated that the complexity of the management of migration does not only relate to the diversity of the issues involved, but it has also highlighted the need to adopt a multi-institutional and multi-stakeholder approach. The global

governance theory accommodates the plurality of actors in the migration management phenomenon. However, the theory could be further developed through the examination of migration from different perspectives, as this study has attempted to do. A more nuanced theoretical perspectives in the study of migration would aid the development of new knowledge, expertise and interest on international migration. The study provided and examined the available evidence, as well as the theoretical approaches employed to study the migration phenomenon, but none of these have been applied to study the link of the migration policy to its twin, with this being the trade policy, as both these independent variables, that is, trade and migration, are of equal significance.

In this study, it was argued that international migration is a critical component of the study and literature on globalisation. Like trade, migration is concerned with cross-border issues of the movement of goods, services, capital and people. Therefore, the globalisation theory has contributed immensely in the global discourse on migration, especially in relation to the opening of borders for the movement people and the transnational nature of migration issues. It can be deduced that this study has contributed to the development of new knowledge on the relationship between trade and migration, particularly the policy-nexus between the fields; with these being trade and migration.

Historically, migration had occurred under circumstances that had compelled people to leave their countries of origin, as they were either fleeing from conflict, poverty, etc., and onwards, to an era where people move across borders voluntarily and legally to pursue economic interests. It is, therefore, important that international relations studies should cover not only political issues of security, peace, conflict and stability, but these are also supposed to take equal interest on other developmental issues, such as migration, and in the context of a globalised world, and in the spirit of the promotion of multilateralism. Migration governance is decidedly not a matter for a single country to deal with; as it is transnational issue,



and, as such, requires international and global approach to it, as the global governance theory seeks to achieve.

Some theoretical approaches argue that migration is a matter that is best dealt with, within national borders, but these fail to address the link between migration and trade. In other words, migration is viewed by some observers and thinkers like Walzer (1983); Miller (2007); Altman & Wellmen (2011) as a preserve of national governments. These thinkers ought to bear in mind that the world is becoming increasingly intertwined and interdependent, because of globalisation. Thus, the role and authority of the state through territorial sovereignty is and will continue to be affected by the emergence of transnational issues such as migration. It is, therefore, in the interest of states to cooperate and coordinate their efforts aimed at the management of international migration, as both countries of origin and host benefit from migration of businesspersons, traders and those with high skills, albeit at varying scales.

Some of the theories reviewed in this study, such as open-borders and free movement advocates, argue that the free movement of people ought to be equally free, like that of goods and services. This study did not engage much in the theoretical debates on the management of international migration as this was not the main focus. However, it can also be concluded that the study does not advocate for the general granting of the free movement of people. Instead, the study adopted a position of examining migration as a development issue that ought to be managed in an orderly and organised fashion that benefits the migrants, themselves, as well as the home and hosts countries, alike.

In this study, attention has also been given to the different levels of migration governance, starting from the national sphere through to the regional and continental levels, to the global fora. As has been argued in the literature review chapter, a comprehensive free movement of people tend to present serious challenges to the receiving states, since migrants who still seek employment

opportunities, among other issues, have no choice but to rely on government social welfare programmes, thus competing with nationals for low-skilled work, thereby generating negative reactions from the local population.

Migration governance theories ought to continue arguing that the phenomenon will continue to feature prominently in the agenda of international organisations; but, instead of pushing for currently unpalatable positions such as general free movement, there should be the promotion of closer cooperation and policy coordination from the nations of the world. The Global Compact on Migration is a commendable, yet initial step toward achieving a desirable, global, legally-binding migration governance framework. However, for this to be effective in producing tangible results, it ought to be cascaded down to continental and regional organisations for implementation and harmonisation with national laws and policies. Global governance theory acknowledges the existing and increasing cooperation among states, but needs to strongly advocate for the gradual ceding of national sovereignty on the issues of migration governance, especially in instances where states agree on the mutual benefits of regulated, targeted and legal migration.

#### **7.4 Areas for future research**

- i. The impact of migrants business networks on trade and international business:

The study has come across limited literature on the positive impact of the migrants business networks on trade. Further research on this interesting issue could contribute to the development of knowledge and empirical evidence on the benefits of high-skilled and economically active migrants to both countries of origin and destination insofar as economic relations are concerned. Migrant business networks could also serve as critical lobby constituency for appropriate immigration and trade policies interventions on

migration governance, since these are directly affected by both the DTIC and DHA's trade and migration-linked policies, respectively.

- ii. The possible positive impact of regulated, orderly and legal migration to regional political stability:

Partial reference was made that harmonised regional and continental migration policies and practices do contribute positively to regional peace. In the African continent, very few countries have harmonised their national policies with those of the regional organisations, such as the SADC or the AU. The EAC countries are among those that have aligned their national migration policies to those of the region. It must however, be stated that such harmonisation does not extend to other spheres of public policy; but, nonetheless, the arrangement in view of migration, especially as it relates to investors, traders and highly skilled people, is worth emulating in other regions, such as Southern Africa.

- iii. The inclusion of aspects of migration policy in bilateral trade agreement:

It would be interesting to study closely how the inclusion of migration aspects in bilateral trade agreements contributes to broader migration governance. As has been argued in this study, the bilateral trade agreements do not necessarily provide any extensive substance on how the facilitation of the movements of businesspersons ought to be managed, and whether this could be under a special migration regime or fall under the general provisions that are applicable to any individual who wishes to visit the country for business purposes.

Admittedly, there are general provisions in the immigration policy that cater for businesspersons or potential investors, and these are said to be developed in consultation with the DTIC. However, what is not explained in

the bilateral trade agreements is whether the visa applications which have been submitted in accordance with the provisions of the bilateral agreement are processed together with the input or in consultation with the DTIC as the responsible institution for the trade agreements, or if these are simply dealt with by the DHA. This is a critical public policy issue, especially for those who are affected, and stand to benefit from the agreements.

iv. Link between trade in services and migration:

The study makes reference to trade in services as part of a managed or regulated migration process, and as one of the aspects linking the trade and immigration policies. However, the available literature on trade in services is severely restricted, and even explicit, and expanded reference on this aspect of migration is not well-captured in the trade policy. The literature reveals that there are various approaches to trade in services; and that different states adopt related policies that are more palatable to the local stakeholders. For instance, some agreements on trade in services focus on market access only for skilled migrants on a temporary basis; others provide labour mobility such as intra-company transfers; others just focus on the protection of the migrants' labour rights. As an aspect of international migration governance, it is important to study trade in services as a component of trade policy and its link to immigration policy.

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