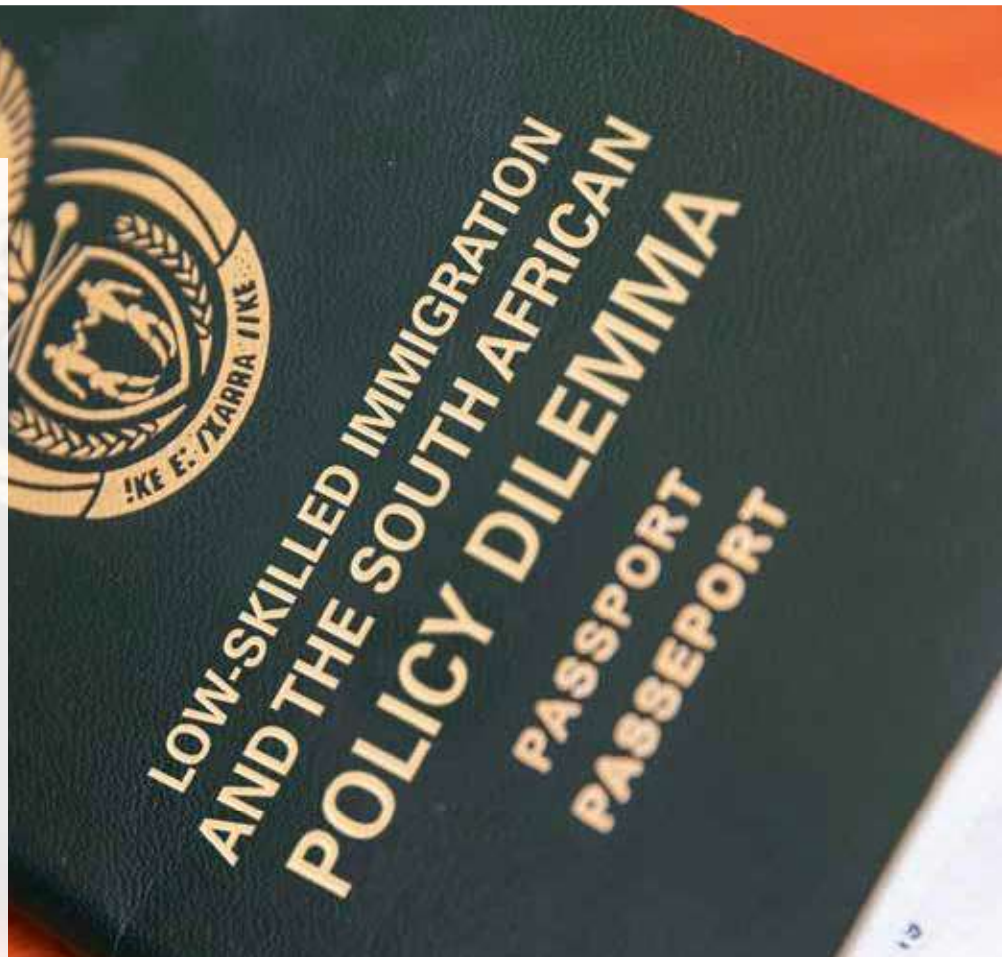


The restriction on free movement of labour between countries and the disregard of deep-rooted migration systems and patterns have led to an increase in irregular migration, which perpetuated social problems, corruption, and human rights abuse of migrant labourers in South Africa. In this article, *Johan Viljoen* and *Marie Wentzel* look at the potential impact of proposed policy changes in the *2017 White Paper on International Migration*, specifically regarding low-skilled migration.



Migration from the SADC region to South Africa has existed since early colonial times and has benefited the country greatly. However, attempts by the South African government to contest regional trans-border legacies of low-skilled labour, porous borders and informal trade have caused defects in the management and regulation of low-skilled immigration. In a 2014 study, migration policy researcher Adrian Kitimbo noted that “the unintended consequence of restrictions on the free movement of labour between countries has been an increase in problems such as irregular migration, a phenomenon which has created enormous social, political and economic problems for SADC members”. Within this context, this article will discuss the proposed policy changes in the *2017 White Paper on International Migration*, specifically regarding low-skilled migration and the extent to which it may either succeed or fail to address irregular and low-skilled migration patterns in Southern Africa.

Migration trends and policy

Since 1994 and specifically during the last decade, there has been a major change in the nature and patterns of immigration to South Africa, with immigrants from Asia joining the stream of African migrants. These changes were accompanied by a larger diversification of economic sectors in which migrants are employed, beyond the traditional mining and agriculture sectors.

The Department of Home Affairs implements the policy on international migration through the 2002 Immigration Act and the Refugees Act of 1998. The 2017 White Paper on International Migration accepts that migration cannot be stopped and is beneficial to the country. However, it argues that the country is exposed to various security risks while “strengthening colonial patterns of labour, production and trade” and enhancing irregular migration, accompanied by corruption and human rights abuses.

The white paper is drafted against the backdrop of the NDP (Vision 2030) and also the African Union Vision 2063, which provides a framework for national migration policies in Africa. Apart from proposed changes to immigration to South Africa in general, the white paper has attempted to address some of the most urgent gaps regarding irregular and low-skilled migration.

Influx of low-skilled migrants

The latest amendments to the Immigration Act, in 2011, and the 2017 White Paper introduced a ‘securitisation of migrants’ objective, whereby migration is framed as a national threat. The aim was to tighten the process for refugee and asylum applicants due to a perceived abuse by ‘economic migrants’ who are not eligible to enter the country. Limited opportunities to regularise their stay in South Africa through the 2002 Immigration Act, resulted in many low-skilled migrants using the refugee dispensation offered by the 1998 Refugee Act to obtain legalised

status. This led to a flood of low-skilled migrants applying for asylum in this country.

Zimbabwe and Lesotho

In 2010, the Department of Home Affairs introduced the Documentation of Zimbabweans Project, to regularise the undocumented Zimbabweans in South Africa. Undocumented migrants in this context implies immigrants who entered the country through irregular means or without legal travel documents or who overstayed and are either economic migrants or refugees. The purpose of the project was to relieve the pressure on the management system from the flood of those seeking asylum in the country due to the political and economic crisis in Zimbabwe.

The Zimbabwean dispensation programme has been extended over the years albeit under different names and conditions. In January 2018, the new Zimbabwean Exemption Permit (ZEP) became operative and will expire in December 2021. Among others, the non-renewable ZEP permit allows the migrant to work/study and/or conduct business in South Africa for a maximum of four years. This subscribes to the new white paper's approach to addressing labour flows from the SADC region in an orderly manner, to curb irregular migration and to know who is in the country. The dispensation programme has been extended – until December 2019 – to undocumented Lesotho nationals who work or study or have run businesses in South Africa before 30 September 2015.

Economic migrants

The 2017 White Paper notes that the management of economic migrants from SADC is “perhaps the most challenging policy area to address” due to the historical migration from the region to South Africa. This includes SADC migrants employed in the mining,

agriculture, hospitality, construction and domestic-work sectors, who are attracted by better economic opportunities. The high levels of irregular migration, specifically from Mozambique, Zimbabwe and Lesotho are accompanied by the high cost of immigration-control measures. This highlights the need for a permanent solution for the documentation of SADC migrants with lower skills levels.

Proposed interventions

The *2017 White Paper on International Migration* has attempted to address urgent gaps in irregular and low-skilled migration through three proposed policy interventions.

One is the regularisation of existing undocumented SADC migrants in South Africa, similar to the special permits for migrants from Zimbabwe and Lesotho and other past amnesties. However, applicants will have to meet requirements such as: hold a valid passport; prove that they have no criminal record; and have a valid reason for residing in South Africa such as employment, study, or business ownership.

Another intervention involves expanding the visa regime for some economic migration from neighbouring countries, to discourage irregular migration to South Africa. However, this would involve experimentation, incremental implementation, and monitoring and evaluation by government authorities. Three types of visas will be piloted as part of this intervention. The SADC special work visa will allow the holder to work in South Africa for a prescribed period of time, but cannot be used to obtain permanent residency. This visa will be quota-based and implemented through bilateral agreements with neighbouring countries. The second is a long-term, multiple-entry SADC trader's visa for cross-border traders who frequently visit the country. The

third is an SADC small-and-medium enterprise visa for self-employed people and small-business owners but may be subjected so SARS/ company registration.

Finally, the white paper proposes support for targeted enforcement of immigration and labour laws with an emphasis on employers and not individual migrants, since the hiring practices of employers is regarded as an important pull factor of irregular migration.

Conclusion

Empirically informed policies and laws to regulate low-skilled labour migration are required for South Africa to deal with irregular immigration challenges. Over time, low-skilled migration policy gaps have placed a financial burden on the state, due to the high cost of litigation and deportation.

The regional trans-border legacies of migration need to be addressed with long-term and viable solutions, due to persistent political, economic and social crises among South Africa's neighbours. While the 2017 White Paper promises to resolve some of the pressing problems of irregular migration, it is vague on measures that will affect new low-skilled migrants' ability to legally migrate to South Africa. Immigration will perpetuate as long as the sub-region serves as a labour source for South Africa. Stronger enforcement of immigration laws will not deter migrants but may drive them underground again, thereby increasing their vulnerability to xenophobic violence.

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