

Regularising Zimbabwean Migration to South Africa

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The Migration Issue Briefs are a resource for practitioners. They summarise state of the art research and are intended to inform discussions and debates surrounding human mobility in Southern Africa.

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On 3 April 2009, the Department of Home Affairs announced its intention to grant Zimbabweans in South Africa a twelve-month 'special dispensation permit' on the basis of the 2002 Immigration Act, section 31 (2)(b). This permit grants the right to legally live and work in the country. As complementary measures, a moratorium on deportations and a 90-day free visa for Zimbabweans entering South Africa have been implemented from May 2009.

This policy brief outlines the key reasons why this new package of policies, especially the special dispensation permit,¹ is in South Africa's best interest. It responds to perceptions that, in the context of a recession and a newly elected administration, regularising Zimbabwean migration may not be a priority or that it may have negative impacts for South Africans. In fact, **the regularisation of Zimbabwean migration is consistent with and complementary to many of the key goals of the new administration.**

Key Messages

- The new set of policies regularising movement between South Africa and Zimbabwe represents a positive shift towards a **rational, coherent and regionally beneficial migration management approach**. Previous approaches to managing Zimbabwean migration (including the asylum system and widespread arrest and detention) did not address the nature or scale of movement and so resulted in high levels of illegal migration, rights abuses, and negative impacts for South Africa.
- The introduction of special temporary permits to manage complex mixed migrations is increasingly common internationally. South Africa is likely to receive significant international recognition and support for adopting this policy, given widespread interest in supporting regional stability and Zimbabwean reconstruction.

The only policy options regarding Zimbabwean migration are continued large-scale undocumented migration with limited state control, or regulated and legal migration with the ability to manage movement in the interests of the country.

- Regularising movement between South Africa and Zimbabwe will help the new government achieve its development goals by **facilitating efforts to combat corruption, protect labour standards, up-skill the economy and fight crime**. While the free visa and special dispensation permit are clearly insufficient to achieve these broader policy aims on its own, **these challenges will be much more difficult to tackle without the effective implementation of the permit.**
- The **new policies are unlikely to increase overall volumes of migration** from Zimbabwe to South Africa. In fact, they are likely to enable Zimbabweans in South Africa to return more rapidly.
- Out of a range of legal policy options for regularising movement between Zimbabwe and South Africa, the proposed **special dispensation permit is the most appropriate to the context** (Zimbabweans' need to work and to move freely between countries) and **most easily implemented**.

¹ For a more detailed analysis of the implementation issues relating to the Special Dispensation Permit see the FMSP report 'Immigration Policy Responses to Zimbabweans in South Africa: Implementing Special Temporary Permits'. Available from tara.polzer@wits.ac.za

Context Factors

- Although exact figures are not available, a range of statistical sources suggest that **there is a maximum of 1.5 million Zimbabweans in South Africa**. It is unknown how many of these are undocumented.
- Even in the best-case scenario for Zimbabwe's stabilisation and reconstruction, **movement between the two countries will continue in the foreseeable future**.
- **There is no way to stop or curtail this movement** without very high costs in terms of finance and rights abuses. The experience of the USA shows that even billions of dollars of investment and draconian measures cannot significantly reduce migration volumes.
- South Africa and SADC have committed to a ongoing process of greater **regional integration**. Although the regularisation of movement between South Africa and Zimbabwe is partly a response to a current socio-economic crisis, it is also an opportunity to forge longer-term relations between the countries towards regional integration.

Policy Impacts

- **Manage migration flows and gradually reduce migration volumes**

It is unlikely that legalising migration options will lead to a large increase in Zimbabweans coming to South Africa. Border crossing statistics may rise, but this is an intended consequence of legalised movement, since previously invisible border-jumpers will become documented by the state.

Many Zimbabweans move frequently between the two countries, often in order to take food and goods to support families remaining in Zimbabwe. Large segments of the Zimbabwean population and economy have been supported for several years through remittances from South Africa. Without such transfers there would be even more migration to South Africa - particularly of the most vulnerable women, children and elderly - since there would be less basis for survival within Zimbabwe.

The special dispensation permits are likely to **facilitate Zimbabweans' return home** rather than providing incentives to remain in South Africa. This is because people can return to Zimbabwe for short periods to test the stability and economic opportunities of the country without fearing to lose their ability to earn livelihoods in South Africa. There is evidence that migrants who feel threatened through deportation and a lack of legal options for movement are more likely to stay in a foreign country, despite experiencing extreme hardships, since return without known livelihood alternatives is too risky. Furthermore, they can gradually invest the money earned in South Africa in re-establishing and developing a livelihood in Zimbabwe.

- **Improve levels of data about Zimbabweans in South Africa**

The SA government currently does not have access to reliable data concerning the number, demographics or location of Zimbabweans in South Africa, nor about levels of entry. This undermines the government's ability to plan and provide services and to provide security, including for citizens. The free visa and the special dispensation permit will enable the state to **measure the volumes and impacts of migration more effectively**.

- **Facilitate labour standards and investment in South Africa**

Many of the negative effects of large numbers of undocumented migrants relate to employment and livelihood issues, which the legal right to work can to a large extent mitigate. The decision to grant Zimbabweans the right to work as part of the temporary permit process is therefore positive and will contribute towards the following aims:

- Enable the **improved enforcement of labour standards** for all in SA by reducing the dual labour market in which some employers hire undocumented migrants at lower wages and labour standards than South Africans who may be unionised and knowledgeable of basic conditions of employment ;
- Increase the ability of Zimbabweans to be **self-sufficient** and reduce their need for humanitarian support in SA;
- Increase the ability of Zimbabweans to **productively contribute to the SA economy** by utilising their skills in the formal labour market and through entrepreneurialism. Research has documented high levels of education and skills among Zimbabwean migrants, as well as their ability to create work for themselves and South Africans through small business creation;
- Enable Zimbabweans in SA to **contribute to Zimbabwean reconstruction** through remittances. Economic recovery in Zimbabwe is in South Africa's national interest. Enabling legal employment of Zimbabweans in SA will act as a crucial stimulus package to complement formal bilateral economic support.

- **Enable more effective border control, law enforcement and anti-corruption initiatives**

The lack of adequate options for legal entry and residence for Zimbabweans has led to costly and largely ineffective border control and policing efforts to enforce immigration law. Regularising Zimbabweans, as the largest group of undocumented migrants in the country, will therefore have the following security and law enforcement effects:

- Reduce the physical danger of irregular border crossing – including assault, rape and extortion by smugglers and gangs, and natural hazards;
- Reduce expenditure on a largely ineffective deportation system. There is widespread recognition that the deportation of c. 300,000 Zimbabweans in 2008/2009 has not been effective in reducing the number of Zimbabweans in the country or in deterring new entry. It has, however, carried a significant cost for the South African tax payer;
- Reduce cross-border smuggling and the corruption of border officials and border police which goes with it;
- Enable police services to focus on crime fighting by reducing time and resources spent on immigration policing which does not impact on crime levels;
- Enable Zimbabwean victims of crime to report cases to the police without fear of being arrested themselves;
- Make it easier for police to identify Zimbabwean perpetrators of crime;
- Discourage vigilante crime-fighting against foreign nationals suspected of being criminals by increasing public confidence in the ability of the state to maintain law and order.

- **Facilitate Zimbabwean reconstruction**

Increasing regional stability through encouraging development in neighbouring countries is an explicit policy aim of the South African government and progress to this end is among the issues monitored through the African Peer Review Mechanism.

Economic recovery in Zimbabwe is in South Africa's national interest. Enabling legal employment of Zimbabweans in SA will act as a crucial **stimulus package to complement formal bilateral economic support**. Legal employment options will enable Zimbabweans in SA to contribute to Zimbabwean reconstruction through remittances.

Regularisation will reduce the level of unproductive expenditure on irregular border crossing, evading arrest and deportation, and informal remittance systems. The amounts of money spent on such unproductive payments are likely to be enormous in aggregate, and could be productively invested in reconstruction.

- **Relieve pressure on the asylum system**

Regularisation will **enable South Africa to fulfil its international obligations regarding refugee protection**. Because of the lack of adequate documentation options, many Zimbabweans have been accessing the asylum system for some form of legal documentation, even if they have not been individually persecuted. This has overwhelmed the asylum system, making it ineffective for other asylum applicants. By offering an alternative legal status, the temporary permit for Zimbabweans will enable the asylum system to function more effectively for those individuals, Zimbabwean and otherwise, who have experienced persecution and are therefore seeking longer term protection.

- **Facilitate the provision of humanitarian assistance to the most vulnerable**

The temporary permits will **enable more targeted assistance and facilitate raising international funding for humanitarian support**. While most Zimbabweans have been able to support themselves in South Africa, the most vulnerable will continue to require humanitarian support. Protecting the most vulnerable is not only a Constitutional and a moral duty, but also protects the general population from social effects like communicable diseases (such as cholera) or crime. The effective provision of humanitarian support by government, international organisations and civil society has been hampered to date by the undocumented status of most Zimbabweans.