

Policy Insights

70

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South African Migration Policy: A Gendered Analysis

ALEX FARLEY

African perspectives
Global insights

EXECUTIVE SUMMARY

The 2017 White Paper on International Migration to South Africa proposes a policy framework to guide a comprehensive review of South Africa's international migration policy, including asylum and refugee legislation. However, the white paper makes no reference to the intersection between gender and migration, which creates a complex set of vulnerabilities and experiences for women migrants. South Africa is experiencing changing gender migration patterns that have been largely neglected by migration legislation. In failing to recognise gendered drivers and experiences of migration, its current migration system cannot mitigate and respond to the risks and vulnerabilities or harness the development potential of women migrating to South Africa. This policy insight unpacks how the white paper has failed to adequately consider gender-specific dimensions of migration. It concludes by making various recommendations regarding a gendered approach to migration.

Introduction

The 2017 White Paper on International Migration for South Africa (WPIM) outlines a policy framework for the strategic management of international migration in line with the country's national development goals.¹ The WPIM will be used to guide the review of the Immigration Act of 2002, which regulates international migration to South Africa, and the Refugees Act of 1998, which regulates its asylum regime.

South Africa experiences high levels of mixed migration, predominately from African countries.² Mixed-migration is the cross-border movement of different types of migrants and asylum-seekers who migrate or flee with different motivations and vulnerabilities.³ The gender breakdown of permits issued is not recorded by the Department of Home Affairs (DHA), so it is difficult to determine the ratio of female asylum-seekers and economic migrants. The nature of clandestine irregular migration also undermines the accuracy of data, which only records legal entries, such as people using skilled work permits or seeking asylum. In 2015 women submitted 33% of asylum claims in South Africa.⁴ In accordance with global trends, more African women are migrating to South Africa and more are migrating independently of partners and spouses in search of economic and life opportunities. This is primarily owing to changes in the labour market and shrinking pathways for male migration.⁵

1 DHA (Department of Home Affairs), 'White Paper on International Migration for South Africa', July 2017, <http://www.dha.gov.za/WhitePaperonInternationalMigration-20170602.pdf>, accessed 25 March 2019.

2 Crush J et al., *Harnessing Migration for Inclusive Growth and Development in Southern Africa*, SAMP (Southern African Migration Project) Special Report, 2017a, <http://samponline.org/wp-content/uploads/2018/06/SAMPspecialReport.pdf>, accessed 15 April 2019.

3 Mixed Migration Centre, 'What is mixed migration?', <http://www.mixedmigration.org/about/>, accessed 27 March 2019.

4 Crush J et al., 2017a, *op. cit.*

5 Pophiwa N, 'The drivers and outcomes of feminisation of migration in Africa', *Pambuzuka News*, 26 June 2014, <https://www.pambuzuka.org/gender-minorities/drivers-and-outcomes-feminization-migration-africa>, accessed 26 March 2019.

Migration can be a key tool for women's economic empowerment. It can also hold important socio-economic benefits for host and home countries, including gendered remittances and labour market integration.⁶ South Africa's current migration system does not consider gendered aspects of migration and consequently fails to consider gender-specific migration drivers, trends, and vulnerabilities. A lack of gender-disaggregated data makes it difficult to determine the specificities of migrant women's engagement with the labour market.

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South Africa's National Development Plan 2030 (NDP) outlines development goals and objectives that relate to both migration and gender, and recognises that women's migration is likely to increase. Women's rights and gender equality are key features in South African legislation and policies, and well integrated into the development agenda in relation to socioeconomic challenges and proposals. Migration, however, has not caught up. The WPIM fails to acknowledge female migration to South Africa. The 81-page document only mentions women twice and gives no consideration to how gender shapes migration drivers, pathways and experiences.⁷ A gendered lens is needed to adequately address patterns, vulnerabilities and strategies.

Gender and migration in south africa

In recent years the number of women migrants has increased globally – they now make up almost half of the migrant population.⁸ This is referred to as the 'feminisation of migration'.⁹ In Africa, women make up 49% of the migrant population. The number of women migrants in South Africa has quadrupled in the last 15 years.¹⁰ There were 519 315 international women migrants in South Africa in 1990 and 1 007 320 in 2013.¹¹ In 2017 South Africa

6 O'Neil T, Fleury A & M Foresti, 'Women on the Move: Migration, Gender Equality and the 2030 Agenda for Sustainable Development', ODI (Overseas Development Institute), 2015, <https://www.odi.org/sites/odi.org.uk/files/resource-documents/10731.pdf>, accessed 25 March 2019; Crush J *et al.*, 2017a, *op. cit.*

7 Mbiyozo A-N, *Gender and Migration in South Africa: Talking to Women Migrants*, ISS (Institute for Security Studies) Southern Africa Report, 16, September 2018a, <https://issafrica.s3.amazonaws.com/site/uploads/sar-16.pdf>, accessed 26 March 2019.

8 Diop B & J D'Aloisio, *Special Report: Migration and Gender in the African Context*, International Committee for the Red Cross, <http://www.fasngo.org/assets/files/publicatons/Factsheets%20-%20Gender%20and%20Migration%20in%20the%20African%20Context.pdf>, accessed 26 March 2019.

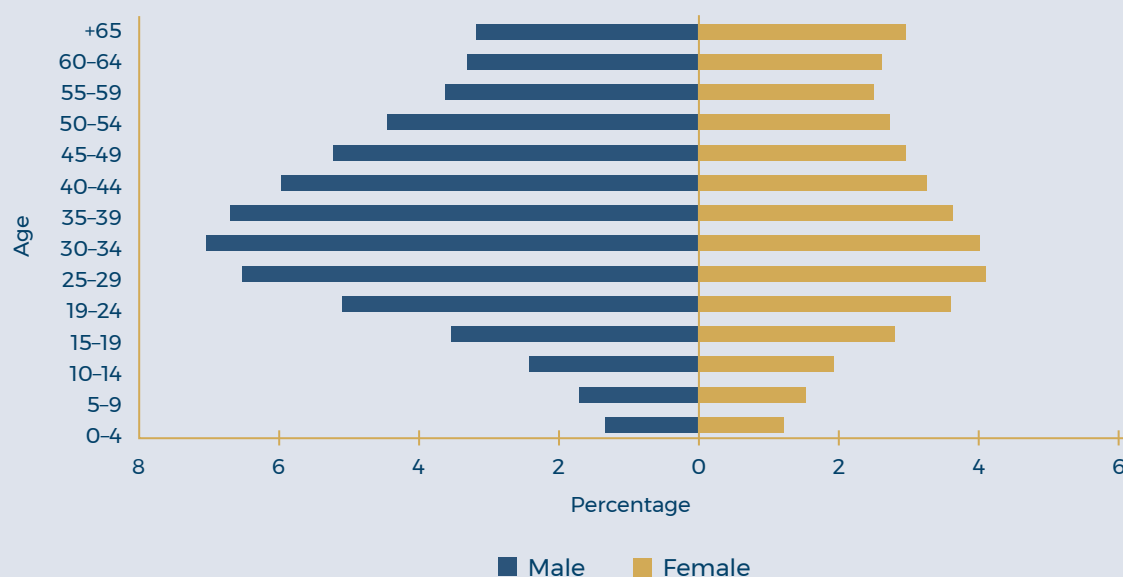
9 Pophiwa N, *op. cit.*

10 Mbiyozo A-N, 2018a, *op. cit.*

11 UNICEF, 'South Africa: Migration Profiles', <https://esa.un.org/migmgmprofiles/indicators/files/SouthAfrica.pdf>, accessed 1 April 2019.

reported the highest share of mixed women migrants in Africa with 1.8 million, followed by Uganda with approximately 898 000 women migrants.¹²

Figure 1 Migrant stock by age and sex in South Africa, 2013



Source: UNICEF, 'South Africa: Migration Profiles', <https://esa.un.org/migmgmprofiles/indicators/files/SouthAfrica.pdf>, accessed 1 April 2019

Table 1 Total women migrants in South Africa

Year	Total women migrants	Women migrants as % of total population	Women migrants as % of total migration
1990	446 656	2.3	38.4
1995	392 724	1.8	39.1
2000	401 793	1.7	40.1
2005	498 717	2.0	41.2
2010	880 757	3.4	42.0
2015	1 694 596	6.0	44.4
2017	1 792 275	6.2	44.4

Source: Mbiyozo A-N, *Gender and Migration in South Africa: Talking to Women Migrants*, ISS (Institute for Security Studies) Southern Africa Report, 16, September 2018, <https://issafrica.s3.amazonaws.com/site/uploads/sar-16.pdf>, accessed 26 March 2019

¹² Migration Data Portal, 'Number of female international migrants at mid-year', 2017, https://migrationdataportal.org/data?i=stock_abs_female_&t=2017, accessed 13 April 2019.

African women seem to be migrating independently of partners and spouses in search of economic, educational, and life opportunities.

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Economic hardship and limited prospects in home countries are dominant drivers for both men and women migrating to South Africa from neighbouring SADC and other African countries. Within the region, about 50% of people are unemployed and about 90% are involved in the informal economy.¹³

Type of migration	Definition
Mixed migration	Complex cross-border movement of different types of migrants, including economic migrants, refugees, asylum-seekers and other migrants who migrate or flee with different motivations and vulnerabilities
Irregular migration	Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. For receiving countries this entails entering, working or staying without valid authorisation and documentation. For sending countries irregularity occurs when a person crosses international boundaries without valid travel documents
Economic migrant	A person who leaves their country of origin for economic reasons and to seek material improvements to their livelihood
Refugee	A person who owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country
Asylum-seeker	A person who seeks safety from persecution or serious harm in a country other than his or her own and awaits a decision on the application for refugee status under relevant international and national instruments

Source: IOM (International Organization of Migration), 'Key migration terms', <https://www.iom.int/key-migration-terms>, accessed 16 May 2019; UNHCR (UN Refugee Agency), 'Irregular migration and mixed migration flows: IOM's approach', Document MC/INF/297, <https://www.unhcr.org/uk/protection/migration/4bf6870b9/irregular-migration-mixed-flows-ioms-approach.html>, accessed 16 May 2019

¹³ IOM (International Organization for Migration), *The Well-being of Economic Migrants in South Africa: Health, Gender and Development*, Working Paper for World Migration Report 2013, 2013, https://www.iom.int/files/live/sites/iom/files/What-We-Do/wmr2013/en/Working-Paper_SouthAfrica.pdf, accessed 29 May 2019.

As an economic hegemon in Southern Africa, South Africa is the regional hub for economic migration.¹⁴ Historically, migration was characterised by cheap male labour travelling to work in mining and agriculture. Women migrated predominantly for family unification.¹⁵ These male labour pathways have shrunk owing to changes in the labour market. Restrictions in the mining sector have led to a decline in male contractual migration, which fell from 60% of the workforce in 2009 to 23% in 2013.¹⁶ The narrowing legal pathways for male migration have been a key factor contributing to increases in irregular and women's migration.¹⁷

Gender plays a major role in determining migration drivers, from both a push and a pull dimension. Domestic violence, familial roles, hegemonic gender norms, inequality within the home or the stigma of leaving an unhappy marriage have been identified as drivers for women migrants.¹⁸ At the same time, gender norms also influence who migrates. A lack of financial or social freedom, familial roles and hegemonic norms often impede women's ability to migrate and to do so autonomously.¹⁹

In addition to political and ethnic violence, conflict and religious persecution, women asylum-seekers report fleeing harmful practices such as female genital mutilation, forced or child marriage, and sexual and gender-based violence.²⁰ Sexual and gender-based violence is often exacerbated in conflict areas.

Gender equality also acts as a pull factor. Women often move from countries with high inequalities to countries with more gender equality.²¹

Women migrants are exposed to danger at every stage of the migration process. African women migrants journeying to South Africa face heightened risks of violence, abuse and exploitation, particularly if unaccompanied by men. Globally, border crossings are especially risky, with women experiencing violence, corruption and abuse.²² The high risks and costs of entering legally, such as paying bribes, force many women to cross illegally, which can also be dangerous. As a result, women are more likely to experience forced labour and sex trafficking than their male counterparts.

14 Pophiwa N, *op. cit.*

15 Diop B & J 'D'Aloisio, *op. cit.*

16 IOM, 2013, *op. cit.*

17 *Ibid.*

18 Pophiwa N, *op. cit.*

19 UN DESA (UN Department of Economic and Social Affairs), Division for the Advancement of Women, 'Women and International Migration', 2004, http://www.un.org/en/development/desa/population/migration/events/coordination/3/docs/P01_DAW.pdf, accessed 26 March 2019.

20 Harris LM, 'Untold stories: Gender-related persecution and asylum in South Africa', *Michigan Journal of Gender and Law*, 15, 2, 2009.

21 OECD (Organisation for Economic Co-operation and Development) Development Centre & ILO (International Labour Organization), 'How Immigrants Contribute to Developing Countries' Economies', 2018, https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_616038.pdf, accessed 14 April 2019.

22 O'Neil T, Fleury A & M Foresti, *op. cit.*

According to the Counter-Trafficking Data Collaborative, women make up 70% of trafficking victims in South Africa.²³ South Africa is a regional transit and destination hub for women trafficked for sexual exploitation and domestic servitude. Often these women are trafficked as far as Europe.²⁴

Many African women migrants in South Africa are irregular migrants who enter low-skilled employment. No legal visa pathways are available to them so they are largely unable to engage in the formal economy. Most find employment in informal, domestic and agricultural sectors.²⁵ Data from the Organisation for Economic Co-operation and Development (OECD) Development Centre and International Labour Organization (ILO) shows that male migrants are more likely to be employed than women migrants in developing countries.²⁶ The 2012 Quarterly Labour Force Survey indicates that male migrants have a 56% higher probability of finding employment than women migrants in South Africa.²⁷

Working in the informal economy and particularly the domestic sphere exposes women to dangerous workplace conditions. The International Organization of Migration's studies show that women migrants in unstable living conditions and precarious jobs are exposed

Women migrants in unstable living conditions and precarious jobs are exposed to greater violence

to greater violence. Forced sex on South African farms is an issue for foreign women, with 14.4% of women reporting they were forced into sexual relations in the 12 months before the study was conducted.²⁸ Fieldwork conducted in 2011 among Zimbabwean women migrants living in inner-city Johannesburg showed that most women felt unsafe, owing to high crime rates and fears of sexual violence.²⁹ Another 2005 study of women migrant domestic workers in Johannesburg indicated high rates of sexual violence and abuse: 80% of respondents said that they had been 'pushed, shoved, or slapped', 18% had been

23 Migration Data Portal, 'Proportion of women among victims of trafficking identified by CTDC partners (by country of exploitation)', 2018, https://migrationdataportal.org/data?i=ctdc_exploit_percfem2018&t=2018&cm49=710, accessed 13 April 2019.

24 US Department of State, *2018 Trafficking in Persons Report: South Africa*, 2018, <https://www.refworld.org/docid/5b3e0a7fa.html>, accessed 23 April 2019.

25 *Ibid.*

26 OECD Development Centre & ILO, *op. cit.*

27 Crush J *et al.*, 2017a, *op. cit.*

28 IOM, 2013, *op. cit.*

29 Munyewende P *et al.*, 'Exploring perceptions of HIV risk and health service access among Zimbabwean migrant women in Johannesburg: A gap in health policy in South Africa?', *Journal of Public Health Policy*, 32, 2011.

assaulted in the previous year and 6% had been raped.³⁰ A 2010 survey of female sex workers in Johannesburg, Rustenburg and Cape Town found that 46% were migrants, and that this exposed them to additional violence and health risks.³¹

Irregular women migrants without formal employment rights enjoy limited legal protection. They also have limited knowledge of or access to legal systems to pursue the rights that they do have. Labour laws are particularly difficult to enforce in the informal sector owing to the hidden nature of the work. Fear of interaction with government officials and police officers, because of the risk of detention and deportation, poses an additional barrier to seeking legal recourse.³² A 2007 Human Rights Watch study that interviewed 100 migrants, healthcare workers and advocates in Musina, Johannesburg, Pretoria and Cape Town found that barriers to accessing healthcare enhanced vulnerability and affected migrants' health in South Africa.³³

Benefits of women's migration

South Africa is failing to capitalise on the development potential of women's migration. Remittances sent by migrants offer developmental benefits to both destination and origin countries. In 2018 South Africa received \$921 million in personal remittances.³⁴ The WPIM's proposal for the 'management of ties with South African expatriates' encourages the investment of remittances from South Africans abroad, in keeping with the NDP.³⁵ Such remittances can make up a large percentage of gross domestic product (GDP). For example, in Zimbabwe remittance inflows constituted 11.16% of GDP in 2016.³⁶

Patterns of sending and receiving remittances are highly gendered. Globally, women economic migrants tend to send a higher proportion of their income for longer periods of time, despite typically earning less than men.³⁷ Women often face more pressure to send remittances to support their families owing to traditional gender roles. A 2005 study of 1 100 women migrant domestic workers in Johannesburg suggested that 94% of respondents bore financial responsibility for both dependents and other adults.

30 Peberdy S & N Dinat, *Migration and Domestic Work in South Africa: Worlds of Work, Health and Mobility in Johannesburg*, SAMP Migration Policy Series, 40, 2005, https://www.africaportal.org/documents/2620/Migration_Policy_Series_No._40.pdf, accessed 8 May 2019.

31 Crush J *et al.*, 2017a, *op. cit.*

32 Harris LM, *op. cit.*

33 Human Rights Watch, 'No Healing Here: Violence, Discrimination and Barriers to Health for Migrants in South Africa', 7 December 2007, <https://www.refworld.org/docid/4b1cc5b52.html>, accessed 14 April 2019.

34 Migration Data Portal, 'Personal remittances received (in USD)', 2018, https://migrationdataportal.org/data?i=remit_re_excel&t=2018, accessed 13 April 2019.

35 DHA, *op. cit.*

36 ALFRED (Archival Economic Data), 'Remittance inflows to GDP for Zimbabwe', https://alfred.stlouisfed.org/series?seid=DDO11Z_WA156NWDB&utm_source=series_page&utm_medium=related_content&utm_term=related_resources&utm_campaign=alfred, accessed 25 April 2019.

37 IOM, *Gender, Migration and Remittances*, 2014, <https://www.iom.int/sites/default/files/about-iom/Gender-migration-remittances-infosheet.pdf>, accessed 25 March 2019.

On average, respondents were supporting three people.³⁸ The expectation to provide for families can pressure women migrants into higher-risk occupations with low entry standards.³⁹

Women also play a key role in receiving and managing remittances. They are more likely to use remittances to support families and supplement household spending.⁴⁰ Remittances offer an important source of economic empowerment for non-migrant women in countries of origin, by easing the depth of poverty and enabling them to spend more on household goods, education and healthcare.⁴¹

A 2014 study of migrant-owned informal enterprises in Gauteng found that capital and expenditure patterns of men and women business owners differed.⁴² A total of 70% of owners were men and 30% women, in comparison to 18.8% of South African women who owned a business.⁴³ According to the Mastercard Index of Women Entrepreneurs 2018, South Africa ranks 42 out of 55 economies in terms of women owning businesses, suggesting that progress in women's entrepreneurship has been slow. In comparison, 46.4% of businesses in Ghana (which ranks highest globally) are owned by women, and 33.8% in Uganda.⁴⁴

In obtaining capital to start their businesses, most migrants (85%) in South Africa used personal savings. However, women were slightly less likely to use personal savings and more likely to use social networks and informal financial institutions. Only 9% of the study's respondents were able to access small business support schemes offered by the government, despite having permanent residency or refugee status. All those able to access small, medium and micro-enterprise schemes were men.⁴⁵ While only 1% of men were using informal financial institutions such as stokvels, 7% of women respondents reported this as a source of start-up funding. Women also used less capital to start their businesses, with over half of women respondents using ZAR⁴⁶ 5,000 (\$342) or less, compared to 32% of male respondents.⁴⁷ Stokvels are a popular source of savings for women migrants, with 40% of women migrant domestic workers reporting to have contributed ZAR 110 (\$7.50) monthly to a stokvel or other informal financial institution in another study conducted in Johannesburg.⁴⁸

38 Peberdy S & N Dinat, *op. cit.*

39 IOM, 2014, *op. cit.*

40 *Ibid.*

41 Ghosh J, *Migration and Gender Empowerment: Recent Trends and Emerging Issues*, UNDP (UN Development Programme) Research Paper, 2009/04, 2009, http://hdr.undp.org/sites/default/files/hdrp_2009_04.pdf, accessed 16 April 2019.

42 Peberdy S, *International Migrants in Johannesburg's Informal Economy*, SAMP Policy Series, 71, 2016, <http://qcro.ac.za/media/reports/SAMP71.pdf>, accessed 25 April 2019.

43 Mastercard, *Mastercard Index of Women Entrepreneurs (MIWE) 2018*, 2018, https://newsroom.mastercard.com/wp-content/uploads/2018/03/MIWE_2018_Final_Report.pdf, accessed 15 May 2019.

44 *Ibid.*

45 *Ibid.*

46 Currency code for the South African rand.

47 Mastercard, *op. cit.*

48 Peberdy S & N Dinat, *op. cit.*

A comparative study in Cape Town and Limpopo also found that women made up 20–25% of refugee entrepreneurs,⁴⁹ enabling them to support themselves and their families. Refugee enterprises were also found to stimulate job creation: 52% of the Cape Town and 45% of the Limpopo refugee entrepreneurs surveyed employed other people, with half (50%) of those employed being South African.⁵⁰ The study also found that refugee enterprises in both Cape Town and Limpopo showed a significant preference for female employees: 65–70% of employees in the study were women.⁵¹

A study by Citi GPS and Oxford Martin School suggests that the presence of low-skilled workers in OECD countries can alter labour market integration for ‘native-born women’.⁵² Employing low-skilled migrant workers drastically reduces the cost of care and domestic services that might otherwise prevent native-born women’s integration into the market. The effect seems to have been greatest for skilled women.⁵³ One may not expect this to be the case for countries with higher reserves of low-skilled female labour, such as South Africa. However, the initial results of a study in Argentina showed a similar trend. The presence of low-skilled women migrants in domestic and care roles in Argentina allows native-born women to find better employment opportunities.⁵⁴ Migrant women often fill deficits in care and health services constrained by cutbacks and increased demand.⁵⁵ Global care chains are a critical developmental feature of women’s migration today, but are not necessarily a sustainable or equitable solution in the long term.⁵⁶ Positive impacts for labour integration in host countries should not come at the cost of low-skilled women migrants’ labour rights. Developing and enforcing labour rights to address women migrants’ vulnerability is critical in negating the risks they face in South Africa’s informal sector.

Women migrants also contribute social remittances in a two-way exchange between home and destination countries, including knowledge transfer, norms and social capital. These have important impacts on cultures and gender relations.⁵⁷ Migration patterns are changing hegemonic gender norms and relations in source countries through women’s increased mobility and the rise in the number of female-headed households benefiting from migratory remittances sent by women migrants.⁵⁸ Migration is not just about

49 Crush J et al., *Refugee Entrepreneurial Economies in Urban South Africa*, SAMP Migration Policy Series, 76, 2017b, <http://samponline.org/wp-content/uploads/2017/06/SAMP76.pdf>, accessed 4 April 2019.

50 *Ibid.*

51 *Ibid.*

52 Goldin I et al., *Migration and the Economy: Economic Realities, Social Impacts and Political Choices*, Citi GPS & Oxford Martin School, September 2018, https://www.oxfordmartin.ox.ac.uk/downloads/reports/2018_OMS_Citi_Migration_GPS.pdf, accessed 16 April 2019.

53 *Ibid.*

54 *Ibid.*

55 UN Women, *Women Migrants Workers’ Contributions to Development*, Policy Brief, 2, <http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2017/policy-brief-women-migrant-workers-contributions-to-development-en.pdf?la=en&vs=5117>, accessed 13 April 2019.

56 Petrozziolo AJ, *Gender on the Move: Working on the Migration–Development Nexus from a Gender Perspective*, UN Women, Training Manual, 2013, <http://www.unwomen.org/en/digital-library/publications/2013/12/gender-on-the-move>, accessed 16 April 2019.

57 Gouws A, ‘The feminisation of migration’, *Africa Insight*, 40, 1, June 2010.

58 *Ibid.*

economic opportunities for women, but also about greater opportunities for women to exercise agency and independence.⁵⁹

South Africa’s migration framework and white paper

In many ways, South Africa has often been at the forefront of progressive legislation for gender equality and women’s rights. Its constitution enshrines the right to equality and the NDP addresses the multiple challenges and discriminations women face, including poverty and barriers to economic participation. The country has a broad range of commitments to women’s rights, gender equality and empowerment. However, gender-based considerations are yet to be adequately integrated into migration legislation. This should be done in keeping with SADC’s gender equality commitments to develop strategies to enhance women’s economic participation and address discriminatory vulnerabilities, as outlined in the SADC Protocol on Gender and Development 2008.⁶⁰ The SADC Labour Migration Policy recognises the need to improve positive gender considerations and protect the rights of migrant workers. However, these commitments need to be transformed into national policies and actions in order to be effectively operationalised.⁶¹

Table 3 Overview of South Africa’s gender-based commitments

National commitments	
Constitution of the Republic of South Africa 1996	Section 9 enshrines the right to equality
Employment Equity Act 1995	Equal opportunity and fair treatment for women within the workplace
Promotion of Equality and Prevention of Unfair Discrimination Act 2000	Section 13 prohibits discrimination on the grounds of gender
South Africa’s National Policy Framework for Women’s Empowerment and Gender Equality 2002	A strategy for gender mainstreaming to be integrated by all sectors into their policies
National Development Plan 2030	Promotion of equality, specifically gender equality
SADC commitments	
SADC Protocol on Gender and Development 2008	Integrates gender into the SADC Programme of Action
SADC Gender Workplace Policy 1997	Supports equity and equality in the workplace between women and men

Source: SAHRC (South African Human Rights Commission), Research Brief on Gender and Equality in South Africa 2013–2017. Johannesburg: SAHRC, 2017; South Africa, Department of Environmental Affairs, ‘National Gender Policy Framework’, https://www.environment.gov.za/projectsprogrammes/environment_sector_genderstrategy/policy_framework, accessed 29 May 2019

59 Pophiwa N, *op. cit.*

60 SADC, ‘Southern African Development Community Protocol on Gender and Development’, 2008, https://extranet.sadc.int/files/2112/9794/9109/SADC_PROTOCOL_ON_GENDER_AND_DEVELOPMENT.pdf, accessed 16 April 2019.

61 Crush J *et al.*, 2017b, *op. cit.*

As it stands, South Africa's migration regime does not adequately consider gendered patterns, vulnerabilities or benefits. The Immigration Act of 2002 (amended in 2014) and the Refugees Act of 1998 are gender neutral and do not include gender considerations.

The Immigration Act primarily classifies migrants by skill sets while ignoring other relevant subsections, such as gender. Yet gender plays a role in shaping migration drivers and trends. Accounting for gender would thus give a more holistic view of migration to South Africa and aid in the development of migration legislation, given women's increased migration. The feminisation of migrants to South Africa and the associated development potential hold various opportunities for the country. To harness the development benefits and protect against harm, gender considerations must be incorporated into migration policies.

The WPIM and economic migrants

The 2017 WPIM outlines a framework for the systematic review of international migration policy. According to the WPIM, South Africa cannot adequately embrace global opportunities for development because of the limitations and risks of the current migration paradigm. It states that the current migration system, as outlined in the Immigration Act, exposes the country to security risks, irregular migration, and the reinforcement of historical colonial patterns of migration, labour and trade.⁶² The DHA identifies eight policy management areas within the WPIM as opportunities for enhanced migration management that both benefit South African development and are 'efficient, secure and respectful of human rights'.⁶³

The WPIM states that high levels of irregular migration are particularly problematic. Irregular migration is accompanied by high deportation costs and does not align with South Africa's developmental agenda, as most irregular migrants are low or unskilled. It also claims that high levels of irregular migration from SADC nationals pose a risk to South Africa's economic stability and national sovereignty.⁶⁴

Despite measures to encourage more skilled migration, most immigrants remain semi- or unskilled.⁶⁵ The NDP underlines the need to 'adopt a more open immigration approach to expand the supply of high-level skills'⁶⁶ to deliver on economic growth objectives. The WPIM does outline intentions to retain skilled SADC nationals, particularly those who study at South African universities. This is a promising aspect of the WPIM's new visa plans, which can help capitalise on the skills of young women. In 2014 the first major study of international students at South African universities surveyed 1 682 international

62 DHA, *op. cit.*

63 *Ibid.*

64 National Planning Commission, *National Development Plan 2030: Our Future - Make It Work*, 2012, https://www.gov.za/sites/default/files/gcis_document/201409/ndp-2030-our-future-make-it-workr.pdf, accessed 15 April 2019.

65 *Ibid.*

66 *Ibid.*, p. 65.

students at seven public universities in the Western Cape, Eastern Cape and Gauteng.⁶⁷ Among the students surveyed, 52% were female and 79% were from African countries. Findings suggested that pull factors for international students included affordable fees in comparison to those at European and American universities and the SADC Protocol for Education and Training, under which regional students pay the same university fees as South African students subsidised by the South African government.⁶⁸

The WPIM, however, does not look at the key drivers of irregular migration for many women migrants. The fact that many women migrants, particularly from neighbouring countries, are low skilled and more likely to be irregular migrants is not addressed in the WPIM. It thus does not fully recognise this important changing pattern in migration to South Africa.

The key challenge of the WPIM is that it offers a framework for reviewing the migration system without addressing changing migration trends. Better data is needed to inform policy choices. This data should be gender disaggregated to foster an understanding of the drivers and labour integration of women migrants.

South Africa will benefit from adopting an approach that recognises the role of women migrants in the economy while protecting them from risks and vulnerabilities. The WPIM should integrate gender considerations to acknowledge differential gender migration trends. It should recognise the role that women migrants play in the economy, and investigate and develop various forms of protection to address the risks women migrants face, particularly in the informal economy.

South Africa will benefit from adopting an approach that recognises the role of women migrants in the economy while protecting them from risks and vulnerabilities

The WPIM and asylum-seekers

The WPIM also reviews the asylum system. The Refugees Act offers generous provisions for refugees and asylum-seekers awaiting status determination, including freedom of movement, employment and education.⁶⁹

67 Lee JJ & CT Sehoole, 'Regional, continental, and global mobility to an emerging economy: The case of South Africa', *Higher Education*, 70, 5, February 2015.

68 *Ibid.*

69 DHA, 'South African Refugees Act, 1998', https://www.gov.za/sites/default/files/gcis_document/201409/a130-980.pdf, accessed 14 April 2019.

According to the WPIM, the generosity of the Refugees Act contributes to asylum abuse by irregular and economic migrants. The WPIM supports the continuation of the non-encampment policy first outlined in the Refugees Act, but proposes introducing asylum-seeker processing centres at points of entry. Critics have suggested that, despite efforts to avoid the encampment label, the asylum-seeker processing centres will ultimately function as a de facto encampment system. It seeks to strip asylum-seekers of their automatic rights to seek employment or education while awaiting status determination.⁷⁰

The proposed changes are based on a belief that economic migrants abuse South Africa's asylum system. According to the DHA, economic migrants make up 90% of asylum applications as they attempt to regularise their stay and access work.⁷¹ The DHA maintains that the progressive provisions of the Refugees Act and the limited visa pathways for irregular migrants encourage the abuse of the asylum system by false claimants.

There is little evidence to support this stance, other than the fact that only 10% of claims have been granted.⁷² A 2012 study by the African Centre for Migration and Society (ACMS) reinforced baseline findings that contradicted the notion that most asylum claims were falsely made by economic migrants.⁷³ Administering two surveys outside four Refugee Reception Offices (RROs), the ACMS found that fewer than half of the 1 417 respondents listed economic factors as their main reason for flight.⁷⁴

In reality, asylum-seekers represent only a fraction of South Africa's overall migrant population.⁷⁵ A deterrent method that restricts their access will not solve systemic implementation challenges. This approach over-emphasises the role of asylum-seekers and fails to recognise the drivers of irregular migration. It is therefore unlikely to resolve the challenges inherent in the phenomenon. It is also unlikely to address evidence that the refugee system is deeply flawed. Systemic inefficiencies, poorly trained staff and corruption have contributed to a substantial backlog.⁷⁶ A 2012 study by the African Centre for Migration and Society revealed that the rate of corruption reported in the detention process had tripled since the 2007/2008 baseline survey, with 24–37% of respondents having reported paying an official to avoid arrest or detention.⁷⁷ This approach has also

70 DHA, 2017, *op. cit.*

71 *Ibid.*

72 Crush J, Skinner C & M Stulgaitis, *Rendering South Africa Undesirable: A Critique of Refugee and Informal Sector Policy*, SAMP Migration Policy Series, 79, 2017, <http://samponline.org/wp-content/uploads/2017/08/SAMP-79.pdf>, accessed 26 March 2019.

73 Amit R, *No Way In: Barriers to Access, Service and Administration Justice in South Africa's Refugee Reception Offices*, ACMS (African Centre for Migration and Society) Research Report, June 2012a, <http://www.migration.org.za/wp-content/uploads/2017/08/No-Way-In-Barriers-to-Access-Service-and-Administrative-Justice-at-South-Africa%E2%80%99s-Refugee-Reception-Offices-.pdf>, accessed 15 April 2019.

74 *Ibid.*

75 Mbiyozo A-N, 'Aligning South Africa's Migration Policies with its African Vision', ISS Policy Brief, 117, 2018b, <https://issafrica.s3.amazonaws.com/site/uploads/pb117.pdf>, accessed 13 April 2019.

76 PMG (Parliamentary Monitoring Group), 'Immigration Amendment Bill: Public hearings', Corruption Watch submission, 16 August 2018, <https://pmg.org.za/committee-meeting/26841/>, accessed 23 March 2019.

77 Amit R, 2012a, *op. cit.*

failed to identify and protect individuals in need of and entitled to protection under the law.⁷⁸

Conditions at existing South African repatriation centres – eg, poor quality of care and human rights violations – raise concerns about the new ‘border processing centres’. A joint statement by Doctors without Borders and the South African Human Rights Commission (SAHRC) in 2017 detailed the illegal detention of children at Lindela Repatriation Centre.⁷⁹ Under the care of the private security company Bosasa, minors were held in the same spaces as adults, putting them at unnecessary risk and violating the procedures for placing undocumented children in safe places. There were also concerns over healthcare provisions. The WPIM provides no details of healthcare provisions in the proposed border processing centres, and fails to state who would be responsible. This raises concerns about whether the processing centres will provide vulnerable groups with adequate and timely care, including women’s reproductive healthcare and childcare responsibilities. Under the current legislation, pregnant women and children are not typically held in repatriation centres but placed in separate social housing.⁸⁰ This provision should be extended and enforced.

Women face unique risks in detention centres owing to additional healthcare needs. These tend to be overlooked because women comprise a minority of detainees.⁸¹ The 2014 SAHRC Investigative Report into Lindela indicated that, at the time of the report, 88% of residents were men. There were approximately 200 women residents.⁸² The SAHRC report promisingly suggested that women in Lindela did have slightly better access to the clinic.

The WPIM recognises that the current system is unable to adequately identify and support those in need of immediate and special assistance.⁸³ The separation of men and women at all times is recommended as a necessary preventative measure for women’s safety. The guidelines thus only allow female security guards in female quarters during the day. This, however, needs to be extended to include night shifts, which, according to women residents, are when only male security guards are on patrol.⁸⁴

The WPIM also proposes changes to the urban-based RRO system. RROs are the primary points of contact between the government and asylum-seekers and refugees; they are where applications are processed and permits are renewed. Parliamentary Monitoring Group minutes detail harassment and mugging of refugees and asylum-seekers queuing

78 Amit R, *All Roads Lead to Rejection: Persistent Bias and Incapability in South African Refugee Status Determination*, ACMS Research Report, June 2012b, <http://www.migration.org.za/wp-content/uploads/2017/08/All-Roads-Lead-to-Rejection-Persistent-Bias-and-Incapacity-in-South-African-Refugee-Status-Determination.pdf>, accessed 1 April 2019.

79 SAHRC (South African Human Rights Commission), ‘Children illegally detained under Bosasa’s watch at Lindela as healthcare crumbs’, 13 December 2017, <https://www.sahrc.org.za/index.php/sahrc-media/news/item/1075-children-illegally-detained-under-bosasa-s-watch-at-lindela-as-healthcare-crumbs>, accessed 23 March 2019.

80 *Ibid.*

81 Brane M & L Wang, ‘Women: The invisible detainees’, *Forced Migration Review*, 44, September 2013.

82 SAHRC, ‘Investigative Report into Lindela’, 2014, <http://www.sahrc.org.za/home/21/files/Gauteng%20-%20Investigative%20Report%20-%20Lindela%20-%201%20September%202014.pdf>, accessed 23 April 2019.

83 DHA, 2017, *op. cit.*

84 SAHRC, 2014, *op. cit.*

outside RROs.⁸⁵ The DHA closed two of five RROs in Cape Town and Port Elizabeth in 2012 and 2011 respectively, citing undesirability and underutilisation as most asylum-seekers enter South Africa at its northern borders, which already had centres.⁸⁶ These remain closed despite court rulings instructing the DHA to reopen them.⁸⁷ The DHA also claims that closing RROs will prevent economic migrants from abusing the system.⁸⁸ The RRO closures force many individuals to travel long distances to South Africa's other provinces for applications and renewals, where they often wait for days or go unseen.⁸⁹ This leaves asylum-seekers and refugees in the dangerous position of holding invalid permits. Detaining or delaying women who are single parents runs the risk of leaving children without care.⁹⁰ It also deters other legitimate asylum-seekers from using the system.⁹¹ Delays in document processing or provision puts children at further risk. Without valid documents, migrants are unable to register their children's birth. Without birth certificates, children are often denied access to health and educational services, and are at risk of statelessness.⁹²

Confidentiality agreements between Bosasa and the DHA make it difficult to determine funding allocations for Lindela. However, monitoring groups claim that the centre cost ZAR 90.7 million (\$6.2 million) to establish.⁹³ Between 2013 and 2014 ZAR 99.41 (\$6.70) was spent per person per day for detainees, amounting to an operational cost of ZAR 2.97 million (\$203,000) per 1 000 residents.⁹⁴ The estimated building cost of a 'processing centre', not including operation costs, is estimated in the WPIM at between ZAR 266 million (\$18.2 million) and ZAR 298 million (\$20.3 million).⁹⁵ This is a costly proposal for South Africa given the socio-economic challenges it faces in addressing high unemployment and a large informal economy.

A 2015–2016 International Detention Coalition review of detention in six African states, including South Africa, indicated that there were limited resources to deal with vulnerable groups and provide adequate and safe conditions.⁹⁶ The review uncovered poor hygiene,

85 PMG, Home Affairs National Assembly Committee, 'Desmond Tutu Refugee Reception Office challenges: Minister & Deputy Minister', 11 September 2018, <https://pmg.org.za/committee-meeting/27042/>, accessed 23 March 2019.

86 PMG, 'Immigration Amendment Bill: Public hearings', Scalabrini Centre of Cape Town submission, 16 August 2018, <https://pmg.org.za/committee-meeting/26841/>, accessed 23 March 2019.

87 Sonke Gender Justice, 'The Cape Town Refugee Reception Office & South Africa's asylum policy explained', <https://genderjustice.org.za/card/the-cape-town-refugee-reception-office-and-south-africas-asylum-policy/why-is-the-cape-town-rro-being-re-opened-in-2018/>, accessed 26 March 2019.

88 Scalabrini Centre of Cape Town, 'Department of Home Affairs, RE: Reasons for the decision the Director-General of the Department of Home Affairs made on 31st January 2014 in respect of the future of the Cape Town Refugee Reception Office', March 2018, <http://scalabrini.org.za/wp-content/uploads/2018/03/Reasons-by-DHA-closure-of-CapeTown-RRO.pdf>, accessed 22 April 2019.

89 Sonke Gender Justice, *op. cit.*

90 Brane M & L Wang, *op. cit.*

91 Crush J, 2017b, *op. cit.*

92 Scalabrini Centre of Cape Town, 'Our call to action: Birth registration in South Africa', 2018, <https://scalabrini.org.za/our-call-to-action-birth-registration-in-south-africa/>, accessed 27 March 2019.

93 *Ibid.*

94 Africa Check, 'Factsheet: Detention and deportation of undocumented migrants in South Africa at the Lindela Repatriation Centre', 17 August 2016, <https://africacheck.org/factsheets/lindela-repatriation-centre-migrants/>, accessed 12 April 2019.

95 Mbiyozo A-N, 2018b, *op. cit.*

96 Shakespeare T & J Calder, *Alternatives to Immigration Detention in Africa: A Summary of Member Findings from Six Countries*, International Detention Coalition, 2016, <https://www.refworld.org/pdfid/5a5f55e04.pdf>, accessed 23 April 2019.

inadequate medical care, and physical abuse, including sexual abuse, particularly of women and young boys, across migrant detention facilities. The report recommended that independent, national organisations assume oversight of detention processes to monitor and improve conditions, and identify alternatives. It also suggested that detention should be applied as a last resort when determining status.⁹⁷

Promising detention alternatives are being modelled in Libya, as outlined in a 2018 guide for policymakers by the International Detention Coalition.⁹⁸ Working closely with non-governmental organisations and an independent monitoring body, Libya has developed laws on immigration and asylum that emphasise the importance of providing alternatives to detention. Migrant identification and status determination are decentralised, and vulnerable groups and adults able to work may be eligible for release into alternative programmes. These alternatives can include being allowed to live in the community through local 'release-to-work' programmes. Detention centres have been collaborating with local municipalities to match migrants to labour market needs since 2014. If matched with a local employer, migrants are released into local communities with the appropriate identification documentation. An 'Alternative Solutions' pilot is also underway in Libya to accommodate vulnerable migrants in host families or embassy-run shelters pending status determination.⁹⁹ South Africa should continue to engage with and learn from asylum programmes piloted in similar developing contexts.

Conclusion

South Africa urgently needs to update and upgrade its migration framework to align with existing gender frameworks and commitments. Greater focus should be placed upon the potential economic benefits of women's migration. This should include developing

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strategies to maximise the impact of women's remittance patterns. A dual focus on protection and empowerment should guide migration policies and practices. Migration policy reviews should focus on the points where women are most vulnerable, such as

⁹⁷ *Ibid.*

⁹⁸ Shakespeare T & J Calder, *There are Alternatives: Africa*, International Detention Coalition, 2018, <https://idcoalition.org/wp-content/uploads/2018/04/There-are-alternatives-Africa-2018.pdf>, accessed 7 May 2019.

⁹⁹ *Ibid.*

border crossings and detention. Growing numbers of independent women migrants elevate the need to address the risks women face at every stage of their journey and within the migration system. Implementation needs to focus on addressing the ‘triple discrimination’ women face when interacting with immigration officials and communities. Migration policy should also prioritise various forms of protection for vulnerable migrants working in ‘invisible’ occupations and care services.

Recommendations

- Disaggregated national data on gendered migration trends is needed to inform a future migration approach that recognises the growing importance of women’s migration and its socioeconomic benefits for both African women and destination countries. Better gender-disaggregated data is necessary to properly inform responses and develop strategies to address both skilled and unskilled migration. Migration frameworks that ignore unskilled workers disproportionately impact women, expose them to additional risks and prevent all parties, including the host country, from maximising the development benefits of migration.
- Recognising women’s migration drivers and workforce integration is key to developing holistic plans to address irregular migration.
- The WPIM should recognise the risks and vulnerabilities women migrants face in the informal sector.
- Vocational training and small-scale business initiatives should target women migrants to enhance their economic integration in South Africa.
- New visa regulations should include targets to capitalise on the high number of women studying at South African universities for the retention of high-skilled migrants, in line with the NDP.
- Plans for processing centres need to adopt an explicitly gendered approach to prevent women and children from being exposed to further risk.

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Cover image

Vendor selling tomatoes, Alexandra Township, South Africa (Monirul Bhuiyan/AFP/Getty Images)

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