Chapter 6
Refugee Policy as Infrastructure: The Gulf Between Policy Intent and Implementation for Refugees and Asylum Seekers in South Africa

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6.1 Introduction

This chapter engages the policy practices of the South African state in handling refugees and asylum seekers. The research considers the decision-making timeline involved in developing the policy landscape and the resulting migration infrastructure (or lack thereof) for refugees and asylum seekers. We explore policy as hard and soft infrastructure and note that refugee and asylum seeker policies in South Africa have at times been shaped to align with migration patterns retrospectively (Crush et al., 2017), but, in recent years, have taken a more restrictive position towards mobility generally (Zanker & Moyo, 2020). We note that the legislative conditions for migration are determined by the state, which defines which movements constitute regular and irregular migration (Khan & Lee, 2018). The actions and non-actions of the state to facilitate mobility have also come to redefine the notion of community, home and belonging for migrants and refugees (Landau & Bakewell, 2018). Our focus is on the fit between the legislative instruments of government and the reality on the ground, and we ask whether the legislative infrastructure is fit for its purpose in terms of protecting refugees and asylum seekers. A Southern approach to theorising migration must, of necessity, engage the infrastructure that (dis)enables the processes of immigration and integration in the destination countries. We note that the refugee governance regime in South Africa has been at best incoherent, and at worst not fit for its purpose, which has resulted in its failure to achieve its aims. We argue that the evolution of refugee policy in South Africa still has antecedents in the apartheid apparatus, and continually slips into the same spirit of restrictionism that guided apartheid thinking where the preoccupation is that of restricting access to channels of immigration into the country. Similar observations were made as early as the 1990s by Crush (1999) who likened South Africa

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to a fortress owing to the clearly xenophobic stance taken by its then Minister of Home Affairs in restricting immigration into the country. Other writers have, over the years, also decried the non-adherence to a human rights-based framework in the management of refugees and asylum seekers in South Africa as well as institutionalised xenophobia (Smit & Rugunanan, 2014; Rugunanan & Smit, 2011).

In our discussion, we conceive policy as infrastructure in the hands of both government and the governed – in this case, the refugees and asylum seekers. Our interest is in understanding the nature and dimensions of policies which affect refugees and asylum seekers and how they make do with the restrictionism that is inherent in the policies. Currently, the refugee policy landscape in South Africa lacks coordination amongst national, provincial and local government levels. During the process of writing this chapter, the president of South Africa signed into force the amendments to the Refugees Act and gazetted new regulations which came into effect in January 2020. The new regulations have effectively curtailed the rights of refugees and asylum seekers within the Republic (Zanker & Moyo, 2020) and further reinforce the securitised and restrictionist path that South Africa has adopted (already foreseen by Crush et al., 2017; Dostal, 2017).

In this work, we draw on the existing literature as well as insights from key-informant interviews with representatives of refugee protection non-governmental organisations (NGOs), the City of Johannesburg migration unit, and academic researchers.

6.2 The Evolution of Refugee Policy and Governance in South Africa

South Africa has been receiving migrant populations from different parts of the world since precolonial times. During the apartheid era, the government maintained tight control on immigration with an emphasis on desirable white immigrants for becoming citizens (Klotz, 2013; Peberdy, 2009). Since 1994, the nature and magnitude of migratory flows have changed significantly as the new dispensation enabled many potential migrants from the rest of the African continent, Asia and the Indian sub-continent to migrate to South Africa (Rugunanan, 2016; Crush et al., 2005; Crush, 1999). The legislation around refugees and asylum seekers fits within the larger framework of immigration policy. The most significant initial pieces of South African legislation that governed immigration policy after apartheid were the Refugees Act of 1998 and the Immigration Act of 2002. Although South Africa supports the in-migration of skilled and professional people, the country does not welcome low-skilled or semi-skilled foreign workers, who constitute the bulk of undocumented migrants to the country (Peberdy, 2009). The Immigration Act of 2002 can accordingly be regarded as having created a very restrictive immigration regime, which fails to address the reality of the many low-skilled migrants entering the country, and effectively opens avenues for irregular migration (see, for instance, De Gruchy, 2018).

The earliest mention of forced migrants in the country's legislation was in the Cape's Immigration Act of 1906. It made provision to grant entry to immigrants who had been forced to flee their country due to imminent danger, persecution, imprisonment or punishment based on religion or political beliefs, and stated that they would not be turned away based on the absence of "visible means of support". These provisions were not included in the more restrictive Immigrants Regulation Act of 1913 to suit the desired nationality quotas (Klotz, 2013). Between the Act of 1913 and the Aliens Control Act of 1991 there was no strategic legal framework in place to receive and process refugees and asylum seekers in South Africa. Some 300,000 civil war victims displaced from Mozambique had arrived in the country since 1980 and were managed under the illegal immigrant and migrant worker legislation clauses in the Act of 1991 (Amit, 2012; Handmaker, 2001). The Aliens' Control Act of 1991, using the divisive term 'alien' to describe non-citizens, was developed during the apartheid era (Aliens' Control Act, 1991; Polzer, 2007). It was rooted firmly in the principles contained in acts dating back to the Immigrants' Regulation Act of 1913, and therefore proved to be misaligned with the legislative requirement to provide refugee protection (Klaaren et al., 2008). The 1991 Act subsequently allowed the state to clamp down on irregular migration as a guise for arresting and deporting forced migrants from war-torn Mozambique (Polzer, 2007; Crush & McDonald, 2001).

The Act of 1991 underpinned the discussions around immigration legislation and fundamentally shaped immigration debates and practices after apartheid (de Gruchy, 2018; Peberdy, 2009; Crush & McDonald, 2001). The policies contained in the 1991 Aliens' Control Act gave new perceived power to the fading rule of the apartheid state to enforce border policing as pressure mounted for political reforms (Klotz, 2013). The United Nations (UN) urged the need for protective legislation for displaced people in South Africa to address the management of the displaced Mozambican civil war victims (Klotz, 2013; Crush & McDonald, 2001). The National Party government initially resisted the UN and OAU (Organisation of African Unity) refugee conventions, but due to international pressure, the UN refugee agency (now UNHCR – United Nations High Commissioner for Refugees) was authorised to act as a conduit between the South African and Mozambican governments to reach the "1993 Tripartite Agreement" (Polzer, 2007). A basic status determination process was adapted from the Passport Control Instruction No. 20 of 1993 contained in the Aliens' Control Act of 1991 to retrospectively recognise the status of the Mozambican refugees for a repatriation program. Amnesty was offered later, in 1997, to those who fled to South Africa before 1992 (Klaaren et al., 2008; Handmaker, 2001). Due to the limited time in which the initial repatriation program for Mozambican refugees was developed, it failed to recognise the complexity of the displaced's flight and return and did not prove to be a resilient solution, leaving many refugees in "legal limbo" between being offered amnesty and its eventual implementation in 2000 (Handmaker, 2001). In 1995, South Africa finally became a signatory to the UN's and the OAU's refugee conventions, which provided additional international funding support to implement repatriation programs and refugee reception camps (Klotz, 2013). Post-apartheid South Africa saw the return of those

who had fled the country into exile, with many reapplying for citizenship. Immigration amnesty was offered to contract mineworkers who had been working for a period of at least 10 years, as well as citizens from the Southern African Development Community (SADC) region who could offer proof that they had been residing in South Africa for a minimum of 5 years (Crush & McDonald, 2001).

It was a turbulent start to the policy process, premised on very little experience in refugee law following the initial "1993 Basic Agreement", which was later compiled into the Draft Refugee Bill of 1996 by the Department of Home Affairs in partnership with the UNHCR (United Nations High Commissioner for Refugees) and NGO representatives forming the National Consortium on Refugee Affairs (NCRA) (Klotz, 2013; Crush & McDonald, 2001). Despite these reforms to immigration policy, border policing had otherwise remained hostile with a 75% increase in deportations of irregular migrants from 1994 to 1995. Reports state that 84% of these deportations were Mozambican citizens (Crush & McDonald, 2001). The Draft Refugee Bill of 1996 incorporated more transparency for asylum seekers to gain access to the details of their individual application, such as information concerning the application outcome (Klaaren et al., 2008). State law advisors began revising the legal definition of a refugee, narrowing its description and the legal approach to status determination by omitting some of the international convention's definitions. Aware of this, the task team submitted a document illustrating its concerns when the White Paper and Refugee Bill were presented to the Parliamentary Portfolio Committee on Home Affairs in October 1998 (Klaaren et al., 2008; Handmaker, 2001). Various consultants, stakeholders and task teams worked to refine the national protocol to align to international refugee protection mandates until the Refugee Act was signed into law in December 1998 (Klotz, 2013; Crush & McDonald, 2001). The Refugee Act of 1998 contained the acclaimed progressive legislation for refugees and asylum seekers, extending the right to freedom of movement, basic human rights and security and self-sufficiency including education, employment and other basic services such as healthcare, and rejected the practice of encampment (Khan & Lee, 2018; Crush et al., 2017). The Act of 1998 contained the guiding principles protecting refugees and asylum seekers against refoulment, prosecution for irregular entry into the country, or deportation unless there was a threat to national security or "public order".

However progressive its intentions have been, the implementation has given grounds for concern (Farley, 2019; Khan & Lee, 2018).

Although the Bill had been signed into law in 1998, the policies were only implemented subject to the Regulations to the Refugees Act issued in April 2000. The time lag between the formal signing into law and the implementation regulations caused an upheaval as the much-criticised Aliens Control Act No 96 of 1991 remained largely in practice during this time (Polzer, 2007; Handmaker, 2001). Despite the acclaimed amendments for recognising and receiving refugees in the Refugees Act No. 130 of 1998, there was a disjuncture between the act and South Africa's relationship with the SADC region's migration management. South Africa refused to incorporate regional SADC protocols around easing movement for trade and education, creating further disparity with its neighbours even as many

SADC-region migrants settled in South Africa (Klotz, 2013; Polzer, 2007; Crush & McDonald, 2001).

Concern grew over refugee policy implementation, rights of applicants during the status determination process, and the temporary rights associated with refugee status. The Refugee Appeals Board submitted amendments to the regulations to "Draft Rules" in June 2000, and the Ministry of Home Affairs distributed a Refugees Amendment Bill. Sufficient protection for refugees and asylum seekers remained a concern throughout this early policy evolution, and subject to consideration by the NCRA (Klotz, 2013; Handmaker, 2001).

Five refugee reception offices (RROs) were opened in 2002 in Cape Town, Durban, Port Elizabeth, Pretoria and Johannesburg, in line with an urban-based reception strategy (Khan & Lee, 2018). This was a significant gesture and commitment to accommodate the processing of refugees and asylum seekers within the country. We view the urban-based reception centres as physical symbols of the South African government's policy intent against encampment. During 2008, a mass influx of Zimbabwean asylum seekers arrived in South Africa, contributing to an overall total of 207,206 applications that year (Matji, 2017). This was a considerable increase in applications, with the previous year only adding a quarter of that total (Matji, 2017). Another RRO was strategically opened in Musina, near the border, to assist with the sudden influx, whilst waves of xenophobic attacks were sweeping through the country which directly impeded the refugee and asylum seekers' access to rights (Gil-Bazo, 2015). The *Government Gazette* containing the Refugees Amendment Act No. 33 of 2008 described the use of biometrics for the purpose of identification and included gender as a reasonable basis for well-founded fear of persecution. Section 27 of the Act of 2008 made additional provisions for the protection and general rights of refugees, including the replacement of an "immigration permit" with "permanent resident status" after 5 years from the date when asylum was granted if there is reasonable certainty that the individual will remain a refugee indefinitely (Refugees Amendment Act No. 33 of 2008).

The immigration policy in the immediate post-apartheid years has a clear link to the principles of control and exclusion contained in the Aliens' Control Act of 1991 (Peberdy, 2009; Crush & McDonald, 2001). The policy discussion about refugees and asylum seekers has primarily advocated and centred around non-encampment and local integration, though the extent of integration had its limits given the temporary nature of the permits (Crush et al., 2017). With the legislation in place, the migration of refugees and asylum seekers followed a similar pattern to that of local (displaced) migrants to urban environments, leaving them to compete for the same limited resources, according to an interview with a policy expert. There are no exceptional policy provisions made by the government to facilitate local integration on an urban scale (apart from urban reception centres). Neither the government nor the UNCHR provide material support to refugees and asylum seekers, and rely on the agency of these individuals to seek means of making a livelihood or to depend on NGOs assistance (Crush et al., 2017). Little attention was given to the role of local government in the formulation of refugee legislation because the national

government offered protection, yet the policy pushes for urban based reception (Palmary, 2002).

There is a continuum of lived experience amongst the social, physical and legal aspects of migration. Scholars such as Xiang and Lindquist (2014) have contributed to the theory that describes "migration infrastructure". There is a need, as indicated by Landau and Bakewell (2018) to acknowledge not only the legislative conditions to determine integration and belonging but also the more nuanced socio-political aspects of assimilating and forming part of a local community.

6.3 A Policy Shift

The year 2009 saw the highest number of asylum applications – 223,324 – and a slight decline in 2010 with 180,637 new applications (White Paper on International Migration (WPIM), 2017: 26). The Johannesburg RRO in Crown Mines was closed in 2010, and the Port Elizabeth RRO in 2011, despite the large numbers of applicants. Applications during 2011 declined overall, dipping to 106,904 (WPIM, 2017: 26). During 2012, another RRO was closed in Cape Town and a litigation process was started to re-open the office (Scalabrini, 2018). The remaining state capacity available for processing was now resting on three offices. This put strain on the Department of Home Affairs' administrative capacity as well as applicants who, in order to renew their permits, are required to travel to the relevant office to which their files have been moved (Amit, 2012).

Within a global climate of securitisation of borders, the 2017 White Paper on International Migration reiterates a similar sentiment over concern about irregular migration (Kahn & Lee, 2018; Crush et al., 2017). The WPIM (2017) calls for the need to update the current strategies captured in the Immigration Act No. 13 of 2002 (amended in 2014) and the Refugees' Act of 1998. The 2017 WPIM argues that the current refugee regime has overextended its generosity with rights and provisions, leaving the country vulnerable to security risks, and is reinforcing historical colonial migration flows for trade and labour (Farley, 2019). The 2017 WPIM further states that the UN historically promoted specific administration principles which were applied in middle and higher income countries but have misaligned South Africa's position within the African Union as a regional community. A recurring sentiment has been expressed at national level that "migrants" would be competing with local populations for already scarce resources and burden access to employment, housing and healthcare (Klotz, 2013).

The national stage has further been used to weave certain narratives into public discourse, and thus iterate the need to respond to these issues through policy. These narratives include that of economic migrants abusing the asylum system and drawing a connection with undocumented migrants (WPIM, 2017; Klotz, 2013). Precautions to limit irregular migration are in the amendments made to the policy via heightening the security infrastructure as well as repositioning the state function of the Department of Home Affairs (DHA) from the administrative cluster to the

Justice, Crime Prevention and Security cluster (DHA, 2019). Legislative measures have been taken to make South Africa a less desirable destination for asylum in order to further lessen the demand on asylum processing (Crush et al., 2017). The 2017 WPIM shows a particular concern for the irregular migration of low-skilled or unskilled labour from the SADC region and goes on to state that this migration threatens the country's economic stability and national sovereignty (Khan & Lee, 2018). There is a disjuncture in the interface between the matter of human rights policy and the state's responsibility to share the burden of forced migrants and the migration patterns contained in the WPIM for tourism, study and business as well as other push and pull factors (Interview, Humanitarian Organisation, Pretoria, November 2019). The 2030 National Development Plan (NDP) indicates strategies for specialised visa provisions embracing skilled migrants to contribute to its economic growth objectives, whilst the White Paper (WPIM, 2017) aims to bring attention to the security risks involved with refugees and asylum seekers that need to be addressed (Farley, 2019: 12; WPIM, 2017).

The Refugees Amendment Act No. 11, signed into law on 14 December 2017, unveiled a departure from the 1998 Refugees Act. In the years leading to the development of Act No. 11, the margins for exclusion of refugee status have been broadened to include irregular entry into the country without valid reasons, presenting fraudulent or misleading documentation, being found to have committed a schedule 2 crime in the country or having failed to report to an RRO within 5 days of entering the country "without substantive reasons" (Refugees Amendment Act No 11 of 2017: 16). The available timeframe to report to an RRO has been shortened from 14 days to 5 days. As the RRO accepts specific categories of asylum seekers on different days of the week, this iteration of the 2011 amendment would then require asylum seekers to coordinate their arrival into the Republic to align to specific reception days. The director general of Home Affairs may practice full discretion to open or close RROs in the country as they deem necessary, and have further instated a minimum of one required Status Determination Officer at each RRO (Refugees Amendment Act 2017). They may also refer any category of asylum seeker, whether by "country of origin or geographic region, gender, religion, nationality, political opinion or social group", to a specified RRO or place designated to administer the act. Any asylum claim will be marked as abandoned should an asylum seeker not renew their permit or report to an RRO 30 days after expiry without convincing reasons directed to the Standing Committee on Refugee Affairs (Refugees Amendment Act 2017). The Minister of Home Affairs may practice the right to withdraw refugee status from an individual or a group, and an action such as a refugee seeking consular service may directly result in such a withdrawal. Restrictions are imposed on rights to employment and education which will be revoked for asylum seekers unless they undergo a separate application process to evaluate whether they will be able to support themselves (WPIM, 2017). The prospect of applications for permanent residency has been extended from the previous 5 years to 10 years of continuous stay as a requirement. The White Paper (2017) further replaced the permanent resident status with a "long term resident visa", exaggerating the condition of a temporary welcome extended to refugees by putting a timeframe limit on their

prospects of fully integrating (Crush et al., 2017). The dangers of this focus on temporary protection and delayed processes that leave applicants with uncertainty is a concern not only for ensuring their physical and legal safety but also their psychosocial wellbeing. These challenges force refugees and asylum seekers into an underlying situation of perpetual "survival mode" (Interview, Humanitarian Organisation, Johannesburg, May 2019).

The policy intervention concerning refugees and asylum seekers reiterates its commitment to upholding and protecting human rights in a humane and secure manner which aligns with the constitution as well as international legal instruments (WPIM, 2017). Admission of refugees and asylum seekers is currently based on an "inclusive approach" to any foreign national claiming asylum; however it fails to recognise cases where special protection such as medical assistance and psychosocial support are necessary (WPIM, 2017). The acclaimed progressive policy which accommodated generous access and opportunities was criticised by the WPIM as a cause of abuse of the system by irregular and economic migrants (Khan & Lee, 2018). According to the WPIM, more than 90% of claims are rejected on the grounds of economic migrants using the asylum regime as an entry point; however this claim has been based on anecdotal evidence, based on the fact that only 10% of applicants have successfully gained refugee status (Khan & Lee, 2018; Crush et al., 2017). The White Paper on International Migration (2017) has adapted its strategy to facilitate the status determination process for asylum seekers with a 'multi-stakeholder approach' to operate on a national level, and it proposes that a regional solution should be developed in the African region. This would include the collaboration of various state departments (WPIM, 2017).

6.4 The Gaps in the (Legislative) Fence

Earlier in the chapter, we highlighted that political ideologies and state power are embedded in the shaping of the immigration policy framework, which effectively becomes a symbol for belonging and exclusion as part of the national identity (Klotz, 2013; Peberdy, 2009). There appears to be a disjuncture between the perceptions of a Pan-African solidarity of African immigrants whose countries aided the South African struggle against apartheid on the one hand, and ordinary South African citizens in South Africa on the other hand, who have held onto the beliefs engrained in the apartheid legacies that foreigners will compete with their access to resources and freedom (Klotz, 2013). These beliefs have an impact on the lived experience of forced migrants entering the country, not only in interactions with ordinary citizens but also interactions with officials at the Department of Home Affairs (Amit, 2012).

The resilience of the policy framework for refugees and asylum seekers is relevant across two timescales of implementation. It ought to make provision for the policy infrastructure to manage refugee and asylum applications during times of mass influx as well as maintaining efficient day-to-day processing operations.

Building on the theory of migration infrastructure put forward by Xiang and Lindquist (2014), which acknowledges the range of factors and complexities that condition mobility, we frame the notion of policy infrastructure as both hard and soft infrastructure. The border control, policy and refugee reception office articulate the legislation in definite terms which make up the hard infrastructure. The hard infrastructure is representative of the sentiment of the state with regards to a national identity regarding who belongs within the country. The soft infrastructure speaks to the implementation of the policy by the DHA officials and frames the nuanced experience of the policy and hard infrastructure by refugees and asylum applicants. Soft infrastructure also describes the NGO and community networks which operate as a result of the policy experience. Scholars such as Polzer (2007) have articulated this nuanced experience of refugees and asylum seekers as a means to understand the implications of policy from the bottom up. The RRO and DHA officials form a key interface between asylum seekers and the state and policy. The DHA officials are in essence the implementing agents of the policy at state level and play a vital role in relaying rights to applicants; however, they also hold the power to cripple the legal process with corruption (Amit, 2015; Polzer, 2007). The physical thresholds at reception centres have become barriers to accessing the facility and generate a toxic environment of corruption by various gatekeepers and officials (Interview, Humanitarian Organisation, Johannesburg, May 2019; see also Amit, 2012; Vigneswaran, 2008). As South Africa mandates for urban settlement of refugees and asylum seekers, the lived experiences in cities may differ depending on the urban environment and city-level sentiment towards (forced) migrants (Klotz, 2013; Peberdy, 2009).

The number of RROs in the country is at the discretion of the Department of Home Affairs (WPIM, 2017). We mentioned above that five offices were opened across the country with the promulgation of the Refugees Act of 2002 and, after the mass influx in 2009, an additional office was opened in Musina and a temporary office in Tshwane in 2010 (Khan & Lee, 2018). In 2010, the Johannesburg office closed, followed by the Port Elizabeth office in 2011, while the Cape Town office closed for new applicants in 2012 (Scalabrini, 2018). The closure of these offices puts many applicants at a geographic and financial disadvantage in renewing their permits as well as submitting applications in person, as required (Interview, Humanitarian Organisation, Johannesburg, May 2019; see also Khan & Lee, 2018; Amit, 2012). The significance of these decisions further reduced the available state capacity to the three remaining offices, adding strain on the DHA staff through pressure to process greater numbers each day (Scalabrini, 2018). The shrinking capacity to accommodate refugees and asylum seekers along legislative lines has been reflected in the administrative capacity of the reception offices, and even preceded some of the legislative decisions (Khan & Lee, 2018). The travelling distance to the nearest RRO for asylum seekers arriving in Port Elizabeth or Cape Town has now more than doubled, and individuals whose files went missing in the move from the offices in Johannesburg and the interim office in Tshwane further contributed to the difficulties in applying for asylum (Khan & Lee, 2018; Amit, 2012). The UNCHR Global Survey in 2012 shows that some of the greatest challenges to documentation

for asylum seekers are due to the geographic location of an application centre (Morand et al., 2012). This finding compounds the problem for refugees and asylum seekers, but also the DHA staff at the remaining RROs who have to accept additional cases. This raises concern over the capacity of the state to ensure the protection of asylum seekers' rights during processing (Amit, 2012).

The 2017 White Paper indicated an intent to reduce the asylum population in South Africa and move the application functions of the state to processing centres near the border, effectively turning away from the global trend of urban-based processing centres (Morand et al., 2012). The construction of the first of these processing centres is reportedly underway in Lebombo, with another location planned near the Zimbabwe border (Khan & Lee, 2018; Crush et al., 2017). The 2017 policy document confirmed and supported this intention, with the policy pointing to a series of overburdened urban-based RROs, which was reported to be due to bogus applications by economic migrants (WPIM, 2017). This sentiment has been echoed in the historical narrative of criminalising undocumented migrants, which contributes to tension and animosity towards foreigners within the country (Klotz, 2013).

By introducing asylum processing centres near the border, another threshold will restrict physical access and freedom of movement into the country. The DHA maintains that this will not mean encampment, as they have proposed conditions for relative fluidity in and out of the centres (WPIM, 2017). The amendment reinforces refugee reliance on the state or on written undertakings by organisations or community members to cater for their basic needs, through the removal of asylum seekers' automatic right to work and study during status determination (WPIM, 2017). Asylum seekers with the financial capacity to make their own provisions without participating in economic activity are permitted to do so. Only in "exceptional circumstances" such as judicial review may asylum seekers have access to employment and education (WPIM, 2017).

The proposal of processing centres near the border poses a concern due to the vague description of its implementation, let alone the construction and operational costs which the state will have to carry without material assistance from the UNHCR (Crush et al., 2017). The decision to discard the urban processing centres in favour of locations near the border has been criticised for the resemblance to refugee camps and for fundamentally lacking any genuine addressing of the systematic administration failures on the part of the state within the centre itself (Amit, 2012). These shortcomings are rather due to inefficient systems, poorly trained staff and corruption (Khan & Lee, 2018). In the case that the centres are well resourced, the delivery of services at the processing centres may begin to fuel xenophobic tendencies amongst local communities where the state has failed to deliver basic services (Farley, 2019).

A clear pathway to the processing centres has not been realised for asylum seekers whose status determination is pending who have already settled elsewhere in the country. The processing centres claim to have a shorter evaluation time, but questions remain over the capacity for these centres to deal with influx and ensuring refugees' and asylum seekers' rights are protected during evaluation (Amit, 2012).

More restrictive legislation has been implemented, rendering South Africa less desirable for settlement (Crush et al., 2017). In recent protests, refugees and asylum seekers in Pretoria and Cape Town demanded to be settled in a third country because they do not feel safe in South Africa (Interview, Humanitarian Organisation, Pretoria, November 2019). Considering the proportion of asylum seekers within the landscape of migration to South Africa, the specific amendment to asylum seeker processing centres will not justify the monetary cost and resources of establishing this scale of infrastructure (Farley, 2019).

6.5 Conclusion

The policy agenda with regards to refugees and asylum seekers has shifted towards more restrictive measures for legal settlement and more temporary conditions for integration and belonging in the country (Crush et al., 2017). There is a palpable discord between the policy intentions of the South African government and implementation on the ground, as noted in discussions with some NGO representatives. For example, one key informant highlighted that the displacement of refugees and asylum seekers is a humanitarian question yet the South African policy makers refer to it in terms similar to international migration policy; there may be a misdiagnosis of the intention across the entire policy landscape (Interview, Humanitarian Organisation, Pretoria, November 2019).

The resilience of the proposal of processing centres near ports of entry is questionable on the grounds of providing protection for asylum seekers' rights. The urban-based processing centres lack efficient implementation strategies and the DHA has not indicated a clear way forward regarding this particular aspect in proposing the new centres (Crush et al., 2017; Amit, 2012). This brings into question whether the intention of reducing processing time will become a reality at these centres. The DHA has shifted the blame for its apparent backlog by making most applicants into economic migrants abusing the system (WPIM, 2017). When the security question around asylum seekers is moved to the point of entry, the legal limbo that many refugees and asylum seekers inhabit remains at that threshold, between the border and the local community. Temporary legal protection through renewable permits does not put refugees and asylum seekers on a permanent path for settlement in the country (Handmaker, 2001). The conditions for integration and belonging are also iterated through local perceptions (Interview, Policy Expert, Johannesburg, June 2019).

In urban areas where RROs have closed, refugees and asylum seekers are forced to re-evaluate their livelihoods and mobility in the country to support their journeys to the RROs which remain open. Policy shifts have tightened restrictions on the scope of what constitutes a regularised stay which, in turn, criminalises undocumented migrants within very fine margins. The complex notion of migration and integration extends beyond the policy framework and physical border, but also the host community.

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