

MIGRATION, IDENTITY AND XENOPHOBIA: LEGITIMACY AT THE ROOTS OF CONFLICT

*Catherine Cross with Jonathan Mafukidze and Fazeela Hoosen
CPEG, HSRC*

ABSTRACT

A year after acute anti-foreign violence broke out in South Africa, the underlying determinants have not been fully uncovered and integrated into policy for managing cross-border migration. This article argues that important aspects of the problem of xenophobia have to do with fundamental elements of the basic rural-origin settlement system in South Africa, as they affect legitimate access to resources by migrants and citizens. The discussion first shows how the legitimating mechanisms through which outsiders are absorbed into established communities under indigenous land systems cannot be duplicated in the current destination context for cross-border migrants arriving in South Africa. After examining issues with access to jobs, housing, services and the informal sector, the analysis turns to what migration management needs to mean if cross-border migrants will normally fail to obtain a status of legitimacy in the eyes of the citizen population. The article concludes by identifying friction points and offering policy recommendations.

INTRODUCTION

Following the xenophobic civil disturbances of May 2008, South Africa began a search for the factors which caused these outbreaks of popular anger against foreign migrants working in South Africa. Conflicts of interest around competition over scarce resources, including job opportunities and public goods, were fairly rapidly identified by commentators and the press. However, the mismatch between how South Africa's poorest citizens view the situation, and how it is understood by government and by the migrants themselves, is probably not limited to struggles to control housing and work opportunities.

While some of the perceived grievances that poor South Africa communities appear to hold against foreign in-migrants have directly to do with control of resources – and therefore largely replicate what happens in destination countries all over the world – there may be other important perceptual factors which are not always found in most or all destination countries. Specifically, there are questions around the socially perceived legitimacy of foreign migrants on the ground in South African communities, which are likely to promote and support potential for violence.

LEGITIMACY: THE PERCEPTION OF CITIZENSHIP

At a level of perceptions, where the violence and its perceived justifications come from, the question of violence is largely a question of legitimacy – that is, whether foreign migrants as outsiders have an accepted right to any legitimate standing as members of the South African community, and whether they can claim social rights as community citizens or not.

Here there is likely to be a major gap between international understandings aligning with the views of university-educated elites, and the way the poverty population on the ground understands the status of foreigners. It is this popular perception which is being reinforced and underwritten by certain actions of government bodies involved with the administration of migration processes. Outcomes may undermine what is now the socially-accepted human rights position in South Africa going forward.

The international human rights community tends to take a position which assumes foreign migrants always have human rights if not social rights, and that the human rights position is universal and overrides any question of social rights in the given society. For the people on the ground, there may be no legitimacy to foreign migrants at any level, and human rights can often be submerged in the question of social rights – that is, rights in that particular society as they are accepted by that society's members.

In this sense, social rights – the rights on the ground that convey legitimacy – are what foreign migrants living in South African cities usually do not have and probably cannot easily obtain. In many or most cases, migrants are perceived to be in the country contesting resources without either documented legal citizenship or citizen standing under the indigenous community-based principles of settlement. In the eyes of the communities, it is likely to be the indigenous community principles – very cautious, particularistic, and highly exclusive in relation to in-migration – that override and kick out the internationally accepted position which implies universal claims. This situation comes as no surprise, since few community members currently have the means to be aware of what either the South African legal position or the international human rights position contains in respect of migrants entering and settling. Consequently, where awareness is weak, legitimacy for migrants is not conveyed or conceded.

The situation on the ground is likely to boil down one of very loosely-constituted, weakly-structured poverty-level urban communities which nevertheless still see themselves in some sense as localized, closed and bounded collective entities, and therefore as inherently possessing the ordinary rural right to consent to the entry of new arrivals, or to reject them if their entry is not compatible with the interests of the community as it already stands. From this viewpoint, people who arrive in such localities without community consent have no accepted social rights – and, especially, no claims. To change this situation will represent a major challenge: however, not to attempt to change it leaves South Africa wide open to further destabilizing violence capable of sharply discouraging foreign investment.

LEGITIMACY: THE CONSENT OF THE HOSTS

The kind of violence that can result is not either political or criminal, though there is no shortage of career criminals who become interested in fishing once the waters are troubled. Instead, the violence against foreigners in South Africa is best described as social violence – it derives to a great extent from the perception on the ground among the poor that the outsiders competing with them for jobs and benefits have no right to be where they are, or to participate in the South African economy without authorization to live and work in the country.

Particularly for this rural-born less-skilled constituency, the belief in the bedrock principles of the rural settlement system is still strong – and indigenous principles prescribe first that the original settlers in any community have seniority, and second, that no one is allowed to move from their own community to another without being authorized by the people in the place they want to move to (cf Vilakazi 1962, Cross, 1986, 1991). In rural communities, both the community authorities and the neighbours still have a right to vet new people who want to move in, must grant them authorization and the right to build and to access community resources, and can refuse any candidates they think are dangerous or undesirable.

For cross-border migrants, this process is not feasible. In the cosmopolitan urban areas, with their mobile and constantly changing populations, there is usually no community institution that can vet and approve new people. Nevertheless the belief persists among the rural-born poor that people who move into a community situation without being screened and approved are fundamentally wrong, and do not have legitimate rights as residents under community law.

In addition, once new residents are accepted into a rural community and have built their houses and moved in, the old community settlement system prescribes that they accept their new community citizenship as still partly probationary, and that they remain respectful and defer to the interests of the established members of the community. That is, it would not be acceptable for a new in-migrant resident to open a business close to that of a long-term citizen, or to compete with such an established citizen business head to head. In remote rural communities such a period of probationary conditional citizenship for new households arriving has historically lasted for generations, though in contemporary urban communities the probationary period of social deference has telescoped into a matter of a year or two, or even, in new communities, of a few weeks or months.

What is often left today of these customary principles in the urban sector is an implicit demand that any non-citizen in-migrants who come into an urban community to seek a living should not threaten the livelihoods of the existing citizen residents by the way they do so: that is, outsiders who have appeared without social approval are likely to be seen as having elbowed their way in, are living in the community without agreed social rights

or status, and should not compete against citizens either for jobs or for any other economic opportunities.

While hospitality to strangers who arrive in communities in need of help after some catastrophic event is also a bedrock principle of indigenous belief, such help tends to assume that the outsiders in question will either leave again, within a reasonable length of time and without having disturbed the existing community which has helped them, or else will affiliate into the citizen community through accepted mechanisms. When the distressed strangers neither leave nor affiliate but instead set up residence on their own and begin to compete, lack of social legitimacy means their provisional status as distressed travellers can unravel and then dissipate into resentment at their perceived ingratitude and arrogance. If the numbers of new non-citizens concentrating in a given place reach a level where the outsiders are seen to be setting up their own competing enclave inside the host community, conditions may well be ripe for violence to break out; historically, the distressing events around the 142 fatalities of the 1949 riots in Durban (Davenport 1977) are a case in point, and, in terms of economic competition particularly, in many ways directly analogous to the anti-foreign violence of 2008.

Tracing back to the pre-colonial days of inter-clan struggles, the limiting condition on immigration in terms of community perceptions is the fear that if outsiders are allowed to come into the existing community without formally being inducted as members, they will retain their own prior community identity and will bring in others of their group. Then, as their numbers increase, the new outsider group will become a solid block of competitors who will oppose and finally take over the host community, or drive the hosts away. In historical times, this risk was real (for such an escalating community conflict in KwaZulu-Natal, see Vilakazi 1962; for the debates around enfranchisement and citizen rights for the Uitlanders, see Pakenham 1979), and this risk perception is by no means confined to South Africa or to the developing world.

Not only possible future displacement of the hosts is at issue: in addition, any acceptance of an outsider group shifts the local balance of political power immediately, and will also affect the size of the resources pool available to the children of community citizens in the future. The community's pool of resources is carefully guarded by the community self-perceived as a 'corporate' collective, a group that has boundaries and is collectively self-aware. In this light, acceptance for community membership eligibility is not normally extended without formal sponsorship, vetting and a period of probation. Nor is it normally extended to people who only intend temporary residence with the community, and it can rarely be negotiated by outsider groups.

It follows in principle that such uninducted strangers – all those who have moved in without the important but unobtainable community approval, and especially those who struggle against established community citizens for control of available livelihoods – can be properly be kicked out as illegitimate entrants, and deprived of their gains. For these reasons it is very difficult for South Africa's poor citizens to accept competition from foreign migrants who remain non-citizens, regardless of the fact that there are no

procedural mechanisms for foreign workers to obtain community citizenship, and little prospect of obtaining legal South African citizenship either.

Here South Africa may well be running behind such more cosmopolitan countries as those of the East and West African economic communities, where economic cross-border migration by individuals looking for better livelihoods is common and well understood. However, even in East and West Africa, economic migrants can still be at risk of flareups of inter-communal violence if the numbers of strangers rise in a given area and perceived competition for scarce resources becomes acute on the ground. Similar situations appear around the world.

Consequently, the human rights community in South Africa may have made a serious mistake in putting the xenophobia debate initially into the framework of international laws and conventions: absent awareness and supporting beliefs in the communities, these have no force on the ground. The international human rights principles are usually completely unknown to the residents of poor South African communities most affected by in-migration, whose perceptions tend to go back to the rural system rather than to the international consensus. Likewise, the international human rights position usually pays no attention to the communities' historical system of beliefs and laws, and is usually unaware of it as well. There seems to be a dangerous perceptual gap, in terms of accepted principles governing migration and settlement, between what is understood in the developed world at inter-government level and in the human rights legality, and what prevails among rural-born people on the contested terrain of the urban streets.

LEGITIMACY: THE STANDING OF THE MIGRANTS

Because rural South African communities have a historically clear-cut right of refusal in respect of all outsiders who want to become members, it follows that the reliance on the rural principles of entry and settlement to assign or deny legitimacy to urban in-migrants means that acceptance of foreign migrants as members of the local community is at the root a question of the consent of the host community/society. This consent is not usually available to cross-border migrants under existing urban conditions. As a result, foreign migrants arriving in South Africa's metro urban sector will tend to be seen as having no social identity, no access to public process, and no claims on resources. Whenever this view prevails, migrants interact in communities under a kind of ghost status, a condition of social non-existence and exclusion.

This excluded outsider status is similar to but more absolute than that of rent tenants in rural communities of the former homelands. Rural tenants renting rooms or space live unproblematically as temporary residents of a place, but have never gone through the public process that conveys the settlement right – the rural permanent right to join the community, build their own accommodation on a designated site, and claim a share of public resources as community citizens.

While tenants in rural communities have no citizenship and are seen as temporary, they can still interact with the surrounding community at one remove, through representation

by their landlord, who is normally a community citizen with full rights. The community then understands the tenants as dependents of the landlord, members of his or her extended household. Cross-border migrants do not necessarily have access to landlords who act as representatives, or to any other form of sponsoring entry contact. In a rural-origin urban community, migrants may commonly find themselves perceived as non-citizen temporary outsiders who have not only appeared in the midst of the community without authorization, but also have no citizen sponsor or contact who can represent them or mediate for them in dealings with the collective community. This kind of entry is likely to be seen as illicit, even where there are no community structures strong enough to contest the entry status of cross-border migrants.

The people of the host community under these circumstances are likely to resist the idea of giving any direct recognition to an entire group or category of outsiders who clearly want to share the resources available to the community going forward and may eventually threaten a takeover; as noted above, since pre-colonial times, and into the modern planning context for removing and re-housing communities, such group entry transactions have been tense and problematic, and individual outsiders arriving are often seen as the vanguard forerunners of groups.

In addition, for a group of outsiders to negotiate community citizenship, they themselves would need a closed-corporate identity and a recognized leadership of their own. Migrant groupings arriving across the borders normally enter as individuals, sometimes as families, and unless and until they have developed voluntary associations they may not be able to put forward such a leadership structure. Accordingly, many migrants do not have membership in this sort of organization, though many such associations have now sprung up inside South Africa and increasing numbers of foreign migrants can now look to representative associations.

However, beyond the issue of acceptable community representation for cross-border migrants as individuals or in groups, more than any other issue the question of migrants competing against established local citizens puts their legitimacy in question. It is probably at this intersection that the issue of economic participation becomes most inflammatory.

TROUBLE AT THE LOW END

Prevailing distress and anger over foreign competition for wage jobs is now well known and documented (cf HSRC 2008). To the South African reluctance to tolerate migrant job competition can be adduced government research in the US, which has shown that wages at the lowest levels are in practice adversely affected by high unskilled immigration (Hatton & Williamson 1997, Trefler 1998), so that citizens without high school diplomas often tend to migrate out of areas where numbers of unskilled cross-border workers are moving in.

Competition for scarce resources is less visible and less recognized in the informal sector, and particularly in relation to survivalist informal sector businesses. These very small

household enterprises are run for the most part with family labour in order to make a contribution to household income in very poor families. Though some survivalist business operators can qualify as entrepreneurs and will expand their businesses given access to capital and other requirements, that is not the usual character of survivalist enterprises. The great majority of these small operations are run with modest intentions in the few heavily overtraded lines of enterprise open to the very poor, which include such lines as selling fruit or groceries, cooked food or alcoholic drinks. Most sell only to customers from their own small neighbourhood, often advertising only by word of mouth. Many of these intensely local enterprises fail, and nearly all remain very small, with few trying to expand.

Because many poor households have no wage income and desperately need access to informal business income as a fallback option, competition for customers is very fierce in these low-end businesses, and enterprises selling the same line are often located very close together within the same neighbourhood. Local rivalries between neighbouring business owners can be acute and heated, and even between community members competition can go as far as threats, violence or various forms of spiritual attack, with predatory business practices not uncommon.

At the low end of the informal sector, it is important to recognize that it is not feasible to continue indefinitely adding more and more survivalist businesses into neighbourhoods that are already severely overtraded, and where the few viable lines of informal enterprise are already crammed full to bursting.

In any given neighbourhood, the number of survivalist businesses in shack areas and very poor communities tends to expand to and past the size of the local customer base, and probably reaches equilibrium at the point where the entry of any one additional new business is likely to result in the failure of an existing microenterprise. In this kind of microbusiness situation competition cuts profit to near zero, which is why predatory tactics to exclude existing businesses are often such an issue for business operators. It is also why the entry of new foreign business operators may not uncommonly create resentment by forcing the closing out of an earlier-established small business which is vital to the survival of a community family.

In settlements with higher income levels and more disposable income, in the townships and the central cities, informal businesses operate at a different level. The informal market is more differentiated and therefore more dynamic and less overtraded (cf Cross 2001). Township businesses in the upper informal sector are normally profit-making, entrepreneurial and market-responsive, so that less crowding and better access to capital leaves room for market competition to create efficiencies, expand sound businesses to hire more employees, and develop new lines of enterprise. It is mainly the poorest communities – where low-skilled cross-border migrants are often located – that the informal market works only at a survivalist level and scope for entrepreneurial adaptation is very slight, leaving the issue of foreign competition as a burning fuse for violence.

THE VIOLENCE AND THE GOVERNMENT RESPONSE

Although once again there is no clear evidence, it appears that the spike in anti-foreign violence during May and June probably has not driven large numbers of foreign migrants out of the country. Press estimates have scattered around estimates of perhaps 150 000 leaving; the effect on future inflows is another question, which only the passage of time will resolve. However, an immediate outflow on this level would be very small in comparison with what is now thought to be the foreign migrant presence in South Africa, involving numbers up to 3-4 million, or even more.

Short of a general social uprising against foreign migrants, with very large numbers of casualties on the order of violence events such as Rwanda's ethnic cleansing, the events of May-June 2008, together with government's reluctance to establish long-term refuges and the subsequent crackdown on migrants, will probably represent the limiting case in relation to persuading South Africa's cross-border migrant population to leave. That is, if this sequence of events around lethal popular violence does not lead the majority of foreign in-migrants to leave South Africa, then it would seem that almost nothing that South Africa can do will achieve that effect as long as wide income differentials between source and destination still persist. The responsibility to manage the situation to South Africa's national advantage – as well as that of the communities and the migrants – then becomes more starkly clear.

Instead of panicked cross-border migrants leaving in large numbers to go home or move to the next country, the emergency and the official response may have led to migrants trying to hold their place in the temporary emergency refugee camps, perhaps hoping that the camps might become semi-permanent settlements where they could remain in the country with some form of protection: the history of forced removals in South Africa under apartheid teaches how easily emergency transit camps can become de facto permanent residential accommodation (Davenport & Hunt 1974), a prospect underlined by the Palestinian refugee experience. In response, both South Africa's central and local government tiers appear to have been adamant that the temporary camps opened for xenophobia refugees must be closed quickly.

With the sharpness of its response aimed at foreclosing the option of permanency in respect of separate camps for cross-border migrants, government appears to be making it clear that South Africa does not owe any long-term support to foreign migrants, legal or extra-legal, and will not take on any permanent support obligation to this fraction of its de facto population. With extensive local and international press coverage around what has been characterized as a harsh government response, the public in South Africa will be well aware of how government appears to be seeing the cross-border migrant community as an unwanted liability in terms of permanent protection or support.

Totally unexpected in policy circles, the xenophobic violence caught government on the hop, leading to reactive responses. The outcome has been a hard line once the immediate risk of violence has receded, and in some places this has resulted in an insistence that xenophobia refugees return to communities that are still dangerous and where there may

even have been further killings of foreign migrants who try to return. There may be a risk that this sequence of events could act at a perceptual level to legitimate some of the popular violence, in effect being seen to align the South African government with the angriest section of the poor urban population. In effect, government by its nervous reaction to the risk of allowing permanent camps and the communities through violent exclusion may serve to underwrite each other's negative actions and reinforce each other's negative attitudes: if so, the combined position – and the implicit effort to push out unskilled migrants who may compete for community resources at poverty level – may also push South Africa's existing complement of cross-border migrants with vital skills further away from any status of legitimacy.

Underneath the actual events on the ground, the popular anger against foreign migration may be undermining South Africa's currently strong human rights consensus. Such violence aimed at foreign outsiders has shown that it turns quickly against South African out-groups, resulting in numbers of fatalities (HSRC 2008). The underlying attitudes of self-interest and exclusion at any price can legitimate violence against any groups defined as 'other', and may then turn toward tribalism inside South Africa.

CONCLUSIONS: LOOKING FOR A WAY FORWARD

For South Africa to maintain a future globally competitive status, it will be essential that it become a more cosmopolitan country, in line with other developed countries which are beacon destinations for international migration. For a country in this favourable development category, anywhere from 5 to 10 percent or more of the workforce is likely to be drawn from people born outside the country, and this demographic component is among the most valuable in the workforce. However, obtaining skilled migrants goes together with accommodating unskilled migrants in what may be much larger numbers.

To make this transition into a cosmopolitan developed country will require that South Africa's population in the poverty bands accept the legitimacy of foreign in-migration into the job market and into the informal sector, and be prepared to allow social rights to this grouping. At present, the outlook for this kind of social acceptance is poor, and further anti-foreign violence is a hovering possibility. Skills shortages have already started to choke off economic growth and undermine potential for international trade. If not addressed, the results may be an economic slowdown very difficult to reverse.

The situation has just become more urgent. South Africa's financial sector is not large enough to allow for fully self-financing national development. Since September 2008, with the global economy in the grip of the international credit crunch, even strong developing countries such as South Africa face dwindling prospects for foreign direct investment and are soon likely to be elbowing each other to keep their place in the queue (Turner 2008). Any further xenophobic disturbances that involve loss of life will be repellent to potential investors, and may severely damage South Africa's chances of competing for whatever shrinking pool of international finance and credit may remain over the short to medium term.

The situation around perceptions of cross-border migrants is therefore particularly urgent. Elements can be summarized as follows:

1. Weak performance in the education sector
2. Shortage of skills at all levels, including teachers, administrators and artisans
3. Unfilled demand for imported skills in the ASGISA-designated categories
4. Level or falling migration prospects from most Southern African countries
5. Prospects for rising migration from across Africa outside the Southern Cone
6. Continuing economic crisis in Zimbabwe
7. Weak provision of documentation excluding migrants from skilled jobs
8. Serious competition for low-skilled jobs and in low-end informal enterprises
9. Closed-off community perceptions of legitimate entry requirements for outsiders
10. Violent reaction at community level to sudden rise in cross-border migration

It can be seen that the factor of perceived societal legitimacy for in-migration among South African citizens and communities is likely to be a major bottleneck for efforts to preserve South Africa's competitive status by filling ASGISA skills gaps with imported skills. A competitive future will probably not be possible without in-migrants from other parts of Africa achieving greater legitimation as citizens in the eyes of poor communities who now feel the highest degree of threat from their presence.

Defining xenophobia stress points around cross-border migration

Toleration of foreign in-migration and foreign employment do not exist on their own – they depend on friction points around delivery and access issues that contribute to anti-foreign feeling. Jobs are not the only issue here. Friction points concentrate around the following:

1. Access to jobs and to the job market
2. Access to subsidy housing
3. Access to social grants
4. Access to human services including schooling and health services
5. Access to earning opportunities in the informal sector.

The feeling in communities that foreign migrants should not receive government resources ahead of South Africa's own poor is profound, and ties into the deep structure of the legitimacy principles of the indigenous rural settlement system: indigenous settlement administration gives social priority to the founding settlers in any community over late arrivers in virtually every case, and requires later arrivers to wait their turn for access to community resources. In order for migrants to be tolerated in a less-xenophobic South Africa, some greater degree of legitimacy in regard to migrants' status as community citizens will be an essential object of policy, and one which goes wider than immigration policy as such.

Addressing xenophobia's stress points to reach legitimacy for migrants

Some of these friction points are more accessible to remedial action than others. Separating the kinds of access that foreign workers or entrepreneurs are properly entitled to from the kinds of access that are not appropriate for non-citizens is probably the first step toward addressing popular anger, easing the prevailing tension, and promoting perceived legitimacy for cross-border in-migration. It is important here not to rely on any measures that require enforcement capacity that countries like South Africa rarely have.

South Africa's own needs clearly align with the needs of the migrant population in requiring that cross-border migrants obtain greater access to the first domain noted above, the job market and skilled jobs; dealing with (1) above require much improved access to documentation and easier entrance procedures for migrants bringing skills, and perhaps support in matching migrants with job openings that South Africa needs to see filled. However, easing access for badly needed workers at professional and artisan level will not resolve the xenophobia-related problems at the bottom end of the economy, where xenophobia mainly arises.

Oversupply of unskilled workers in relation to the supply of skilled workers is a fact of international migration for most countries: AMA's 2006 analysis indicates that perhaps one in 35 African workers travelling to Europe is a skilled professional, with most or all others representing the lower-skilled and unskilled categories for whom employment openings are perilously scarce. The risk here is that South Africa – and perhaps the world as a whole – does not have enough low-skilled jobs to accommodate all the cross-border migrants who are now desperately looking for work.

So far as this is the case, as South Africa's low-skilled unemployment rate indicates, cross-border work-seekers who cannot find work are likely to spill over into informal options, including both small business and criminal activity. Out of desperation, many disappointed cross-border work-seekers who cannot hope to find support at home may also try to find help from South Africa's dedicated anti-poverty programmes.

As a result, the poverty subsidy programmes (2, 3) are a different issue from the skilled job question, and one that seriously undermines acceptance of migrants. In contrast, access to basic human services (4), including education and health care, is a human right, and such access should normally accompany any moves to grant cross-border in-migrants greater openness to skilled employment. Last, and less easily seen, the unresolved tension around access to income for the poor in respect of informal sector businesses (5) is equally serious, and may be harder to grasp and to resolve.

Government anti-poverty programmes: housing and grants

Stress points in community perceptions concentrate particularly on access to the government benefits that are specifically provided to South Africa's poor population under the banner of anti-poverty delivery. Interception of delivery programmes by

better-resourced interests who are not the intended beneficiaries occurs around the world, and not only in South Africa – India is a well-known case in point. Cross-border migrants in this country are by no means the main culprits on the local scene: elite capture of subsidy housing and even social grants is an on-going problem between South African citizens of different classes. However, their high visibility and outsider identity make foreign migrants stand out if they do obtain government housing or grant support to which they do not have a legal or socially-legitimate claim: this visibility allows resentment to crystallize around them, and anger clings even to foreigners who have innocently bought subsidy houses (HSRC 2008). The resentment created by irregular access to public benefits seems to have xenophobic effects far beyond the limited numbers of migrants probably involved.

At the same time, for government to try, in the name of human rights, to extend its current poverty benefit programmes to the large numbers of cross-border migrants now in the country would be financially unsustainable; temporary shelter for conflict refugees would remain an exception in terms of human rights ethics, but there would not seem to be an across-the-board option for government to accept cross-border migrants into subsidy benefit programmes that are already pushing the fiscal boundaries of affordability. In addition, taking such a step would establish an attractor that would immediately increase the numbers of poor migrants entering South Africa by an unknown factor, further increasing costs and creating more adjustment stresses.

There seems to be no practical alternative, either for legitimacy or for affordability, to restricting government's dedicated anti-poverty benefits to citizen beneficiaries only, and acting to maintain this separation. Therefore, government might move to de-fuse popular anger by making such a declaration and looking to enforcement processes, as a step toward defining an agreed status for cross-border migrants that could open the way to greater acceptance and legitimacy in the eyes of communities. That is, making clear the boundaries of entitlement programmes could help to dismantle barriers and reduce xenophobia.

At the same time, it would be desirable for any policy declarations made in response to xenophobia to acknowledge the financial contributions reported to have been made, widely and over many years, by the citizens of other African countries to the fight against apartheid in South Africa. If the sacrifices made by poor African citizens to the goal of finally overcoming racism on the continent are made more widely known, a new recognition of mutual support and respect can come to light which will act to diminish South African xenophobia.

The informal sector: competition for survivalist businesses

The right to start business enterprises is also a normal part of documented immigration status, and this is an area where the more substantial businesses operated by foreign nationals who have experience and capital can contribute to increasing employment and strengthening the competitiveness of profit-making middle-level and upper-level informal

businesses. However, survivalist businesses at the low end of the informal sector may present a different picture.

In terms of legitimacy and acceptability, the sticking point for conflict over access to informal sector opportunities is therefore likely to be new cross-border businesses coming in at the survivalist end of the market in shack settlements. As noted above, very few types of business are sustainable in the shacks and all these lines are undercapitalized and overcrowded: each poor urban neighbourhood supports as many such pocket-sized businesses as can crowd in and still maintain any turnover, so that few make any significant profit. Consequently, any new enterprise started in a shack community may often only be able establish itself by putting an existing enterprise out of business.

While the entry of foreign-owned informal businesses into the profit-making township business context is likely to be a positive influence, the poorest communities are different. Additional informal businesses appearing in shack settlements would be more likely to cut off South Africa's unemployed poor from their last line of support than to promote larger and stronger business enterprises. Because survivalist businesses are shrink-wrapped inside a very rigid economic fabric and cannot take the risk of departing from their accepted methods to respond to change, bringing in new enterprises is unlikely to help them become more efficient through competition. Instead, more survivalist businesses in a given community can directly increase the rate of business failure, and may act to raise the overall potential for social violence.

It is not easily possible for government to make effective interventions into the informal sector due to its nature. The most useful approach that government can take in relation to promoting greater acceptance of cross-border migrants at community level may be to explore forms of very short-term government micro-credit accessible to survivalist businesses owned by South African citizens in shack areas, while taking measures to make ordinary microfinance more accessible to the larger and more conventional informal businesses that operate at a profit in the townships and central cities. In both cases, such credit programmes would need to be closely restricted to South African citizens if they are to help relieve the risks linked to xenophobia.

At the same time, another possible option open to government would be using more effective migration management and easier documentation to take as many cross-border entrepreneurs as possible out of the survivalist category of micro-business, and allow them to leverage their advantages to move up into either formal jobs or township-type profit-making informal businesses. Any reduction of de facto foreign competition at the deepest poverty level would represent another step toward relieving the economic pressure inside South African poor communities that lights the fuse of anti-foreign violence.

Community democracy for cross-border migrants

The questions of social rights and the legitimacy status of cross-border in-migrants appear as central concerns directly affecting the chances of future anti-foreign violence in

South Africa. The issue of exclusionary street-level citizenship perceptions points to a need to address some kind of community-level entry process, in addition to any other migration interventions which might involve the official national system for entry and residence. But this focus is paradoxical, and it needs to be immediately questioned whether any local-level migration entry process addressed to community-level perceptions could be made in any way practical in the face of the emotional content of the issue, the weakness of most community structures, and the intense resentment of slow delivery and foreign competition for jobs and services which is felt on the streets.

At present, it would be all but impossible to formalize any process that would or could be seen to put any foreigners ahead of any South Africans in the queue for any public benefits. Before any such step as establishing a local-level registration or residence documentation facility to supplement the national administrative process, some public national debate would be needed to introduce and support the idea that foreign-born workers make enough of a contribution to South Africa's economy and society that they may be allowed to stay – and further to be given access to basic public services, even if they do not commit themselves to permanence as citizens.

That is, before any intervention aimed at public perceptions of migrant legitimacy and acceptance could hope to succeed in de-fusing the pervasive potential for further violence, the issues around cross-border migration need to be taken before the public. Airing these issues in front of the entire electorate would need to put migration flows in context against the findings of ASGISA and the 15-Year Review in relation to the current skills shortfalls as a limit on education quality, on growth and on job creation; in addition, in all probability significant numbers of migrants would have to be drawn actively into teaching positions and other ASGISA jobs without compromising the job security of the present South African teacher complement and other affected job categories among citizens. To attempt all this would first mean successfully addressing the administrative questions around access to documentation for foreign migrants qualified to work in critical skills categories.

Overall, the key concern in relation to legitimacy for foreign migrants as protection against violence will be to set up the conditions that will allow local-level quarrels and ill-feeling to be negotiated before the situation breaks down into violence. Given public attention and debate, a further step would be to recognize migrants' associations, encourage the emergence of community-level registration processes which could give foreign migrants some accepted social identity, and provide access to local democracy.

In addition, development of some official briefing materials able to explain in-migration assumptions in South African communities to new arrivals might assist migrants and community members to reach better understanding. Together, these options would not offer perfect protection against flareups of violence, but would represent steps in the right direction, moving into community dialog and promoting the moves toward structured relations which are reported to have started in many places.

At the same time, in order to encourage communities to find ways to absorb foreign migrants and concede acceptance to individuals and/or groups, it may be important for foreign migrants to find ways to give back to the community if they are considering an extended stay. Possible contributions might include teaching adult education initiatives or teaching in schools, providing peer skills training, helping with administration of local development work, or any other work of social or developmental value to the community which can be done on a volunteer basis without remuneration.

RECOMMENDATIONS TOWARD A COSMOPOLITAN SOCIETY

In the light of the above, it looks clear that a package of policy options will be needed to address the different friction points at community level that block legitimation for migrants and endanger the peaceful assimilation of skills and population. Building on a positive decision at the highest level of government to accept the fact of and the need for continuing cross-border migration, these options will include:

- Establish mechanisms around community representation for foreign migrants, individually or through associations
- Consider transparent community-level procedures to register migrants, in order to increase legitimacy and give migrants access to elected local councillors and local democracy
- Open the job market to qualified foreign migrants by giving easier access to documentation
- Open health care and education to foreign migrants by giving documentation and allowing appropriate policy changes
- Reinforce limits on access to subsidy housing and social grants, for legal citizens only
- Extend highly accessible very short-term credit to survivalist informal businesses, to be limited to citizen business owners only
- Consider paths to citizenship for qualified long-term foreign residents
- Provide xenophobia education to local government administrators and decision makers
- Promote a public debate on xenophobia, skills needs, and the status of foreign migrants, emphasizing the positive contribution of foreign migrants to South Africa and the historic African contribution to the fight against apartheid.

For all these options, and particularly for measures reinforcing the limitation of anti-poverty subsidy programmes to citizen access only, it will be vital that government be seen to act to help its own citizens directly if it is also to introduce greater access to the job market and to human services, as well as eventual paths to citizenship for the foreign workers South Africa most needs. In poor communities, where low-skilled migrants concentrate, the community residents have historically seen their own interest as legitimately prior and also as being threatened by migration.

Before conceding greater legitimacy to new migrants, the communities accommodating foreigners may need to see certain concessions to their own social and economic concerns: the main friction point here is specifically in regard to the subsidized restoration benefits which were promised to communities after apartheid and which are paid for by South African tax revenues. These key friction points where government needs to be seen acting for communities will include the informal sector as well as subsidy housing and social grants.

Without policy-level recognition of the real problems in poor communities that can accompany high levels of in-migration, it will be difficult to persuade the same communities to accept much larger numbers of cross-border migrants as a permanent presence and as sharers in the resources of the country. That is, if government cannot see its way to take action against socially-perceived unfairness, the path for cross-border migrants to overcome their outsider status will remain blocked for much longer, and xenophobic violence may well remain a risk into South Africa's future.

REFERENCES

- Borjas, G. 1995. The economic benefits from immigration. *JOURNAL OF ECONOMIC PERSPECTIVES* 9: 1-22.
- Cross C, T Mbhele, P Masondo, N Zulu and M Mngadi. 2001. *Employment issues & opportunities in the informal economy of Durban's shacks and townships*. International Labour Organization, Geneva.
- Cross, C and E Omoluabi. 2006. Introduction. In Cross, C, D Gelderblom, N Roux & J Mafukidze, eds, *VIEWS ON MIGRATION IN SUB-SAHARAN AFRICA: PROCEEDINGS OF THE AFRICAN MIGRATION ALLIANCE INTERNATIONAL WORKSHOP 2005*. HSRC Press: Cape Town.
- Davenport, T. 1978. *SOUTH AFRICA: A MODERN HISTORY*. 2nd ed. Macmillan South Africa: Johannesburg.
- Davenport, T, & K Hunt. 1974. *The right to the land*. David Philip: Cape Town.
- Hatton, T and J Williamson. 1998. *THE AGE OF MASS MIGRATION: AN ECONOMIC ANALYSIS*. Oxford University Press: New York.
- HSRC. 2008. *Citizenship, violence and xenophobia in South Africa: perceptions from South African communities*. Democracy & Governance Programme, Human Sciences Research Council. HSRC: Pretoria.
- Pakenham, T. 1979. *THE BOER WAR*. Weidenfeld & Nicholson: London.
- Smith, J & B Edmonston, eds. 1998. *THE IMMIGRATION DEBATE: STUDIES ON THE ECONOMIC, DEMOGRAPHIC AND FISCAL EFFECTS OF IMMIGRATION*. National Research Council. National Academy Press: Washington DC.
- Trefler, D. 1998. Immigrants and natives in general equilibrium trade models. In J Smith & B Edmonston, eds, *THE IMMIGRATION DEBATE: STUDIES ON THE ECONOMIC, DEMOGRAPHIC AND FISCAL EFFECTS OF IMMIGRATION*. National Research Council. National Academy Press: Washington DC.
- Turner, G. 2008. *THE CREDIT CRUNCH: HOUSING BUBBLES, GLOBALISATION AND THE WORLD-WIDE ECONOMIC CRISIS*. Pluto Press: London.
- Vilakazi, A. 1962. *ZULU TRANSFORMATIONS*. University of Natal Press: Durban.