THE POLICING OF UNDOCUMENTED FOREIGN NATIONALS IN

SOUTH AFRICA

by

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DEDICATION

This thesis is dedicated to my late grandmother Matadi Margaret Ramathetje Mabudusha, who passed on in January 2014. I love you grandma and I appreciate all the support and encouragements you gave me. I call myself a blessed soul for having had a grandmother like you. Robala ka kgotso Nogana!

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LIST OF ABBREVIATIONS

AU- African Union

CCTV- Closed Circuit Television

CDE- Centre for Development Enterprise

CoJ- City of Johannesburg

CoRMSA- Consortium for Refugees and Migrants in South Africa

DHA- Department of Home Affairs

DRC- Democratic Republic of Congo

ECOWAS- Economic Communities of West African States

EU- European Union

HDR- Human Development Report

IOM- International Organisation for Migration

ILO- International Labour Organization

NGO- Non-governmental Organisation

OAU- Organisation of African Unity

ORAM- Organisation for Refugee Asylum and Migration

RDP- Reconstruction and Development Programme

RRO- Refugee Reception Office

SA- South Africa

SABC- South African Broadcasting Corporation

SAPS- South African Police Service

SADC- Southern African Development Community

SANDF- South African National Defence Force

SAHRC- South African Human Rights Commission

UN- United Nations

UNHCR- United Nations High Commissioner for Refugees

DECLARATION OF AUTHENTICITY

I declare that the thesis on "**THE POLICING OF UNDOCUMENTED FOREIGN NATIONALS IN SOUTH AFRICA**" is my own work and that I have acknowledged all the sources used and quotations included in this thesis by means of a complete reference list.

Signed

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SIGNATURE   DATE: 02/06/2014

(MS SA MABUDUSHA)

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THE POLICING OF UNDOCUMENTED FOREIGN NATIONALS IN SOUTH AFRICA

Abstract

The increasing numbers of undocumented foreign nationals in South Africa not only has affected the provision of services provided by the local municipalities and the Department of Home Affairs but is also a huge challenge to the services provided by the South African police. The aim of this study was to explore the police experiences of dealing with undocumented foreign nationals in South Africa. A literature review was conducted to provide an overview of this problem nationally and internationally. Interviews, observations and document analysis were also considered to explore police experiences of dealing with undocumented foreign nationals. The findings of this study show that the South African police are *"caught between a rock and a hard place"* when dealing with undocumented foreign nationals within the constitutional framework of this country. They receive little support from the government and the relevant stakeholders on this matter, while on the other hand they are exposed to constant threats and lack of compliance from the undocumented foreign nationals and the criminal syndicates that facilitate illegal cross-border movements and the pressure from advocates of human rights principles and the media. These factors lead to increased frustrations among police officials and self-protective measures such as turning a blind eye to this problem.

To deal with the problem the Inclusive and Interactive Refugee Management Model, which focuses on constant interaction among stakeholders, is recommended. Inclusive strategies are also recommended for dealing with undocumented foreign nationals. This model supports a Left Realism perspective, which advocates collective responsibility towards human concerns.

Key concepts: Immigrants, refugee, asylum seeker, undocumented foreign nationals, illegal immigrants, irregular immigrants, unauthorised persons, police, migration policing

CHAPTER 1: OVERVIEW OF THE STUDY

1.1 INTRODUCTION AND BACKGROUND

Contemporary methods used by the South Africa police in dealing with undocumented foreign nationals have stimulated numerous debates on issues of human rights abuses in South Africa. Among the scholars that question and/or highlight the common practices of human rights abuses by the South African police are Klaaren and Ramji (2001); Kihato (2007); Rutherford (2008); Landau and Segatti (2009); Marks (2011); Gomberg and Nussbaum (2011), Vishnuvajjala (2012) and Pfanelo (2014). These scholars show that the policing of foreign nationals (especially undocumented foreign nationals) in this country is clouded with activities that are based on racial profiling and show evidence of physical, emotional and financial abuses towards these foreign nationals.

The targeting of foreign nationals by the South African police is regarded as a popular activity by scholars such as Sutton and Vigneswaran (2011), in which the police use 'stop and search' methods to separate, among others, foreign nationals from South African citizens (Sutton & Vigneswaran, 2011: 632). These activities are observed both in public places such as at street level and in private spaces, including the residential areas occupied mainly by foreign nationals.

Despite the policies and the strategies used to regulate foreign nationals in the country, an increasing number of foreign nationals (mainly undocumented foreign nationals) have entered the country via South African border posts since the democratisation of this country in 1994. According to the United Nations High Commissioner for Refugees (UNHCR) global report (2013: 118), about 220,000 asylum seekers from Bangladesh, Democratic Republic of Congo (DRC), Ethiopia, Somalia and Zimbabwe were registered as refugees in this country in 2011. This number does not include the majority of undocumented foreign nationals who used illegal routes to enter the country and who have not yet registered their entry at the

Refugee Reception Offices (RROs) or those still waiting for their applications to be processed. This group of undocumented foreign nationals was estimated to be about 5 million in 2010. That was an increased number of undocumented foreign nationals as compared to the period before democratisation in 1994 (Duvell, 2011: 60). This means that only a few foreign nationals are registered as refugees in this country. In support of this statement, Peberdy (2010: 10-11) asserts that the transformations that took place in this country after 1994 elections account for these increasing inflows of undocumented foreign nationals. That is because, unlike the current democratic government, the apartheid government used harsh measures to discourage those who violated its immigration laws, such as erecting a lethal fence on the borderline and imposing severe punishment on those caught violating the immigration laws.

During the apartheid era, immigration processes were associated mainly with men rather than women. However, since 1994 there have been increasing numbers of women and unsupervised children participating in illegal cross-border movements (International Organisation for Migration, 2004: 6). Owing to their status as undocumented foreign nationals, their everyday survival depends on their ensuring that they avoid police officials as much as possible, while at the same time making a living (Madsen, 2004: 174; IOM, 2004: 3). This study explores the police experiences of dealing with undocumented foreign nationals within the South African constitutional framework. This is achieved through the review of the relevant literature regarding the topic under the study (such as the relevant statutes, academic articles and books) and by analysing the data collected through interviews with police officials, non-governmental organisations (NGOs), foreign nationals and human rights lawyers as well as local municipality migrant helpdesk officials who deal with foreign national cases on a daily basis.

1.2 PROBLEM DESCRIPTION

The main problem explored by this study is the lack of success in the policing of undocumented foreign nationals in this country. Studies that have been conducted on this topic show that the police's "…day-to-day activities are influenced more by the social conditions and contexts prevailing in the environment within which they work". When the police decide on whom to stop and search on the street they rely more on their discretion. This (discretion) opens up doors for prejudice because very often the police arrest foreign nationals based on their physical features rather than relying on documentation of citizenship status. In turn, this leads to racial profiling in terms of which only certain racial groups (mainly African foreign nationals) are targeted by the police and immigration officers (as opposed to Chinese, Pakistanis and Russians, for example). People with a darker skin colour, different accent, and who are unable to communicate fluently in one of the country's 11 official languages together with those who display a foreign dress style are often vulnerable to being classified as suspected undocumented foreign nationals (Tshabalala, 2009: 74). This makes people with these features the victims of police harassment (Peberdy, 2010: 11). As the police use of their subjective judgement in identifying foreign nationals sometimes South African citizens are mistaken for undocumented foreign nationals and endure the same harassments as foreign nationals at the hands of the police (Masuku, 2006: 1).

Foreigners who can speak one of the country's African language/s such as Sesotho, Setswana, Tsonga, and Siswati are often made more welcome than those who cannot speak any of these languages. As similar languages to those mentioned above are used in countries such as Lesotho, Botswana, Mozambique and Swaziland undocumented foreign nationals who speak these languages fluently often slip through the crowd of South African

citizens unnoticed (Mawadza & Crush, 2010: 2). Rutherford (2008: 5) argues that the police in this country are often so obsessed with the removal of undocumented foreign nationals that they disregard their (police) legal obligations towards foreign nationals and even ignore the foreign nationals' basic rights. Hence, there have been some cases of foreign nationals who were arrested or deported while in possession of valid visas or without being given an opportunity to prove their legal status.

Scholars such as Vishnuvajjala (2012: 6) assert that the abuse of undocumented foreign nationals in this country is common but that their status as undocumented makes it difficult for them to report incidents of harassment at a police station. Hence, most of them tolerate any harassment they are subjected to. Threats of deportation are also used by some law enforcement officials (including the police) to cover up their misconduct and prevent undocumented foreign nationals from reporting crimes and from seeking help from community members and/or other government services such as the Department of Health and the Department of Social Development (Mwakasungula, 2008: 53). According to Mataboge (2013: 1), deportation processes cost the country an amount of about R90 million annually; deporting each person costs R558 while accommodating each person at a repatriation centre per day costs the country about R99. It is estimated that if 11,133 foreign nationals spent a night at the repatriation centre for a period of three months, then the government could incur a total cost of R7, 3 million. The picture presented above shows that the police methods of dealing with undocumented foreign nationals in this country is ineffective and results more in human rights abuses than in protection.

1.3 RESEARCH AIM AND OBJECTIVES

The aim of this study is to explore the South African police experiences of dealing with undocumented foreign nationals within the South African constitutional framework.

The objectives of this study are:

- To investigate the current nature of undocumented foreign nationals in the country.
- To investigate how the South African police deal with undocumented foreign nationals in the country.
- To explore the challenges facing the policing of undocumented foreign nationals in the country.
- To investigate the undocumented foreign nationals' experience of policing in South Africa.
- To identify the strategies used in other countries to deal with undocumented foreign nationals.
- To suggest a model for dealing with undocumented foreign nationals in South Africa.

1.4 RESEARCH QUESTIONS

The main research question under this study is: what are the challenges facing the policing of undocumented foreign nationals in South Africa?

In support of the main research question, the following sub-questions are also answered in this study:

- What is the current nature of undocumented foreign nationals in the country?

- How the police deal with undocumented foreign nationals?

- What challenges do the police encounter in dealing with undocumented foreign nationals and how do they meet such challenges?

- How do undocumented foreign nationals experience policing in South Africa?

- What are some international experiences in terms of dealing with undocumented foreign nationals?

1.5 RATIONALE FOR THE STUDY

As mentioned above, the majority of studies conducted in South Africa regarding the policing of undocumented foreign nationals have looked at this problem from the point of view of the undocumented foreign nationals; that is, to what extent the basic human rights of foreign nationals are abused in this country, how many foreign nationals live in the country and how much they cost the country. Very little research has been conducted on the experiences of the police regarding this issue. Hence, it is the aim of this study to fill in this gap of knowledge. As a result, this study will benefit the academic community by increasing the knowledge on the policing of undocumented foreign nationals in this country. It will also benefit policy makers by informing them of the challenges facing the police and possible measures that can be implemented to ensure success when dealing with undocumented foreign nationals within a constitutional country. This study may also be used for benchmarking purposes, where countries with similar problems may use the findings of this study to address similar issues within their jurisdiction.

1.6 DEFINITION OF KEY CONCEPTS

The key concepts used throughout this study are defined below.

1.6.1 Police

The term 'police' refers to a member of the South African Police Service (SAPS) who is appointed to carry out the duties as listed in Section 205 of the Constitution Act 108 of 1996 (South Africa, 1996). This includes, among others, to uphold the safety and security of everyone in the country, the investigation of crimes and the arrest of criminals. In the same light 'policing' refers to the activities carried out by the police in order to maintain the safety and security of this country and its inhabitants.

1.6.2 Foreigner

According to the Immigration Act 13 of 2002 (South Africa, 2002) 'Foreigner' refers to "someone who is neither a citizen nor a resident of a particular country". For the purpose of this study, a foreigner refers to a person who has left his/her country of origin to reside in another country temporarily or permanently (operational definition).

1.6.3 Undocumented foreign nationals

The term 'Undocumented foreign nationals' refers to "all persons who enter South Africa without passing through the formal border control procedures" (Human Rights Watch, 1998: 8). In different studies this term is also used interchangeably with other terms such as 'irregular', 'unauthorised' or 'illegal immigrants', 'foreign nationals', 'foreigner' 'foreign persons' (see Segatti and Landau, 2011; Benam, 2011; Duvell, 2011; Centre for Development and Enterprise (CDE), 2010; Berne Initiative studies, 2005). According to the

CDE (2010: 13), 'illegal foreign national' is a concept used mainly by those who associate the disregard of the formal border-crossing procedures with criminal offence, while 'undocumented foreign national' is a concept used by those who view migration issues from a human rights perspective. From these perspectives, immigration issues are seen as a problem that can be dealt with through interstate agreements such as relaxed or free visa policies between two or more countries. 'Illegal foreign national' is a concept used also in the South African Immigration Act and Immigration Amendment Act 13 of 2011 (South Africa, 2011a) to refer to a foreigner who contravenes the provisions of this country's Immigration Acts.

The SAPS *Immigration policing manual* (SAPS, 2008: 14) differentiates between undocumented foreign nationals and illegal foreign nationals by stating that a person who has crossed the border into South Africa and has not yet been able to seek asylum status from the RRO is an undocumented foreign national, whereas those that have had enough time or opportunity to seek asylum status and have not done so are regarded as illegal foreign nationals. The above definitions show how various sectors (legal, academic and police) differ in terms of the use of concepts; such differences seem to be influenced by the functions of the particular sector in question. For example, the police field defines an undocumented foreign national according to their scope of work as compared to the legal sector, which looks at foreign nationals from a human rights perspective. Academic studies use terms such as 'irregular' or 'unauthorised immigrant' simply to refer to unlawful border crossing by human beings (Centre for Development and Enterprise, 2010: 13).

In this study, the concept 'undocumented foreign national' is used to correspond with the terminology used by the SAPS, which is the organisation under the study. In line with SAPS terminology, the term 'undocumented foreign nationals' is used to refer to people living in a

particular country without the formal documentation needed to prove their citizenship status (operational definition).

1.6.4 Asylum seeker

According to the Refugee Amendment Act 33 of 2008, an asylum seeker is "a person who is seeking recognition as a refugee in another foreign country" (South Africa, 2008). This term refers to a person who seeks protection in another country due to intolerable living conditions in his/her country of origin (operational definition).

1.6.5 Refugee

The Refugee Amendment Act 33 of 2008 defines a refugee as a person who has been granted a shelter or place of safety in a foreign country (South Africa, 2008). This is a person who, due to bad living conditions such as wars, political and social or economic instabilities in his/her country of origin, is accommodated in another country for protection purposes (operational definition).

1.6.6 Immigration

The term 'immigration' refers to "the process of entering another country in order to live there" (Longman's Dictionary of Contemporary English, 1995: 711). In this study this term is used to refer to the movement of people from their country of origin into another foreign country (operational definition).

1.6.7 Migration policing

'Migration policing' refers to the government policies that are directed particularly at regulating the behaviours of foreign nationals in a country (Klaaren & Ramji, 2001: 35). For the purpose of this study, this definition also covers the police activities aimed at reducing the numbers of undocumented foreign nationals in a particular jurisdiction (operational definition).

1.7 DEMARCATION OF THE STUDY

According to the Immigration Act 13 of 2002 (South Africa, 2002), the regulation of immigration movement is the main task of the Department of Home Affairs (DHA) and within that process the duty of the South African police is to provide support to this department regarding the implementation of the immigration laws, especially in the arrest of those violating the provisions of this Immigration Act, such as entering the country without legal documents (SAPS, 2008: 14).

Within the scope of this study, the researcher focuses mainly on police experiences of dealing with undocumented foreign nationals in South Africa. The inputs of other role players, such as NGO officials, human rights lawyers, migrant helpdesk officials and the undocumented foreign nationals, on this issue are sought. However, issues such as how the immigration officials at the DHA handle the foreign nationals' applications for visas or the attitude of these members to foreign nationals are not covered in this study. This is to avoid duplicating previous research on the conduct of the immigration officials towards undocumented foreign nationals or undocumented foreign national's perceptions of the DHA (see CDE, 2010 and 2006; IOM, 2011b; Landau & Segatti, 2009).

1.8 THEORETICAL FRAMEWORK

A theoretical framework is regarded as an important part of any qualitative study; whether it is explicitly mentioned or not, it serves as a 'scaffolding' of a study. This is because it directs the researcher's discussions when formulating the research problem and the aims of the study as well as the manner in which the researcher goes about analysing the data (Merriam, 1998: 45). Its purpose is to enhance the understanding of the research problem by proposing explanations of the cause and effects of the problem at hand and by showing the relationship between the data collected and the existing body of knowledge (Anfara & Mertz, 2006). Merriam (1998: 46) states that theoretical frameworks can be obtained in various ways; for example, from concepts, terms or definitions used in particular field or from models used in certain practices and from the knowledge claims developed in other fields of study such as criminology, psychology and education.

Theoretical frameworks (also known as "theories of crime" in the field of criminology) differ in their explanations of the cause and effects of crime and of the types of measures to use during crime control. The three main theoretical frames of reference are:

- The classical frame of reference – in general this school of thought views crime as a result of an individual rational choice, where an individual intentionally decides to commit crime after weighing up the risks and the consequences of his/her conduct. The focus in this frame of reference is on the act committed (crime).

- The positivist frame of reference – in this view, crime results from elements that are beyond one's control, such as an individual genetics, social environment and psychological and biological factors. In this case, it is believed that some people are born with the genetics or psychological factors that influence them to be involved in criminal behaviours, whereas other people are socialised in environments that

unconsciously influence them to commit crimes. The focus of this frame of reference is on the behaviour of the actor (offender).

- The behaviour of the criminal law as a frame of reference – according to this frame of reference, the manner in which the policies on criminal conduct are written and implemented by law enforcement officials can influence people to commit crimes. The focus here is on state legislation and the state response to crime (Vold, Bernard & Snipes, 2002: 8).

It clearly appears from the above frames of reference that each of them is focused on a specific element as the cause of crime. For example, the first school of thought sees crime as a result of opportunities that present themselves to offenders; the second school looks at human behaviour, while the last one regards the rule of the law in which a person is conditioned as the leading cause of criminality.

In every country where criminality is rife, decisions have to be made about the kind of approach to take against those who violate the rule of the law. Hence, the establishments of the conservative right wing and Left Realism perspectives of crime control. The conservative right wing perspective advocates correction measures to punish offenders, such as employing more police officials and securing more funding to sponsor resources for deterring the commission of crime like police street patrols, electric fences and imprisonment of criminal offenders. These are the measures which, according to the conservative right wing, could be used effectively to create social order in society.

With the increasing crime rate in society and more studies showing the negative impact of crime on the victims and the deteriorating relationship between the police and the society, the Left Realism perspective emerged and advocated collective and interactive measures of dealing effectively with crime without using militaristic measures. The Left Realism perspective asserts that social order within the society can be created through a

sound relationship between the state (police and other stakeholders), the offender, the public and the victim instead of a single organisation (Lea, 1992: 1).

This study uses the Left Realism perspective as its frame of reference. This perspective's measure of dealing with crime is deemed relevant to this study because it includes different stakeholders that are affected by the issues of undocumented foreign nationals in the country.

1.8.1 Left Realism perspective

The Left Realism perspective emerged in the mid-1980s in Britain for three reasons: first, as an intervention to the increased crime rate affecting the working class people in United Kingdom (UK); second, as a challenge to single views on the cause of crime; and, last, to promote social democracy in the UK (Lea, 2010: 1). According to the Criminal Procedure Act 51 of 1977 (South Africa, 1977), 'crime' is defined as an "act that is punishable by the law". According to Snyman (1995: 34-199), a person can only be punished for committing a crime if his/her conduct satisfies the following four elements of crime:

- Legality – a person's conduct can be punished by the state if it is clearly recognised within the law of the state in question as a criminal conduct.
- Conduct – it should be clear to the state as to what act the person has committed or omitted intentionally.
- Unlawfulness – a person who violates the convention of community can be punished, unless the state can prove that such a person acted in private defence, consent, necessity obedience or official capacity to others.
- Culpability – a person can be punished for a crime if it is proved that he was mentally fit during the commission of crime. Exemption from punishment is

granted when a person had unintentionally or without knowledge acted against the law on grounds of being a minor, or mentally ill or intoxicated or was provoked.

1.8.2 The Left Realism views on the root causes of crime

In the view of the Left Realism perspective, crime results from a combination of many elements. The three main root causes of crime that are considered in this study are: relative deprivation, marginalisation and subculture.

1.8.2.1 Relative deprivation

Relative deprivation is concerned with inequality among people. This inequality is perceived to be what drives people to resort to criminal actions to measure up their living standard with those regarded as living better lifestyles in their society. It is deemed that people feel relatively deprived if they lack the success they want and if they see that it is possible to attain their wants if they resort to a particular activity, which includes crime. With this desperation of people to be successful in life and the belief that they are capable of succeeding in getting their wants, it is easy for people to turn to criminal activities (Stark & Taylor, 1989: 2). In order words, the desperation to become successful or obtain a certain amount of wealth influences the decision to commit crimes in order to achieve such aspirations. If achieving their aspirations involves cross-border movements, people will do whatever they possibly can to cross to other countries (Stark & Taylor, 1989: 6; 1991: 1177).

According to Merton's strain theory, which also fits into the Left realism perspective, frustrations in people's lives as a result of not reaching their aspirations breed criminal activities. Striving for high life standards pushes people with no means to accumulate wealth to resort to criminal activities as a solution. Within their societies, wealthy people are associated with honesty and hard work and are respected based on these characteristics, whereas poor people no matter how hard they work are disrespected and often given

negative labels such as "lazy and unambitious". These kinds of labels frustrate poor people and at times push them to criminal actions. Thus, Merton blames the cultures within the societies that people live in for institutionalising certain actions/materials as the ultimate requirement for earning respect (Merton in Vold et al., 2002: 136). Merton also argues that the kind of materials/actions being promoted are often found in middle-class people and this is why it creates frustration among lower-class people, who find it difficult to achieve these goals. Merton uses the term 'strain' to refer to the frustrations experienced by lower-class people when attempting to achieve success (Merton in Vold et al., 2002:137).

Merton notes that the values/sets of beliefs that exist with the society dictate what is good and bad and these values do not acknowledge the circumstances of poor people, especially whether they can afford or achieve the goals based on these values. The types of opportunities that prevail to assist those that seek success are often more prevalent in middle-class than in lower-class communities (Merton in Vold et al., 2002: 137). People respond differently to these strains in their environment. Among the coping strategies used, Merton identifies the following modes of adaptation:

- Conformity – in this group are those people who abide by both the society's goals and the means of achieving these goals and often follow these aspirations regardless of how long it will take them to reach their goals.
- Innovation – this group includes people who abide by the society's goals but neglect the stipulated means of achieving them. These people often increase their chances of reaching their goals by becoming involved in activities such as gambling.
- Ritualism – this group has people who not concerned about the goal of being wealthy but rather follow the society's means of achieving a 'decent' life.

- Rebellion – this group has people who care neither about being wealthy nor following the stipulated means of achieving wealth. Instead, these people create their own goals and means of achieving these goals. These people tend to live differently from the rest of the society; an example of these people is gang groups.

- Retreatism – people in this group also reject the goals and means of attaining success set by the society. They only care about attaining their daily bread and do not aim for a higher living standard (Merton in Vold et al., 2002: 146).

Merton's strain theory contributed to the development of the new federal policy on juvenile delinquency in America in the 1950s. This policy encouraged public education and social support for lower-class communities. However, it was criticised for maintaining that frustration influences criminal behaviours, with those who criticised the policy pointing out that not all people who experience frustrations in their lives engage in criminal activities (Merton in Vold et al., 2002: 146).

1.8.2.2 Marginalisation

'Marginalisation' in this context refers to the negative labelling by society of the poor or those people who behave differently from the rest of the community members. It is deemed that the lack of formal representatives in society to represent the needs of the youth, especially unemployed youth, results in lower self-esteem and low aspirations among the youth as well as a lack of concern about society's values on the part of the youth. As a result, the youth will resort to criminal activities such as political activism or unlawful strikes to make their voice heard. According to the Labelling theory (another theory that speaks to Left realism perspectives), the reaction of the public and those in authority towards the criminal offender triggers the offender to associate more with other criminals and to act in a criminal manner.

In turn such labels will push a labelled person away from associating with the non-criminals in society (Cullen and Agnew, 1999: 270).

Braithwaite's theory of shaming states that when a person is shamed for a crime he has committed, such shaming stigmatises the criminal offender and leads them (the criminal offenders) to turn to each other in a form of a subculture as a way of coping with their shame. It is in such subcultures that they will learn from each other more criminal actions and experiment with new criminal methods. These criminal offenders then begin to deviate from the society's conventional ways of behaving (Cullen & Agnew, 1999: 286). This argument relates to Merton's strain theory and to the learning theory discussed below.

1.8.2.3 Subculture

Groups of people that deviate from society's norms and values can lead to criminality if such groups adopt criminal actions as their survival strategy. This statement fits into the learning theory. The learning theory is concerned mainly with how people obtain information/knowledge, where they obtain it and what constitutes the ideas that they learn. This theory distinguishes between the knowledge learnt and the knowledge inherited from birth, by maintaining that certain actions in humans start from birth and progress with a person as he/she ages, whereas certain actions that humans do result from their engagement with other people. For example, when people operate in one environment they could influence each other's actions by merely acting on what they have observed or by their personal engagements. This process is known as 'association', which means learning from other people and identifying with the ideas being sent from these other people. The term 'learning' refers to the process of obtaining knowledge from one's direct experience with a particular activity or indirectly from observing other people's actions (Vold et al., 2002: 155).

Learning through association can take three forms:

- Classical conditioning – this is when a response is triggered by external factors; for example, cold weather may influence a person to wear warm clothes or a ringing telephone may be associated with an incoming call or a message.

- Operant conditioning – this is when people are taught through enforcing certain activities; for example, when a criminal is punished for a crime, this may give the impression that crime is punishable. In this form of learning it is an individual action that triggers the external response.

- Social learning – in this form of learning, people learn from observing other people's reactions towards their environment.

Both classical conditioning and operant conditioning studies have been conducted with animals while social learning has been tested with human subjects, as social learning is considered to require the mental ability associated with human beings. The findings of this study led certain advocates of the learning theory to believe that only social learning is applicable to human beings (Vold et al., 2002: 157).

According to Tarde (in Vold et al., 2002: 158), another form of learning takes place through frequent imitation of the actions of the people that one associates with. This process is known as 'Tarde's law of imitation'. Tarde argues that the more the interaction between people, the higher the imitation of each other's actions. He explains that this kind of learning starts as a periodic act but as time goes by it becomes part of one's lifestyle. It (learning) changes with time; new styles come and go just like fashion. Very often this kind of learning runs from upper class people to the lower class and, for example, within a working environment it is often the junior staff members who copy the senior staff. Thus, Tarde concludes that learning through associating with other people is normal for human beings. However, how effective the learning is depends on how much time a person spends with his/her associates. This law also applies to criminal activity; the more a person associates with criminals, the higher the chances that such a person will imitate criminal actions. Hence,

criminals are believed to be people who happen to have learnt illegal activities unconsciously by associating with the 'wrong' people and eventually imitating those actions.

Another form of learning, learning through association, has been identified by Sutherland. Sutherland calls this type of learning 'differential association'. Sutherland's differential association argues that human beings react towards the things that interest them and those that they can identify with. This means that the meaning that people give to certain actions may pull them towards such actions or push them away from these actions, depending on their views on the matter at hand. People react differently towards certain actions because each defines the matter at hand from his/her own perceptions. During the process of analysing whether a situation is good or bad, each individual will attach a meaning to his/her views and eventually act based on his/her views. The same applies to criminals; criminals act on activities that attract them based on their views of such actions (Sutherland in Vold et al., 2002: 160). Sutherland also states that the frequency, as stated by Tarde, together with the duration, priority and intensity of association, plays a major role in determining how much one will learn from others (Sutherland in Vold et al., 2002:161).

Sutherland further argues that the content of the idea that is being sent has more influence on how people will react than the social conditions that people find themselves in. For example, people act more on the basis of the values inherited from people in their environment than on the basis of the environment itself. This is because people found in a particular subculture share values, norms and rituals; the things they do on a daily basis gives them the meaning of what is right or wrong within such a subculture. In turn, this will influence how they behave in and out of their environment, including when they wish to engage in criminal activities (Sutherland in Vold et al., 2002: 171).

Akers (in Vold et al., 2002:172) states that the learning process in human beings can take place through both direct (social) interaction and indirect (operant conditioning) interaction with people. Akers' views are referred to as 'differential reinforcement/different social learning', which emphasises that humans are not limited to learning only through social learning. His opinion on learning is that learning can take place simply by observing other people's actions and the consequences following those actions. He further argues that often people resort to doing things that would not put their lives in danger, and through observation they can adopt behaviours that have proved to have positive benefits. It can be deduced from the above discussion the Left Realism perspective of the causes of crime is multifaceted, in that it draws from various causes, including individual aspirations and social influences.

1.8.3 Left Realism perspectives on crime control

'Crime control' refers to the actions taken prior to and/or after the occurrence of crime. Actions taken before the occurrence of crime may involve the steps taken by individuals or community members to avoid areas or activities that can lead to them becoming the victims of crime. Actions taken after the crime occurrence may include those undertaken by the police to ensure that the victims of crime are protected and the criminal offender is arrested (Bezuidenhout, 2011: 367).

Six types of crime control are available:

- Crime control by environmental design – this is where the design of buildings or development of areas incorporates elements that will lead to the identification of criminal activities, such as the installation of CCTV cameras, private security, electric fences and buildings accessed with identification cards.
- Crime control by the victim – this is where the victim himself takes actions that will prevent him from being re-victimised such as being cautious on the street.

- Crime control by the community – this is where members of the public form police forums and share information with the police in order to eliminate potential criminal activities.

- Crime control by the police – this is where the police conduct roadblocks or street patrols in order to check the presence of criminal actions and to arrest those found committing crimes.

- Crime control by the correctional services – this is where criminals that are life threatening to the public are kept away in prison cells.

- Crime control by the courts – this is where the court system ensures that fair trials are conducted and justice is ensured (Bezuidenhout, 2011: 368-369).

According to Young (in Stenson and Cowell, 1991: 146), Left Realism is a *"social democratic approach to the analysis of crime and the development of effective policies of crime control"*. Identifying the reality of crime for the victims who are mainly lower-class people is a vital source of strength in creating social order and eliminating the oppression of the lower class. This entails empowering lower-class people within the society.

Left Realists also advocate social justice as the means of attaining social order in society. Social justice emphasises three principles:

- Collective responsibility of dealing with the causes of crime – this means promoting equality between different classes of people, ensuring that the disadvantaged people in society are protected, have equal access to resources and opportunities, and receive fair treatment by the law.

- Self-empowerment – this means that an individual can freely participate in workplaces and be allowed to exercise their basic human rights in society.

- Human dignity – this means that people are given respect by virtue of being human beings (National Pro Bono Resource Centre, 2011: 4). It can be deduced that human rights are intertwined within the notion of social justice/social democracy, meaning

that individual human rights go hand in hand with social justice and more so with human security, which advocates social justice beyond a country's national borders. In terms of the Universal Declaration of Human Rights (1948), 'human rights' refer to the privileges that a person inherits simply by being a human being. This includes the rights to citizenship and movement and the right to be treated with dignity and respect.

A Left Realism perspective further advocates human security. The concept of human security was first introduced in the Human Development Report (HDR) of 1994 as a way of encouraging collective responsibility between people and between various countries. According to the HDR (1994: 22 and 24), this concept is concerned with "human life and dignity" and is also "embedded in the notion of solidarity among people". Its components include: economic security, food security, health security, personal security, environmental security, political security and community security. From this perspective, human issues are perceived as matters that cannot be dealt with in isolation but rather in a holistic manner. Human security is also perceived to have the following characteristics:

1) It is a worldwide concern, meaning that matters that affect human beings affect not only poor countries but also the lives of those in rich countries. Such issues are not restricted to one border, but cross the borderlines from one country to another.

2) Its components work in relation to one another, meaning that a country with political instability is prone to experience economic issues that can affect the social or health status of the society and can result in the high migration of people to neighbouring countries. Addressing the political issues of a particular country may also require the economic and social issues of that country to be considered as well.

3) It requires pro-active solutions rather than reactive ones. This means that there should always be contingency measures that guard against the eruption of this kind of human security concern.

4) It is a people-oriented approach. This means that it supports any measures that are concerned with non-militaristic methods to address people's needs. It cares more about the livelihood of people regardless of their country of origin than militaristic methods. This approach also promotes the sustainable development of people; that is, it strives to create an environment that is conducive to the liberation of people (HDR, 1994: 22-23).

In short, human security encompasses two components: "the freedom from fear and freedom from want". 'Freedom from fear' refers to concerns regarding civil wars, genocide, crime, poverty, disease, job losses and terrorists while the 'freedom from want' refers to concerns such as human rights violations (HDR, 1994: 24).

The publication of this report in 1994 stimulated discussion on the meaning of the concept 'human security'. Although the above definitions and explanations of human security were provided in the HDR of 1994, scholars such as Paris (2001: 92) and Akuffo (2011: 225) criticised this concept as defined in the HDR as being too broad and as being confusing to policymakers. Paris (2001: 96) argued that this concept would create a dilemma for implementing government policies because every component identified within the human security approach is regarded as a matter of priority.

Paris (2001: 89) interpreted the main two components of human security as being: "safety from chronic threats such as hunger and repression; and the protection from sudden and hurtful disruptions in the pattern of daily life – whether in life, in jobs or in the communities". Offering another view point, Akuffo (2011: 226) interpreted human security as the "protection from both violent and non- violent threats to individuals". It can be deduced from the above

debate that the word 'fear' is viewed by scholars as an ambiguous word that exaggerates the extent of human problems, with many scholars believing that it relates to almost every concern raised by people as an issue of priority.

According to the Left Realism perspective, a sound relationship between the criminal justice system (police), the general public, the criminal offender and the victim of crime are a meaningful combination for overcoming criminal activities. A poor relationship between these four elements could breed criminality and lack of social order in society.

The following requirements should be met to achieve a sound relationship between the police, offenders, victims and members of the public:

- The police should avoid activities that divide people into social classes or create inequality within the society. These include activities such as unfair treatment of people and racial profiling.
- Efforts should be taken to eliminate the root causes of crime. In this way the criminal offender should be provided with assistance that will enable him to achieve his aspirations in life without resorting to criminal actions. These include government and non-governmental efforts to address the needs of the poor.
- The victim should be equipped with knowledge and skills that will protect him from being victimised or feeling threatened by external factors.
- The public should work closely with the police in combating criminal activities in order to create a relationship of trust with the police (Lea, 2010: 142-144).

1.9 CHAPTER LAYOUT

This chapter (Chapter 1) presents a general overview of the study. This includes the research problem; the rationale, aims and objectives of this study; and the demarcation of the study. It also covers the theoretical framework of the study.

Chapter 2: Research methodology. Chapter 2 focuses on the methods used to achieve the objectives of this study. The chapter presents the research approach, designs, and data-collection methods, and outlines the ethical considerations and the measures used to ensure the trustworthiness of the study and the data-analysis method followed.

Chapter 3: Undocumented foreign nationals in South Africa. The focus of this chapter is on the nature, causes and impacts of undocumented foreign nationals in this country.

Chapter 4: Immigration policing in South African. Chapter 4 discusses the background of the key agencies in immigration policing and the legislation regulating the policing of immigration issues.

Chapter 5: International experiences of immigration policing. Chapter 5 examines how other countries globally deal with undocumented foreign nationals.

Chapter 6: Presentation of the research findings. This chapter reports on the findings of this study.

Chapter 7: Conclusion. This chapter summarises the research methodology, the literature review and the findings of this research study. On the basis of the research findings, it presents a model that could be used to deal with undocumented foreign nationals within the constitutional framework of this country.

1.10 LIMITATIONS OF THE STUDY

According to Creswell (2003: 7), a research study is never without shortcomings – either from the researcher's side or from the research procedures. In order to increase the trustworthiness of this research study the researcher highlights below the limitations she encountered during the study:

- Prohibited tape recordings and cameras within the port of entry

  At the port of entries no cameras or tape recorders were allowed. This meant that the researcher could not record the interviews she was conducting. To counter this limitation, the researcher used member-checking (asked same question differently to one person in order to determine the accuracy of the answers given) and comparing of the information given by the research participants to check whether there were similarities or differences in terms of the data given by the research participants.

- Refusal of interviews by some stakeholders

  The researcher's intention to obtain the opinion of the DHA on this topic was thwarted by the DHA's refusal to be interviewed on the topic. For this reason, the researcher had to rely on the information she obtained from the literature review and from the interviews with the police officials, foreign nationals (both documented and undocumented), International Organisation for Migration (IOM), City Of Johannesburg Migrant helpdesk and human rights lawyers as well as her observation of the field of study.

1.11 SUMMARY

This chapter presented a general overview of this study, including the research methods followed in order to answer the research questions. The chapter outlined the research problem, the aim and the objectives of this study and the significance of this study and clarified the key concepts used in this study. It also outlined the structure of this study together with the limitations and demarcations of the study. The purpose of this chapter was to acquaint the reader with the topic of the study, the theoretical framework underpinning this study and what to expect of the next chapters.

CHAPTER 2: RESEARCH METHODOLOGY

2.1 INTRODUCTION

This chapter focuses on the research methodology followed in this study. The methodology of the research is the process that the researcher follows to achieve the objectives of the study. This process includes deciding on the approach to the research, the research subjects/participants, the strategy of inquiry to be followed and the methods of data collection and analysis (Babbie & Mouton, 2010: 103).

2.2 RESEARCH APPROACH

This study adopted a qualitative research approach. A qualitative research approach is the approach the researcher uses when their aim is to obtain knowledge about social reality based on the research participants' experiences of the phenomenon being studied. The aim of this approach is mainly to establish new ways of looking at and understanding a particular phenomenon through the analysis of human experiences of their social reality (Creswell, 2003: 18). This approach is characterised by the following elements:

- It uses inductive logic, which is beginning with little knowledge and developing a theory of the phenomenon being studied.
- It is a time-consuming and costly approach because the researcher in this case is often compelled to travel to the research settings when collecting data, especially for in-depth interview purposes.
- Despite the travelling expenses, this approach provides the researcher with the opportunity to meet the research participants face to face and to observe the participants' emotions regarding the problem at hand.

- Because the study is aimed at obtaining in-depth knowledge from a small group of participants, the findings of this study cannot be generalised to the entire population (De Vos, Strydom, Fouche & Delport, 2005: 73-75).

This approach differs from the quantitative approach to research in the sense that the quantitative research process uses deductive logic. It is aimed at testing a research problem in order to verify an existing knowledge claim about social reality. As a result it focuses on large groups of participants and researchers, using this approach collect their data through methods such as emails, telephones, posts and fax machines so that the researcher is not required to visit the research site personally (De Vos et al., 2005: 73-75). After weighing up the two approaches, the researcher considered the qualitative approach best suited to this study because it would enable the researcher to understand the research problem better when observing and conducting in-depth interviews with the research participants.

2.3 RESEARCH DESIGN

A research design (also known as a strategy of inquiry) is like a recipe that guides the researcher on how to find answers to the research problem (De Vos et al., 2005: 269). According to Denscombe (2007: 78-79), human beings are not submissive actors of the rules or laws in society or in their workplaces but instead are active participants who are continuously interested in making sense of their lived experiences. This occurs through individuals' interpretations of their social reality or through shared meaning that is created by a group of individuals who participate in the same environment (social reality). A research design that was phenomenological in nature was chosen because it was expected to enable the researcher to obtain information directly from participants who had firsthand experience of the issues of undocumented foreign nationals in the country. For example, the individual

police official's views of this issue together with the views he/she share with his/her colleagues were considered useful. With this design the researcher expected to be able to:

- Gather new information that had not yet undergone the analysis processes;
- Present the research participants' ideas and reasoning as honestly as possible; and
- Gather different views on the research problem based on how each participant views his/her social reality, depending on the factors (time or circumstances) that influence such experiences (Denscombe, 2007: 77-79).

The negative side of using a phenomenological research design is the difficulty the researcher may have in being objective or not being influenced by her preconceived ideas on the problem being studied. A further negative is the difficulty of ascertaining whether the research participants are telling the truth or not (Denscombe, 2007: 85-86).

According to Babbie and Mouton (2010: 79), each research design is applied for a particular reason, which is to describe or explore or explain the research problem. In this study the researcher aimed to explore the research problem. An exploratory study advances the knowledge of a problem that is not well known. This was expected to be of advantage to this study as it would provide the researcher with new information. The disadvantage of using exploratory studies is that the findings cannot be generalised to the whole population, but represent only the small group that was interviewed (Babbie & Mouton, 2010: 80).

2.4 RESEARCH POPULATION AND SAMPLING

Babbie and Mouton (2010: 174) define a population as an "aggregation of the elements from which the sample is actually selected". For the purpose of this study it 'the population' refers to the total number of people from which the research participants were chosen; that is, the police officials serving in the SAPS and the human rights lawyers dealing with the cases of foreign nationals, the foreign nationals staying at refugee shelters and those found conveniently at the port of entry, the members of the NGOs and the Migrant Helpdesk officials.

Out of this population, a sample unit was selected by the researcher. A 'sampling unit' refers to the group of participants drawn from the research population to serve as a representative group of the research population (Babbie & Mouton, 2010: 174). There are two forms of sampling method in the social sciences: probability and non-probability sampling. Probability sampling is differentiated from non-probability in the sense that it selects the research participants randomly and all participants have a similar chance of being selected for the study. In contrast, in non-probability sampling the participants do not have the same chance of participating in the study (Babbie & Mouton, 2010: 166-171).

A non-probability sampling method was adopted as best suited to the nature of the study. The reason for this was that this study intended to explore the problem being studied rather than to generalise the findings. The researcher use three forms of sampling methods: purposive sampling, snowball sampling and the convenience sampling method to draw the research participants from the research population. The advantage of using purposive sampling is that it enabled her to select participants such as police officials that would be able to answer questions derived for this study based on their experiences. Snowball sampling is used in situations where the researcher is not familiar with the location of the research participants, such as the human rights lawyers in this case. In this case, one

research participant was approached first and asked to direct the researcher to the next one and so on and so on (De Vos et al., 2005: 329). Convenience sampling is used in cases where it is not easy for the researcher to access the research participants by following the formal procedure of making appointments. Therefore, whoever fits the criteria of the participants required is approached on the spot and asked to participate in an interview session (Denscombe, 2007: 18). In this case this method was used on foreign nationals walking in and out of the port of entry. In terms of the criteria, the researcher identified only those people that were walking passed the port of entry either carrying plastic bags or luggage or showing signs of running errands.

By following a purposive sampling method, out of nine provinces four provinces were selected for this study. This includes the three provinces with the busiest port of entry (Limpopo: Beit Bridge border post; Mpumalanga: Lebombo border post; and Free State: Ficksburg border post) together with one province that has the largest number of undocumented foreign nationals (Gauteng). The researcher identified the provinces with high numbers of undocumented foreign nationals from the SAPS International Obligation Unit database. This database contains the records of the arrest rate of foreign nationals from all police stations in the country.

In the provinces with a port of entry only two police stations (one at the port of entry and the other in the community) with a high number of arrest rates of undocumented foreign nationals were selected for the study. In the province without a port of entry, only the police station situated in the central business district was chosen because of its high concentration of undocumented foreign nationals. A total of seven police stations affected the most by this problem were selected for the study. In each police station that was chosen, the commissioned (senior) and non-commissioned (junior) police officials were requested to participate in an interview session.

The snowball sampling method was used to identify the human rights lawyers, the NGOs and the local government helpdesks that dealt with cases of undocumented foreign nationals. These lawyers were expected to be able to provide the researcher with information regarding the general issues encountered with undocumented foreign national cases, while the NGO and the Migrant Helpdesk officials were expected to give information on the overall nature of this issue. In addition convenience sampling was used to obtain inputs from the foreign nationals walking through the port of entry about their daily movements across the border.

A total of 44 participants were interviewed: 22 junior police officials and 6 senior police officials plus 2 human rights lawyers, 3 members of an NGO and 10 undocumented foreign nationals as well as 1 official from the City of Johannesburg (CoJ) Migrant Helpdesk. The researcher stopped interviewing more people after the data reached a saturation point, which is when no new information is received from the research participants.

2.5 METHODS OF DATA COLLECTION

Three data-collection methods were used in this study. These are explained below.

2.5.1 Interviews

For this study, one-on-one semi structured interviews were conducted with all the research participants. A one-on-one interview is a form of interviewing in which the number of participants is limited to two people, in this case the researcher and the research participant (De Vos et al., 2005:292). The one-on-one mode of interviewing was chosen to ensure that each participant's answers were not influenced by other participants' opinions. They also make it easier for the researcher to control the interview session and to set up appointments with the interviewees (Denscombe, 2007: 177). Semi-structured interviews, on the other

hand, make use of a schedule of questions that guides the type of information which the researcher wishes the research participants to focus on (De Vos et al., 2005: 292).

2.5.2 Observations

The researcher took field notes about what she observed when visiting the port of entries and also her observations regarding the non-verbal communication skills displayed by the participants during the interview sessions (especially the emotions displayed by the research participants regarding this problem). Observations allow the researcher to obtain the non-verbal language and unspoken words or actions of the research participants and the environment pertaining to the research problem (De Vos et al., 2005: 281).

2.5.3 Document analysis

According to De Vos et al. (2005: 317), there are different forms of documentation which can be analysed for research purposes; for example, personal documents such as diaries; mass media documents like newspapers; official documents such as government files; training documents; and archival materials stored in the museums. This study analysed the training manuals used by organisations that train the public and the police on the matter of undocumented foreign nationals. These manuals include the CoJ Migrant Helpdesk manual and the IOM training manuals.

The advantages of doing document analysis are that it saves the time and money required for visiting different research sites and prevents the study from being influenced by the researcher's preconceived ideas about the research topic. In this case document analysis allowed the researcher to analyse the kind of training provided to the police and the public by the above-mentioned organisations (Hodder, 2000: 709; De Vos et al., 2005: 319).

The disadvantage of doing document analysis is that the documents to be analysed might be too many and unmanageable or require a lengthy period of time for analysis. Such

documents might not have all the information the researcher needs and since they are often not collected for research purposes the people who collected such documents and the quality of the procedures used for data collection might be questionable. The style of writing used in such documents might not be clear to the researcher or the data might be arranged in such a way that it is difficult for the researcher to conduct a proper analysis (Hodder, 2000: 710; De Vos et al., 2005: 319).

2.6 DATA ANALYSIS

'Data analysis' refers to a process of interpreting and giving order to a large amount of data (De Vos et al., 2005: 333). In this study, the researcher adopted the Tesch data analysis method (Tesch, 1990: 142-145). This method was considered suitable for this study because it made it easier for the researcher to analyse textual data as well as to identify themes as they emerged from the data.

Tesch's eight steps process is as follows:

Step 1: Read through the transcriptions one by one and identify the pattern of experiences (themes) in order to get an overview of the findings.

Step 2: Read a few of the transcripts with the aim of understanding the "meaning behind the message".

Step 3: List all the emerging themes and group together those that belong to similar categories.

Step 4: Link the identified themes with the relevant segments of text.

Step 5: Double check for duplication in the list of themes and merge together the themes that belong to the same category.

Step 6: Clarify the names of the themes identified.

Step 7: Organise the data materials by placing together those that fall under the same category.

Step 8: Check for segments of data that were missed during the coding process and if necessary recode the data.

2.7 STRATEGIES TO ENSURE TRUSTWORTHINESS

According to Krefting (1991:2), it is impossible to test the validity and reliability of a qualitative study because qualitative studies intend to give meaning to human actions. For Krefting (1991), this is why alternative methods should be used to test the credibility of qualitative studies.

On the other hand, Rolfe (2004: 304) asserts that the task of the researcher includes making sure that the findings of the study can be proved without a doubt. This means that every step taken during the research process should convince the reader that the results are possible for verification or are the true reflection of the original data. He also argues that qualitative and quantitative studies differ on the basis of the methods used to collect data and on the purposes of the study. This is not a good enough reason to prevent qualitative researchers from using quantitative research methods and verifying such data. In addition, he points out that the findings in a qualitative study can be verified as in quantitative studies. The researcher has to inform their readers of how the results were obtained and what constraints were encountered. By following such a process and taking into account the constraints encountered during the study, the validity and reliability of qualitative studies can be achieved (Rolfe, 2004: 305-308).

'Validity' refers to the extent to which the results represent the truth of the original data collected from the research participants, whereas 'reliability' refers to whether the process used to obtain data if repeated would produce similar results (Babbie & Mouton, 2010: 119 &

122). The above discussion shows that the issue of whether the validity and reliability of a qualitative study can be tested is inconclusive because different scholars argue differently on this issue. However, for the purpose of this study the researcher ensured the trustworthiness of this study by adopting the criteria developed by Lincoln and Guba (in De Vos et al., 2005: 351), which are credibility, transferability, dependability and confirmability.

2.7.1 Credibility

'Credibility' refers to how well the researcher obtained the research results and to what extent the results represent the information obtained from the participants. To ensure the credibility of this study, the researcher used triangulation, which involves using different methods of confirming the accuracy of the data obtained (Denscombe, 2007: 135). In this case the researcher first tape recorded the interview sessions and ensured that the data was transcribed word-for-word. The researcher then undertook member checking, in which she asked the same question differently or at times rephrased the participants' answers in order to confirm whether what they had said was a true reflection of what they meant. The researcher then compared the answers given by different participants and checked the points of similarities and differences. Where possible, she asked further questions to ascertain the trustworthiness of such information. Different participants in this case were the police, undocumented foreign nationals and NGO members. The answers of these groups were compared with one another.

2.7.2 Transferability

'Transferability' refers to the extent to which the research results could be used to address similar issues in different contexts following the same process. To ensure transferability, the researcher ensured that the demographic data (such as a person's age, racial group and gender) used in this study when collecting data together with constraints encountered were outlined. This was expected to assist in case the findings were used in other contexts to determine to which kind of research participants the research could be replicated on and yield same findings.

2.7.3 Dependability

'Dependability' refers to the possibility of repeating the research process with the same participants in the same environment as used in the original study and yielding similar results. The researcher ensured dependability by recording the participants' responses and making field notes on her observations as well as by incorporating a member-checking strategy to enhance the credibility of the study.

2.7.4 Confirmability

'Confirmability' refers to the neutrality of the researcher in the research process. This means that the researcher should be objective and refrain from influencing the research results as much as possible. To ensure the confirmability of this study, the researcher adopted the 'bracketing' method, which according to Denscombe (2007: 81) means preventing one's personal experiences, ideas or cultural background from interfering with the answers given

by the research participants. The researcher was as open minded as possible and avoided leading the participants to the answers she (researcher) hoped to obtain.

2.8 ETHICAL CONSIDERATION

To ensure that the research participants were protected in this study, the researcher adopted the principles identified by the Belmont Report (in Amdur, 2002:3-30). This report provides clear guidelines on what is acceptable and not acceptable when conducting a study that involves human subjects. The Belmont Report emphasises three ethical principles: respect for people, beneficence and justice.

2.8.1 Respect for persons

This principle emphasises respect for participants' feelings. This means that when studying human actions, the researcher should take into account human privacy and basic human rights. Participants should voluntarily participate in research and be protected from any harm caused by the research. The details, process and the consequences of the research should be discussed with the participants before commencing with the research, so that when they take decisions they are aware of what will happen. Regardless of the participants' mental or physical abilities or disabilities, they should be treated with respect. Sensitive or personal information that a participant provides to the researcher should be treated with confidentiality and who will have access to such information should be identified to the participants (Amdur, 2002: 24). In this study, the researcher ensured the respect of the participants by requesting each participant to give their consent for participating in the study voluntarily and to allow each participant to terminate their involvement if they wished to. In addition, the researcher obtained permission to conduct this research from the SAPS Strategic Management Division and from the University of South Africa- the university hosting this qualification.

2.8.2 Beneficence

This principle obliges researchers to have sympathy towards their research participants by putting themselves (researchers) in the shoes of the participants and understanding how it would feel to be in the participants' position. By doing this, researchers will be aware of the risks and/or benefits that may accompany their study (Amdur, 2002: 28). The researcher used this principle to guide the research process and questions and to inform her of how to deal with issues such as a participant becoming emotional. At the refugee shelter where the interviews were conducted with undocumented foreign nationals, the social worker on duty was asked to be of assistance if something went wrong.

2.8.3 Justice

This principle states that the researcher should be fair when selecting their research participants. This means that the participants should be selected because they fit the purpose of the study and not based on their weaknesses or the advantage that the researcher will have over them. The fairness of the study should be evaluated on the basis of how much it will benefit the participants rather than how the researcher or the organisation sponsoring the study will benefit (Amdur, 2002: 30). In this case, the researcher ensured that the basic human rights of the participants were not compromised for the research gains and that the research sites (such as the refugee shelters and police stations) were left undisturbed by the researcher's presence.

2.9 SUMMARY

This chapter discussed the methodological process that the researcher followed to answer the questions addressed in this study. The kind of research method that the researcher adopted at each step of the study was discussed to increase the transparency of this study and to acquaint the reader with how the data was collected and analysed. Attention was also paid to the ethical considerations in this study because of the sensitivity of the information provided by refugees.

CHAPTER 3: IMMIGRATION POLICING IN SOUTH AFRICA

3.1 INTRODUCTION

Within the Southern African Development Community (SADC), each member state is responsible for managing immigration issues according to its preferences or domestic legislation. There are no central regulations regarding undocumented foreign nationals for the whole SADC region (Hughes, 2007: 48). This makes the decision to include or exclude foreign nationals in a particular jurisdiction the sole responsibility of the host country (Edwards & Ferstman, 2010: 6). International conventions, protocols and treaties also provide guidelines on how the member states should address issues related to immigration. The role of the police regarding immigration issues differ slightly from one country to another, depending on the domestic legislation of the country in question. In this context, the discussion in this chapter focuses on the various agencies and legislations used in South Africa to regulate immigration issues.

3.2 SOUTH AFRICAN LEGAL FRAMEWORK ON IMMIGRATION

The South African legislations regulating migration related issues are discussed below together with the extent to which these legislations are followed or ignored by the responsible agencies.

3.2.1 The Constitution of the Republic of South Africa Act 108 of 1996

Section 33 of the Constitution of the Republic of South Africa Act 108 of 1996 (South Africa, 1996) provides everyone staying in this country (including foreign nationals) with the right to humane treatment and dignity as well as fair administrative practices. In addition, Section 35 of this Act provides that a person who is arrested by the police for committing a crime should

be brought before a court of law within 48 hours after the arrest. Such a person should be informed of why he/she is arrested and be provided with the reasons as to why he/she should be locked up in prison or released. If he/she is to be detained for more days, she/he has the right to a fair trial and to be represented by a legal consultant if possible. During the detaining phase, the detainee has the right to be housed in a decent place that meets the basic standard of living. However, in South Africa it appears that what happens within the foreign nationals' detainee facilities is the opposite of what the Constitution provides. This was evident in the study conducted by Pineteh (2010: 75) in Johannesburg, in which some of the research participants recalled being treated like criminals in a camp with 24-hour patrol officials and surveillance cameras and surrounded by an electric fence.

The lawyers for the Human Rights Commission have indicated that the South African police and immigration officials should be held accountable for the violation of foreign nationals' rights and for not following the correct court procedures (City Press, 2012). This statement was made after the lawyers for Human Rights Commission were denied a visit to their clients at the Lindela repatriation centre. Some of these lawyers observed that certain foreign nationals are detained illegally and for long periods with no update as to what the repatriation centre will do with them or when they will be released or deported back to their countries. For the majority of these foreign nationals, these living conditions are frustrating, especially to those with health problems. These foreign nationals find themselves stuck in a facility with poor basic services (such as medical treatment) and are powerless to do anything about their conditions (City Press, 2011).

3.2.2 The South African Refugee Act 130 of 1998

The South African Refugee Act 130 of 1998 (South Africa, 1998b) also emphasises that a person should be granted a visa to stay in the country only if such a person's life will be in danger if they go back to their country of origin. A failure to convince the immigration officials

about the risk of going back to their original country could result in no visa for the applicant. The Act also grants legal protection to refugees as well as permission to appeal any decision made against them. Until the application process is finalised, no person shall be arrested provided they can produce a document proving that they are still waiting for a response from the DHA. A refugee permit is subjected to withdrawal if the applicant contravenes the stipulated terms and conditions such as engaging in illegal activities while in the country. According to this Act, overstaying a refugee permit period is deemed an offence, which is punishable through a fine or imprisonment.

The Civil Society Organisation (2006: 16-25) criticises this Act for borrowing the definition of a refugee from legislation as old as the 1951 UN Convention on Status of Refugees. The Civil Society Organisation further argues that this (1951 Convention) legislation's definition is broad and is understood by law enforcement officials differently, causing confusion about who really qualifies as a refugee and who does not. This law grants asylum seekers the right to a fair administration and to stay in the country they have applied to until a temporary refugee status is obtained provided they respect the laws of this country. However, most foreign nationals do not access these rights because they are arrested while waiting for legal documentation or detained for long unnecessary periods without receiving proper treatment.

3.2.3 The Immigration Act 13 of 2002

The Immigration Act 13 of 2002 (South Africa, 2002) regulates admissions of non-citizens so that temporary and permanent visas are processed efficiently and effectively. The Acts states that no person shall enter or leave this country at any place other than the port of entry (unless special permission is granted). In order to enforce this law, this Act provides that the SAPS should stop and check the identities of the suspected undocumented foreign nationals and arrest those in contravention of this law and report them to the DHA before deportation. The types of visas offered in this country include the temporary residence visa,

visitor's visa, study visa, diplomatic visa, treaty visa, business visa, crew visa, medical visa, relative visa, work visa, retirement visa, corporate visa, exchange visa, asylum seekers' visa, and cross-border and transit passes. All these visas have basic requirements or terms and conditions, which should be met by the applicant before a visa can be granted.

Before a final decision can be made on their application status, an applicant should be given 10 days to bring in a representative, and 20 days after the decision is made the applicant can make an appeal to such a decision. In circumstances where an applicant is arrested, they should be taken for examination within 48 hours and not be detained for more than 30 days unless the court requires so. In addition, anyone found to be assisting foreign nationals to obtain visas unlawfully shall be guilty of a criminal offence and be punished through a fine or imprisonment.

This Act further states that if an immigrant is married to a South African citizen or has obtained a permanent resident permit they can only hold on to such permanent status if they remain in that marriage for more than three years. If they divorce the South African citizen within three years then their permanent status should be reconsidered. This statement has been criticised because people may remain in abusive relationships for the sake of reaching the three-year period required to qualify for permanent status (SA FM, 2010).

In terms of foreign spouses, the spouse should apply for a permanent residence permit while in the country. Other than that, there are no standards or criteria put in place to refuse such an application. Therefore, the decision whether or not to grant a permit lies at the immigration officer's discretion (SA FM, 2010). SA FM (2010) argues against the use of one's discretion by stating that there is a need for a policy that would govern these decisions. The Constitution clearly stipulates that spouses have the right to stay together. Therefore, an immigration official that rejects a spouse's request to stay with their partner is violating such a spouse's fundamental rights. This piece of legislation makes it difficult for immigration officials to determine whether the applicant applies for permanent citizenship on

the basis of the genuine reason of being married or for other personal reasons that if used for seeking permanent status might not be accepted.

The Immigration Act 13 of 2002 (South Africa, 2002) prioritises investors, entrepreneurs and expert foreigners by making it easy for them to obtain work permits while placing at the bottom of the list poor foreign nationals who intend to work in the mines, on farms or as street traders. All these people are afforded corporate permits. This corporate permit may only be obtained if one has valid citizenship status or else can be applied for directly after six months. According to Majodina (2002:75), the South African policies should recognise the roles of the neighbouring countries in relation to the country's historical background and thus adopt a policy that may grant both semi-skilled and skilled foreigners the same benefit of the law.

3.2.4 The Immigration Amendment Act 13 of 2011

The Immigration Amendment Act 13 of 2011 (South Africa, 2011a) followed the Immigration Act 13 of 2002. It improves the conditions for offering asylum status to immigrants. For example, it provides that a temporary visa should be issued to new immigrants and such a permit is valid for five days. This gives an opportunity to undocumented foreign nationals to travel to an RRO and file for an asylum-seeking permit. After the five days if that person has not secured an asylum-seeking permit then they shall be deemed an undocumented foreign national. Permanent residence permits should be offered to a foreign national who has a work permit for a period of five years and has secured permanent employment in the host country.

Furthermore, if an immigrant is a spouse of a citizen or permanent resident for five years and it is evident that a good faith spousal relationship exists, a permanent citizenship permit could be granted. However, if within two years of such permanent residence being granted the relationship proves to be dysfunctional then the permanent citizenship status is bound to

be revised at any time. According to Amit (2011: 16), it appears that this piece of legislation ignores the backlogs endured at the RROs when filing for an asylum-seeking permit. Some foreign nationals have attempted to secure asylum permits on many occasions without success due to the backlogs at these offices.

This Act also amended the imprisonment period given when the principal Act is contravened. For example, it provides that anyone who overstays their visa period or enters or leaves the country illegally should be deemed guilty of an offence and be fined or imprisoned for a period of not more than two years instead of three months. It also provides that a person who does not leave the country after being expelled shall be deemed guilty of an offence and be punished with a fine or an imprisonment of not more than four years instead of the initial nine months. Furthermore, it provides that assisting a person to obtain a visa outside of the legal procedures and/or authorisation of the DHA is a fraudulent activity and anyone found guilty of such an offence should be punished with a fine or imprisonment of not more than eight years instead of the initial four years.

3.2.5 South African Police Service Act 68 of 1995

The South African Police Service Act 68 of 1995 (South Africa, 1995) provides the police with the powers to arrest suspects without a warrant. Section 38 of this Act provides that at any time and place within the boundaries of this country the police should (during roadblocks or checkpoints) stop and search and arrest a person without a search warrant if such a person is suspected on solid ground to have items related to a criminal offence or to have committed an offence. The police powers in this Act extend the provisions of Section 40 of the South African Criminal Procedure Act 51 of 1977 (South Africa, 1977), which also emphasises that the police may without a search warrant arrest a person that is suspected to be involved in a criminal offence, provided that they inform such a person of his rights and

the reason for arrest immediately. The arrest is expected to be carried out with decency and in an orderly manner that is without harm to the suspect.

However, as mentioned in Chapter 1, many studies have indicated that members of the SAPS abuse their powers during daily operations when dealing with foreign nationals in this country. This abuse of power includes activities such as demanding bribes from foreign nationals or having stereotyped or prejudiced ideas about foreigners and acting according to such ideas. These assertions are supported by a case that appeared on SABC 3 news (2013), when a foreign national from Mozambique, who operated as a taxi driver in South Africa in the Daveyton area outside of Johannesburg, was tied to the back of the police van by eight police officials and dragged up to the police station. According to the police in question, this inhumane conduct was a means of securing an arrest of the suspect for his alleged crime of parking his vehicle in the wrong spot of the road.

3.3 INTERNATIONAL LEGAL FRAMEWORK ON IMMIGRATION

The International legal frameworks that guide how individual countries should deal with issues pertaining to migration issues are discussed below.

3.3.1 The 1951 UN Convention Relating to the Status of Refugees

This convention provides a definition of who is a refugee, what are refugees' rights and how the host country should treat refugees. This convention also indicates that an asylum seeker has to convince the host country that they need refugee status and that their life will not be safe if they return to their country. For instance, political instabilities could result in most people migrating to other countries due to the physical abuses experienced in their countries, inability to go to school, poor health systems and unfair evictions.

According to the Human Rights Watch (2008:73-75), the above factors are sound enough to be used as reasons for being granted refugee status in another country following the 1951 Convention Relating to the Status of Refugees. Furthermore, these are among the factors

that have contributed to the migration of most Zimbabweans to South Africa. The reason is that their lives were in danger because they were inhumanly evicted and their government did not protect them. Fearing for their lives they migrated to neighbouring countries such as South Africa. However, in this country asylum seekers often were denied refugee status because they could not provide the immigration officials with a good enough reason for preferring to reside in the country. Most of the foreign nationals wanted to migrate for economic reasons, to find employment opportunities and on a monthly basis send remittances and foodstuff back home to support their families. Many immigrant officials use this reason (of sending remittances back home) as an excuse not to grant visas to these people (Human Rights Watch, 2008:78).

When an immigrant official decides whether the applicant fears going back to his country the following should be examined as well: the nature of the risk, whether such an applicant's life will be in danger when he returns to his country; and what the applicant's activities will be when he gets back to his country (Human Rights Watch, 2008: 79-80). Although the idea of determining the nature of the applicant's risk can ease the application process, it will be demanding of the DHA resources and add to the current backlog in applications.

Palmary (2009: 6-8) argues that the legislation governing immigration movement in the country is complicated and confuses the policing agencies. For example, most of the police are not well informed of the content of the Refugee Act; in the same way, some refugees are not aware of their own basic rights in this country. This creates a situation in which the rights of these people are violated. Often the local municipalities call the police to evict foreign nationals as soon as they become aware of their presence in order to avoid the provisions of The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (South Africa, 1998a). This Act states that an occupant who resides in an area for more than six months should be provided with notice and/or alternative accommodation if they are evicted.

3.3.2 The 1969 OAU Convention governing the specific aspects of refugee problems in Africa

The objective of this convention is to encourage cooperation between the African states on matters relating to refugees. According to this convention, all states in Africa are expected to accept and assist foreign nationals seeking asylum status within their territories. Any state that rejects asylum seekers should report its decision to the African Union committee. The assistance that should be provided to asylum seekers includes obtaining refugee status, settling in the host country, finding shelter/accommodation and obtaining access to basic services such as water, health and education. Those that wish to return to their countries should be given help with transportation and travelling documents. This convention prohibits the deportation of refugees without their free will or denying refugees with full access to their basic human rights, provided that they abide by the laws and rules in the host country. According to Majodina (2002:75) and Vigneswaran (2009: 42), the DHA appears to be going against this convention because many of the immigration officials are of little assistance to the foreign nationals in terms of obtaining refugee status or respecting their basic human rights.

3.3.3 SADC Protocol on the facilitation of movements of persons

The aim of this SADC Protocol is to harmonise the legislation regarding internal and cross-border movements of people within the member states of SADC (SADC protocol on the facilitation of movements of persons, 2005). The harmonisation of the laws means that the laws governing migration issues in each participating member country should be in line with the provisions of this protocol. For example, the participating countries are allowed to enter into a bilateral agreement such as visa-free ports of entry for a period of 90 days or any form of agreement that promotes a smooth movement of people through accessible work permits. This protocol also emphasises working together and helping each other to facilitate the

movement of people within the region; sharing resources and information regarding border safety; and educational awareness programme to the communities and prevention of illegal activities involving people (SADC, 2012: 2). The member states involved also committed themselves to the protection of the human rights, recognition of asylum seeking and refugees' needs, collective resolution of disputes and protection against discrimination.

The above provisions were deemed challenging for SADC member states to implement or to give their full support to because of:

- Lack of common values and visions/legislation

  SADC member states differ in background, challenges and future visions of the regional development (Oucho, 2007: 1 & 9). This also applies to the issues of regulating immigration issues. Different countries have different views on the issue of immigration as does the domestic legislation governing immigration within their territories (Thonke & Splid, 2012: 43). Many SADC countries such as Zimbabwe still struggle to catch up with the standard of market/economic integration due to limited resources and finances (Evans, 2010: 110). Thus, this protocol is criticised for overlooking the needs of the poor and focusing more on economic positioning of the region in the global market.

- Unbalanced economic status of the member states

  The issues of free movement within SADC rest on the economic concerns of member countries; each country has the choice to decide whether they embrace the provisions of this protocol or not by taking into consideration their economic status (Williams & Carr, 2006: 4). For this reason, countries like South Africa, Botswana and Namibia are not fully supportive of this protocol because implementing it affects their economic status negatively.

- Pressures from globalisation issues

  The pressures from the global economy have major influences on how the SADC members respond to this protocol. For example, countries like South Africa seem to respond to cross-border issues by defending their territory and directing police strategies at preventing immigration processes. According to Evans (2010: 104), these decisions are neo-liberal, where only the concerns of a certain group of individuals are considered while those of the majority group are ignored. This neo-liberal strategy overlooks the needs of the poor and focuses more on the economic positioning of the region in the global market. In turn, this leads to issues such as unemployment and unbalanced formal and informal work opportunities in countries such as South Africa. Most of the countries' responses to immigration issues are mainly through policing and the arrest and deportation of undocumented foreign nationals, with little activity regarding integration measures. These responses protect state sovereignty more than human rights (Akuffo, 2011: 227).

Although these conventions and protocols/treaties are non-binding on the member states they provide guidelines in terms of how different states can work together towards common goals of enhancing regional or continental development. However, the differences in terms of national priorities regarding security issues affect the kind of engagement of each country on this matter.

3.4 SOUTH AFRICAN AGENCIES DEALING WITH IMMIGRATION ISSUES

The key role players that deal with immigration issues in South Africa include the DHA, the SAPS and the South African National Defence Force (SANDF).

3.4.1 Department of Home Affairs

The objective of this department is to deal with administration matters of people entering and exiting the country and those residing in the country. This department is divided into two sections: the first section is responsible for the administration of civic services such as birth, marriage, death certificates, identification documents, and travel and passport documents. This section of the DHA focuses mainly on South African citizens. The second section is responsible for administering matters related to immigration, refugee and asylum-seeking permits. This section of the DHA handles and assesses the applications made by foreign nationals for citizenship permits and/or asylum permits (South African Department of Home Affairs, 2012).

According to the UNHCR global report (2013: 118), the South African asylum system processes more than 222 000 applications from foreign nationals seeking asylum permits per year. The concern of the UNHCR is that most of the applicants are not granted refugee status. Thus, foreign nationals resort to using illegal ways of crossing the border and reside within the South African border lines as undocumented foreign nationals. Owing to the large number of foreign nationals from neighbouring countries living in this country, the DHA has introduced, among other measures, a deportation process where foreign nationals arrested without legal documentation are detained at repatriation centres and wait to be returned to their country. Another strategy included the special dispensation programme, which was a

temporary arrangement meant for Zimbabwean refugees. This programme took place from April 2009 to April 2010. Its aim was to reduce the high number of undocumented Zimbabwean nationals living in South Africa by fast tracking their asylum application processes. This programme offered Zimbabwean foreign nationals a three-month visa-free allowance to stay in the country while they waited for the processing of their refugee status (Amit, 2011: 4-9).

In order to obtain refugee status, during this visa-free period the applicants were required to submit together with their application forms and Zimbabwean passport evidence proving that they were employed or had registered at a learning institution or were in a business field. As a result of the large number of applications, the DHA did not manage to provide all applicants with the required refugee permits. This meant that this programme was repeated again from September 2011 to December 2011.

However, this programme did not succeed again due to reasons such as the limited time frames to process large numbers of applications, limited time given to the respective foreign nationals to obtain the required documents and also because some of the DHA officials were not familiar with the process (Amit, 2011: 23-26). This programme allowed foreign nationals to hold temporary jobs within the country but it excluded foreign nationals who had entered the country without passports to prove their nationality (Ncube & Hougaard, 2010: 3).

The RRO steps of processing the asylum status are as follows.

Step 1: Registration

A foreign national entering at the border gate without a citizenship permit should register their personal details together with their intention to seek asylum. Such a person should then be issued with a document stating their intention of entry and that document is valid for five days only. The foreign national then proceeds directly to the nearest RRO to lodge their claim. If, on the way, this person is approached by any law enforcement official they should present the document given to them at the border gate. Those foreign nationals who enter

the country illegally miss out on this opportunity to be registered and to be given a document stating their legal entry and intention in the country. This is mainly the group of foreign nationals that suffer at the hands of immigration and police officials.

The problems encountered by foreign nationals at this stage are that they are arrested by the police or the army and are deported five days after receiving a letter stating their entry without having had the opportunity to lodge their claims at the RRO.

Step 2: Completion of forms

On their arrival at the RRO, the asylum seeker should present the letter obtained at the border gate. The immigration officials should present them with a form to complete, take their fingerprints and provide them with a case and file number for their claims in the form of a document called an 'asylum-seeker permit'. This asylum-seeker permit is renewable and the applicant is allowed to stay in the country until the entire process of application is completed. A time and date is set with the applicant as to when they should attend an interview concerning their claim.

According to Vigneswaran (2009: 43), the immigration officials often do not give these applicants assistance when completing the forms (in terms of explaining to them what to do and how). This often results in incorrect information supplied by the applicant. Sometimes the applicants are given wrong information by the immigration officials so that their forms are unsuccessful. Vigneswaran (2009) claims that immigration officials generally embrace a "culture of immigration protectionism" against foreign nationals.

Vigneswaran (2009: 42) shows that it is often difficult for foreign nationals to access the RRO on the first day of their visit because of the long queues of applicants and the set number of forms the DHA accepts per day. The process of submitting the application forms can comprise corrupt activities where immigration officials demand money from applicants to accept the forms. Those without money are left with the choice of re-joining the queue for several days to come to submit their forms (Vigneswaran, 2009: 42).

The challenge facing foreign nationals is that they are not informed of the process that will be followed when they take in their completed forms. This is because the processes and procedures followed by the DHA officials differ from one day to another. For example, on one day they will request application forms from Zimbabwean and Mozambican nationals only; on another day they will request forms from Malawians and other nationals and leave out Zimbabwean or Mozambican nationals. This may result in confusion among the applicants and repeated visits to these offices (Vigneswaran, 2009: 42).

Step 3: Status determination and documentation

This phase takes the form of interviews, in which the applicant is questioned on their intention to seek asylum in the country. The applicant is allowed to bring a legal representative or witnesses to the interview session. If the application form is accepted, the applicant is given a refugee status permit. This permit is valid for two years and is renewable (ORAM South Africa, 2012).

Immigration officials sometimes intentionally do not call in an interpreter to translate the questions asked during the interview in a language that the applicant will understand. At times the applicants are interviewed without prior notice and this leaves them with little time to prepare or call in their representatives. Sometimes they are not informed of the purpose of the interview or their rights. Based on the answers given by the applicant, the immigration officials decide whether to grant a refugee status permit or not. Less than 40% of applicants succeed in this process, while the majority do not qualify for refugee status owing to the limited evidence provided by the applicant (Vigneswaran, 2009: 43-48; ORAM South Africa, 2012).

Morreira (2011: 7) points out that the type of evidence required before the state can decided on granting the applicant with an asylum permit is difficult for some foreign nationals to produce because whatever happened to them in their country was not recorded anywhere. This makes it a challenge for such applicants to use their experiences of the violence they

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endured to prove that they need asylum in South Africa. It is in this type of case that immigration officials need to apply their discretion, which can favour some of the foreign nationals over others.

3.4.2 The South African Police Service

The SAPS objectives as stipulated in Section 205: 3 of the Constitution are "to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of this country and their property, and to uphold and enforce the law" (South Africa, 1996). The SAPS has a border policing component, which also operates at the border gate where it regulates the cross-border movement of goods and people as well as the detention of undocumented foreign nationals. This component consists of specialised units such as the Internal Tracing Unit of the border police, which focuses on areas dominated by undocumented migrants such as the Johannesburg city centre and the areas around the border line. Another unit is the National Aliens Investigation Unit, which focuses on organised crimes such as drug trafficking. This unit works together with other countries (Hennop, Jefferson & Mclean, 2001: 4). Together with these specialised units, the local SAPS and Metro police officials are responsible for controlling the illegal movements of people within the country. The metro police only exist in cities regarded as metropolitan cities such as Johannesburg, Cape Town and Ekurhuleni, whereas the SAPS operates in every province. For the purpose of this study the researcher only focuses on the SAPS.

3.4.2.1 Background of the South African police

According to Seegers (1991: 37) and Brewer (1994: 179), historically, the style of policing of the South African police varied between totalitarian, authoritarian and liberal policing. All three styles of policing were shaped by the relationship between the ruling government and

the society it served. The totalitarian mode of policing emphasised controlling people's behaviour within the society. The police in this case were used as the state's weapon to enforce the apartheid agenda of segregating black people from white people. Alongside this mode of policing was the authoritarian mode, where black people were required to report their presence in urban areas and to present a reference book to the respective authority to obtain permission to enter the 'white' areas. Those with no reference book were arrested by the police and sent back to their rural areas.

Following the democratisation of this country the liberal mode of policing was employed. This mode abandoned the militaristic ways of dealing with people. In this mode of policing, the relationship between the police and the society was reviewed and different racial groups were given respect. The liberal mode of policing operates within the current democratic country; hence, it is obliged to recognise human rights within its policing activities and for the police to be accountable for their actions.

The above discussion shows that the South African police have undergone a major transformation from being used as the agent to promote the agenda of the previously oppressive apartheid system to the current democratic system which has as its objective to uphold human rights in every task. Among other scholars Shaw (2002: 23-31) asserts that during the apartheid era, the main goal of the police was not to prevent illegal activities but mainly to control black people because of the fear that blacks might take over the ruling party.

In order to keep this objective (of controlling black people) alive, the police (whether black or white officials) were required to be very strict towards the black communities and were permitted to use brutal activities to enforce the law. Shaw states that the policing style was very racist and focused more on oppressive actions towards the black communities. As a result it became a challenge for the police officials/police institutions to adapt to the

democratic form of interaction with the community, which emphasises transparency, accountability and fairness to everyone regardless of a person's race or social background.

3.4.2.2 Expectations of democratic policing

Within the parameters of a democracy, the police are first expected to represent the democratic society of the country by treating everyone in this country with dignity and respect. Second, they are expected to listen to the community and help them to resolve community problems within the constitutional framework. Finally, they are to be accountable to the public and authority. When the police act outside of the constitutional framework, they should be questioned and be held accountable for their actions (Lindholt, Neto, Titus & Alemika, 2003: 17). In addition, Berg (2005: 2) emphasises that democratic policing includes being politically sensitive, observing human rights and being community oriented (Berg, 2005: 2). Whenever the police violate any of the above duties, this jeopardises the relationship of the SAPS with the community and undermines the democracy of this country (CDE, 2010:15). These obligations are not limited to the policing of the South African citizens but are also applicable to the policing of foreign nationals.

On the basis of studies conducted on police issues, police culture and institutional racism within the SAPS appear to be among the issues that concern everyday policing.

The police culture

Shanahan (2000) and Prenzler (1997) argue that every organisation has its own culture where members share the same vision, learn from each other and behave similarly to one another. These actions result in a subculture within a working environment that is treasured and enforced on new members by senior members. The police field is no different; it also has its own subculture or ways of operation that are different from other organisations and that are socialised to or adopted by new members. A 'subculture' refers to a situation where

people working in the same environment develop unique ways of operation that associate them with their working field and distinguish them from other fields (Palmitto, 2000:37).

Tarde (in Vold et al., 2002: 158) states that learning in a subculture takes place through frequent imitation of the actions of the people that one associates with and the more the interaction the higher the imitation of each other's actions. Usually this kind of learning starts as a periodic act but as time goes by it becomes part of one's lifestyle. Learning also changes with time; new styles come and go.

According to Corsianos (2003: 302), police work is a task that demands the use of one's discretion because the policies or legislation governing police work often contradict one another or provide the police with incomplete guidelines on how to deal with certain issues. He defines discretion as the powers given to the law enforcement officials, including the police, to use their intuition on matters that require common sense or are not stipulated in any policy.

On the other hand, Dantzker (2005: 179) adds that discretion in policing is a common practice because the police are prone to act alone without supervision and are expected to address different problems, some of which they are not skilled to resolve. As a result it is important for police officials to use their discretion when dealing with social problems in the community, especially those problems that do not have obvious solutions. However, the type of discretion used may affect police work negatively or positively. Scaramella, Cox and McCamey (2011: 63) suggest that the police use their discretion because of the shortage of relevant skills, since the skills taught at police training colleges are often different from the reality encountered by the police on the street. They also emphasise that although the police are taught to apply the law at college, in reality they do what seems appropriate for the situation at hand.

The police subculture is characterised by the features of language (terminology or vocabulary and signs that are different from the language used in the general society) and

artefacts, such as the police uniform, carrying of weapons and their body posture. They also adopt a distinct value system, which includes the attitude of protecting the community, and distinct beliefs (myths and stereotypes) that they have towards non-police officials, which often create barriers between the police and non-police members and influence a sense of trust and solidarity among the police officials (Palmitto, 2000: 41; Prenzler, 1997: 48).

Other features of the subculture include the use of secrecy. Palmitto (2000: 42) maintains that the code of secrecy in the police field means that they watch each other's back at all times and trust each other and not report each other to senior police officers or to non-police members. The reason for the secrecy is that police work often contains errors that could risk one's job. Thus, the code of secrecy is used to protect each other by not exposing what happens during operations. Palmitto (2000) argues that within police subculture secrecy should be defined in terms of police values and not based on what is legal and illegal. The reason is that often when the police are confronted with unusual criminal acts they use their discretion to decide whether to follow the law or to ignore it, in order to ensure the arrest and to protect themselves. This is why some of the police go as far as deceiving a court of law or abusing their powers to ensure that the suspect is sentenced (Palmitto, 2000: 42).

Norms and rituals also influence the form of discretion used by the police. Police norms include the attitude of assisting each other or working in teams. Hence, most of the police have a ritual of socialising together at work and at home through participating in the same activities. The manner in which the police are recruited, promoted and trained also contributes to the solidarity and the formation of a subculture in the police field (Palmitto, 2000: 41; Prenzler, 1997: 48).

Palmitto (2000: 41) and Quinton (2011: 360) argue that within the policing field the police are trained to identify suspicious people merely by looking at a person's physique and behaviour. A good police officer should be able to establish if something is suspicious or not. A police official with this skill often works hard to ensure the arrest of a suspicious person

with the aim of controlling crime. It can be deduced that with this attitude, some of the police might act outside of their legal boundaries. This might be the case when police deal with suspected undocumented foreign nationals.

Institutional racism

'Institutional racism' refers to the discriminating activities which are embedded within the policies used to deal with the public; for example, the immigration laws which regulate how the police should deal with documented or undocumented people. According to Bowling, Philips, Campell and Docking (2001: 13), when the police administer these kinds of legislation they may unconsciously create an environment that divides people along class or racial lines. Other scholars, such as Egharevba and White (2012), argue that the relationship between the police and minority groups often starts with race. This means that the police are often drawn to suspecting the minority group mainly because of their skin colour. This results in racial profiling, which Glover (2009: 82) regards as another form of excluding foreign nationals on the basis that they have no citizenship status to reside in this country.

3.4.3 The South African National Defence Force

According to Sections 200 and 201 of the Constitution (South Africa, 1996), the main objectives of the SANDF are to ensure that this country, including its territory, resources and citizens, is protected and defended against threats such as war and cross-border crimes. In addition to these tasks, the SANDF should, on request from the cabinet, give support to the SAPS on internal matters that are threatening the country and require extra manpower and skills that the police are not equipped with, such as to rescue people during floods and droughts.

Under the apartheid government, this force operated under the name 'South African Defence Force' (SADF) and was used both within and outside the country to fight against the political parties and countries that opposed the apartheid system. In order to enforce this mandate, the border lines were highly patrolled by the army, which was well equipped with dangerous weapons and styles of operation that were inhumane in nature (Le Roux & Boshoff, 2005: 177). Within the country, this force was used mainly to raid areas occupied by black people such as rural areas and townships. In terms of manpower, this force benefitted from the volunteers who were mainly white males (who were expected to have undergone military training in their life). This means that apart from the permanent army force there was another group of males that was used by the SADF as a standby force in times of need (Steinberg, 2005: 4).

In addition to the SADF, there were other various armed forces in the country (those that were against the apartheid system): the homelands of Bophuthatswana, Ciskei, Transkei and Venda; Umkhonto we Sizwe; the Pan Africanist Congress armed wing; the Azanian People's Liberation Army and the Inkatha Freedom Party. Based on the negotiations held between 1990 and 1994, which were aimed at achieving a democratic government, the SADF was amalgamated with the above-mentioned opposition forces into the current South African National Defence Force. It was during this amalgamation period that the role of the army in border line operations ceased and the SANDF was expected to account for its conduct to oversight bodies such as the Portfolio Committee of Parliament on Defence, civilian bodies and the Auditor-General (Le Roux & Boshoff, 2005: 179).

After the withdrawal of the SANDF from its border line operations, the SAPS had to carry the full responsibility of patrolling and controlling the border lines and ports of entry. Among the challenges facing the police in these operations were the high inflow of foreign nationals into the country, especially those that did not enter using the ports of entry, and the increased cross-border crimes (Hennop et al., 2001: 785). Therefore, in 2010, the SANDF announced the re-entry of the SANDF in border line control operations in order to assist the police to

deal with the high inflow of foreign nationals into the country effectively. As a result troops were re-deployed as follows on the border lines:

- 340 soldiers were deployed at the Beitbridge border, the border between Limpopo and Zimbabwe.

- 160 soldiers were deployed at Lebombo border, the border between Mozambique and Mpumalanga.

- 160 soldiers were deployed at Ndumo border, the border between KwaZulu-Natal and Mozambique.

- Other deployments followed later along other border lines.

The SANDF has limited equipment, vehicles, helicopters, manpower and finances to cover its entire mandate of helping the police within the country and outside of the country during peace-keeping missions (Joint Standing Committee on Defence, 2001). However, it can be deduced that the re-entry of the SANDF to the border control contributes positively to border patrols, especially in areas that require specialised skills.

3.5 SUMMARY

This chapter discussed the different agencies dealing with the issue of foreign nationals in the country. It also looked at the legislation regulating immigration together with the duties of these agencies and the challenges they face on a daily basis. In terms of the challenges, it highlighted the DHA struggle to deal with the large number of asylum-seeker applications it receives on a daily basis and the transition of the police from the apartheid objectives to the democratic objectives. With regard to the transformation of the SAPS, the chapter showed that this process is still a work in progress due to issues such as the police subculture and institutional racism that is embedded within the daily practices of the police.

CHAPTER 4: UNDOCUMENTED FOREIGN NATIONALS IN SOUTH AFRICA

4.1 INTRODUCTION

This chapter outlines the nature, extent and the impact of undocumented foreign nationals in this country. According to the IOM (2011b: 2), an estimated 17,000 to 20,000 refugees enter South African territory per year. The International Labour Organization (ILO, 2006: 2) and IOM (2011b: 2) show that refugees are a worldwide problem that has increased significantly since 2002, from 175 million to about 215 million in 2006, and it affects the safety and security of every country that is affected. The 2011 South African national census showed that out of an estimated 5.7% of the foreign nationals staying in this country, only 2.6% of them received refugee status (in the form of permanent or temporary citizenship) while the majority of them are living in this country without legal documentation (Department of Statistics South Africa, 2012: 39).

The South African Department of Statistics (Statssa) reported that the numbers of foreign nationals living in this country were obtained from the records of the number of undocumented foreign nationals arrested and/or deported by the DHA and the police in 2011. However, these records exclude undocumented foreign nationals who could not be counted because they were not detected by the police, thus creating a challenge regarding accurate statistics of undocumented foreign nationals in this country (Statssa, 2012).

The lack of accurate data on how many undocumented foreign nationals live in the country leads to poor sampling methods during research studies and a difficulty in accessing research participants (Berriane & de Haas, 2012: 3). In addition, Landau and Segatti (2009: 561) argue that inaccurate data of undocumented foreign nationals affects the management

of this problem, since it is vital for service providers to know what resources are required and what funds are needed.

According to the Centre for Development and Enterprise (2008:16), as this problem gets complicated so does its nature. For example, the motives behind migration tend to differ from one individual to another. However, the majority of these foreign nationals have intentions of seeking job opportunities in South Africa whereas others are forced migrants who seek asylum and refugee status. Among these groups of foreign nationals the dominant groups come from the nearest countries such as Mozambique, Zimbabwe and Lesotho (Maphosa in Crush & Tevera, 2010: 386; IOM, 2000: 137).

Previous migration processes had been associated mainly with men rather than women since women were associated with household duties. Exclusive cases include when women migrate under forced circumstances either through human trafficking from one country to another or by following their spouses to another country (IOM, 2004: 3). According to Mariano (2012: 2), this has proved to change over time. Currently migration processes consist of mixed flows of people with different characters (including under-aged children, teenagers and adults of different stages and genders). On average, most of these undocumented foreign nationals have low educational qualifications or no qualification at all. They survive by working as hawkers, miners, domestic and garden workers, security officials or by doing craft work (CDE, 2008: 8).

4.2 TYPES OF UNDOCUMENTED FOREIGN NATIONALS IN SOUTH AFRICA

The following types of foreign nationals are found in South Africa: voluntary and involuntary or forced migrants. According to Martinez and Valenzuela (2006: 9), voluntary migrants include those who wish to work or study or follow family members to another country. In this group the push factors include personal reasons such as poverty and intentions to seek a better living elsewhere or to pursue studies in another country. In contrast, forced migrants

often leave their countries as a result of poor treatment from their leaders, environmental issues or wars within their country. Their intentions are mainly to seek shelter/protection in another country. Another form of forced undocumented foreign nationals includes stateless people, who migrate to other countries to try their luck in obtaining citizenship status and enjoy the privileges accompanying that legal status.

A stateless person is "a person who is not considered as a nationality by any state under the operation of its law" (Convention relating to the status of stateless persons, 1954: 5). This definition covers those people who were denied birth certificates due to their parents' lack of legal documentation to prove their citizenship status.

4.3 THE NATURE OF MIGRATION PROCESSES

The increasing movement of foreign nationals from one country to another is explained in depth by Massey's theory of cumulative causation of migration, which states that some migration processes are influenced by the existing link between the foreign nationals in the destination countries and those left behind in the countries of origin. In his explanation, Massey asserts that once the migration process begins, it increases in size by accumulating more new foreign nationals who were left behind and in turn forms a self-sustaining crew of foreign nationals known as 'migrant networks' or 'chains'. The role of these networks is to facilitate the movement and survival of new foreign nationals in the destination country through the exchange of information with those left behind, providing accommodation, food and assistance to the new foreign nationals to establish themselves in the new living environment (Massey & Fussel, 2004: 152-153).

These migrant networks are self-sustaining because the early arrivals pave the way for the oncoming groups and each new group is also expected to facilitate the movement of other newcomers. In this way those who have been around longer establish themselves first and collect resources or social capital in order to support the migration process of the

newcomers. As a result, the strength of the networks is dependent on the number of its members and the financial status of these members.

Since cross-border movements are difficult for undocumented foreign nationals, these networks reduce potential risks and the cost that might be endured during the travelling (de Haas, 2010: 1588). De Haas (2010: 1589) also states that a strong bond is necessary to sustain the migrant network; however, it often happens that the members in the network are self-centred and disregard those foreign nationals who do not share same social relation with them, such as not being from the same ethnic group, not being from the same village or not being a family member or a close friend. In these cases, an immigrant can be excluded from the network and can lead an isolated life.

Other factors that might lead to exclusion are limited funds to run the network, especially if new foreign nationals cost more in terms of the existing funds or available resources of the network. The lack of funds by the member to repay the debt endured during the migration process such as transportation fees, accommodation and food can also lead to exclusion if the foreign national is unable to pay back the help received (de Haas, 2010: 1589; Gelderblom, 2012: 3).

Apart from the organised migrant networks, certain structures assist foreign nationals with shelter, information about aid services in the destination country, and protection (de Haas, 2010: 1590). In South Africa, there are a few well-known organisations that assist foreign nationals with basic services such as shelter, food, clothing and health services. Some of these organisations work as referral centres to assist new foreign nationals with information on how to go about applying for asylum status or securing shelter. These organisations include church groups, legal aid organisations and other community associations (Consortium for Refugees and Migrants in South Africa, 2011: 4-6).

In addition to these organisations, there are groups of opportunists who use these immigration processes as a way of making money; for example, human traffickers and

smugglers and the so-called 'Amagumaguma' or 'Malayisha'. Some of these groups of opportunists operate around the border line close to Limpopo (Rutherford, 2008: 3). According to Rutherford (2008: 2-3), these people claim to be bush keepers; they wait for foreign nationals who travel by foot and offer to facilitate their movement in exchange for a fee. Those without money to pay the Amagumaguma are often exposed to severe forms of harassment (including physical, emotional and sexual abuse).

Some foreign nationals, especially those who cannot afford the cost of assistance from the existing networks, travel by foot from their countries to their destination countries. This process is called "step migration" (Gelderblom, 2012: 10). Step migration is the most risky form of movement because it exposes foreign nationals to dangers such as being attacked by wild animals, drowning in rivers, or being raped and harassed by Amagumaguma. To reduce the long distance of travelling, these foreign nationals cut their trips into short distances by travelling from one area to another today or tomorrow and in the following days moving to another area until they reach their final destination. Unlike migrant networks, step migration is disorganised and often used by first-time travellers who are not familiar with cross-border movement (Gelderblom, 2012: 10). Studies conducted by Sausi (2009: 560) and Schiller (2011: 227) in Durban and Sibanda (2010: 52) in Johannesburg confirm the existence of networks among foreign nationals in this country.

Massey and Fussel (2004: 153) show in their study regarding the prevalence of migration networks in urban areas that the connections between potential foreign nationals and foreign nationals in destination countries are more prevalent in rural areas than in urban areas. The reasons for this are that:

- In urban areas, social relations are often limited to close friends, family members and colleagues, while in rural areas they extend to almost everyone in the community. The decision to migrate to urban areas is an independent decision taken by a small

number of people as compared to rural communities, where people are dependent on one another;

- Rural areas are often small in size compared to urban areas and this makes the bond between the residents stronger than the social bond of urban residents; and

- Urban residents have better access to resources and that makes the idea of migrating less ambitious than migrating to rural areas, which have limited access to resources. Urban migration is undertaken by those who wish to better their living standards in urban areas.

De Haas (2010: 1608) asserts that networks attract more foreign nationals to destination countries and pose a challenge to the restrictive immigration policies and borders because they raise the aspirations of those left behind to travel abroad and gain access to the necessary resources and better living standards. For some foreign nationals the decision to migrate is influenced by factors such as the individual's financial status and the nature of the relationship of the individual with their society.

4.4 THE CHALLENGES FACING UNDOCUMENTED FOREIGN NATIONALS

Most foreign nationals do not always receive full access to the basic services received by the citizens of the host country (Polzer, 2008: 4). Their status as foreign nationals makes it difficult for them to receive fair treatment from sectors such as health, education and police services (Neocosmos, 2010: 119). The challenges faced by undocumented foreign nationals are outlined below.

4.4.1 Unfair treatment from the police

According to Klaaren and Ramji (2001: 35-36), the policing of undocumented foreign nationals in South Africa is clouded with negative behaviour towards suspicious and detained undocumented foreign nationals. This negative behaviour towards foreign nationals is likened to the police attitude used during the apartheid era (Vigneswaran in Segatti & Landau, 2011: 110). This was evident in the Operation Crackdown project, which was implemented in 2000 to get rid of undocumented foreign nationals in the country. This operation was carried out on racial lines; it targeted mainly the areas occupied by black people and in those areas the police focus was on establishing the legal status of the occupants. However, in the process it appeared that the police had little information about dealing with foreign nationals. Some of the police had neither enough knowledge of the legislation pertaining to immigrants nor enough information about the rights of foreign nationals.

Owing to this limitation, foreign nationals were policed mainly through irrational strategies, whereby some of the foreign nationals with valid permits were arrested and detained at Lindela repatriation centre while others were denied the opportunity to fetch their permits at home to prove their status. In other instances, the police did not bother to look at the documents produced by the foreign nationals or trust the validity of these documents (Klaaren & Ramji, 2001: 37). This mode of policing resulted in another form of criminalising people based on their race and status. Tshabalala (2009: 162) argues that these types of police behaviour are an extension of the bureaucracy within the government, in which the police follow a chain of power control as it emerges from the government in order to control the foreign nationals.

4.4.2 Lack of safety for unaccompanied minors

According to Fritsch, Johnson and Juska (2010: 624-629), unaccompanied undocumented minors experience more difficulties than adults. These minors survive by themselves without guardians, some of them are not aware of their rights as children. As a result, they also face harassment from the public. Girls are often at the risk of being sexually abused while boys are exposed to assaults. Owing to their immigration status in the country, undocumented minors also are reluctant to report crimes because they fear police arrest and deportation.

Fritsch et al. (2010: 636-648) further argue that because people under the age of 18 are not allowed to work in South Africa, it becomes an even bigger challenge for these minors to find employment. Those who wish to further their studies are often excluded from schools due to a lack of finances or legal documentation or because they are not eligible to obtain national grants, which require a child to be a South Africa citizen. Although the immigration legislation in South Africa grants rights to minors, it seems that undocumented minors are also unable and afraid to access these rights due their immigration status (Fritsch et al., 2010: 629-631).

4.4.3 Limited Refugee Reception Offices

South Africa has few RROs, which lead to travelling problems among foreign nationals residing in areas far from these centres because they have to travel long distances with high fares before they can obtain a residence permit. Other challenges are that most of foreign nationals with valid visas are given a verbal appointment for when they should be back to renew their visas before the expiry date. On the renewal day, if such a person's permit cannot be renewed it means that they fall within the group of undocumented foreign nationals as they no longer have proof of their residence status (Rutherford, 2008: 5). This eventually leads such foreign nationals to become police targets. On the other hand, Sibanda (2011: 59) states that continuing renewal of citizenship status or application for new

citizenship permits delays foreign nationals from seeking employment opportunities and settling down within a community.

Those people who are unable to renew their citizenship on time have to go to the RRO to renew their visa and every time they have to stand in a queue with new applicants. This has led most foreign nationals to spend a substantial amount of money and to ask for days off work in order to address their identity issues. On the other hand, foreign nationals run the risk of being deported to their country because they do not have a valid visa (Human Rights Watch, 2008: 88).

4.4.4 Communication and language barriers between the police and undocumented foreign nationals

King (2006: 13) argues that the communication between the police and foreign nationals usually occurs under forced circumstances in which an immigrant is a victim, a suspect or a witness of a crime. In most societies most crimes go unreported and if this is the case with the citizens of the country it is that much worse with undocumented foreign nationals. Foreign nationals tend not to report crimes to the police because of their status or being unable to communicate effectively in the languages of the host country or not being understood by the police. King (2006) states that this lack of communication is also due to foreign nationals' poor understanding of the police functions and culture in the country. In turn, this limits them from seeking help from police stations (King, 2006: 6).

King (2006) emphasises that the police and foreign nationals often find it difficult to participate together in community policing forums because of their preconceived ideas about each other's behaviour. This, King (2006) observed mainly regarding foreign nationals from countries that are at war. The fear of deportation and sense of not belonging in the host country cause foreign nationals to keep their distance from the police (King, 2006: 8-9). This, in turn, hinders the implementation of community policing, which requires the police to

establish a relationship of trust with community members. Owing to the fear that foreign nationals have of the police, it becomes difficult for foreign nationals to trust the police and to open up to them about their safety concerns (King, 2006: 13).

Creese's (2010: 296) study on foreign nationals in Vancouver (Canada) found that foreign nationals from African countries often find it difficult to adapt to the local language expectations, especially the accent used by local community members. He noted that knowing how to communicate effectively in the local language had helped many migrants to adjust quicker to the local communities and to secure better housing and employment opportunities. Those migrants who struggled to speak fluently in the local language were labelled less intelligent and were disrespected and mistrusted because of their foreign accent. This was evident when some of the migrants were requested to repeat their speeches several times or were corrected for the wrong pronunciation of words.

4.4.5 Workplace and movement challenges for undocumented foreign nationals

According to Gomberg and Nussbaum (2011: 370-372), because of the fear of being arrested and deported, most foreign nationals are unable to negotiate their work conditions. They often remain in the same workplaces with poor working conditions for the sake of not being exposed to the police. Again, police patrols are seen as a threat to the freedom of movement of migrants, including going to work and going to the shops. As a result many undocumented foreign nationals are forced to work only in the areas close to where they stay.

4.4.6 Exclusion of foreign nationals from national identity

Within the new democratic country, the new slogans of national identity (of oneness) are frequently praised. However, Croucher (1998: 641-643) argues that the main challenge to these slogans is to decide who should or should not be included within the definition of national identity. If a national identity means different racial, ethnic and class categories uniting together for the same goal of "oneness", then this does not seem feasible in a country like South Africa. The reason is that this country is very unequal even after obtaining democracy. Croucher emphasises that it is not only the policies and legislation regarding immigration that dictate who is an insider and who is an outsider. Even the social practice and attitudes towards foreign nationals play a major role in defining who is entitled to embrace the national identity.

On the other hand, Nzayabino (2011: 259) asserts that there are currently many ways such as religious or cultural practices which foreign nationals use to integrate or disintegrate themselves from the host communities. Those migrants who happen to adopt the local religions and cultural practices seem to integrate easier with the local communities than those who strongly hold on to their foreign cultures or religion. Migrants who hold strongly to their foreign cultures or religion often distance themselves from the local communities' activities and are not as accepted in the communities as those who let go of their foreign practices. A CDE (2008: 39) study indicates that the majority of men feel more accepted within the local communities than their female counterparts. It can be deduced from the above discussion that the negative attitude that South Africans and foreign nationals have towards each other influences the outcome of the integration process between the two groups. This attitude makes it even more difficult for a country still struggling to get rid of its racialised past to embrace the definition of 'oneness'.

Croucher (1998: 656) and Ibrahim (2005: 174) also argue that the practice of referring to foreign nationals as 'them' and to South Africans as 'us' is used by scholars, politicians, the media and public officials, including the policing agencies as well as ordinary citizens. These kinds of labels are used by South Africans to classify foreign nationals and derive a definition of who they (foreign nationals) are and who belongs to them and who does not. These labels pose a challenge to the formation of a sound national identity or oneness.

4.4.7 Consistent exposure to abuse

A study by Vishnuvajjala (2012: 6-12) on undocumented female migrants who experienced domestic violence shows that undocumented female migrants are seen as easy targets for crimes and for domestic violence because the perpetrators know that they are afraid of approaching the police. As a result, most of these women are isolated from social activities and from communicating with their close friends about their spouses that wish to control them by using their citizenship status as leverage against them. Owing to the fact that most of these women are not familiar with the local laws and the available social aid programmes, they rely on their spouse's assistance. Added to that are cultural norms and values, which also play a major role in the abuse of undocumented females because they are afraid to voice their opinion against their spouses out of respect for cultural practices as a woman and for the protection of their family (Kihato, 2007: 107). Furthermore, Freedman (2012: 46) argues that the perpetrators of crimes against female foreign nationals are usually their male counterparts, who use this as an opportunity to show that they dominate women. In turn, this leads to increased insecurity against female foreign nationals.

4.4.8 Lack of access to health services

According to Vearey (2008: 368) and Vearey, Richter, Nunez and Moyo (2011: 382), access to health services is necessary for the wellbeing of foreign nationals. By denying undocumented foreign nationals access to health services on the basis of their status it is even more difficult for them to survive in the host country because they will hesitate to use health services when they experience health problems. Those working in informal sectors such as scavenging on dump sites or picking materials for recycling do not even receive health education. In turn that excludes them from obtaining information on the risks of diseases such as HIV/AIDS.

4.5 MEDIA AND PUBLIC PERSPECTIVES OF UNDOCUMENTED FOREIGN NATIONALS

The increasing numbers of undocumented foreign nationals in the country have not only affected police work but also impacted negatively on the provision of Reconstruction and Development Programme (RDP) houses, employment opportunities, and welfare services for South African citizens. These negative impacts in turn have stimulated feelings of frustration and hatred among South African citizens towards foreign nationals (Landau & Hornberger, 2010: 2). Bezuidenhout and Little (in Bezuidenhout, 2011: 3) argue that the feelings of insecurity among South African citizens are often stimulated by media publications (newspapers and news on radio and television). Media reports focus on the details and damage resulting from criminal activities, giving the impression that crime in the country is out of control. For example, if the story is about foreign nationals committing crimes, this often stimulates feelings of hatred towards foreign nationals.

Danso and Mcdonald (2001: 117) maintain that the media coverage in the country induces negative attitudes towards foreign nationals by favouring anti-foreigner views and by not

accommodating or sympathising with foreign nationals. This is evident in how they publish stories about foreign nationals. Although the media has the right to report on issues happening in the country, including foreign national-related issues, it also has the responsibility not to aggravate negative perceptions unnecessarily about foreign nationals. The labelling of foreign nationals in public discourse as 'job stealers', 'criminals' and 'disease carriers' together with the use of inaccurate statistics (about how many there are and how much they cost the country) influence not only hatred towards foreign nationals but also how the majority of South Africans define them. Hence, criminal profiling within South Africa seems to be 'racialised' and 'Africanised', with most of the criminal activities being associated with black people and often foreign nationals from African countries (Danso & Mcdonald, 2001: 124-127).

Danso and Mcdonald (2001: 127-129) further state that black foreign nationals with permanent citizenship, work permits, refugee and tourist status are often not distinguished from undocumented foreign nationals in media coverage. Usually they are all classified under one category. In most cases umbrella terms like 'refugee' or 'foreigner' or 'alien' are used to refer to anyone not originating from South Africa, regardless of such a person's status in the country. These names are associated mainly with outsiders, people who do not belong in this country and who serve as a threat.

Mawadza and Crush (2010: 4) also highlight a concern that the SAPS annual crime statistics often list the rate of arrested undocumented foreign nationals in the same category as serious criminal activities such as murders, rape, hijacking or robbery. This kind of categorisation is seen as another form of criminalising undocumented foreign nationals in South Africa. They argue that undocumented foreign nationals in South Africa are presumed guilty before proving themselves innocent. They are labelled based on the fact that they are not in possession of legal documentation and eventually arrested and detained in police cells and later sent to the Lindela repatriation centre. According to Mawadza and Crush (2010: 4), this process shows how little the South African Immigration Act 13 of 2002 (South Africa,

2002) protects foreign nationals in this country. When the media associate foreign nationals with criminal activities, they suppress the hard work they do and the impact they make on the agricultural or farming and mining industry for the little income they receive.

The exact figure of how many undocumented foreign nationals are in South Africa is not yet known. However, a number of scholars and media reports manipulate the numbers of undocumented foreign nationals in order to sensitise the readers' emotions (Mawadza & Crush, 2010: 7). In turn, this aggravates the negative attitudes towards undocumented foreign nationals. With the large numbers of unemployed people in South Africa, people become aggressive towards foreign nationals (Mawadza & Crush, 2010: 7), while the media continues to feed the South African public with negative perceptions about the foreign nationals in terms of how it reports about them (Mawadza & Crush, 2010: 8).

4.6 IMMIGRATION ISSUES AS A POLITICAL FEAR PERSPECTIVE

According to Benam (2011: 192), the words 'fear', 'threat' and 'risk' are the main drivers of debates around state security in most countries (within the European Union, the United States of America and other developed African countries such as Botswana, South Africa and Namibia). This concept 'threat' encourages proactive (and often militaristic) measures against what the respective state labels as a threat. In Roe's view (2012: 260), this concept results in "panic politics"; that is, it disturbs the normal functioning of state politics by making the ruling political parties narrow minded. It also results in a lack of accountability within the ruling government and more so the inability to look at the problem from different angles. Thus, many states rush to protect themselves from the perceived threat. In turn, this idea (protection against threats) overlooks the amount of state power over human security matters and basic human rights.

Bourbeau (2011: 1) and Hentz (2009: 189) argue that for many years there has been a link between immigration and state security concerns, in which foreign nationals have been

regarded as a state security threat that needs to be highly regulated. For example, in many countries around the world such as those in the United States of America and European Union, the immigration issue is made one of the national priority tasks and resources and finances are invested in modern technology equipment in order to ensure that the state is protected against unwanted foreign nationals (Freedman, 2012: 39; Martin, 2006: 311). According to Benam (2011: 192), the balancing of human rights (such as the freedom of movement or the right to an asylum permit) and the protection of the state against fear of terrorism or drug smuggling and human trafficking is a challenge to many countries and results in conflicting views as to which one should be prioritised over the other.

Advocates of human rights believe that immigration issues (for both documented and undocumented foreign nationals) should be dealt with through soft measures such as free visa policies or interstate agreements since they are social issues. In contrast, the proponents of state security demand strict measures against undocumented immigration and view this problem as a criminal activity which should be dealt with through criminal processes rather than humanitarian processes (Stritzel, 2007: 362). They see these problems as being best dealt with through strict border controls, frequent deportation processes, visible police patrols and search and arrest strategies, as well as the tightening of immigration policies. All these activities are perceived to discourage potential undocumented foreign nationals from entering the country. However, Evans (2001: 6) argues that at the same time the lives of those that live in the country without legal documentation are placed in a vulnerable state. This in turn works against the human security perspective because it does not put people's interests at the forefront. The discussions on democracy at any level of government institution should not be separated from concepts such as human security or the liberation of people. In practice, human security should be an integral part of every government institution framework or policy (Tzifakis, 2011: 365).

In democratic countries where the constitution is the supreme law, the police should act in line with domestic legislation and democratic principles. According to Pino and Wiatrowski

(2006: 81), this is called 'democratic policing' because in this context of policing the police should support and prioritise the values of democracy. The police here are also obliged to balance domestic legislation with international non-binding soft laws such as declarations, treaties and protocols (Lindholt et al., 2003: 16 and 69). For example, domestic laws such as immigration and refugee laws should equally be balanced with the international declarations on refugees. This will result in shared views about what affects one country and the police will become the main actors in realising the objectives of both national and international policies.

To avoid seeing migration issues from a fear perspective, any institution (including the police service) operating within a democratic country to be regarded as effective and efficient in upholding the law and the democratic principles, it should meet the following basic requirements.

Respect the rule of law

Respecting the rule of law is part of the due process in dealing with human beings within the community. This includes when the police stop, search and arrest suspects. In democratic policing, the aim of the police is not limited to preventing crimes but also includes caution on how the police act against criminal activities. This requires the police to be familiar with what is expected from them, for example in the Police Code of Conduct and awareness of human rights, as well as what is prohibited in terms of the law.

Legitimacy

The police actions should be acceptable to the general public or win the public confidence. This relates to the issue of police professionalism, where a police official is determined to do their duty in accordance with their work policy.

Transparency

Transparency relates to the publication of information about police action such as police violations of human rights and misuse of state resources. The limitation clause on respecting the private information of the police is taken into account on this matter.

Accountability

This is when the police take responsibility for their actions while on duty and are also liable for questioning regarding their actions. There are three levels where the police can be held answerable for their actions: through internal disciplinary committees within the department; through state bodies such as the Independent Police Investigation Directorate; and through external bodies such as the South African Human Rights Commission, media and other NGOs. Despite the above framework, Newham (2005: 167) argues that the main challenge of the police is to stick to the rules at all times. He suggests that the police should be informed of the kind of activities they will be held accountable for and how such activities will be punished. This will assist them to measure the force they should apply while on duty.

Subordination to civil authority

This involves ensuring the safety and security of everyone in the country and prioritising it in police work (Stone & Ward, 2000: 14-15; Pino & Wiatrowski, 2006: 83-86).

Two approaches that every institution can take in order to realise the objective of human security are: 1. the identification and investigation of incidents of disrespect to human life and the implementation of preventive strategies and 2. the enforcement of policies or codes of conduct within the workplaces that will ensure respect for human life (Alkire, 2003: 30).

The above discussion shows that democracy promotes non-military methods of dealing with human concerns rather than militaristic methods and calls for cooperation and coordination

of resources among the states as well as sustainable development activities that are clearly defined to enable external donors to assist in human concerns. In support of this view, Van der Spuy (2009: 251) argues that cooperation and coordination of resources from both the receiving and the sending countries, especially at the regional level, are needed for overcoming this problem. This is because human concerns require a holistic view that is achieved from the collaboration of more than one country.

4.7 THE IMPACTS OF UNDOCUMENTED FOREIGN NATIONALS ON SOUTH AFRICA

Destination countries (including South Africa) endure the cost of accommodating large numbers of undocumented foreign nationals within their jurisdiction. The extent of the impacts endured by the host country is determined by the number of undocumented foreign nationals received. The higher the number of undocumented foreign nationals, the higher the impacts; the lower the number of undocumented foreign nationals, the lower the impacts on the host country (IOM, 2000b: 22; CDE, 2006: 3). The impacts of undocumented foreign nationals on the host country can be classified as detailed below.

4.7.1 Economic impacts

The economic contribution results only if foreign nationals possess one of the scarce skills that are needed within the country; in this case, they uplift the economic development of this country. In contrast, if a foreign national has similar skills to most South Africans they would work in sectors that are freely accessible to everyone and in that case such a person serves as a substitute for the citizens of this country. Substitute foreign nationals compete for local jobs with the citizens of this country, reduce the employment rate of this country and result in more frustrations among unemployed South Africans. Unskilled foreign nationals with lower levels of education tend to accept jobs with low income. This has negative impacts on

developing countries and, due to their undocumented status, they are manipulated by their employers and paid less than the standard minimum wage (IOM, 2000: 23).

Laundau and Hornberger (2010: 2) support the above argument by stating that the increasing number of undocumented foreign nationals in the country obstructs the process of service delivery within the municipalities and also results in tension among the different levels of government institution, such as the national, provincial and local governments. Palmary (2009: 2) adds that local governments face the dilemma of not being sure whether to share services among the South Africans and the undocumented foreign nationals residing within their jurisdiction or to ignore the foreign nationals. They also find themselves carrying the burden of managing the undocumented foreign nationals without accommodation within their jurisdiction.

The Refugee Act 130 of 1998 (South Africa, 1998) grants every citizen the right to access services such as health, education, water, housing and sanitation. However, this Act does not specify how the local government should respond to undocumented foreign nationals who are in need of land and health services. This Act states that asylum seekers should be allowed to request refugee status and that if such a status is not granted within six months that person should apply for a work permit. The Act does not state how the local government should deal with the undocumented people waiting to have their application processed (Palmary, 2009: 3).

Within the police service, this problem affects financial planning as more resources such as vehicles and extra manpower is required to handle the problem. This view is supported by Vigneswaran (2009) and Laundau and Hornberger (2010: 3), whose study indicates that the police service in Gauteng uses about 26% of its budget on policing immigration problems and about quarter of its available working hours chasing after undocumented foreign nationals.

According to Mercer (2012: 382-383), to most foreign nationals the decision to leave their countries was not an easy decision. Some foreign nationals left their family members in pain and with a feeling of doubt as to whether they would make it abroad or not. To other families, the travelling of one member creates a sense of loss or alienation and/or has led the families to rearrange their family structures and to be angry with the circumstances within their countries. Owing to these emotions, some foreign nationals commit themselves to work hard in the host country so that they can send remittances back home and close the gap they have left. The study conducted by Sausi (2009: 56-57) on Nigerian migrants staying in Durban indicates that foreign nationals (both documented and undocumented) have established various social groups that work together to send remittances back home in an informal manner that is cheaper than the recognised international banking transfers.

These methods are valued for accommodating foreign nationals who are undocumented because they require no identification documents or proof of source of income as compared to the banks and they are much quicker. The most common way of sending remittances was through a third party, whereby the remittance (including money and gifts) is sent home by a person who has legal documentation and literally commutes between the host country and their country of origin sending remittances and messages back and forth (Sausi, 2009: 61-62). Sausi states that these forms of sending money abroad and not saving such money in the banks within the host country have a negative impact on the economy of this country.

4.7.2 Demographic impacts

A large number of undocumented foreign nationals increases the population rate of the host country and causes an uneven distribution of age within the communities. This is when more male and female foreign nationals occupy one particular area rather than another. Owing to the fact that they carry with themselves their cultural and religious practices, they diffuse the

existing nature of the local communities in which they reside; creating new form of community (IOM, 2000: 27).

4.7.3 Social impacts

The above-mentioned new community composition has its own negative and positive implications for the citizens of this country and for the foreign nationals themselves. Negative implications of this new composition include the fact that the foreign nationals are labelled criminals and disease carriers and eventually become vulnerable to xenophobic attacks (IOM, 2000: 27). Neocosmos (2010: 1) argues that xenophobic attitudes towards foreign nationals originate within the political arena; for example, in South Africa, xenophobic attitudes began during the apartheid system when certain groups of people were banned from entering particular areas within the country. During this period, the xenophobic attacks were also not directed towards everyone, but only towards the black population and mainly those from African countries.

In view of the above argument, Neocosmos (2010: 119) further debates that the May 2008 xenophobic attacks in South Africa were no a mistake, but in fact a political agenda, which was supported by the police, who played the avoidance game. The reason for this is that the police only appeared on the scene after the damage had occurred. These attacks started in Alexandra Township, when a group of South African residents attacked foreign nationals whom they claimed had taken their job opportunities. Within a week this incident then spread to other townships within Gauteng such as Boksburg, Thokoza, Soweto and some areas outside of Gauteng such as Cape Town. During these incidents more than 56 foreign nationals were killed and others were injured while about 35,000 foreign nationals around the country relocated from their own houses and were left homeless. According to Steenkamp (2009: 444), these xenophobic attacks resulted because of the government not paying attention to the warning signs that had been sent by frustrated South Africans. Owing

to the effects of these incidents, trust between foreign nationals and South Africans has been distorted.

4.7.4 Health impacts

Health services may observe new forms of diseases which they do not have the expertise to treat and which may require the government to spend extra money on implementing new measures to deal with the new challenges, which would not been required by the citizens of this country (IOM, 2000: 29-30).

4.8 SURVIVAL STRATEGIES OF UNDOCUMENTED FOREIGN NATIONALS

Although the DHA has attempted to address the issue of undocumented foreign nationals in the country on several occasions, the majority of foreign nationals entering the country still remain undocumented and the target of the police (Human Rights Watch, 2008: 92). Owing to the failure to legalise the presence of undocumented foreign nationals in the country, most foreign nationals have developed their own survival strategies. Madsen's study (2004: 174-186) shows that the survival of undocumented foreign nationals concerns the ability to remain distant and unrecognised by the police by avoiding areas with a police presence and by talking and dressing like South Africans or bribing the police in order to avoid arrest. Some of the foreign nationals avoid interacting with South Africans as much as possible because of a lack of trust as to who might rob them of their belongings or report their status (as undocumented) to the police. Some of the foreign nationals stay in groups, which keeps them disciplined and enables them to protect each other during difficult situations.

In a study conducted among Zimbabwean citizens who survived crossing the border illegally into South Africa, the change of one's identity was reported as being used not only to survive in a foreign country but as a way of gaining respect back home, as a strong and fearless

person (Hungwe, 2012: 134). It is a huge achievement for foreign nationals to survive crossing the border illegally and to survive the hardship in South Africa as well as to return to their countries of origin safely. In Zimbabwe, these survivors are called, among other names, the "injivas" by the local citizens. This name represents someone with different life experience from the local citizens.

On the other hand, these survivors also demonstrate a walk, lifestyle and language and behaviour, foreign accent and unique movements that differentiate them from the local citizens. Their behaviour is sometimes regarded as disrespectful to the local culture while in some instances they are respected for having the courage to defend themselves and to resolve disagreements within the community. According to Hungwe (2012: 134), these survivors have double identities in the sense that when they are in South Africa they are labelled "makwerekwere", a name associated with humiliation, while when they return to their countries they are called the "injivas", a name associated with a dignified person. It can be deduced that experiences of foreign nationals in this country are influenced by many factors, which shape how they survive on a daily basis.

De Haas (2007: 7) argues that strict border controls and migration policies, imprisonment and provision of aid to address the root causes of migration in the sending countries will not end the problem of migration, and may produce the following results: reduce a low number of people crossing the borders, push those who have already crossed the borders to settle permanently in the receiving countries and raise the issues of illegal border crossings. This is because those foreign nationals who fear the difficulty of crossing the borders may permanently stay in the receiving countries in order to avoid the risks and costs that accompany border crossings. Another reason is that as long as the need for unskilled and cheap labourers exists in the industries or work-seeking sectors in the receiving countries, the issues of undocumented foreign nationals will persist due to the need of these foreign nationals to secure better job opportunities (de Haas, 2007: 10).

An individual's choice to migrate also has to do with their future ambitions and their present state of living and progress, which means that those who have ambitions to achieve a better living standard will migrate if they realise that their current situation cannot give them what they want. This means that they will eventually relocate to better and developing countries (de Haas, 2012: 19). De Haas (2010: 20) further argues that most of the development programmes which aim at addressing the root causes of migration appear to be pushing away the problem of migration rather than addressing it. That is because the responsible governments do not invest in long-term objectives such as education, skills development and providing information and motivating people to go abroad to be innovative. De Haas emphasises that "... as long as aspirations increase faster than the livelihood opportunities in sending regions and countries, social and economic development tends to coincide with sustained out-migration" (de Haas, 2012: 20.)

4.9 SUMMARY

On the basis of the above suggestions for possible solutions to immigration issues, it can be deduced that the problem of undocumented immigration in this country is deeply rooted in economic matters. Thus, the reactive measures such as tight policing and social integration of foreign nationals still have to be examined in order to address this problem. This chapter highlighted the extent, the nature and the impact of hosting large numbers of foreign nationals in the country. Issues pertaining to the perception of this issue by the public and the media were also discussed.

CHAPTER 5: INTERNATIONAL EXPERIENCES OF IMMIGRATION ISSUES

5.1 INTRODUCTION

The issues pertaining to undocumented foreign nationals are an international problem, which impacts significantly on economic, social and security issues in most countries around the world (Berne Initiative Studies, 2005). As a result, many countries have individually developed new strategies or have partnered with other countries through interstate agreements to overcome the problem of undocumented foreign nationals within their territory. These partnerships are facilitated through interstate cooperation processes, which occur in different forms: a multilateral consultative process in which more than two countries in different continents establish an agreement with one another; a bilateral consultative process in which two countries reach an agreement with one another (for example, the South Africa – Zimbabwe migration dispensation programme which took place in 2009); and a regional consultative process in which several countries belonging to the same region reach an agreement with one another regarding common issues of concern, such as the Schengen agreement established by the EU states (Bourbeau, 2011: 1; SADC, 2012).

The 'interstate consultative processes' refer to dialogues conducted in the form of meetings, workshops or conferences that bring two or more countries together with the aim of enhancing their relationships through the exchange of information and experiences on development issues such as the economy, social and state security matters (including immigration issues). Agreements or decisions made within the consultative process meetings are non-binding in nature, creating a space for open discussion and free participation of both member states and non-member states. Such dialogues are facilitated by a team of experts, a chair or the appointed secretariat and the high ranking officials from member states and non-member states together with a group of observers. The successes

of most consultative processes involve changes made on immigration legislation and/or processes of managing immigration issues (IOM, 2011b).

The objective of this chapter is to examine how other countries deal with undocumented foreign nationals within their territory. This examination will assist in determining how South Africa can learn from these countries and also in developing a framework that can be used in the South African context. In order to give a rich description of how undocumented foreign nationals are dealt with, this chapter begins with a description of the roles of the existing interstate consultative processes on migration issues.

5.2 EXAMPLES OF INTERSTATE DIALOGUES WORLDWIDE

Among the international interstate dialogues that contribute to the facilitation of undocumented foreign nationals between the sending and the receiving countries, the dialogues, consultations, processes and conferences outlined below are included.

5.2.1 The Ministerial Consultations on Overseas Employment and Contractual Labour for Countries of Origin and Destination in Asia (Abu-Dhabi Dialogue)

This consultation was established in 2008 in order to protect temporary labour movements. Its main focus is on partnership and responsibility sharing, in which the member states exchange skilled workers, knowledge regarding temporary employment and coordination of resources for better development among the states involved. Information sharing among the states involves specifying the roles of each actor within temporary contractual work, the steps to be followed in the duration of employment (from the recruitment to work orientations up to the return of the migrant worker to the country of origin), and employee and employers' basic human and labour rights. This process uses the demand supply mode of managing the migrant's movements. In turn it increases the capacity-building opportunity among the

member states and strengthens the relationship between the member states (IOM, 2011b). This interstate consultation equips foreign nationals with information regarding their safety and security as employees in a foreign country.

5.2.2 Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process)

This consultation was established in 2002 after a significant outbreak of smuggling and trafficking in people from Indonesia to Australia by boat. Owing to this problem, the government involved proposed this consultation to prevent people smuggling, trafficking in people and undocumented immigration (Berne Initiative Studies, 2005: 46). The objectives of The Bali process include, among others: to create an avenue for information and intelligence sharing among its member states; to create a network that brings together the different law enforcement agencies within the region in order to explore different measures that can be employed to prevent illegal movements of people; to raise awareness of illegal movements and activities such as smuggling and trafficking in people; to encourage the states involved to review and implement laws that prohibit the smuggling and trafficking in people; to protect vulnerable groups, especially women and children; to assist the states involved to adopt better strategies to deal with asylum seekers and to incorporate measures that will increase the access to visas; and to enhance cooperation on the management of visa applications and border controls among the member states (IOM, 2011b; Berne Initiative Studies, 2005: 46).

5.2.3 Inter-Governmental Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants (APC)

The APC was established in 1996 in response to the matters pertaining to migration process within and outside its border lines. The objective of the APC includes, among others, to

encourage discussion within the Asia-Pacific region and to enhance the level of cooperation between the member states regarding potential measures for addressing the causes, the increasing nature and the impacts of migration. The APC also strives towards information sharing and reintegration and the maintenance of good relationships among the states involved (IOM, 2011b; Berne Initiative Studies, 2005: 38).

5.2.4 Ministerial Consultations on Overseas Employment and Contractual Labour for Countries of Origin in Asia (Colombo Process)

This consultation was established in 2003 by the IOM with the aim of protecting migrant labours, specifically those originating from Asia. These are people who relocate from one country to another within the Asian territory. The focus of this consultation centres on the sending countries and aims to facilitate the exchange of knowledge between the sending countries of Asia and to develop collective management of labour migrants with the receiving countries; to follow up on the implementation of agreements and decisions made during the process; to ensure that the migrant workers are protected against unfair treatment from their employers and to provide them with information regarding migrant labourers' rights as well as to assist them with basic needs and welfare services; and to promote capacity building, better records of migration movements and cooperation between its member states (IOM, 2011b).

5.2.5 Inter-Governmental Consultations on Migration, Asylum and Refugees (IGC)

The IGC has been active for more than 25 years, making it one of the oldest consultation processes to date. Its focus centres on three areas: asylum and refugees; admission control and enforcement; and immigration and integration issues. The objectives of this consultation include: encouraging the member states to ensure that the visa application procedures are

"fair, fast, efficient, flexible and transparent"; exchanging skilled migrant workers among the member states; adopting better strategies to deal with migrants (including unaccompanied minors) and sharing information and data (Berne Initiative Studies, 2005: 12).

5.2.6 Budapest Process

This process was established in 1991 in response to massive forced migration movements after the Cold War era. The aim of this process was to create efficient cross-border movements. Its objective is to facilitate the exchange of information and experiences on matters concerning regular and irregular migration, asylum, visas, border management, trafficking in human beings and smuggling of people, and the reintegration of migrants (IOM, 2011b).

5.2.7 Cross-Border Cooperation Process (Soderkoping Process)

This process was established in 2001 and it focuses on issues pertaining border security and management; law concerning international refugee and human rights; information about legal prescripts used in other countries and migrants' rights initiatives; irregular migration; trafficking in people; and awareness and understanding of the border activities (IOM, 2011b).

5.2.8 Regional Conference on Migration (RCM or Puebla Process)

The Puebla Process was established in 1996. Its objective is to facilitate the exchange of information, experiences and best practices and to promote regional cooperation among the member states (IOM, 2011b).

5.2.9 South American Conference on Migration (SACM or Lima Process)

This process was established in 1999. Its focus area includes development, rights of migrants, integration, information exchange, migration statistics and smuggling and trafficking in people (Berne Initiative Studies, 2005: 20).

5.2.10 The Dialogue on Mediterranean Transit Migration (MTM)

This process was started in 2003 with the goal of establishing a strategy to manage migration through information sharing among its member countries. This dialogue focuses on issues such as reception, detention, protection of migrants and reintegration of migrants within the communities (Berne Initiative Studies, 2005: 26).

5.2.11 5+5 Dialogue on Migration in the Western Mediterranean

This dialogue was established in 2002 with the objective of driving the communication between the member states of the Western Mediterranean. This includes joint border control, the protection of migrants on labour issues and integration issues, as well as educational awareness campaigns (Berne Initiative Studies, 2005: 90).

5.2.12 Inter-Governmental Authority on Development- regional consultative organisation on Migration (IGA)

This dialogue was established in 2008 in Ethiopia with the objective of creating a common vision among its member states and of encouraging cooperation within the region regarding migration-related issues as well as of encouraging the adoption of the policies as provided by the African Union (Berne Initiative Studies, 2005: 91).

5.2.13 Migration Dialogue for Southern Africa (MIDSA)

MIDSA was started in 2000 as an inter-agency and intergovernmental initiative and framework for the regional dialogue on migration. Its objective includes, among others, to encourage cooperation regarding the management of migration flows and the exchange of information and resources for the benefit of regional development. This dialogue is aimed also at migration border management, development, health, labour migration, irregular migration, migrants' rights, reintegration, smuggling and trafficking of humans.

5.2.14 Migration Dialogue for West Africa (MIDWA*)*

This dialogue was launched in 2001 mainly for the Economic Communities of West African States (ECOWAS) member states to promote discussion, free movement of people and the rights of residence (Berne Initiative Studies, 2005: 12-92). An example of how knowledge sharing moves from the regional to the national level was observed in ECOWAS in 2012. This was when its member states organised conferences at the regional level, which led to workshops at the national level by adopting the 10-step plan strategy of protecting refugees as emphasised by the UNHCR policy. In summary, the UNHCR 10-step plan highlights the following as the important elements in achieving successful protection of refugees: cooperation between the sending and receiving countries; improved data collection and analysis techniques to assist in the needs analysis of refugees; training of border police, immigration and customs officials in dealing with refugee cases; implementation of many RROs for receiving refugees on first entry; improved ways of identifying individual needs of each refugee and referral options; improved ways of identifying the most vulnerable people; seeking permanent instead of temporary solutions; encouraging and facilitating voluntary repatriation; and educational awareness of refugees on the host country's legislation, and safety and security issues immediately after the arrival (UNHCR, 2007: 4).

Based on these guidelines, ECOWAS developed a regional framework on the ways of dealing with migration issues within its region. As a result, information sharing in terms of workshops was conducted for the member states of ECOWAS. The aim of these workshops was to train representatives from each state on how to deal with refugees so that they also train the law enforcement officials within their nations (ECOWAS, 2011: 12). This training assisted the law enforcement in this region to develop a common understanding of the issue of refugee protection and management.

The above dialogues show how various countries and regions around the world have extended their attempts to deal with migration issues and the kind of initiations taken in order to create "soft-laws" that can be used as a guideline to deal with legal and illegal or undocumented foreign nationals. According to Norman (2012: 1 & 9), the purpose of the regional interstate consultations is mainly to facilitate the movement of those willing to cross the borders so that they are treated humanely and to enhance the cooperation among different countries. This means that those countries that undermine the provisions of such soft laws discriminate against foreign nationals.

Viljoen (2012: 563) debates whether although the above regional initiatives are meant to improve the lives of both documented and undocumented foreign nationals, they (interstate dialogues) rarely enforce the human rights issues sufficiently within their functions. It can be deduced that the role of interstate dialogues about the issues of migration is important in ensuring the migrants are protected both within and across their border posts. However, the fact that these interstate dialogues are non-binding means that they have little impact on how individual countries should deal with undocumented foreign nationals within their territory. Below are some examples of how undocumented foreign nationals are dealt with in certain countries.

5.3 UNDOCUMENTED FOREIGN NATIONALS IN SELECTED COUNTRIES

In this study, the researcher decided to draw on the experiences of four African countries, (Tanzania, Ghana, Egypt and Uganda) because these countries have a similar historical background to South Africa and also experience a high level of undocumented foreign nationals within their territory. In addition, experiences unique to the European Union are examined to shed light on how countries with common visa policies deal with undocumented foreign nationals within their territory.

5.3.1 The United Republic of Tanzania

This country obtained its independence in 1961 after enduring years of colonial rule. With independence, Tanzania became an asylum country and one of the African countries to host a large number of foreign nationals who seek asylum permits (UNHCR, 2004). The closeness of this country to the countries experiencing conflicts made it a place of safety for most foreign nationals from its neighbouring countries such as Burundi, DRC and Rwanda. The first large group of Burundian asylum seekers migrated to Tanzania after the 1972 genocide in Burundi with an estimated number of 160,000. More Burundian asylum seekers of about 340,000 followed after the 1993 political instability and ethnic conflicts in Burundi (Klausen and Rwegoshora, 2010: 19). This problem was exacerbated by the Congolese asylum seekers, who also fled political conflicts and human rights abuses in DRC in 1997 (UNHCR, 2004: 98). The following discussion focuses on strategies used to deal with foreign nationals in Tanzania.

Before 1990, Tanzania provided settlement areas to refugees and each family was also given five hectares of land for agriculture purposes. This was an opportunity for the refugees to start a new life in a non-camp area. This strategy led to economic self-reliance for the

refugees and a closer relation between the Tanzanian citizens and the refugees. However, this strategy was only temporary since it was implemented with the hope that as soon as the situation in Burundi, Rwanda and DRC normalised these refugees would go back to their countries. As conflicts in the neighbouring countries continued, the Tanzanian government began to be over burdened with the increasing number of refugees.

Therefore, it adopted a comprehensive and permanent approach to this problem and such an approach was implemented in the form of three durable solutions. The first one is the voluntary repatriation of refugees, whereby those that wish to return to their countries are assisted with transportation, return documentation and some means of reintegration when they arrive in their country in the form of cash. The second one is resettlement, in which those who do not wish to return to their countries and at the same time are no longer interested in residing in Tanzania for security reasons are considered for resettlement in other countries, apart from their country of origin. The last one is the local integration of those who prefer to live permanently in Tanzania. This last solution was provided to refugees who came in Tanzania before 1990. In such a case, those refugees were allowed to relocate from the refugee settlements into the traditional communities and mix with Tanzanian citizens. Owing to the high administration requirements of the last two solutions, the resettlement and local integration progressed slowly (Klausen and Rwegoshora, 2010: 9).

The success behind these solutions was backed by the following characteristics: a serious commitment on the part of the Tanzanian government in terms of ensuring that every process was conducted adequately; good timing for considering repatriation – instead of choosing any time they decided to introduce these solutions when the conflicts in their neighbouring countries had stabilised; the relationship between Tanzania and key role players such as UNHCR and the neighbouring countries themselves, which strengthened these initiatives; the importance of conducting the needs analysis of the refugees, which also

assisted this country in planning the execution of these solutions, especially the understanding of the consequences of repatriating the refugees from war countries; and lastly regular follow-up on the implementation of these solutions (Klausen and Rwegoshora, 2010:14).

Temporary refugee camps were set up for those refugees that arrived in Tanzania after 1990; the option was either to repatriate them to their countries in safety and in a dignified manner or to let them remain in the temporary refugee camps within Tanzania, but on the condition that they become self-reliant. This meant that only a shelter was provided for them while food and other basic services depended on them. In order to ensure order, a police unit was posted at the camp and in the camps elected refugee leaders represented these refugees within the society (International Crisis Group (ICG), 1999: 13-14).

The above solution was followed by skills development training, in which people of different professions were brought to these camps to train refugees on how to use their skills to provide for themselves. An example of these training courses was the course designed by the partnership between UNHCR Tanzania and the Ujamaa Art Gallery, in which professional artists were requested to conduct three-day workshops with the refugees on art-related skills development. Training for the law enforcement officials was aimed at facilitating the migration processes, in which in 2012 the police officials, customs/migration officials, social welfare and health service officials were provided with two types of training sessions on dealing with refugees. The objective of this training was to create awareness among these officials of the nature and types of refugees and the legislation and human rights principles on refugees. Training was also given on how to identify fraudulent documents, operate fingerprint systems and work together with other role players when dealing with refugee cases. On the basis of the above strategies, it can be deduced that the success of Tanzania in dealing with refugees was not only influenced by its collaboration with the key

role players (non-governmental bodies and the UNHCR) but also the by the tolerance of the Tanzanian citizens towards refugees as well as the commitment to protect the human rights of these refugees as best as possible.

5.3.2 The Republic of Ghana

Ghana gained its independence in 1957. The inflow of refugees began in the 1980s after the civilwars in Liberia, Sierra Leone, Guinea-Bissau and Togo. However, its largest inflows were from the Liberian refugees after the Liberian civil war in 1990 and 1994, with an estimated number of 700,000 refugees staying in Ghana after these wars (Owsu, 2000: 2). The strategies applied by the Ghanaian government in dealing with this matter include:

- Refugee settlement areas – the Ghanaian government allocated a settlement area to the refugees in its country. Due to the large numbers of refugees entering the country after 1990, the settlement area became too small to accommodate every new refugee. As a result, other refugees settled within the communities of Ghana with the Ghanaian citizens (Omata, 2012: 2).

- Voluntary repatriation – after the war had ended in Liberia, the Liberian refugees were encouraged and assisted to return to their country voluntarily. However, because of fear of their previous experiences most of the Liberian refugees were not interested in returning to their country. Some of the refugees did not opt to return because they were uncertain of the current condition in their country and especially whether they would be able to provide for themselves or be welcomed and whether they would find their houses and land after being away for so long (Omata, 2012: 8-12).

- Self-reliant approach – after many refugees did not return to their country, the Ghanaian government decided to limit the basic services that had been freely given to the refugees in the settlements, such as water, electricity and other public

services. This meant that the refugees in the refugee settlements were now expected to pay for these services themselves. As a result some resorted to finding temporary job opportunities such as street trading. The opportunities of working in the formal sectors were scarce because they did not have work permits (Tanie, 2012: 15).

Although temporary settlements were created for refugees, the Ghanaian government did not conduct a thorough needs analysis of these refugees before terminating the free basic services and food rations for refugees. Hence, the lack of work permits and of recognition of tertiary qualifications from other countries prevented most of these refugees from accessing employment opportunities.

5.3.3 Egypt

Egypt has been an independent country since 1922, and since then it has served as a receiving country for refugees from Sub-Saharan Africa. It is one of the countries that do not limit refugees to staying in refugee camps; hence, most of the refugees in Egypt live in urban areas (Gozdziak & Walter, 2012: 6). The first group of refugees it received was between 1948 and 1967, when the Palestinians sought asylum after the civil wars in Palestine; this was followed by the Somalian refugees in the late 1980s. The largest number of refugees it received was in 1991 and in 2004 after the Somalian civil wars, which resulted in an estimated 23,660 Somalian refugees. This was followed by Sudanese refugees between 1997 and 2004, totalling about 67,000 in number (Al-Sharmani, 2008:2). Furthermore, in 2011 the Libyan refugees arrived in Egypt (estimated at 475, 000), fleeing from the political violence in their country. In 2012, there was an inflow of 12,800 Syrian refugees, also fleeing from conflicts in their country. The strategies used by Egypt to deal with these refugees include:

- Temporary camps – camps were erected for the refugees to stay in and one-year temporary residence and travel permits were provided to each refugee on their arrival.

- Voluntary repatriation was opened for those who wished to return to their countries; this was realised by means of assistance with transport fares and travelling documents.

- Resettlement was considered for refugees with high protection needs.

- Skills development, in the form of training refugees in knitting, sewing and hair dressing skills, was given to the refugees to enable them to help themselves.

- Educational awareness was also conducted in order to sensitise the community members and the media on the issue of refugees.

- A microcredit system was also introduced to lend money to refugees who wished to start their own businesses (UNHCR appeal 2012/2013: 129). This was regarded as a useful tool for alleviating poverty on a large scale because there was no need for the borrower to produce anything as security and the amount of money and method of repayment were individually assessed – very often repayments were made after six months of starting a business.

Before the money could be lent to a person, the person was obliged to attend two forms of training; that is, before starting a business and during the operation of the business. The opportunity presented by microcredit was that information sharing circulated among those who had not yet borrowed anything and those who had. The loan was not limited to money; some were also provided with raw materials or chickens and food to sell and make a profit. In turn, the profit made assisted most of these refugees to pay for their basic needs, including their children's school fees, food and electricity. Most importantly, these microcredit schemes helped refugees with few social networks to find employment and assisted those who could not access the banking system or find formal work employment. With the microcredit

system, the refugees were empowered to be self-reliant and to be active and confident people in the society and the skills learnt here could also be used in their countries if they were repatriated. The disadvantage of this system was that if the intended business did not succeed, then the refugee would find it difficult to repay his credit on time (Krell, 2010: 3-8).

Egypt did not consider local integration among its solutions, meaning that it was only willing to provide temporary solutions rather than permanent solutions to its refugee problems.

5.3.4 Uganda

This country gained its independence in 1962 and it has been a host for refugees since World War 2, when it hosted Europeans fleeing from wars. The Rwandan refugees fleeing from ethnic discrimination and conflicts also came to Uganda; the first group in the 1950s, the second group in 1990; and the third in 1994, fleeing from genocide killings in Rwanda. In 1995 the Sudanese refugees fleeing wars crossed into Uganda as well, leading to a total of 300,000 refugees. These was followed by 23,000 Congolese refugees. By the end of 2000, Uganda had a total of 639,760 refugees in its territory (Lomo, Naggaga & Hovil, 2001: 3). However, this number declined to 190,000 in 2012. In Uganda the following strategies were used to deal with refugees:

- Voluntary repatriation – the Uganda and Rwandan governments signed a tripartite agreement in 2003, 2009 and 2010, encouraging all Rwandan refugees in Uganda to return to Rwanda since the conflicts in that country had stabilised. In this way, assistance with transportation documents and fares were arranged for anyone willing to return to Rwanda. Some returned while others remained in Uganda, with the fear of retuning to a place where they had been discriminated against on the basis of their ethnic origin (Hovil, 2010a: 16). According to Hovil (2010b: 26-28), the voluntary repatriation in

Uganda did not succeed because it was not well planned. This means that instead of deciding when refugees should be repatriated, the government could have consulted these refugees and found out from them when and how they wanted to be repatriated. A repatriation process should be a one-step-at-a-time process and not a single event as it was. Hovil further asserts that there was limited information given to the refugees on decision making regarding the repatriation process. There should have been short- and long-term options of repatriation, in which those that were not sure about their decision could still return to the host country. Reintegration measures should have been well prepared so that on their arrival these refugees felt accepted socially, economically and politically within their countries and so that they could live without fear of experiencing further discrimination.

- Settlement – on their arrival in Uganda, the Ugandan government allocated a temporary settlement area for the refugees and allocated agricultural land to the refugees to enable them to support themselves.

- Training of public service members, including the police, immigration and customs officials and journalists, on how to deal with refugees and on understanding the legislation governing refugees was conducted.

- Self-reliance strategies – meant the reduction of free services given to the refugees in settlement areas and providing refugees with skills to enable them to provide for themselves (Meyer, 2006: 11).

Although the government of Uganda has attempted a repatriation system more than once and has implemented self-reliance strategies to assist the refugees, it appears that its ultimate aim is for Uganda to be a refugee-free territory.

5.3.5 European Union

The European Union (EU) was formed by a group of 26 European countries that adopted the Schengen visa policy in 1995 in order to do away with the border control measures within the EU. The Schengen visa ensures that EU citizens enjoy the privileges of free movement within their territory and they are treated with dignity and respect. It relaxed the conditions of travelling from one member state to another by allowing the use of one visa within the region. This also reduced travelling costs and led to a decentralised mode of handling visas. It allows an individual to travel to several countries within EU (known as 'euro zones' or 'schengen zones') up to the maximum period of 90 days (Mitsilegas, 2002: 665). In the process of securing the euro zones, those activities that were deemed threatening to the wellbeing of the euro zones were classified as new security threats that should be heavily discouraged. Included in this list was the immigration of undocumented foreign nationals (Mitsilegas, 2002: 667).

According to Mitsilegas (2002: 668), the adoption of a common visa policy influenced the attitudes of the "inside" and the "outside", in which those belonging to the euro zones referred to themselves as the safe ones while those who did not belong to the euro zones were seen as the unsafe ones with the potential to threaten the "societal security" of the developed EU states. 'Societal security' in this case refers to the common identity adopted when assuming the entitlement to the EU Schengen visa. Mitsilegas (2002) further argues that this kind of policy encourages discrimination because it excludes those with no Schengen visa and, most importantly, ignores their human rights in the conception of protecting the euro zones from outsiders. For example, when the countries within the EU (such as France) experienced the issue of immigration from Romanian citizens (known as 'gypsies') their response was deportations. The gypsies moved to France in order to establish a better living standard there. This problem started in 1993 in small numbers but

increased with the Balkan war, after which Balkan citizens also migrated to France in order to seek asylum (Cosgrove, 2009: 1).

The Schengen requirements or provisions also make it difficult for other countries to acquire euro zone membership because the EU has set its safety standard very high. For example, a state that wishes to be a member of the Eurozone should first ensure that it can fight cross-border crimes such as human trafficking, drug smuggling and illegal immigration issues within their territory. This means that those countries that still struggle to curb such crimes within their territories cannot be permitted to be members of the EU as they fall under the group of unwanted threats. The major concern is that such countries if adopted into the euro zones will bring with them the problems they have within their territories. It is clear that, unlike those countries that use no common visa system such as South Africa, the EU member states benefit from having a common goal and enhanced communication among themselves. Strategies used to deal with the migration of undocumented foreign nationals include physical measures and employer sanction. The physical measures include increased numbers of border police, improved electric fences around the borderlines and advanced technology devices such as infrared scanning, movement detectors and surveillance cameras to prevent and control undocumented foreign nationals at the border lines. These measures are accompanied by changes in employer sanctions and denying foreign nationals access to public services and deportations of those found without visas (Engbersen & Broeders, 2007: 1592-1593). In terms of employer sanction, the new rule is that a fine will be issued to any employer found to have employed an undocumented foreign national. In terms of the implementation of new technology devices, the EU has introduced databases for managing immigration movement.

Three immigration databases exist as follows:

- Schengen Information System (SIS): this database captures the information of foreign nationals arrested in connection with criminal activities. The main aim of this system is to control undocumented foreign nationals.

- Visa Information System (VIS): this database captures the information of those who have followed the legal procedures of applying for a visa and having entered the country legally. By linking the information on this database with biometric identifiers, the police are able to identify those foreign nationals who overstay their visa period and those whose visa applications are not yet finalised as well as provide background information on the person in question together with their network friends. In terms of those who are still waiting for their visas, this database relieves them from being falsely accused of lying about their status. The ability of this database to identify people belonging to the same network assists the police in curbing cross-border criminal activities such as human trafficking syndicates operating within the euro zones.

- Eurodac database: this captures information of those who enter the country through the asylum procedures (Engbersen & Broeders, 2007: 1603).

The advantage of using these databases is that they allow cooperation between the police in different states within the EU and they increase the chances of limiting undocumented foreign nationals.

On a social level, several EU member states have adopted the citizenship trajectories (also known as the citizen integration test/programme). This programme is currently in use in about nine EU member states, including Sweden, where it was introduced in the 1970s; Denmark in 1986; Belgium in 1990; France in 1998; the Netherlands in 1998; Finland in 1999; the United Kingdom in 2002; Austria in 2003; and Germany in 2005. These states

have adopted this programme because they believe it works best in integrating foreign nationals into the society. The conditions of this programme differ slightly from one state to another; however, the main aim is to provide foreign nationals with knowledge about the history, culture, languages and services available to them in the host country. It is believed that by providing foreign nationals with basic information of how the host country operates this can assist them (foreign nationals) to understand their new environment as well as to be independent (Jacobs & Rea, 2007: 3-4). In turn this will lead to easy integration into the society.

This programme takes about 30 to 600 hours of lessons on the language/s of the state at hand, the history, and social, cultural and political systems, and legislation of the host country. Participation in this programme grants the candidate an opportunity to be granted a temporary citizenship status, while non-participation is organically an exclusion from obtaining any kind of citizenship status and it is also punished with a fine. In other states, the punishment is in the form of reduced or the withdrawal of social benefits (such as integration allowances and basic services). This programme is completed with a test that determines whether to grant a permanent citizenship or not, while in other states full attendance of the programme grants one a permanent citizenship status. In some states, the fees for attendance of this programme are paid by the government while in other states the government pays half of the fees and the candidate pays the other half, depending on the financial status of the person. This programme is taken mainly by non-EU members (especially asylum seekers and relatives of EU members) seeking citizenship and it is exempted for intake by EU nationals, people with work permits, those with study permits and those foreign nationals from countries exempted from entering the EU with a visa (Jacobs & Rea, 2007: 3-7; Joppke, 2007: 5-14). Owing to the social benefits and the support granted to foreign nationals seeking citizenship, foreign nationals are protected from insecurities accompanying cross-border movement.

Although this programme is praised for ensuring easy social cohesion with the society and for enhancing respect of the law and understanding of social practices, it is also blamed for not recognising the unique identities of the cultures of foreign nationals by compelling them to adopt the host country language and culture (Joppke, 2007: 1). In the light of the above discussion, it is clear that the attempts to employ the strategies that accommodate the foreign nationals in the host country are the best ways of dealing with the issue of undocumented foreign nationals within the democratic framework. Two major ways of accommodating foreign nationals in the host country can be summarised as follows:

- Social integration, which according to Solivetti (2010: 132) occurs when the government of the host country implement measures that will equip the foreign nationals with skills or means of enriching themselves economically and socially while in the host country. This often occurs when the government provides foreign nationals with skills development training or microcredit schemes to assist the foreign nationals to maintain themselves. This process is favoured for recognising multiple cultures.

- Cultural assimilation, which occurs when an immigrant adopts the cultural practices, norms and values of the host country at the expense of their own culture. In this way they abandon their cultural practices by learning and doing what others do in the host country (Valtonen, 2008: 61). This process is criticised for suppressing the cultures of the foreign nationals by acting against multiculturalism. Sometimes this process can happen through individual efforts where an immigrant starts their own relationship with the native citizens, or it may occur through state initiatives in which the state allows the settlement of both the foreign nationals and the native citizens in the same location.

For the democratic framework of dealing with foreign nationals to be successful, the host countries should support the argument on open borders or common visa or vision (Smith, 2011: 334 & 337). Open-border debates emphasise:

- Promoting the freedom of movement across the border lines

- Allowing people to enhance their economic level in different legal ways in and outside of their border lines

- Allowing poor people to access the same areas that rich people benefit from

- Encouraging the "principle of humanity" in which rich countries and people freely share their resources with poor people, out of a sense of humanity

In contrast, the closed-border debates are centred on the following:

- Preserving the host country resources, job opportunities, culture and other privileges obtained on the basis of being the native citizens of the country in question. It can be concluded that the closed-border policies (such as restrictive border controls) are centred on a self-enriching ideology rather than the collective gain of people irrespective of their origin.

5.4 SUMMARY

The management of the problem of undocumented foreign nationals is a worldwide problem, which requires not only interstate cooperation dialogue but most importantly a common vision between the sending and the receiving countries. The strategies used in the above-mentioned countries have shown that it takes more than one country or institution to effectively deal with refugee problems. Most importantly, it shows that learning from each other's success and coordinating resources can also contribute to an effective and efficient solution. This chapter highlighted the experiences of other countries in Africa and outside Africa in dealing with undocumented foreign nationals.

CHAPTER 6: PRESENTATION OF THE RESEARCH FINDINGS

6.1 INTRODUCTION

This chapter presents the findings of this research and discusses them. The one-on-one interview sessions with the relevant research participants were used to explore the experiences of dealing with undocumented foreign nationals within the South African constitutional framework. Field notes made from the observations were used to increase the trustworthiness of the data received from the research participants. These findings were analysed by both the researcher and a co-coder following Tesch's data-analysis method. The researcher and co-coder discussed their interpretations and reached a common understanding regarding the similarities and differences found in the data collected.

In the data-analysis process, the researcher used as units of analysis the interview transcripts, training manuals and field notes. The researcher began by translating all the recorded interviews into transcripts. She then read through all of the transcripts more than once to acquaint herself with the information. The researcher then used the open coding method to make codes on the segments of text that she found important. She grouped similar codes into categories called 'themes'. For example, those codes that fell within the category of challenges were grouped together and those that fell within the category of strategies used in policing or the nature of the problem at hand were also grouped together under their own themes. The final step was to discuss these findings in the form of a storyline. This discussion appears below.

6.2 THE NATURE OF UNDOCUMENTED FOREIGN NATIONALS IN SOUTH AFRICA

The findings of this study show that the common types of undocumented foreign nationals entering the country in large numbers are everyday shoppers and those seeking greener pastures. Only a few of these undocumented foreign nationals qualify to be considered as refugees, according to the South African Refugee Act 130 of 1998 (South Africa, 1998) and Immigration Amendment Act 13 of 2011 (South Africa, 2011a).

6.2.1 Everyday shoppers

The everyday shoppers are those foreign nationals from the neighbouring countries walking or riding bicycles into the country in order to shop. Very often these people make a return trip on the same day or a few days after shopping. The majority of these participants indicated that they had no interest in staying in this country; all they wanted was to be allowed to walk in and out of the country to do their shopping. The items being shopped for were mostly grocery items, clothes and house furniture. Many of the foreign nationals in this group owned small businesses within their countries of origin and bought stock for their shops in South Africa. In terms of the Immigration Act 13 of 2002 (South Africa, 2002), these people's passports should be stamped every time they enter and every time they exit the country regardless of the quantity or quality of the items they buy or the activities they undertake in the country. During her observations at various ports of entry, the researcher noticed the following:

- The everyday shoppers at Beit Bridge border gate were mainly local Zimbabwean men and women between the ages of 16 and 40 who would travel by foot, use bicycles or vehicles to enter South Africa, buy items in Musina town and return to their country.

- At Lebombo border gate, it was mainly local Mozambican men and women of similar age to the Zimbabweans who ran errands across the border posts to and from the town of Komatipoort.

- At Ficksburg border posts it was mainly local Lesotho men and women of the same age crossing at the border gate to shop at Ficksburg, the nearest town, and return to their country.

During her observations, the researcher noticed that although some shoppers proceeded to Johannesburg to do their shopping, the majority of the shops around the towns of Musina, Komatipoort and Ficksburg, which were close to the ports of entry, sold the same items found in Johannesburg at a cheaper price and in bulk. According to the local police, the shops that stock these goods and are frequented by foreign nationals are mainly owned by Chinese and Pakistan nationals.

Although these shoppers are regular visitors and are often familiar to the port of entry law enforcement officials (including the police), they are searched once in a while to check whether they have receipts for the items they carry out of the country. Checking the documentation of these people is often low on the list of priorities of the law officials at the port of entry. According to one of the research participants, who is a police official, these people have a very good trust relationship with the police and other officials working at the port of entry, who let them in without checking their passports. Therefore, checking the documents of these everyday passers is not taken as seriously as checking whether they are carrying stolen goods or not.

It appears that the frequency of their (everyday shoppers) visits becomes known to the border security guards and the port of entry police and other officials working at the port of entry. This means that the seriousness of their movement is ignored, with the result that whether one has left or still remains in the country is often unclear to the officials at the port of entry. In this way, the officials at the port of entry become sympathetic to the travellers

and facilitate their movement by turning a blind eye to this issue, aware of the desperation of these people to carry out their shopping in South Africa. It can be deduced that this is a form of receiving undocumented foreign nationals in the country, in which foreign nationals become familiar with how the law enforcement officials at the port of entry (including the police) operate and later on take advantage of the opportunity to enter the country illegally.

6.2.2 The greener pasture seekers (economic migrants)

The greener pasture seekers often do not want to be noticed by the police when they cross the border. Since they are not familiar to the officials working at the port of entry, they either try to obtain a fake visa or attempt to bribe the law enforcement officials to let them into the country. Hiding in the cargo trucks that cross the border is one of their ways of entering at the port of entry. If any of these methods of entering using a port of entry prove unsuccessful, these people resort to crossing the border line in different ways such as by swimming through a river or climbing a mountain or walking alongside a railway line. They also use the help of criminal syndicates operating in the bush along the border line that separates South Africa and the country of origin because these bush are within a no-man's land- an area that is under no government' s authority (see Addendum B). These types of undocumented foreign nationals seek better job opportunities in the country, with some of them intending to settle permanently in this country and only return to their countries of origin to visit.

This group includes the local citizens of the very nearest countries as well as people from countries that are further away such as Ethiopia, Somalia and Pakistan. This group consists of the most desperate foreign nationals who are willing to take the risks associated with following dangerous and illegal routes to enter the country. According to the police, some of these undocumented foreign nationals are the victims of human trafficking syndicates that

assisted them to cross the border with the intention of using them in the street as beggars, in brothels as prostitutes and in home settings as domestic workers or gardeners.

The local police have indicated that this group also includes unaccompanied minor children, an issue that is becoming common in these busy ports of entry. Unaccompanied children as young as 10 years old are also caught crossing border lines illegally to escape the poverty back home. This was noticed mainly in the Musina area, where many Zimbabwean children are increasingly engaging in cross-border movement. Owing to the young age of these children NGOs have established shelters to keep them safe. These shelters exist mainly within places that are overpopulated with undocumented foreign nationals such as Musina and Johannesburg. From the personal observations of the researcher, these cross-border movements occur on a daily basis, especially in the three ports of entry that she visited, which are South Africa's busiest border posts. The research participants added that these volumes peak during the holiday period.

6.2.3 Asylum seekers

Asylum seekers are foreign nationals that meet the requirements to be granted refugee status, according to Refugee Act 130 of 1998 and the South African Immigration Amendment Act 13 of 2011. Many of these foreign nationals cross the border directly at the port of entry while others use illegal points of entry. The nature of the circumstances behind their immigration makes it easier for these foreign nationals to obtain asylum-seeker documents than for those whose reasons for immigration are economic. This is supported by the researchers' observations of a refugee shelter, where she noticed that priority in terms of allocating accommodation was given to foreign nationals that had fled from dangerous situations such as genocide rather than to those who were in the country for economic reasons. Hence, the majority of foreign nationals staying in the refugee shelters are DRC, Burundi and Sudan citizens.

Many of those in possession of asylum documents are able to receive accommodation at the local refugee shelters for a period of three months or more, depending on an individual's situation. However, the accommodation at the shelter is always temporary for adults, while for minors it can be extended to several years. For adults, when the period of stay at the shelter has elapsed, it is believed that with the skills provided while staying in the shelter they should be able to look after themselves. If a woman has children with her it is expected that she will be able to look after her children as well. If she is unable to look after her children then she is advised to send them to a children's care facility, where they will be cared for until the woman is financially stable. A person is allowed three-month accommodation at the shelter with or without documentation. Depending on their individual circumstances, some people are given a six-month period of stay.

In this country there are four types of shelters available to asylum seekers:

- Shelters for women and children only

- Shelters for children only

- Shelters for men

- Overnight bed-and-breakfast shelters that charge R90 per night

In some of the shelters, mainly those that accommodate women, there are skills development courses that teach them sewing, beading art and craft work. However, due to the limited space in these shelters and the low number of shelters in the country, many asylum seekers are released before they are able to adapt to the country or are competent enough to implement the skills they have learned.

Only two municipalities in South Africa currently have a Migrant Helpdesk (the City of Johannesburg (CoJ) and the Matatiele municipality) that assists asylum seekers. The functions of these helpdesks are to:

- Conduct training on anti-xenophobia awareness for the local communities. The training provided by the City of Johannesburg Migrant Helpdesk and the IOM to the

foreign nationals focuses on how to apply for refugee status, where to go if they require temporary shelter or legal assistance and what types of human rights apply to them. The training given to the police and community members focuses on creating an environment that is free from xenophobia by teaching them about the myth surrounding foreign nationals and providing them with information on the nature of this problem and the importance of acknowledging diversity and the human dignity of every person regardless of their citizenship status. Lack of police availability to attend these trainings was deemed a challenge at the CoJ Migrant helpdesk. Helpdesk officials reported that appointments are made with local police stations but that police officials rarely attend the training sessions;

- Act as a referral centre for foreign nationals by providing them with information on the available services such as where to apply for refugee status, health assistance, employment and educational facilities;

- Work with NGOs in identifying the needs of the foreign nationals; and

- Stimulate intervention at provincial level on matters regarding foreign nationals.

6.3 STRATEGY USED BY THE SAPS TO DEAL WITH UNDOCUMENTED FOREIGN NATIONALS

It was found that what the police do at the port of entry is slightly different from what the police do in the country. The differences are discussed below.

At the port of entry the police work hand in hand with various stakeholders and all these stakeholders are available in that perimeter. The duties of the police working at the port of entry are divided into sectors, which differ in number from one port to another and also in terms of the size of the border post. The sectors include, among others, those:

- that focus on patrolling the port of entry

- that carry out police administration

- that monitor the Case Administration System

- that search vehicles and people at the gate

- that deal with the dogs during searches

Since the police objectives are to prevent and investigate crime and uphold the law (Section 205 of the Constitution 108 of 1996), at the ports of entry their task involves searching people and vehicles as they enter and leave the country. The police also identify criminals and/or criminal activities, investigate these activities and, if possible, secure the arrest of the perpetrators. Owing to the variety of items carried by the people and requirements of the cross-border movement, the police work together with these other essential stakeholders:

- The DHA, which deals with the administration of documents, such as passports, which are required for the purpose of crossing the border

- The Department of Health, which provides for emergency medical needs of the people using the port of entry

- The Department of Defence, which operates on the border line mainly to patrol the borderline against the illegal crossing of those without legal documentation

- The Department of Agriculture, which examines the animals or plants and other natural aspects that may affect agricultural sites in this country. In cases where animals or plants are being imported or exported this department looks at the impact of the exportation or importation of the item at hand

- The Department of Environmental Affairs, which focuses on nature conservation matters, such as the import or export of indigenous animals or plantations. It then decides on whether to allow or reject the entry or exit of particular animals or plants

- The Department of Revenue Services, which administers the taxation of goods that enter or leave the country

- The Department of Transport, which focuses on regulating the cross-border movement of vessels or craft as well as vehicles

- The Department of State Security, which focuses on assessing the security threats related to cross-border movement, such as terrorist threats

On the entry of a person or a vehicle at the port of entry, the police will conduct a search for illegal items and the DHA will look at the passports of this person and check whether they qualify to be admitted into the country or not. If there are any environmental or agriculture-related items then the relevant department will be called in to look at these items. If illegal items are identified then the relevant person will be taken to the nearest police station and if a vehicle is involved, depending on the nature of the case that vehicle will be released under police custody or crushed at the port of entry (especially if it is found to be carrying drugs or other prohibited items). All these processes are accompanied by the completion of the relevant documents that record the activities that have taken place. Those foreign nationals who in some way have succeeded in crossing the border without following the legal processes are likely to meet the local police during in-country policing operations or raids or during random stop-and-search activities.

The in-country police strategy of dealing with undocumented foreign nationals uses only two methods, which have been used for years but are used with caution currently due to the changing nature of cross-border movement, such as more children becoming undocumented foreign nationals and the majority of people not qualifying as refugees but instead as everyday shoppers or greener pasture seekers. These two methods are:

- The everyday random street stop-and-search method, in which the police stop and search people they suspect of being undocumented foreign nationals whenever they meet them on the street.
- Special operations or raids, in which the local police together with the police working at the port of entry and other stakeholders such as DHA officials and the SANDF

organise roadblocks or visit businesses or conduct door-to-door searches for people without documentation.

The above methods are carried out as follows:

1) A parade (or an assembly) is held where the police participating in the operation are informed of how to conduct themselves when dealing with foreign nationals, whether documented or not. These parades normally take between 15 and 45 minutes. Very often these guidelines are obtained from the cluster committee (a collection of various station commanders) that decides on what should be done and what should be avoided in these kinds of operations. The findings of this study revealed that the cluster decisions are guided by extracts from the Refugee Act 130 of 1998, the Immigration Act 13 of 2002 and the Constitution as well as the police code of conduct. These guidelines are then communicated to the commanders of the relevant units at station level and the commanders relay the message to their subordinates during the parades. The purpose of these parades is to remind the police of what is acceptable and not acceptable on the field. These parades also assist in holding the police accountable for their conduct in public spaces.

2) Concerning street patrols and the identification of suspects, in both methods of policing, identification relies on the physical appearance and communication skills of the suspect. One of the research participants said *"you can see that no! That person is got fear and when you go near him and interrogate him, you see that his particulars are not right he is an illegal immigrant, or sometimes they run away in front of you, then you know he is illegal."* Another participant who is a police official says that he focuses on the type of inoculation they have received when identifying people's nationality because he is aware that Mozambican people are inoculated on a different part of the body than South Africans. If it happens that the police are not

sure of any documents they refer the matter to the DHA officials. Those found to have no legal documents or expired documents are arrested and put in police cells.

3) After the identification process, the next step is the administration process in which the police record the details of these people and then call the DHA officials and hand over the people to them to deal with. The same process is followed by the SANDF, which, after identifying undocumented people crossing the border line illegally, arrest them and take them to the nearest police station, where they wait for the DHA officials to attend to them. It is the DHA that decides whether to let these people go free or to deport them back to their country. However, in cases of emergency such as when a person is ill or in need of particular attention, the police conduct NGOs such as the IOM for immediate service in terms of assisting the person in need.

The findings of this study showed that currently the police do not receive sufficient guidance on how to deal with foreign nationals. This makes them cautious about anything that concerns foreign nationals. What is emphasised to the police during the parade is that they need to be very careful about how they handle issues relating to undocumented foreign nationals because they have no back up when it comes to the legislation of this country. They are told to avoid media attention as much as they can. However, details about how serious this problem is are not being given to the police so that they can understand what they are faced with on a daily basis. Without a clear understanding of this problem, the police adopt a self-protection role by turning a blind eye to this problem (doing their best to keep their names clean and to secure their employment).

6.4 CHALLENGES FACING THE COMBATTING OF UNDOCUMENTED FOREIGN NATIONALS

The everyday task of preventing undocumented foreign nationals from entering or staying in this country is not a smooth process for the police, and these challenges are discussed in detail below.

6.4.1 Port of entry

The challenges faced at the port of entry include:

6.4.1.1 Lack of cooperation among stakeholders (including the police from the neighbouring countries)

This finding shows that although all the stakeholders working at the port of entry operate in the same yard, there is little relationship between them and that results in many loop holes in how the police search process is carried out. One of the participants put it as follows: "*It's like everyone is doing his own things and in his way. Sometimes during the search process if we ask for help from another department, they just don't come and that will mean we have to let go of the person.*" According to the participants, this lack of cooperation is also fuelled by a lack of knowledge on the task on the part of other departments, especially those that follow a specialised field. For example, "*if the agriculture department officials cannot pitch for a call, we are often unable to examine the agricultural items we found in people's possession. Again during the search, there are often incidences whereby we cannot search a particular cargo to our satisfaction because we are denied an access tag and a seal by the responsible department. These can lead to undocumented people and/or illegal goods entering the border*".

There is also an evidence of lack of cooperation or interest from the neighbouring countries regarding the issues of South African police preventing undocumented foreign nationals from entering the country. The reason for this is that the bush keepers (also known as 'Amagumaguma' or 'Ninjas') who operate in no man's land between the border posts are often seen standing with the police from the neighbouring country. One of the participants said: "*We know the faces of these bush keepers because we often chase them out of our port of entry trying to rob our clients. We are aware they are non-South African citizens so when we inform the police in the neighbouring country they do nothing about it. On top of that we will see the same criminals that we were chasing standing with the police from the neighbouring country and there is nothing we can do; they are not within our area.*"

The no man's land area is a very problematic area because this is where the bush keepers operate. These bush keepers are claimed to be dangerous not only to the people attempting to cross the border illegally but also to the South African police. *"We are not safe in our backyard, because some of these bush keepers are the former war veterans/police officials. They are very strategic in how they operate and they carry heavy weapons."* This is a statement made by one of the participants, who described how heavily armed and determined the bush keepers are in fighting against the South African police officials. The findings of this study also show that these bush keepers are mainly responsible for victimising undocumented foreign nationals who attempt to cross the border alone and they facilitate illegal cross-border movement. Therefore they become antagonistic towards the police, who they as disrupting their activities. These findings are supported by a television episode that was screened on 5 May 2013 on the programme *3ʳᵈ degree* (eTV, 2013). In this television episode videos of the victims or the remains of victims found injured in the no man's land between the Zimbabwe and South African border were captured as a sign of the brutality of the criminals operating in that area.

According to the police commander at one of the ports of entry, this issue was raised more than once during the meetings with the senior police officials of the neighbouring country but they showed no interest in what "*a South African citizen is saying"*. Very often they responded by saying that "*what is happening in their country is their own concern and the South African police should focus only on what occurs within the South African border"*. This behaviour prevents future attempts by South African police seeking cooperation from the neighbouring country in terms of combatting criminal activities happening in the no man's land area or in the other country, which have an impact on South African police duties. The reason is that no matter how foreign nationals are victimised in the no man's land, they still attempt to enter the country. By the time they reach South Africa or are identified by the police, they are often vulnerable and in need of medical attention.

The researcher was allowed to walk around the port of entry yard as well as on the no man's land bridge and during her walk noticed that it was mainly the South African police who were patrolling within their port of entry. These police would stop and ask questions of pedestrians and even remove hawkers from prohibited areas as well as discourage people from taking photographs within the port of entry. The police of the neighbouring country seemed relaxed and only attended to people when they approached them for help. Again, on the neighbouring country side, the researcher noticed people walking in the car lanes, which are prohibited for pedestrians, and the police on that side would do nothing to stop them. This meant that the SAPS had to take responsibility for turning them back and informing them to use the pedestrian route. These observations were a clear sign that while the South African police takes the issue of illegal border crossing seriously their counterparts in neighbouring countries do not share the same sense of responsibility. This leads to the South African police becoming overwhelmed and sometimes ignoring this issue as well.

6.4.1.2 The lack of systems for identifying foreign nationals through their fingerprints

Another challenge faced at the port of entry is the reliance on photographs and passport and the car registration numbers to identify criminals or people that carry illegal passports. The lack of a fingerprint system that can help in identifying criminals is a hindrance for the police because they rarely catch people using photographs or bar codes in passports or car registration numbers. Some foreign nationals are reported to carry more than one passport and this is difficult to establish if no system exists that can identify this. It can thus happen that one person will enter the country today with a passport from one country and next week exit with a different passport containing the same personal information. Eventually this leads to a lack of control over the movement of foreign nationals.

6.4.1.3 False accusations of abuse by foreign nationals

Many police operating at the port of entry stated that they are often unfairly accused by foreign nationals of physical harassment. One of the police stated this as follows: "*Often this accusations start just after asking them to produce a passport, many will either start answering your questions in French or another language you don't know in order to break the communication process or they will attempt to run away or to be aggressive. Then as soon as you drop them at the nearest police station they will demand to open a case against you claiming you have physically harassed them or robbed them of their money. By doing this they shift the focus from their lack of documentations to human rights abuse.*"

6.4.1.4 Fraud and corruption among some of the police

Although the demand to enter the country without legal documentation is an issue that has to be prevented, for some police officials and stakeholders working at the port of entry this is an opportunity to make more income. Many participants indicated that accepting bribes to let people in to the country without passports is not the only problem; there is also the issue of tampering with the official stamps, in which "*we find that the stamp used to renew/issue the*

passrports has been tampered with. Every immigration officer's stamp is identified with a number, but during the stamping process others will hide their stamp number with a cloth so that the document shows that it is stamped but links no official to that stamp. This is done for criminal purpose because sometimes even officials who are off duty find that their stamps have been used to issue illegal documents."

6.4.1.5 Consistent threats posed to the police

The findings indicate that the police have received several threats from the criminal gangs. One of the participants stated: "*Whenever we conduct undercover investigation of the origin of fake passports we found that the people we are investigating already know about our plans and some confront us and warn us to stay out of such cases. This obviously shows that some of our colleagues sell us out to the criminals and this makes our job risky for us."*

6.4.2 In-country challenges

The challenges faced within the country include those outlined below.

6.4.2.1 Limited powers of the police

The police feel that they have no control over what foreign nationals (including undocumented foreigners) do within the country. This is because many foreign nationals fail to comply with police instructions. This is supported by the following statements of the participants: "*...when we ask them questions sometimes they don't answer, if we ask them to sign as detainees they don't want to sign and if they are deported many return on the same day."* These kinds of behaviours are frustrating to the police and they result in accusations levelled against the police. One of the police indicated that "*I am happy that I don't work outside anymore. I'm just working here inside of which I only work office hours at 4 o'clock I knock off. I call that peace of mind because when you do that patrol, if you arrest someone for being undocumented you are on the wrong and you run the risk of being accused of many things which you can't defend yourself from."*

Another participant asserted that "*foreigners are above everything, even if you can tell them about the law of the country they don't take it, instead they will say in my country we do like this. But as a South African it won't be easy to go to Maputo and after two weeks you got a shack and all of a sudden a community forum of foreigners alone but here it's happening within Witbank, there is a forum of foreigners not even one South African is involved in what they are talking about. These forums even have a representative and their representatives are professional foreign nationals who have South African citizenships. Whenever there is a problem concerning one of the forum members these representatives run to report us to their embassies or confront us in the station.*" These show that the foreign nationals with legal documents team up against the local police with those who have no legal documents but come from same country.

One of the participants supports this by saying: "*When you stop one of this foreign national it seems like they get information from somewhere, they speak same mind.*" Another participant expressed his frustration by stating that: "*Dealing with foreigners is a risk and in order to avoid such risk we make sure we avoid receiving anything from them or commanding to them in any way or else you will lose your job.*" Another said: "*We are even afraid to transport them to Lindela because you never know what could happen to you on the road.*"

This is supported by a statement made by Mr Mayisela (2014) from the City of Johannesburg Migrant Helpdesk, who said, "*Not all foreign nationals entering this country are here for good reasons; there are those that we encounter during our project that are very strategic and we could see that they use our systems simply to benefit their criminal activities. Often these people do not even prefer to stay in the shelters if we offer them one, all they want is for us to assist them to obtain asylum documents and after they disappear from us and not complete the full training that we offer.*" From these statements, it appears

that some foreign nationals take advantage of our legislation as it is humanitarian in focus and use that to undermine police authority.

6.4.2.2 Regular withdrawal of cases by undocumented foreign nationals

Foreign nationals tend to withdraw cases after reporting that they have been robbed or victimised in some way on the street by criminals or by police officials on duty. They immediately open a case and when it is time to attend the court case they withdraw their case and claim that their religion does not allow them to go to court or just do not attend the court case. According to the police, this behaviour wastes their resources and time because each time they have to investigate such cases as with any case reported. If these cases are not investigated on the basis that the victims are unwilling to proceed to court level, the police get blamed by their superiors for not rendering a proper service and sometimes they are even informed that they will be reported to the if they neglect their duties.

6.4.2.3 Increasing number of stateless people

This is a group of foreign nationals that are undocumented because they have lost the documents proving their citizenship status to their country of origin while fleeing the wars back home and currently they are denied by their embassies in this country as being members of the country of their origin. According to Ms Resh Mehta (2013) from the IOM, these cases are observed mainly among DRC nationals. Members of the Tutsi tribe in the DRC are denied assistance by the DRC embassy in South Africa because they dismiss their claim to be true DRC nationals because the Tutsi tribe is not viewed favourably in the DRC. When the IOM approached the Burundian embassy on this matter, they were informed that the Tutsi tribe members were born and bred in the DRC and so belong to the DRC and not Burundi. This group of foreign nationals is then caught between the DRC and Burundi's political conflicts.

The Tutsi foreign nationals that are here in South Africa have indicated that they are constantly threatened and accused by Hutu members of falsely claiming to be true Congolese. One of the participants, who is a foreign national from the DRC and belongs to the Tutsi tribe, indicated that she came to South Africa with her sister in 2012. Before getting accommodation at the shelter they used to hustle on the streets of Johannesburg. She said that it was amazing to her how she and her sister were disliked and called names by the DRC Hutu members staying in Johannesburg. She said that even at the shelter those who came from the DRC Tutsi tribe were not friends with those from the DRC Hutu tribe. The tension that existed in the DRC still exists in South Africa but is hidden. She said, "*Just by looking at us and listening to our accent they tell us that we are not the true Congolease because we belong to the Tutsi tribe.*"

According to Resh Mehta from the IOM (2013), whatever case is handled by the IOM is communicated to the relevant embassy; for example, if a foreign national claiming to be from the DRC comes to the IOM offices for help, the IOM liaises with the DRC embassy here in South Africa. The embassy assists with transportation or the process of obtaining documentation for people coming from the DRC, but if it rejects a person as not being a DRC national, there is nothing that any organisation can do about that case. Therefore, "*We often had to let go of such foreign nationals knowing very well that they will remain stateless in the street of South Africa and be victimised in many ways.*"

For those who manage to get a three-month accommodation period in a shelter, when their term in the shelter is over they are faced with living on the streets if they are not claimed by an embassy. This kind of case becomes a challenge to the police because they are not taught how to deal with this kind of foreign matter at street level and no organisation, including the SAHRC or IOM, can help these people as long as their embassies refuse to be involved in the matter.

6.4.2.4 Community members as accomplices in crimes committed by undocumented foreign nationals

It was found that in some cases community leaders, church leaders or school principals as well as the local councillor's office write letters on behalf of undocumented foreigners stating that they know the person very well and that the person has been staying in the community for so many years. Even if such a person has not yet qualified for permanent citizenship, they support his or her intention to obtain a house stand in the community. Sometimes these communities also hide the suspected foreign nationals when the police chase them. These actions often discourage the police from raiding the community or conducting special operations to identify foreign nationals within the community. This is common in communities close to the port of entry.

6.4.2.5 Lack of control of NGO-sponsored shelters

With the increased number of unaccompanied minors in the communities close to ports of entry, the police complain of an increase in the crime rate, with the suspects mainly the minor undocumented foreign nationals. These children during the day steal from the shops and private homes in the community. The findings of this study showed that these minors largely stay in the NGO-sponsored shelters that were built within the communities close to the ports of entry. Although these minors are provided with their basic needs in the shelter, during day and night they are often found roaming around the streets. They are of school going age; however, they do not attend school, which means that they have nothing to keep them busy with during the day when the children in the community are in school classes.

According to the Children's Act 38 of 2005 (South Africa, 2011b), these minors cannot be deported like adults. The police expressed that, *"These children are taking advantage of that this law and we have raised these children's behaviour with the NGO that sponsors them and we were told that we are xenophobic and they tell us about how our legislation does not allow the deportation of minors. So it is up to our government to tell us what to do because*

we can't do anything about this or else you will jump!" It was also found that community members had complained to the police about this matter but nothing had been done. One of the participant indicated that, *"For the NGO these children/shelters are their way of securing more funding from the foreign investors or sponsors so that is why they careless about what these children does or does not do, what matters to them is making money out of these shelters."*

The researcher contacted two of the NGO officials to comment on this issue and the one said that securing a space in schools for asylum-seeker children had proved difficult for them because of these children's status in the country. In some schools the principals understood while in others they did not and in schools where the principal had agreed that child would only be allowed to attend school up to Grade 11 because they could not be allowed to write the matriculation examination without identity documents. The other NGO spokesperson said: *"The problem with our police is that they do not see the bigger picture and they have xenophobic state of mind towards foreign nationals (including the foreign nationals' children) and that is because of their lack of understanding of this matter."*

6.4.2.6 Easy access to the country

From her observation, the researcher became aware that even though the port of entry could be very strict and let no one enter without legal documents, the South African border lines are very porous (see Addendum B). Foreign nationals who do not wish to enter at the port of entry will still have access to the country. For example, all the three borders that were visited have busy taxi ranks close to them. On each side of the Ficksburg border gate the fence that divides the two countries can easily be jumped, and over the mountain that serves as the dividing line there is a foot path that is regularly used by those who do not wish to cross at the port of entry. There is also a river that is crossable. At Lebombo border gate the foreign nationals also walk through the bush to cross the border line. At Beit Bridge there is a fence, but at the time of the researcher's visit to the border post it had been drawn down by rain

water and was not fixed, so provided an easy entry for foreign nationals. The further one moves away from the port of entry the greater the chances of entering the country with ease, but these types of entry are dangerous for pedestrians.

In all three ports of entry visited by the researcher, SANDF members have been deployed across the border line to prevent unlawful entry or exit; however, this has proved not to be helpful to the country. One of the participants put it as follows: "*Here we are speaking about people with eyes and mind so they watch how the soldiers patrol, if they see that maybe the soldiers moved from this side to the other side, they cross where he just left. These people hide where the soldiers cannot see them and if there is a fence they cut it and cross over.*" The regularity of SANDF patrols suggests that the number of undocumented foreign nationals will keep on increasing. One of the senior police officials said: "*We used to conduct two operations of checking documentations of foreign nationals on the street and through roadblocks, but here we no longer do that because it is a waste of time, more than 50% of the community members in our policing area (Komatipoort) are foreign nationals and majority of them uses fake passports or do not have any at all.*"

6.4.2.7 Lack of long-term solution by South African government on this matter

One of the participants emphasised that "*we need something that will be an impact to the national level, because the way things are happening in our country it seems like we are going down the drain, not even going down the drain, we are now underneath the drain looking for help because in the coming century our kids will have a problem and a big one and the foreigners will lead our country. At the moment we are losing a lot of our police time and resources over the issues of undocumented foreign nationals and until our government says enough is enough there is nothing we can do.*" This was a plea made by a police official who felt frustrated by how this issue was moving beyond their control as police. According to the IOM, there is a serious need for education on these issues in the community and in the

government. South Africans should start taking responsibility for the problems taking place in the country and should be educated to understand why these issues take place.

6.4.2.8 Threats from NGOs

The findings showed that the police are pressurised by the power domination of NGOs, which do all they can to prove that the police are ineffective in handling matters related to foreign nationals' human rights. Many of the participants who were police officials related how the NGOs could use their legal powers to make life difficult for them. It was found that some of the foreign nationals instead of opening a case at a police station about their concerns with the police would go straight to an NGO office. NGO representatives would then visit the police station on their behalf without evidence of the claims made and threaten the police about taking them to court or reporting them to the media or to the relevant embassies.

One of the police participants said: *"you will jump; I mean it, you will jump."* The word 'jump' in this context is a representation of how difficult NGOs can make life for the police. According to some of the police, it is sad to see that even their superiors have no say in this matter; during the meetings with their superiors it is evident that there is nothing they can do to protect the police against this kind of threat. The NGO officials denied that they misused their powers against the police and instead claimed that it is the lack of awareness by the police and top-level officials about this matter that creates these misunderstandings. One added, "*It is our legislation that is humanitarian and what we are doing when we protect the human rights of the foreign nationals is in line with the law."*

6.4.2.9 Organised crime syndicates

According to the police statements, a huge challenge exists in the form of organised crime syndicates that conduct human trafficking by recruiting people from poor countries such as Zimbabwe, Mozambique and Lesotho into South Africa. According to a police report, in the

town of Ficksburg a brothel was recently closed after a group of Lesotho women who had been used as prostitutes asked for help after escaping from the human traffickers. These women had no passports with them and they claimed to have crossed the border illegally at night with the help of the traffickers. In another example, in the town of Witbank the police reported that they had found 38 Somalian men roaming the street looking hungry and tired and with no passports. When asked how they had got into the country without passports none of them had a sound answer.

These cases are supported by a court case that took place in Durban where 19 undocumented foreign nationals from Ethiopia were denied refugee status by the High Court because they claimed that since they had been in the country for little more than a month they had not had time to visit the DHA to apply for asylum. These men claimed to be victims of persecution in Ethiopia. The human rights lawyers (who were defense lawyers to these foreign nationals) claimed that these foreign nationals refugee status was rejected by the court on the basis that these people could not tell the truth about how they had got into South Africa, especially in such a large number at the same time without legal documentation. The judge then concluded that they were given help by human traffickers but did not want to reveal such information (Bula & others v Minister of home Affairs & others (589/11) [2011].

6.5 UNDOCUMENTED FOREIGN NATIONALS' EXPERIENCES WITH THE POLICE

It was found that the experiences of most of the undocumented foreign nationals crossing at the ports of entry to do their everyday shopping in the country and the experiences of those staying in the refugee shelters were good. Out of the total of ten foreign nationals that were interviewed, none of them mentioned being abused by the police. Instead they talked more about being robbed by thugs as they passed through the no man's land or while buying goods in the nearest towns. Many of these everyday shoppers are known to the police and

because of that they are as allowed to pass back and forth. A similar story applies to the undocumented foreign nationals staying in the refugee shelters. One of them indicated, *"When I tell the police that I am from this shelter they stop asking me questions and leave me alone."* The responses of undocumented foreign nationals staying in the refugee shelters or crossing at the ports of entry differ from the responses given by undocumented foreign nationals found in the city of Johannesburg. According to two studies conducted within the city of Johannesburg by Madsen (2004) and Tshabalala (2009), many of the undocumented foreign nationals in the city of Johannesburg regard themselves as the everyday targets of the police and have reported being treated harshly by the police in the form of physical, financial and emotional abuse. Consequently, they indicated that they survive by hiding not only from the police but also from local South African citizens, who threaten to reveal their status to the police.

From this, it can be deduced that in the areas close to the ports of entry there is greater cooperation between the police and the foreign nationals and between the foreign nationals and the community members as compared to areas that are far from the ports of entry. Although the police at the ports of entry are overwhelmed with the high volumes of undocumented foreign nationals they show more sympathy toward undocumented foreign nationals than do the police that are far from the ports of entry, who show little sympathy toward them and still see undocumented foreign nationals as threats to the country. This is also because of the family ties between the community members staying close to the ports of entry with the foreign nationals in the neighbouring countries. As a result, the undocumented foreign nationals found mainly around the ports of entry are given support if not by the police then by the local community members. This support is absent in cities such as Johannesburg.

6.6 DISCUSSION OF THE RESEARCH FINDINGS

The task of dealing with undocumented foreign nationals in South Africa proved to have the following challenges for the performance of the police. First, it hampers the services provided by the police officials. Most of the cases that are opened or accusations made against the police by undocumented foreign nationals do not reach the court system. Either the foreign nationals withdraw the cases or they do not arrive at court on the specified dates. Conducting street patrols, and searching and arresting undocumented foreign nationals is a time-consuming and a costly task and uses the resources of the police, especially considering that foreign nationals that are deported tend to return to the country within a short time. This task is also demoralising for the police, who are disrespected or falsely accused of various forms of harassment by the suspected undocumented foreign nationals.

Second, it threatens the personal safety of the police. Some of the police reported being threatened internally by their fellow police officials who work together with the crime syndicates and also by members of other stakeholders who are involved in giving fraudulent visas to the foreign nationals. Externally, they receive threats from the members of the crime syndicates that are aware of who is investigating their criminal activities or those that attempt to operate within the perimeters of the port of entry.

Finally, this issue silences the voices of the police. Most of the police officials indicated how on several occasions they had raised their concerns with the relevant stakeholders and with their superiors and how their respective superiors were unresponsive to their needs or at times lacked the ability to support them. With the lack of support from their superiors, this eventually becomes a situation where the words of the police at ground level are pitted against the words of the NGO representatives as well as the advocates for human rights. As a result, power issues came into play and the police at ground level ended up submitting to the domination of the advocates for human rights and NGOs. This has led to a dire need for

cooperation and understanding as well as achieving common goals between the various stakeholders. This will eliminate labels such as "the police are xenophobic in nature" and it will create awareness by both parties regarding the issue at hand.

Furthermore, it appears that in areas where a good relationship exists between the police and foreign nationals (documented and undocumented) the police disregard the issue of whether a foreign national has legal documents to be in the country or not. Again a good relationship between the police and the undocumented foreign nationals is observed in areas where there are family ties between the local community members and the foreign nationals from the neighbouring countries. This includes the communities along the border lines. In these areas community members support the undocumented foreign nationals' resistance to comply with police orders or the foreign nationals in these areas have created a forum that is used to support each other against matters related to law enforcement issues (including resistance to police raids).

The findings of this study differ from the findings of the study conducted in the City of Johannesburg by Tshabalala (2009: 164), which argues that the South African police are used by the state as the organ to realise its objectives of bureaucracy; that is, gaining control over the society through the abuse of power. His study also indicates that the manner in which the police abuse their powers when dealing with ordinary citizens, including the foreign nationals, is a manifestation of the chain of control issues that arise from the state.

This study argues differently that most of the police do not possess the powers that it is claimed they have over undocumented foreign nationals. Instead, mostly it is the undocumented foreign nationals who are intentionally taking advantage of the provisions of the Constitution of South Africa and use them against the police when they wish to evade arrest. These foreign nationals often rely on the support from NGOs, advocates for human rights and media reports. These activities are very prevalent in areas of high volumes of undocumented foreign nationals, where the police are overwhelmed by this problem. On the

other hand, this study supports Jacobsen's (2002) ideology, which states that the government is silent on immigration concerns because it does not want to lose international donor support or tarnish its image. The reason for supporting this idea is that regardless of how many times the police have raised their concerns with their superiors, the South African government has not directly come forth as being supportive or not supportive of strict measures against illegal immigration. Hence, the border lines still remain easily accessible to everyone and the cases of xenophobic attacks continue in the country while at the same time immigration policies are still strict. This supports the findings of this study, which argues that the police 'suffer in silence' because their concerns are being raised but not given attention by their superiors.

This study also shows that the undocumented foreign nationals do not fear the police because the police demand bribes from them or humiliate them; however, it suggests that their fear of the police is simply due to their lack of legal documentation to prove their citizenship status. Hence, when found with no documents, many of them attempt to avoid arrest by questioning police authority, preaching to the police about their human rights or using a foreign language to break off the communication process with the police. It is often at this stage of an encounter with the police that conflict and accusations of police harassments arise. In turn, this study agrees with Madsen's (2004) study, which states that foreign nationals' "worst fear is of the police" arrest. According to Berg (2005: 2), in order to become a democratic policing agency the police service should acknowledge the human rights of the people it is serving and be accountable for its actions. The findings of this study show that democratic policing can be achieved if both the SAPS officials and the undocumented foreign nationals could benefit equally from their human rights. Such benefits of the law can be achieved by adopting a Left Realistic perspective when assessing crime control issues. This perspective emphasises balanced relationship, understanding and cooperation among the state, community members and the suspected offender as well as the victims (Lea, 2010: 142-144).

6.7 SUMMARY

The findings as presented in this study clearly show that the role of the police in supporting the DHA in dealing with undocumented foreign nationals is a frustrating task and a fight that the police will never win by themselves without the intervention of the South African government together with the assistance of other stakeholders and the foreign countries that lose their citizens due to their migration to South Africa. Working within the constitutional framework in terms of addressing the issue of undocumented foreign nationals appears to be a limitation to the police that relies on the authority given to them to control this problem in a situation where they are not respected and where they endure threats from the non-citizens of this country, advocates for human rights, the media as well as their fellow police officials, who use this as an opportunity to make more income.

CHAPTER 7: CONCLUSION

7.1 INTRODUCTION

This chapter proposes a model that can be used to overcome the challenges facing the policing of undocumented foreign nationals in South Africa. The chapter starts with an outline of the research methodology and literature review, followed by a summary of the findings and then a description of the contribution of this study to the subject knowledge in the field of policing.

7.2 AN OVERVIEW OF THE RESEARCH METHODOLOGY

The researcher conducted an exploratory qualitative research study, with the aim of obtaining in-depth knowledge about the experiences of the police in dealing with undocumented foreign nationals in South Africa. Data related to police experiences of dealing with undocumented foreign nationals was obtained from an analysis of documents such as training manuals from IOM and CoJ Migrant Helpdesk, the researcher's observations of the port of entries and interviews with police officials. This data was validated by data obtained from interviews with stakeholders such as officials from the IOM and SAHRC and migration practitioners, the CoJ Migrant Helpdesk, and undocumented foreign nationals staying in refugee shelters and those using the pedestrian paths across the Beit Bridge (to Limpopo), Ficksburg (to Free State) and Lebombo (to Mpumalanga) ports of entry. The police working at these three ports of entry together with the police officials in Gauteng were selected for interviewing solely because they encounter the problem of undocumented foreign nationals on a daily basis and in large volumes as compared to police in the other provinces in South Africa. These police officials were chosen with a purposive sampling method, the foreign nationals at the port of entries were selected through the

convenience sampling method while the other organisations were chosen by snowball sampling.

This study was guided by the Code of Ethics of the University of South Africa as well as the Belmont Report on guidelines on how to conduct a research study on human subjects. The researcher followed the principle of paying respect to the research participants and their organisations by obtaining permission from their respective organisations to interview them. For example, before interviewing the police officials a permission letter was obtained from the South African Police Strategic Management Division. Permission was also obtained from the participants themselves in the form of a letter of consent for interviewing them (see Addendum A, C and D).

In order to ensure the trustworthiness of this study the researcher used a tape recorder to record the interview sessions in areas where she was allowed to make use of tape recordings. She also made field notes, did member checking and triangulated the findings of this study with the findings of other studies on similar problems. Finally, Tesch's method of qualitative data analysis was adopted when analysing the data in this study. This method enabled the researcher to create meanings out of the collected raw data and to organise these meanings into themes.

7.3 AN OVERVIEW OF THE LITERATURE REVIEW

In this study various sources of literature were studied and the following information regarding the research topic was obtained:

- The literature review showed that SADC has no central regulations regarding undocumented foreign nationals/refugees that are binding on its member states (Hughes, 2007: 48). There are international conventions, protocols and treaties (such as the UN convention relating to the status of refugees of 1951, the 1969 OAU

convention governing the specific treatment of refugees, and the SADC protocol on the facilitation of movement of people) which provide guidelines on this matter. However, these conventions are non-binding and as a result they have no penalty that can be imposed on non-cooperative states (Edwards & Ferstman, 2010: 6). As a result every country within SADC controls undocumented foreign nationals in a way that suits its policies/legislation. For example, South Africa follows its constitutional prescripts.

- According to the Constitutional Act 108 of 1996 of this country (South Africa 1996), any person (regardless of their citizenship status) should be treated in a way that is fair and maintains their dignity. This treatment includes a fair trial, representation in court and a detention place that meets the basic standards of living (Section 33). According to Pineteh (2010: 75), undocumented foreign nationals detained in South Africa's repatriation centres are not being treated humanely. A number of victimisation behaviours are inflicted on the undocumented foreign nationals in places of detention. This is supported by a newspaper article that appeared in *City Press* (2011).

- The South African Refugee Act 130 of 1998 states that a person should be granted refugee status if returning to their country of origin puts the person's life in danger. The Immigration Amendment Act 13 of 2011 gives an undocumented foreign national a five-day period in which to obtain the necessary asylum documents immediately after entering the country. However, the backlogs in the DHA make these laws impractical, considering the large number of applications received by the DHA on a daily basis (Amit, 2011: 16).

- According to the South African Police Service Act 68 of 1995, the police are allowed to stop and search any person suspected of criminal activities at any time and place without a search warrant during a roadblock or check point, provided they have solid ground for believing that such a person has violated the law. This also applies to foreign nationals crossing the border line illegally. However, as the police work within the constitutional framework, certain behaviour is expected of them. This includes treating everyone with dignity and respect, being accountable for one's actions and being community oriented (Lindholt et al., 2003: 17; Berg, 2005: 2). Undermining these expectations may result in a poor trust relationship between the police and the community (including foreign nationals residing in the country) (CDE, 2010: 15).

The concerns that have been identified as hampering the success of democratic policing in South Africa are discrimination and institutional racism – where a racial division is embedded within the legislation governing police work such as the immigration laws, which condemn anyone without the required legal documents (where these people often happen to be black) to being deported (Bowling et al., 2001: 13). According to Corsianos (2003: 302), the police acquire a bad image because their daily task mostly demands the use of their discretion since the policies governing the police work do not provide them with full guidelines on how to deal with certain issues.

- Statssa (2012: 39), the IOM (2011b:2) and the ILO (2006: 2) show that the issue of undocumented foreign nationals is a worldwide problem that is continually increasing, with lower numbers of these foreign nationals being granted refugee status in the host countries than before. According to Mariano (2012: 2) and the IOM (2004:3), the current process consists of mixed flows of people made up of minor children, men and women. Most of these foreign nationals are semi- or unskilled labourers and often survive as hawkers, domestic workers and through doing craft work (CDE,

2008: 8). They are from nearby countries and countries that are further away, including Zimbabwe, Mozambique, the DRC, Lesotho and Pakistan.

- According to Massey and Fussel (2004: 152-153), migrants are prone to creating networks and self-sustaining ways of coping with life in a new country. These networks are used to help each other to cross the border and to find accommodation and food on arrival in the new country. Apart from these self-initiated forms of assistance, NGOs such as groups of churches, legal services and community associations as well as the newly established municipality helpdesks assist some of these foreign nationals with shelter and information on how they can survive in the country (CoRMSA, 2011: 4-6).

- To opportunists such as human traffickers and human smugglers, these illegal cross-border movements are used as a means of making money and using foreign nationals for sexual purposes (Rutherford, 2008: 2-3). This victimisation appears to continue in the host country, since most foreign nationals have reported unfair treatment from members of the public and police officials (Klaaren & Ramji, 2001: 35-36). Unaccompanied children involved in the movement of foreign nationals also face challenges, such as meeting their daily basic needs, and often fall victim to different forms of harassment from the public (Fritsch et al., 2010: 624-629). Other challenges faced by undocumented foreign nationals include the difficulties of accessing RROs (Rutherford, 2008:5), language barrier issues and the xenophobic attitude of the public and the police (King, 2006: 13; Vishnuvajjala, 2012: 6-12) as well as limited access to health facilities (Vearey, 2008: 368). The literature review showed that hosting a large number of undocumented foreign nationals in this country has economic, demographic, social and health impacts on the country (IOM, 2000: 29-30).

- According to Roe (2012: 260), Bourbeau (2011: 1) and Hentz (2009: 189), immigration issues are regarded as a fear factor or threat by receiving countries and this in turn provokes negative reactions from politicians and more interest in adopting militaristic ways of preventing this problem. Consequently, many governments avoid taking responsibility for this matter and do not seek sustainable permanent solutions.

- De Haas (2007: 7) argues that strict border controls and migration policies, imprisonment and the provision of aid assistance do not address the root cause of migration; instead, they may push those already in the country to settle permanently there. He states that as long as there is a need for unskilled labourers in the job market and a need for cheap labourers and market products of low prices in the country, this problem will continue. The reason for this is that the immigration of undocumented foreign nationals is mainly the result of personal motivations of the foreign nationals to secure better employment opportunities and achieve their future ambitions. Hence, many of them are determined to do whatever they can to avoid deportation or arrest. The question that emerges from the above discussion is: how do the South African police experience the task of dealing with undocumented foreign nationals within the South African constitutional framework?

7.4 AN OVERVIEW OF THE RESEARCH FINDINGS

This study was aimed at exploring the experiences of the police in dealing with undocumented foreign nationals in South Africa. In order to achieve this aim the following objectives were set in place:

- To investigate the current nature of undocumented foreign nationals in the country.
- To investigate how the South African police deal with undocumented foreign nationals in the country.

- To explore the challenges facing the policing of undocumented foreign nationals in the country.

- To investigate the undocumented foreign nationals' experiences of policing in South Africa.

- To identify the strategies used in other countries to deal with undocumented foreign nationals.

- To suggest a model for dealing with undocumented foreign nationals in South Africa.

The findings are summarised as follows:

- Objective 1: it was found that compared to other African countries South Africa receives a large number of undocumented foreign nationals who are everyday shoppers and those who seek greener pastures in the country (also known as 'economic migrants') rather than asylum seekers fleeing wars. Owing to the everyday in and out movement of the everyday shoppers, this group of undocumented foreign nationals has a good relationship with the members of the stakeholder groups working at the ports of entry (including the police officials). Those seeking greener pastures aim to reach the city of Johannesburg to find employment opportunities. Therefore, establishing a relationship with the police or members of the stakeholder groups working at the port of entry is not of interest to them. To this group of undocumented foreign nationals, the police are a threat that could at any time jeopardise the success of their trip. Although some foreign nationals start as everyday shoppers and as time goes on develop the ambition of settling in the country or securing employment opportunities in the country, this is rare.

- Objective 2: the police strategy of dealing with undocumented foreign nationals at the port of entry and in-country is guided by the guidelines set by the office of the cluster commander. Police decisions are based on the provisions of the legislation on

immigrant issues, which are communicated to the lower ranking police officials during the daily parade, which takes 15 to 45 minutes. This parade is used to report on and discuss work progress, which means that issues concerning foreign nationals are not the main focus and are discussed only occasionally. At the ports of entry and in-country a police task involves stopping and searching the people and vehicles coming in and out of the country and undocumented foreign nationals living in the country. In searching traffic entering the country, the police are assisted by various departments such as the Department of Agriculture, SARS, the SANDF and the Department of Health. At the ports of entry, every person and car passing through is checked, while in-country at street level roadblocks and "stop and search" methods are used occasionally to identify undocumented foreign nationals. Those identified as undocumented foreign nationals are taken to a station and later handed over to DHA officials to determine whether they can be accommodated in the country or should be deported to their countries of origin.

- Objective 3: the challenges facing the current strategy of dealing with undocumented foreign nationals both at the ports of entry and within the country include the lack of cooperation and coordination of resources among the stakeholders; the lack of a database or fingerprint identification system for foreign nationals; limited powers of the police to enforce the immigration laws; fraudulent activities by some of the police and other members of the stakeholder groups; repeated false accusations against the police by foreign nationals; regular withdrawal of cases by foreign nationals; increasing number of stateless persons entering this country illegally; the lack of control over the refugee camps or NGO-sponsored shelters; and the consistent fight against organised criminals and the bush keepers. This study has shown that the South African police alone cannot win this problem. There is a dire need for an inter-governmental agency relationship and more refugee management strategies that focus on inclusion rather than exclusion measures.

- Objective 4: the experiences of the undocumented foreign nationals in the areas around the ports of entry are different from those of the undocumented foreign nationals residing far from the ports of entry in cities such as Johannesburg. The police at the ports of entry are overwhelmed by the huge numbers of undocumented foreign nationals and deal with them by ignoring them or facilitating their movements Hence, the relationship between the police and undocumented foreign nationals is better in areas around the ports of entry than in areas that are far from these ports of entry.

- Objective 5: The literature review showed that the immigration of undocumented foreign nationals is not uniquely a South African issue, but a global problem that is prevalent in other countries such as the United Republic of Tanzania, the Republic of Ghana, Egypt and Uganda. These countries experience large inflows of undocumented foreign nationals in the form of asylum seekers and economic migrants from their neighbouring countries fleeing wars and economic disparities in their countries. Among the most common strategies used to deal with the increasing numbers of undocumented foreign nationals in these countries are active interstate consultation processes, voluntary repatriation processes, government and NGO-initiated temporary refugee camps, skills development programmes, training of law enforcement officials including police officials, allocation of refugee resettlement areas, citizenship integration programmes, encouragement of self-reliance, promotion of educational awareness for community members, the microcredit process, the reintegration process and national integrated migration databases.

7.5 CONTRIBUTION IN THE SUBJECT KNOWLEDGE

This research study contributes to the subject knowledge by introducing a model that can be used to overcome the challenges facing the policing of undocumented foreign nationals in this country. The proposed model is known as: **An Inclusive and Interactive Refugee Management Model**; this model focuses on the collective responsibility of various stakeholders (nationally and internationally) and is inclusive in nature because it encourages relaxed policies and the integration of foreign nationals into the local communities. In order to achieve 'collective responsibility' among various stakeholders this study recommends the following programmes be implemented.

7.5.1 Realistic regional interstate dialogues

The purpose of interstate dialogues or consultation processes is to encourage discussions and propose solutions on matters that affect more than one country. In the case of the topic of this study, these dialogues will be necessary in assisting the affected countries to work together to prevent illegal cross-border movements. The countries involved will develop a common vision and enhanced communication without one country's strategy undermining those of another country (as the case with the Zimbabwe-South African police, where the Zimbabwean police undermine what the South African police regard as their main problem, which is the bush keepers that attempt to break through the South African ports of entry).

These dialogues require the countries involved to be willing to compromise for each other's benefit. This can assist, for example, the South African police to have a common vision and a good relationship with the police in the neighbouring countries. In turn this can eliminate issues such as a lack of interest by the police in foreign countries in dealing with issues such as illegal cross-border movement.

The suggested dialogues should focus on establishing and maintaining a human-oriented framework for dealing with cross-border movements. In relation to South Africa and her neighbouring countries specifically, the suggested framework should look at:

- The sharing of responsibilities for managing the activities occurring in the no man's land between border posts – an area that is currently controlled by bush keepers. This can take the form of regular special operations that aim to eliminate the illegal occupation of the no man's land by criminals and will result in the border line being protected both inside and out.

- Acknowledging that there are a large number of undocumented foreign nationals crossing the border illegally on a daily basis for the sole purpose of shopping. This calls for innovative ways of recognising this movement and managing it accordingly. For example, in the case of everyday shoppers, a card system that captures the entry and exit of a person, and stores the personal details of the person crossing the border can be used. This will enable the police to manage the flow of these foreign nationals in and out of the country, especially at the busy ports of entry.

7.5.2 Human-oriented dispensation programmes

For the purpose of managing criminal activities within the country, there is a dire need to recognise the identity of the large number of undocumented foreign nationals living in the country, who on a daily basis play 'hide and seek games' with the police. This dispensation programme in contrast to the programmes employed by South Africa in previous years should be human centred rather than economic centred, with visa requirements relaxed in order to encourage the registration of the existing foreign nationals in the country. The following steps can be followed:

Step1: the DHA should decentralise the RROs. This will allow access to these offices by establishing more of these offices within the local municipalities across the country.

Step 2: the existing undocumented foreign nationals should be registered according to their location using their passports and proof of residence in the form of a letter from the community leaders/local municipality.

Step 3: a settlement programme should be introduced, in which those foreign nationals that have been in the country longer than 10 years and are in possession of refugee status/asylum-seeking documents are granted citizenship status and allowed to buy house stands in the community. This programme was introduced in Uganda and in Ghana as a way of managing illegal occupation of land by destitute foreign nationals.

7.5.3 Adequate training of the police

The current method of communicating issues on foreign nationals to the police takes place during the police parades, which takes 15 to 45 minutes. This method is inadequate, not only in scope but also in the time spent on this matter, especially considering the fact that the sessions are also used to discuss other police matters. The countries that have devoted time to training police officials on matters related to foreign nationals have shown that this training equips the police with knowledge on this problem and helps improve the services they provide to the foreign nationals. For example, in Tanzania, the police are provided with two types of workshops. The first workshop focuses on the nature and extent of foreign nationals, and the legislation and human rights principles concerning foreign nationals. The second workshop focuses on identifying fraudulent documents and enhancing the relationship between the police and the other government stakeholders that deal with the issue. These types of workshops can be valuable to SAPS members as it will make them aware of the importance of dealing cautiously with foreign nationals, especially when working within the constitutional framework. They will also understand the consequences of not taking responsibility for their conduct on the street.

7.5.4 Community awareness programmes

Within the constitutional framework, the police are required to establish a sound relationship with community members. This means that educating the community members on issues that concern both the police and foreign nationals is important for enhancing the integration of foreign nationals into the community, eliminating xenophobic behaviour towards foreign nationals and reducing criminal activities. Currently in South Africa few organisations provide community lectures on immigration issues. Those that do include the CoJ municipality, the SAHRC and IOM, and these organisations focus on areas around their working place. Expanding these kinds of services to other areas in the country is imperative in terms of reaching out to other community members.

7.5.5 Establishing more refugee shelters and migration helpdesks in local municipalities

In this study it was found that currently there are few refugee shelters in the country, no refugee camps and only two municipalities in the country with established Migrant helpdesks within their jurisdiction. This clearly shows that South Africa is not proactive in terms of dealing with issues concerning foreign nationals. The South African government agencies tend to attend to cases as they emerge, which means that there are many destitute undocumented foreign nationals who qualify for refugee status but are not able to access the assistance they require. Establishing more refugee shelters and Migrant helpdesks in every province will assist to create order in the community and provide the necessary information to foreign nationals. Within Tanzania, the temporary refugee camps and shelters are used for the newly arrived foreign nationals and they assist the government in regulating the refugees within the country.

7.5.6 Citizenship trajectories

Understanding the local languages has proved to be the most effective way for foreign nationals of integrating into the community. For example, in South Africa, the foreign nationals that understand and can speak the local languages fluently adapt to their new environment more easily than those that have difficulties in communicating in one of the local languages (Mawadza & Crush, 2010: 2). The same is evident in the EU states, where citizenship courses are used to improve the integration process of foreign nationals. Many EU states provide courses on the history, culture and languages, legislation and services of the host country. These are part-time courses that take 30 to 600 hours of lessons. Full participation guarantees one citizenship status while incomplete participation delays one from obtaining full citizenship status and non-participation excludes a person from obtaining citizenship status. These courses are government initiated and teach newcomers about how they should behave and what is expected from them during their stay. These courses include lessons on how to interact with the police. In South Africa these kinds of courses would enhance the relationship between the police and the foreign nationals, which would lead to more cooperation between the police and the foreign nationals.

7.5.7 Voluntary repatriation

The countries that have used a voluntary repatriation process have shown that deporting foreign nationals for being undocumented can be successful if undertaken in good time. This means deporting foreign nationals when they feel emotionally ready to leave. This kind of deportation considers the economic and political state of the country of the person in question before deporting them. Those that are willing to leave are assisted with transportation. This process has been adopted in Uganda, Ghana and Tanzania because it saves the cost of deporting people who do not want to leave and who if deported by force will later come back and become a police problem again.

7.5.8 Self-reliant integration programme

This programme works well in cases of foreign nationals that do not wish to return to their countries after the political issues have stabilised and for those that cannot continue to be accommodated in a shelter due to limited space. This type of self-reliant programme occurs in many forms, and can incorporate microcredit loans and skills development activities. Where these programmes incorporate microcredit loans, foreign nationals are lent money or provided with resources to start a small business and are provided with business training to establish the business. A person can repay this loan six months after borrowing it and the training they receive allows them to share ideas with fellow foreign nationals. This type of microcredit self-reliance programme has proved very successful in Egypt because unlike other programmes it provides both skills and resources for a start. This kind of microcredit can be used in South Africa to alleviate poverty among foreign nationals by giving support to those who have skills from their countries but lack money to start their own business as well as to those who have been trained by an NGO but cannot find job employment.

7.5.9 Monitoring of refugee camps and shelters

Children of school age who do not attend school should be assisted with access to schools. This will help in creating order in the community and remove from the police the problem of having to chase after children that are involved in petty crimes. The implementation of this type of assistance can enhance government initiatives to improve the country's values as a democracy that upholds social democracy, social justice and human security for everyone in the country. With these values in place the task of policing will be lightened and a trust relationship will be established among the police, the local community members (both South African and foreign nationals) and the stakeholders involved.

7.5.10 Improving cooperation among in-country stakeholders

In order to achieve the above-mentioned objectives, it is essential that the in-country stakeholders cooperate with each other in terms of the implementation and progress of the proposed programmes. This will lead to effective sharing of resources and accountability towards undocumented foreign nationals.

The diagram below is an illustration of the proposed model. The arrow signs between the sending and the receiving country as well as those linking the in-country stakeholders represent the interaction of these stakeholders. The in-country stakeholders in this diagram are the Department of Home Affairs (DHA), Department of Foreign Affairs (DFA), South African Police Service (SAPS), South African National Defence Force (SANDF), Department of Social Development (DSD), local municipalities, South African Human Rights Commission (SAHRC) and the relevant non-governmental organisations (NGOs), and members of the public.
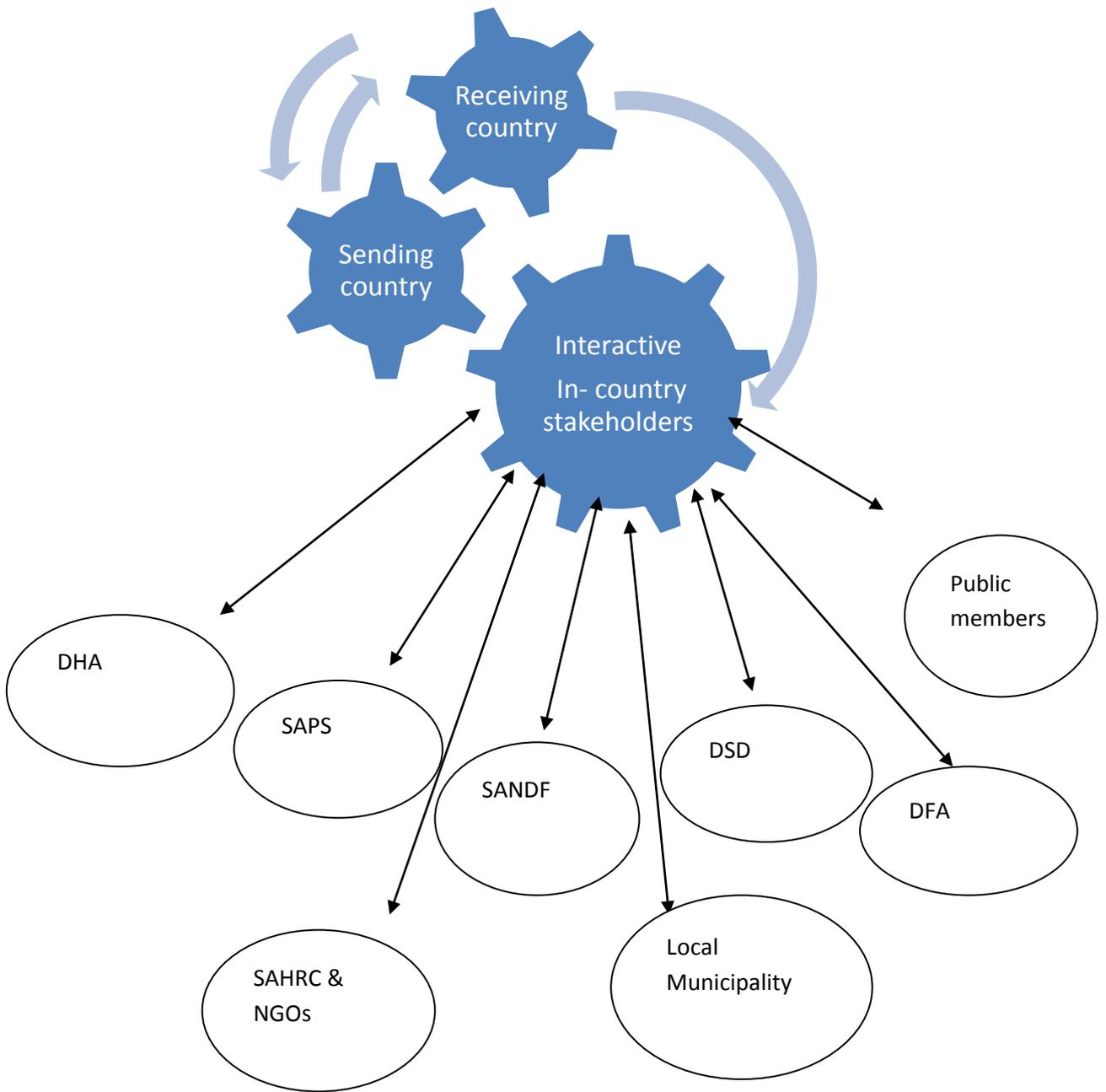
Figure 7. 1: An Inclusive and Interactive Refugee Management Model

In conclusion, this study argues that with the lack of adequate training on issues concerning undocumented foreign nationals and little support from the other stakeholders (including the government), the police are frustrated by the perceived 'unachievable' demands of dealing with the high volumes of undocumented foreign nationals in this country. Hence, some police officials turn a blind eye to this issue in order to avoid using force to compel undocumented foreign nationals to abide by the law or to follow their orders. With numerous failed strategies to end illegal cross-border movement in this country, it is clear that the police alone cannot win this battle while working within the constitutional framework of this country. As a result, more human-oriented strategies that will comply with the constitutional framework of this country are required. The need for a humanitarian approach in dealing with the issue of undocumented foreign nationals supports the Left Realism perspective, thus the recommendation of an inclusive and interactive refugee management model in this study. In short, the Left Realism perspective prioritises social democracy, social justice and human security for all.

Social democracy emphasises social equality across the classes. It suggests that paying more attention to addressing the needs of the poor could uplift their living conditions and eliminate the root causes of crime. According to these perspectives, by eliminating the factors pushing poor people to become involved in criminal activities this can lead to social order. Social justice is about collective responsibility, self-empowerment activities and human dignity. Human security emphasises the protection of every person against social ills such as wars, genocide, crime, environmental degradation, poverty, loss of employment, terrorism and human rights violations. It also advocates solidarity among neighbouring countries. Both social justice and human security call for respect for human life and for collective efforts and understanding on matters that push poor people to become involved in criminal actions, including illegal cross-border movement.

REFERENCES

Akuffo, E. A. 2011. Human security and interregional cooperation between Nato and the African Union. *Global Change, Peace and Security,* Vol 23(2).

Alkire, S. A. 2003. Conceptual framework for human security. Centre for Research on Inequality, Human Security and Ethnicity (CRISE), *Working Paper 2*.

Al-Sharmani, M. 2008. *Refugees in Egypt: Transit migrants.* The American University in Cairo: Forced Migration and Refugee Studies Program.

Amdur, R. J. 2002. *The Institutional Review Board members handbook: Principles of the Belmont Report.* Boston: Jones and Barttlet Publishers.

Amit, R. 2011. *The Zimbabwean documentation process: Lessons learned.* Johannesburg: African Centre for Migration and Society.

Anfara, V. A. & Mertz, N. T. 2006. *Theoretical frameworks in qualitative research.* Los Angeles: Sage Publications.

Babbie, E. & Mouton, J. 2010. *The practice of social research.* Cape Town: Oxford University Press.

Benam, G. H. 2011. Emergence of a "big brother" in Europe: Border control and securitization of migration. *Insight Turkey,* Vol 13(3): 191-207.

Berg, J. 2005. *Police accountability in Southern Africa commonwealth countries.* Cape Town: University of Cape Town press.

Berne Initiative Studies. 2005. *Interstate cooperation and migration.* Geneva: IOM publications.

Berriane, M. & de Haas, H. 2012. *African migrations research: Innovative methods and methodologies.* New Jersey: Africa World Press.

Bezuidenhout, C. 2011. *A Southern African perspective on fundamental criminology.* Pretoria: Philippa Van Aardt.

Bourbeau, P. 2011. *The securitisation of migration: A study of movement and order.* New York: Routledge.

Bowling, B., Philips, C., Campell, A. & Docking, M. 2001. *Policing and human rights.* Paper presented at the conference: South African racism and public policy, Durban, 3-5 September.

Brewer, J. D. 1994. Some observations on policing and politics – a South African case study. *An International Journal of Research and Policy,* Vol 4(2): 175-183.

Bula & Others v Minister of Home Affairs & Others (589/11). 2011. ZASCA 209. Durban, 29 November 2011.

CBB Tanzania newsletter. 2012. *Capacity building for border management in Tanzania.* Tanzania: IOM.

Centre for Development and Enterprise (CDE). 2006. Immigrants in South Africa: Perceptions and reality in Witbank, a medium-sized industrial town. *CDE Focus No 9.*

Centre for Development and Enterprise (CDE). 2008. Immigration in Johannesburg: Estimating numbers and assessing impacts in South Africa. *CDE Focus No 9.*

Centre for Development and Enterprise (CDE). 2010. Skills, growth and borders: Managing migration in South Africa's national interest. *CDE Focus No 17.*

Creswell, J. W. 2003. *Research design: Qualitative, quantitative, and mixed methods approaches.* 2nd edition. Thousand Oaks, CA: Sage Publications.

City Press. 2011. Tear gas used during protest at repatriation centre. From: http://www.citypress.co.za/southafrica/news/tear-gas-used-at-repatriation-centre (accessed 30 October 2012).

City Press. 2012. Officials must answer for violations – LHR. From: http://www.citypress.co.za/southafrica/news/officials-must-answer-for-violations-LHR (accessed 30 October 2012).

Civil Society Organisation. 2006. *The documented experiences of foreigners, deportees and asylum seekers in South Africa: A Zimbabwean case study.* Paper presented for the Minister of Home Affairs, South Africa. Johannesburg, April 2006.

Consortium for Refugees and Migrants in South Africa (Cormsa). 2011. *Guide to services for refugees and migrants in South Africa.* From: http://www.cormsa.org.za/ (accessed 1 June 2012).

Convention and protocol relating to the status of refugees. 1951. United Nations High Commission for Refugees.

Convention relating to the status of stateless persons. 1954. United Nations High Commission for Refugees.

Corsianos, M. 2003. *Discretion in detectives decision making and high profile cases.* Toronto: University of Toronto Press.

Cosgrove, M. 2009. The plight of gypsies and refugees in Lyon's slum camps. *Digital Journal Report.* From: http://digitaljournal.com/article/276377 (accessed 14 January 2014).

Creese, G. 2010. Erasing English language competency: African migrants in Vancouver, Canada. *International Migration and Integration,* Vol 11: 295-313*.*

Croucher, S. 1998. South Africa's illegal aliens: Constructing national boundaries in a post apartheid state. *Ethnic and Racial Studies,* Vol 21(4)*.*

Crush, J. & Tevera, D. 2010. *Zimbabwe's exodus: Crisis, migration and survival.* Cape Town: SAMP.

Cullen, F. T. & Agnew, R. 1999. *Criminological theory: Past to present.* Los Angeles: Roxbury Publishing Company.

Danso, R. & Mcdonald, D. A. 2001. Writing xenophobia: Immigrants and the print media in post-apartheid South Africa. *Africa Today,* Vol 48 (3)*.*

Dantzker, M. L. 2005. *Understand today's police.* 4th edition. New York: Criminal Justice Press. From: http://www.jstor.org/stable/4187436 (accessed 24 August 2010).

De Haas, H. 2007. Turning the tide? Why development will not stop migration. *Development and Change,* Vol 38(5).

De Haas, H. 2010. The internal dynamics of migration processes: A theoretical inquiry. *Journal of Ethnic and Migration Studies,* Vol 36(10): 1587-1617.

De Haas, H. 2012. The migration and development pendulum: A critical view on Research and Policy. *International Migration, Vol 50 (3): 9- 25.*

Denscombe, M. 2007. *The good research guide: For small scale social research projects.* 3rd edition. New York: McGraw-Hill.

Denzin, N. K. & Lincoln, Y. S. 2000. *Handbook of qualitative research.* 2nd edition. Los Angeles: Sage Publication.

Department of Statistics South Africa (Statssa). 2012. *Documented immigrants in South Africa 2011.* Pretoria: Statssa.

De Vos, A. S., Strydom, H., Fouche, C. B. & Delport, C. S. L. 2005. *Research at grass roots: For the social sciences and human service professions.* 3rd edition. Pretoria: Van Schaik.

Duvell, F. 2011. Irregular immigration, economics and politics. *Research Report, CESIFO DICE Report 3.*

ECOWAS. 2011. *Protecting refugees and other persons on the move in the Ecowas space.* Senegal: IOM/UNHCR.

Edwards, A. & Ferstman, C. 2010. *Human security and non-citizens: Law, policy and international affairs.* Cambridge: Cambridge University Press.

Egharevba, S. & White, J. 2012. Evolving issues in police and immigrants' relation in Finland: Is it towards a structural interpretation? *Criminal Justice Studies: A Critical Journal of Crime, Law and Society. iFirst article,1-30.*

Engbersen, G. & Broeders, D. 2007. The fight against illegal migration: Identification policies and immigrants' counter strategies. *American Behavioural Scientist,* 50: 1592-1603.

E-TV broadcast. 2013. *3rd Degree programme on Illegal immigrants.* 5 May 2013, 21: 00.

Evans, J. 2010. The neoliberal turn in the SADC: Regional integration and disintegration. *Nokoko Institute for African Studies,* Vol 1: 101-129.

Evans, T. 2001. *The politics of human rights: A global perspective.* London: Pluto Press.

Freedman, J. 2012. Analysing the gendered insecurities of migration. *International Feminist Journal of Politics,* Vol 14(1): 36-55.

Fritsch, C, Johnson, E. & Juska, A. 2010. The plight of Zimbabwean unaccompanied refugee minors in South Africa: A call for comprehensive legislative action. *Denver Journal of. International Law & Policy,* Vol 38(4).

Gelderblom, D. 2012*. The disorganised migration of the poor: Costs, risks and social networks.* Paper presented at the symposium: Mobility, migration, development and environment, Pretoria, South Africa, 22-23 May.

Glover, K. S. 2009. *Racial profiling: Research, Racism and Resistance*. USA: Rowman and Littlefield publishers, Inc.

Gomberg, R. & Nussbaum, L. 2011. Is migration policy labor policy? Immigration enforcement, undocumented workers and the state. *Human Organisation,* 70(40).

Gozdziak, E. M. & Walter, A. 2012. *Urban refugees in Cairo.* Georgetown University: Centre for Contemporary Arab Studies.

Hannum, H. 1990. *Autonomy, sovereignty, and self-determination: The accommodation of conflicting rights.* Philadelphia: The University of Pennsylvania Press.

Hennop, E., Jefferson, C. & Mclean, A. 2001. The challenge to control South Africa's border and borderline. ISS *Monograph No 57.* From: http://www.iss.co.za/pubs/monographs/no57/chap2.html (accessed 23 November 2010).

Hentz, J. J. 2009. The Southern African security order: Regional economic integration and security among developing states. *Review of International Studies,* Vol 35: 189-213*.*

Hodder, I. 2000. The Interpretation of Documents and Material culture. In: Denzin, N. K. & Lincoln, Y. S. (eds) 2000. *Handbook of qualitative research*. 2nd edition. Los Angeles: SAGE Publications.

Hovil, L. 2010a. A dangerous impasse: Rwanda refugees in Uganda. Citizenship and Displacement in the Great Lakes region. *Working Paper No 4.*

Hovil, L. 2010b. Hoping for peace, afraid of wars: The dilemmas of repatriation and belonging on the borders of Uganda and South Sudan. *New Issues in Refugees Research: Research Paper No 196.*

Hughes, T. 2007. *Gender, migration and remittances in selected SADC countries: Preliminary findings.* Johannesburg: South African Institute of International affairs (SAIIA).

Human Development Report (HDR). 1994. *Towards sustainable human development*. Oxford: Oxford University Press.

Human Rights Watch. 1998. *Prohibited persons: Abuse of undocumented migrants, asylum seekers and refugees in South Africa*. New York: Human Rights Watch. From: http://www.hrw.org/reports98/sareport/#_1_2 (accessed 12 November 2010).

Human Rights Watch. 2008. *Neighbors in need: Zimbabweans seeking refuge in South Africa*. New York: Human Rights Watch.

Hungwe, C. 2012. The migration experience and multiple identities of Zimbabwean migrants in South Africa. *Journal of Social Science Research,* Vol 1(5).

Ibrahim, M. 2005. The securitization of migration: A racial discourse. *International Migration,* Vol 43(95).

International Crisis Group (ICG). 1999. Burundi refugees in Tanzania: The key factor in the Burundi peace process. *ICG Central Africa Report No 12.*

International Labour Organization (ILO). 2006. *A study on labour migration data and statistics in East Africa*. Geneva: International Migration Programme.

International Organisation for Migration (IOM). 2000. *World migration report 2000*. United Nations: United Nations Publications.

International Organisation for Migration (IOM). 2004. Migration and Gender. *Essentials for Migration Management,* Vol (2).

International Organisation for Migration (IOM). 2011a. *Tanzania's mixed migration unit. Tanzania:* IOM Tanzania.

International Organisation for migration (IOM). 2011b. *Interstate regional consultative processes.* From http://www.iom.int/cms/en/sites/iom/home/html (accessed 12 June 2012).

Jacobs, D. & Rea, A. 2007. *The end of national models? Integration courses and citizenship trajectories in Europe.* Paper presented for the EUSA-conference, Montreal, 17-19 May.

Jacobsen, K. 2002. Can Refugees benefit the state? Refugee resources and African state building. *Journal of African Studies, Vol 46 (4): 577-596.*

Joint Standing Committee on Defence. 2001. Role of territorial forces/commandos. From http://www.pmg.org/za/print/minutes/20011016-role-territori (accessed 7 June 2013).

Joppke, C. 2007. Beyond national models: Civic integration policies for immigrants in Western Europe. *Western Europe Politics,* Vol 30(1): 1-22.

King, M. 2006. *Justice and safety in America's immigration communities*. New York: Princeton University.

Kihato, C. W. 2007. Invisible lives, inaudible voices? The social conditions of migrant women in Johannesburg. *African Identities,* Vol 5(1): 89-110*.*

Klaaren, J. 2010. Viewed from the past, the future of South African citizenship. *African Studies*, Vol 69(30): 385-401.

Klaaren, J. & Ramji, J. 2001. Inside illegality: Migration policing in South Africa after Apartheid. *Africa Today,* Vol 48(3): 35-47. From: http://www.jstor.org/stable/4187432 (accessed 22 November 2011).

Klausen, A. & Rwegoshora, G. 2010. *Evaluation of the protracted refugees Situation for Burundians in Tanzania.* Denmark: Ministry of Foreign Affairs of Denmark & UNHCR.

Krefting, L. 1991. Rigor in qualitative research: The assessment of trustworthiness. *The American Journal of Occupational Therapy,* Vol 45 (3).

Krell, A. 2010. *The impact of microfinance on African refugees in urban areas: Case study of Congolese refugee women in Israel*. Israel: Microfy.

Landau, L. B. & Segatti, A. 2009. Human development impacts of migration: South Africa case study. *Munich personal RePEc Archive (MPRA) Paper No 19182.* From: http://mpra.ubrn-muenchen.de/19182/ (accessed 25 September 2012).

Landau, L. B. & Hornberger, J. 2010. *Policing migration in South Africa: Disinformation, development, and accountability.* Johannesburg: Witwatersrand University press. From: http://.sidint.net/policing- migration-in south africa-disinformation-development-... (accessed 29 March 2011).

Lea, J. 1992. Left realism: Framework for the analysis of crime. From: http://www.bunke8.pwp.blueyonder.co.uk/misc/square.htm (accessed 4 December 2013).

Lea, J. 2010. Left Realism, community and state-building. *Crime, Law and Social Change,* Vol 54(2): 141-158.

Le Roux, L. & Boshoff, H. 2005. *State of the military.* Pretoria: HSRC Press.

Lincoln, Y. S. & Guba, E. G. 2000. Paradigmatic controversies, contradictions, and emerging confluences. In: Denzin, N. K. & Lincoln, Y. S. (eds) 2000. *Handbook of qualitative research.* 2nd edition. Los Angeles: Sage Publications.

Lindholt, L., Neto, P., Titus, D. & Alemika, E. E. 2003. *Human rights and the police in transitional countries.* New York: Kluwer law international.

Lochard, S. Solly Lochard Attoneys. 2013. Statement to the researcher, 26 July 2013. Durban.

Lomo, Z., Naggaga, A. & Hovil, L. 2001. *The phenomenon of forced migration in Uganda: An overview of policy and practice in an historical context.* Uganda: The Refugee Law Project.

Longman's Dictionary of Contemporary English. 1995. s.v. "immigration". Burnt Mill: Longman.

Madsen, M. L. 2004. Living for home: policing immorality among undocumented migrants in Johannesburg. *Africa Studies,* Vol 63(2): 173-192.

Majodina, Z. 2002. *The Immigration Bill from human rights perspective.* Paper presented at SAMP/LHR/HRSC workshop on Regional Integration, Poverty and South Africa's proposed migration policy, Pretoria 23 April. From: http://www.sarpn.org.za/documents/d0001212/zonke/zonke.pdf (accessed 24 November 2010).

Marks, M. 2011. The fantastical world of South Africa's roadblocks: Dilemmas of a ubiquitous police strategy. *An international Journal of Research and Policy,* Vol 21(4): 408-419.

Martin, B. 2006. 'Between a rock and a hard place': North Africa as a region of emigration, immigration and transit migration. *Review of African Political Economy,* Vol 33(108).

Mariano, B. 2012. The role of IOM in the management of humanitarian crises and the implication of mixed migration. Paper presented at the symposium: mobility, migration, development and environment, Pretoria, South Africa, 22-23 May.

Martinez, R. & Valenzuela, A. 2006. *Immigration and crime: Race, ethnicity, and violence.* New York: New York Press.

Massey, D.S. & Fussel, E. 2004. The limits to cumulative causation: International migration from Mexican urban areas. *Demography,* Vol 41(1): 151-171.

Masuku, T. 2006. Targeting foreigners: Xenophobia among Johannesburg's police. Centre for the Study of Violence and Reconciliation. *Crime Quarterly No 15.* From: http://www.iss.co.za/pubs/crimeQ/No.15/Masuku.html. (accessed 1 November 2010).

Mataboge, M. 2013. Zimbabwe wants South Africa to keep its citizens. *Mail & Guardian.* From: http://mg.co.za/print/2013-05-17-00-zimbabwe-wants-sa-to-keep-ci... (accessed 18 November 2013)

Mawadza, A. & Crush, J. 2010. *Metaphors of migration: Zimbabwean migrants in the South African media.* From: http://www.idrc.ca/pan/ev-158071-201-1-DO_TOPIC.html (accessed 1 November 2010).

Mayisela, S. CoJ Migrant Helpdesk Officer. 2014. Statement to the researcher, 23 January 2013. Johannesburg.

Mehta, R. Irregular Migration Officer at IOM. 2013. Statement to the researcher, 17 December 2013. Pretoria.

Meyer, S. 2006. The refugee aid and development' approach in Uganda: Empowerment and self-reliance of refugees in practice. *New Issues in Refugee Research: Refugee Paper No 131.*

Mercer, M. 2012. Those easily forgotten: The impact of emigration on those left behind. *Family Process,* Vol 51(3).

Merriam, S. B. 1998. *Qualitative research and case study applications in education.* San Francisco: Jossey-Bass.

Mitsilegas, V. 2002. The implementation of EU acquis on illegal immigration by the candidate countries of central and eastern Europe: Challenges and contradictions. *Journal of Ethnic and Migration Studies,* Vol 28(4): 665-682*.*

Morreira, S. 2011. Framing harm: Legal, local and anthropological knowledge in the content of forced migration. *Anthropology Matters Journal,* Vol 13(1).

Mukonza, R. 2011. Immigration and refugee policies: Unpacking policy dilemmas in South Africa. *Journal of Public Administration,* Vol 46(4).

Mwakasungula, D. K. 2008. *Immigrants and refugees' challenges in Africa.* Johannesburg: Open Society Initiative for Southern Africa.

National Pro Bono Resource Centre. 2011. What is social justice? *National Pro Bono Resource Centre Occasional Paper 1.*

Ncube, S. & Hougaard, C. 2010. *Assessing the 90-day permit for Zimbabwean migrants as a remittances financial inclusion tool.* Stellenbosch: Centre for Financial Regulation and Inclusion.

Neocosmos, M. 2010. *From 'foreign natives' to 'native foreigners': Explaining xenophobia in post-apartheid South Africa.* Senegal: CODESRIA.

Newham, G. 2005. Strengthening democratic policing in South Africa through internal systems for officer control. *South African Review of Sociology,* Vol 36(2).

Norman, E. R. 2012. *Superfluousness, institutional failure and immigration: Citizenship and human rights in conflict in North America.* UK: Ashgate.

Nzayabino, V. 2011. Rethinking the impact of the church on the dynamics of integration of Congolese migrants in Johannesburg: A case study of Yahwen Shammah Assembly. Doctoral thesis, submitted at Wits University, Faculty of Humanities. 15 February 2011.

OAU Convention governing the specific aspects of refugee problems in Africa. 1951. Addis Ababa: The UN Refugee Agency.

Ollivierre, L. L. 2011. *Immigration policy Sb1070 and its perceived effect on the prospect of liberty for current and future immigrants.* Conference proceedings, national conference on undergraduate research. Ithaca College, New York, 31 March-2 April 2011.

Omata, N. 2012. Struggling to find solutions: Liberian refugees in Ghana. *Research Paper No 234.*

Organisation for Refugee Asylum and Migration (ORAM South Africa). 2012. Refugee documentation process in South Africa. From http://oraminternational.org (accessed 04 June 2013)

Oucho, J. O. 2007. Migration in Southern Africa: Migration management initiatives for SADC member states. *Institute for Safety and Security, Paper 157.*

Owsu, M. 2000. Reluctant refugees: Liberians in Ghana. *The Journal of the International Institute,* Vol 7(3).

Palmary, I. 2009. Refugees, safety and xenophobia in South African cities: The role of local government. Report written for the Centre for the Study of Violence and Reconciliation. Johannesburg.

Palmitto, M. J. 2000. *Community policing: A policing strategy for the 21st century.* Maryland: Aspen Publications.

Paris, R. 2001. Human security: Paradigm shift or hot air? *International Security, Vol 26 (2).*

Peberdy, S. 2010. *Setting the scene: Migration and urbanization in South Africa.* Cape Town: University of Western Cape.

Pfanelo newsletter. 2014. SAHRC, SAPS pledge to work together in matters of policing and human rights. *SAHRC Newsletter,* Vol 18. Johannesburg: SAHRC.

Pineteh, E. 2010. Haven or hell? Discordant representations of Johannesburg in testimonies of Cameroonian forced migrants. *African Identities,* Vol 8(1): 69-80.

Pino, N. W. & Wiatrowski, M. D. 2006. *The principles of democratic policing.* UK: Ashgate.

Polzer, T. 2008. Responding to Zimbabwean migration in South Africa: Evaluating the options. *South African Journal of International Affairs,* Vol 15(1): 1-28.

Prenzler, T. 1997. Is there a police culture? *Australian Journal of Public Administration,* Vol 56(4): 47-56.

Quinton, P. 2011. The formation of suspicions: Police stop and search practices in England and Wales. *Policing and Society: An International Journal of Research and Policy, Vol 21 (4), 357-368.*

Roe, P. 2012. Is securitization a 'negative' concept? Revisiting the normative debate over normal versus extra-ordinary politics. *Security Dialogue,* Vol 43(3).

Rolfe, G. 2004. Validity, trustworthiness and rigour: Quality and the idea of qualitative research. *The Journal of Advanced Nursing,* Vol 53(3): 304-310.

Rutherford, B. 2008. *Zimbabweans living in South African border-zone: Negotiating, suffering and surviving.* From: http://concernedafricascholars.org/bulletin/80/rutherford/ (accessed 3 September 2010).

SABC 3 news. 2013. SABC news report on police brutality in South Africa in Daveyton, 1 March 2013, 18:30.

SA FM. 2010. *Law Report: South African Migration law.* From: http://www.queensu.ca.samp/sampsources/migrationdocuments/interviews/klaaren... (accessed 1 November 2010).

Sausi, K. 2009. Nigerian migration in central Durban: Social adjustment, voluntary association and kinship relations. Masters dissertation submitted at University of KwaZulu-Natal, School of Anthropology, Gender and Historical Studies.

Scaramella, G. L., Cox, S. M. & McCamey, W. P. 2011. *Introduction to policing.* Los Angeles: Sage Publications.

Schiller, H. G. 2011. Localised neoliberalism, multiculturalism and global religion: exploring the agency of migrants and city boosters. *Economy and Society,* Vol 40(2): 211-238.

Schwandt, T. A. Three epistemological stances for qualitative inquiry: Interpretivism, hermeneutics, and social constructionism. In: Denzin, N. K. & Lincoln, Y. S. (eds) 2000. *Handbook of qualitative research.* 2nd edition. Los Angeles: SAGE Publications.

Seegers, A. 1991. One state, three faces: Policing in South Africa, social dynamics. *A Journal of African Studies,* Vol 17(1): 36-48.

Segatti, A. & Landau, L. B. 2011. *Contemporary migration to South Africa: A regional development issue.* Washington DC: World Bank.

Shanahan, P. 2000. *Police culture and the learning organisation: A relationship.* From: http://www.avetra.org.au/abstract-and-papers-2000/ps-full-pdf (accessed 3 May 2011).

Shaw, M. 2002. *Crime and policing in post-apartheid South Africa: Transforming under fire.* Cape Town: David Philip Publishers.

Sibanda, O. 2010. Social ties and the dynamics of integration in the city of Johannesburg among Zimbabwe migrants. *Journal of Sociology Social Anthropology,* Vol 1(1-2): 47-57.

Sibanda, S. 2011. Seeking asylum: A case of Zimbabwean asylum seekers in Rosettenville, Johannesburg. MA dissertation submitted at Witwatersrand University, Faculty of Humanities.

Smith, R. M. 2011. *Citizenship, borders, and human needs.* Philadelphia: University of Pennsylvania Press.

Snyman, C. R. 1995. *Criminal law.* 3rd edition. Durban: Butterworths.

Solivetti, L. M. 2010. *Immigration, social integration and crime: A cross-national approach.* New York: Routledge.

South Africa. 1977. *Criminal Procedure Act 51 of 1977.* Pretoria: Government Printers.

South Africa. 1995. *The South African Police Act 68 of 1995.* Pretoria: Government Printers.

South Africa. 1996. *The Constitution of the Republic of South Africa Act 108 of 1996.* Pretoria: Government Printers.

South Africa. 1998a. *The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998.* Pretoria: Government Printers.

South Africa. 1998b. *The Refugee Act 130 of 1998.* Pretoria: Government Printers.

South Africa. 2002. *The Immigration Act 13 of 2002*. Pretoria: Government Printers.

South Africa. 2008. *The Refugee Amendment Act 33 of 2008*. Pretoria: Government Printers.

South Africa. 2011a. *The Immigration Amendment Act 13 of 2011.* Pretoria: Government Printers.

South Africa. 2011b. *Children's Act 38 of 2005*. Pretoria: Government Printers.

South African Development Community (SADC). 2005. SADC Protocol on the Facilitation of Movements of Persons. From http://www.sadc.int/ (accessed 24 May 2012).

South African Development Community (SADC). 2012. Republic of South Africa: Department of International Relations and Cooperation. From http://www.sadc.int/ (accessed 24 May 2012).

South African Department of Home Affairs (DHA). Home page. 2012. From: http://www.home-affairs.gov.za/ (accessed 12 June 2012).

South African Police Service (SAPS). 2008. *Immigration policing manual*. Pretoria: Division of Operational Response Services.

Stark, O. & Taylor, E. 1991. Migration Incentives, Migration Types: The role of Relative Deprivation. *The Economic Journal, Vol 101 (408): 1163-1178.*

Stark, O. & Taylor, E. 1989. Relative deprivation and international migration. *Journal of Demography,* Vol 26(1).

Steenkamp, C. 2009. Xenophobia in South Africa: What does it say about trust? *The Round Table: The Commonwealth Journal of International Affairs,* Vol 98(403): 439-447.

Stenson, K. & Cowell, D. 1991. *The politics of crime control.* London: Sage publications.

Steinberg, J. 2005. After the commandos: The future of rural policing in South Africa. *ISS Monograph Series No 120.*

Stone, C. E. & Ward, H. H. 2000. Democratic policing: A framework for action, policing and society. *An international Journal of Research and Policy,* Vol 10(1).

Stritzel, H. 2007. Towards a theory of securitisation: Copenhagen and beyond. *European Journal of International Relations,* Vol 13(3): 357-383.

Sutton, R. & Vigneswaran, D. 2011. A Kafkaesque state deportation and detention in South Africa. *Citizenship Studies,* Vol 5(5): 627-642*.*

Tanie, A. 2012. Refugees' reflections on their staying in the Buduburam camp in Ghana. *GeoJournal DOJ 10.1007/s10708-012-9471-9.*

Tesch, R. 1990. *Qualitative research: Analysis types and software tools.* Bristol PA: Falmer.

Thonke, O. & Splid, A. 2012. What to expect from regional integration in Africa. *African Security Review,* Vol 21(1): 42-66*.*

Tshabalala, X. 2009. Negotiating the movement: Everyday immigration policing in Johannesburg. MA (unpublished), University of Witwatersrand, Johannesburg.

Tzifakis, N. 2011. Problematizing human security: A general/contextual approach. *Southeast European and Black Sea Studies,* Vol 11(4): 353-368.

Unisa. 2007. *Policy on research ethics.* Pretoria: Unisa.

United Nations Convention relating to the Status of Refugees. 1951. http://www.unhcr.org/pages/49daOe466.html (accessed 29 May 2014)

United Nations High Commissioner for Refugees (UNHCR) bulletin Tanzania. 2012. Mission with donors and UN representatives. 2013. *UNHCR Tanzania Bulletin No 6.*

United Nations High Commissioner for Refugees (UNHCR) 2004. *The state of the world's Refugees: Responding to emergencies.* Geneva: UNHCR

United Nations High Commissioner for Refugees (UNHCR) global appeal. 2007. *Refugee updates.* Geneva: UNHCR

United Nations High Commissioner for Refugees (UNHCR) global report. 2012. Operational highlight on refugees. Geneva: UNHCR.

United Nations High Commissioner for Refugees (UNHCR) global appeal. 2012/2013. *Operational highlights on refugees.* Geneva: UNHCR.

United Nations High Commissioner for Refugees (UNHCR) global report. 2013. *Operational highlights on refugees.* Geneva: UNHCR.

Universal Declaration of Human Rights. 1948. New York: Department of Public Information.

Valtonen, K. 2008. *Social work and migration: Immigration and refugee settlement and integration.* UK: Ashgate.

Van der Spuy, E. 2009. Police cooperation in the Southern African region: Politics and practicalities. *Crime, Law and Social Change,* Vol 51: 243-259*.*

Vearey, J. 2008. Migration, access to ART and survivalist livelihood strategies in Johannesburg. *African Journal of AIDS Research,* Vol 7(3): 361-374*.*

Vearey, J., Richter, M., Nunez, L. & Moyo, K. 2011. South African HIV/AIDS programming overlooks migration, urban livelihoods, and informal workplaces. *African Journal of AIDS Research,* Vol 10(1): 381-391*.*

Vigneswaran, D. 2009. A foot in the door: Access to asylum in South Africa. *Refugee,* Vol 25 (2).

Vigneswaran, D. & Duponchel, M. 2009. *One burden too many? A cost-benefits analysis of immigration policing in Gauteng.* Wits University: Open Society for South Africa.

Vishnuvajjala, R. 2012. Insecure communities: How an immigrant enforcement program encourages battered women to stay silent. *Boston College of Law and Social Justice,* Vol 32 (1).

Viljoen, F. 2012. *International human rights law in Africa.* 2nd edition. Oxford: Oxford University Press.

Vold, G., Bernard, J. & Snipes, J. 2002. *Theoretical criminology.* New York: Oxford University Press.

Williams, V. & Carr, L. 2006. The draft protocol on the facilitation of movement of persons in SADC: Implications for state parties. *Migration Policy Brief No 18.*

ADDENDUM A: QUESTION SCHEDULE

QUESTIONS (Police officials)

Dear _____ (participant name), **my name is Angel Mabudusha (student number: 44640897),** I am busy with a research study for my PHD degree in Police Science at University of South Africa. I request your permission to interview you regarding "The policing of Undocumented foreign nationals in South Africa". If you agree to participate in this research you may sign this form below.

The purpose of this questionnaire is to explore the experiences of the police when dealing with undocumented foreign nationals in South Africa.

1. How long have you been in the police? -----------------------------

2. How do the police deal with undocumented foreign nationals in this country? --------------------------
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------- --

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3. What are the challenges of dealing undocumented foreign nationals in this country?-------------------
----

Disclaimer: The information provided in this questionnaire will be used only for my academic purpose that is for my research studies only. At any time during the interview session you are allowed to terminate your participation if you feel uncomfortable to proceed and you are also allowed to remain anonymous.

Signature_____

QUESTIONS (Foreign nationals)

Dear _____ (participant name), **my name is Angel Mabudusha (student number: 44640897),** I am busy with a research study for my PHD degree in Police Science at University of South Africa. I request your permission to interview you regarding "The policing of Undocumented foreign nationals in South Africa". If you agree to participate in this research you may sign this form below.

The purpose of this questionnaire is to understand the experiences of undocumented foreign nationals with regard to the police in South Africa.

1. In which country to you come from? ----------------------------

2. How old are you? ---

3. Why did you decide to cross into South Africa? --- --- --- --- --- ---

4. How often do you cross in and out? --

5. Did you come here with your family/ friends/alone? ---

6. What was your experience with the police in this country?--- --- --- --- --- --- ---

Disclaimer: The information provided in this questionnaire will be used only for my academic purpose that is for my research studies only. At any time during the interview session you are allowed to terminate your participation if you feel uncomfortable to proceed and you are also allowed to remain anonymous.

Signature_____

QUESTIONS: STAKEHOLDERS

Dear _____ (stakeholder's representatives: IOM, CoJ Migrant Helpdesk, Immigration practitioners), my **name is Angel Mabudusha (student number: 44640897**), I am busy with a research study for my PHD degree in Police Science at University of South Africa. I request your permission to interview you regarding "The policing of Undocumented foreign nationals in South Africa". If you agree to participate in this research you may sign this form below.

The purpose of this questionnaire is to validate the answers provided by the South African police regarding the strategies they use when dealing with undocumented foreign nationals in the country.

1. What are your views on the increasing numbers of undocumented foreign nationals? ----------------
----

----

2. What services does your organisation provides to undocumented foreign nationals?------------------
----

----

3. What challenges does your organisation encounter regarding undocumented foreign nationals? ---
----

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4 What is your view on how the SAPS deal with undocumented foreign nationals? ------------------------
----
----

4. What would you recommend for the SAPS and/or the South African government in terms of how the undocumented foreign nationals should be handled? --
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Disclaimer: The information provided in this questionnaire will be used only for my academic purpose that is for my research studies only. At any time during the interview session you are allowed to terminate your participation if you feel uncomfortable to proceed and you are also allowed to remain anonymous.

Signature_____

ADDENDUM B: RELEVANT PICTURES
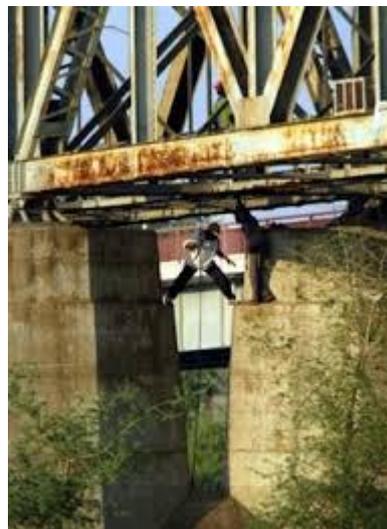
Foreign nationals crossing the South African border illegally

Foreign nationals crossing the South African border illegally

Foreign nationals in asylum-seeking queues at RRO in Pretoria

Ficksburg port of entry

Lebombo port of entry

Taxi rank outside the Lebombo port of entry

Taxi rank outside the Beitbridge port of entry

People on queue to pass through Beitbridge port of entry

People on queue to pass through Beitbridge port of entry during the holiday's period

'No man's land' at Beitbridge

Illegal goods crushed at Bietbridge port of entry