

Migrant Labour, Brain Drain and Brain Gain in SA

Alarmist reactions which approach xenophobia do little to solve South Africa's immigration problem, or to flesh out the differences between legal and illegal immigration. Indeed, South Africa's commitment to the liberalisation of capital, trade and technology since 1994 is in conflict with a policy which inhibits legal immigration. In the recent past, strict regulation of foreign workers has made it difficult for skilled immigrant labour, which does not replace South African labour, to remain securely, and invest their earnings, in the country.

On the other hand, the number of illegal immigrants coming into South Africa increased with the unbanning of liberation movements in 1990 and subsequent democratisation in South Africa. Many of these illegals come from countries, such as Zimbabwe, which supported the African National Congress (ANC) during the liberation struggle. Home Affairs Minister Mangosuthu Buthelezi reported earlier in the year that between 500,000 and four million illegal immigrants currently live within South Africa's borders. Buthelezi argues that illegal immigrant labour adds to the unemployment rate in South Africa, which stands at about 38%.

Foreigners who live and work in South Africa generally fall into four different categories:

- *Refugees* seek asylum in South Africa if their person is in danger in their home country. Once that danger is over, the person is expected to return to her/his country of origin.
- *Unskilled workers* come to South Africa as illegal 'economic refugees', seeking employment, generally in the urban areas. Unskilled workers often take up casual labour and trading, and are partly blamed for South Africa's high crime rate.
- *Migrant labourers* have historically come to South Africa without their dependants to work in the mining or agricultural sectors for short periods of time.
- *Highly skilled workers*, including medical doctors, engineers and academics come to South Africa, either to reap better financial rewards for their employment (in the case of numerous immigrants from Nigeria), or to work in universities or non-governmental organisations. Statistics from Home Affairs show that one-third of all foreigners who work legally in South Africa have doctorate degrees and work in our country's universities.

Refugees

Bona fide refugees may seek asylum in South Africa only in a limited number of circumstances, including external aggression or occupation, or the risk of human rights violations in their home countries. According to the Department of Home Affairs, South Africa approved 1,182 applications for asylum in 1996, a 42% drop from the previous year. Most of those who were granted asylum came from Angola and the then Zaire. Still, Home Affairs rejects far more applications for asylum than it approves; in 1996 the Department denied 3,752 applications for asylum.

However, South Africa will continue to receive applications for asylum until the political situation in countries such as the

Democratic Republic of Congo and Angola stabilises.

Economic refugees and illegal immigration

The 1998 White Paper on Refugees stipulates that refugee status in South Africa does not include 'economic refugees', many of whom come to South Africa from other countries in Africa. Employment seekers without work permits are classified as illegal immigrants, and may be repatriated at any time to their country of origin. Buthelezi claims that illegal immigrants worsen unemployment, contribute to the country's crime rate, and take up a great deal of government resources.

In one sense, illegal immigrants do drain government resources. In February 1998, Buthelezi claimed that Home Affairs spends some R210 million a year repatriating illegal immigrants. In 1997, Home Affairs traced some 243,689 illegal aliens and repatriated some 176,351. Of these illegal aliens, 83% were repatriated to Mozambique; 12% to Zimbabwe; and 2% to Lesotho. However, the extent of their involvement in crime is unproven.

"Current restrictions are reminiscent of the former government's pass laws"

The *Human Rights Watch 1998 Report* accuses the South African government of gross human rights abuses against illegal immigrants. The report describes detainment conditions as 'horrific', citing cases of beatings, bribery within the government system and exploitation of immigrant labour within the private sector.

As long as the South African economy fares better than those of its neighbours, the country will continue to attract illegal immigrants who seek employment and better financial opportunities in South Africa.

Migrant labour

Although the Chamber of Mines of South Africa no longer keeps statistics on foreign workers on South African mines, historically South Africa has attracted migrant labourers from neighbouring countries such as Lesotho, Swaziland and Mozambique to work in the mining sector. Many legal migrants have been involved in migrant labour for years and have developed skills necessary in mining.

Likewise, the agricultural sector in South Africa is dependent on migrant labour, especially in times of harvest. Agricultural labourers migrate to South Africa for short periods of time, taking up employment which other segments of society may find 'undesirable', and generally working for less pay than would *bona fide* South African citizens.

Migrant labour in South Africa is a touchy issue. Whereas Home Affairs does regulate the number of foreign workers who are employed on mines, many migrant agricultural workers cross into South Africa illegally. Commercial and subsistence farmers often hire illegal immigrants because they constitute cheap labour. Although agricultural labourers often take up laborious work, many South Africans may be willing to take up these temporary positions, albeit for more pay, if given the chance.

Brain Gain and Drain

In recent years, a number of skilled South Africans have emigrated to countries such as Australia, Canada, the United States and the United Kingdom. According to Statistics South Africa (Stats SA), emigrants, 36% of whom were managers and professionals, officially numbered 39,000 from 1994-1997. However, these figures do not reflect the real number of emigrants, as many do not declare their intentions when they leave South Africa. According to Stats SA, between 1994 and 1997, 5,514 people emigrated from South Africa to Australia; in contrast, Australian officials claim to have received 9,092 emigrants from South Africa during the same period.

Nevertheless, Stats SA reports a brain drain from South Africa. More than 50% of emigrants in 1997 were skilled workers. FSA-Contact, a market research group, reports that 96% of emigrants from South Africa cite criminal violence as their main reason for leaving the country.

Brain drain in South Africa erodes the tax base, and actually *increases* unemployment. Many of those who have left South Africa employ workers both in their businesses and their homes. Furthermore, given this brain drain, the pool of skilled workers from which businesses can draw is increasingly smaller.

Businesses are often unable to import skilled foreign labour because of its cost and restrictions placed on the legal employment of foreigners by Home Affairs. Current policy dictates that foreign workers cannot be employed in positions which otherwise could be offered to South African citizens and permanent residents.

Published in March 1999, the draft White Paper on Immigration recognises South Africa's brain drain, and the need to attract highly skilled immigrants to aid in the development of the country. Rather than adopt measures to police South Africa's permeable borders, the draft White Paper places stringent controls on employers and foreign employees, in an attempt to regulate immigrant labour. These controls include levies for permits (work permits currently cost about R1,000 per year while permanent residence requires a once-off payment of R10,000), in addition to fines for businesses which employ foreigners illegally.

The government has been very dismissive about the brain drain in South Africa. In July 1998, **Father Smangalisio Mkhathshwa**, Deputy Minister of Education, argued that the emigration of skilled people from South Africa was actually a blessing in disguise, as it frees up key employment positions, providing incentives to the public to develop skills to fill those positions. **Nelson Mandela** claims that "real South Africans" are not leaving the country, only the cowards who do not want to stay to rebuild it.

Others argue that South Africa can ill afford to lose the citizens that the country has educated and trained. According to the 1999 World Competitiveness Yearbook, published by the International Institute for Management Development, out of 46 economies surveyed, South Africa was rated the most difficult place to find skilled labour. The problem is twofold: inadequate education on the one hand, and loss of highly skilled managers and professionals on the other. South Africa must improve its educational system, retain the people the

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country educates, and attract highly skilled labourers from other countries who fill demands for skills. Highly skilled workers often train South Africans, passing on their skills to locals, and thus further developing the nation. Nevertheless, until the crime situation in South Africa is adequately addressed, the country can expect to lose more skilled people than it attracts every year.

Implications for policy

The challenge facing policymakers in South Africa is to create an immigration policy which limits illegal immigration, while encouraging the legal immigration of highly skilled personnel. Such a policy is in place in many countries worldwide, which happily accept skilled labourers, doctors, engineers and academics.

The government has already written a draft White Paper on Immigration which will be published for comment shortly. Concerns over the draft White Paper's policy recommendations remain.

The draft White Paper on Immigration suggests that the government place stringent controls on employers and set hefty fines for those who employ illegal immigrants. The draft additionally makes provisions for migrant labourers in the mining and agricultural sectors. An employer must apply for a corporate permit which would then allow it to employ a certain number of skilled and unskilled migrant workers from abroad.

The draft White Paper makes further provision for establishing a training fund for South Africans. If an employer demonstrates that it cannot find a qualified South African to fill a certain position and thus chooses to hire an alien legally, that employer is then obliged to contribute a certain amount of money to a training fund. That money will go to train South Africans in relevant fields, thus addressing the lack of certain skills in the country.

Such controls and the establishment of a training fund are good ideas in principle, but may present problems:

- The government does not have the necessary resources to set up a Home Affairs policing patrol; few would argue that the government should take funds away from housing or other programmes.
- Focusing efforts on regulating skilled foreign labour is missing the point: many illegal immigrants remain anonymous.

- Stringent policy on legal immigration discourages the movement of skilled labour to South Africa. Currently, it is very expensive for businesses to employ foreign workers or for foreigners to seek work permits or permanent residence in South Africa. As a result, only large businesses will be able to afford to employ skilled foreign labour and pay work permit or permanent residency fees.

The strict controls placed on legal immigrant labour would violate the South African Constitution *if permanent residents and legal immigrant labour were citizens and had rights guaranteed under the constitution*, according to the White Paper on Immigration. Even the current restrictions placed on the employment of legal aliens and permanent residents are reminiscent of the former government's pass laws. Limiting the economic activities of foreigners, such restrictions stipulate that legal foreign workers and permanent residents have to apply to Home Affairs to seek permission to change employment within South Africa. For those who hold work permits, the cost of changing employment is about R1,000 (payable on a yearly basis). Permanent residents must pay an application fee of R5,000 every time they change employment. Home Affairs increases the prices of such permits on a yearly basis.

In the end, controlling the *legal* immigration of skilled workers to South Africa will actually do little to stem *illegal* immigration. Sealing borders remains a politically sensitive issue due to the liberalisation of Southern African Development Community (SADC) economies and the support southern African governments gave to the ANC during the liberation struggle. Denying social services such as health care to foreigners could also backfire, given the widespread incidence and rapid spread of tuberculosis and HIV in southern Africa.

Therefore, the government will have no choice but to develop policy which makes illegal immigration unattractive (perhaps through policing traders and employers who are likely to employ illegals), while supporting the economic and political development of other SADC states. Indeed, while the economic and perhaps political development of South Africa has led to illegal immigration, the development of SADC states will curb illegal immigration to South Africa while supporting the development of the country.