

The Gender Implications of the Immigration Regulations of South Africa on “career wives”: An African Feminist Perspective¹

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Abstract

The search by South Africa for scarce skills that contribute to the economic development of the country attracted many people around the world, particularly Africa to migrate to this country for economic purposes. Among those who respond to the call for scarce skills are married men who migrate with their wives who do not qualify to apply for a scarce skills visa. This non empirical qualitative study analyses how the South African immigration regulations affects wives of migrants particularly career-wives who choose to join their husbands during migration. The broader principles of African feminism are used to analyse the gender implications of the South African immigration to career-wives who accompany their husbands on migration. Findings of this study indicate that the South African immigration policy is gender biased and overlooks the legacies of colonialism that encouraged boys to study Science and Mathematics and girls to study Arts subjects. In addition the study reveals that the South African immigration policy does not align itself with the international, regional and national instruments that promote and protect gender equality despite being signatory.

Key Words: Gender, career-wives, South Africa Immigration Regulations, African feminism

INTRODUCTION AND BACKGROUND

The late 1990s to early 2000s changed migration between South Africa and other African countries from a twin economic and political crisis, to triple socio-economic and political crisis (Ngwenya 2009:1). South Africa’s economic stability attracts millions of economic migrants including highly skilled professionals (Adepoju 2008:22). Migration to South Africa transformed from being exclusively male to including families, women and children (Chisale 2014). Women and children became the “marginalised migrant”. The use of the gender inclusive term “spouse” and “dependants” in the migration policy development and implementation applies mainly to wives and children who are the dependants of the principal holder of the work visa who is mainly the husband or father. According to the immigration regulations of South Africa a spouse of primary holder of a visa is required to apply for a spouse visa.³ This visa does not allow a

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³ <http://www.dha.gov.za/index.php/types-of-temp-res-permits> General information about temporary residence visas (accessed 23 April 2014)

spouse to study, work, open a business or open a bank account. Since traditional gender constructions expect a husband to be a provider of the family; it is unlikely for a husband to be a spouse or dependent to his wife. For this reason, migration decision making in “dual-career” households mainly prioritises the demands of the husband’s career over the wife (Halfacree & Boyle 1999:3). “Career-wives” are then forced to abandon their jobs in their home countries and join their husbands in migration in an effort to preserve their marriages, yet are prevented by the immigration regulations of the receiving country from securing work permits because their skills are not on the critical skills list.

Men who accompany wives on migration for work purposes are still rare in Africa due to the dominance of patriarchy; it is usually a wife who accompanies a husband who is the principal holder of work permit. Halfacree & Boyle (1999:8) asserts that “labour migration is not simply a category of human migration but it is in practical terms a highly masculine concept, its contemporary character relying upon unequal gender relations” (cf. IOM 2012). This indicates that men still enjoy the benefits of migration, while women’s suffering is further intensified by migration (Crush & Williams 2001; cf. Dodson 1998). As a result, this study is not a critical analysis of the legal framework of the South African immigration system per se, but it is a critical analysis of how immigration regulations affect “career-wives” who accompany their husbands during migration.

An African Feminist Perspective

This study is informed by the broader principles of African feminist theory which asserts that men and women are equal; hence emphasis on the communal value instead of individualistic (Kaitesi 2014:107). In this regard African feminists believe that everyone in the family has a role to play in the sustenance of the family. Therefore they challenge and critique gender hierarchies or any formation of gender hierarchies that enforce inequality and patriarchy in the family system (Kaitesi 2014:109). Significant to this study is the understanding by African feminist that in order to achieve gender justice in society all other systems that enforce women oppression and exploitation should be critiqued and challenged (Mama 1997:47; cf. Kaitesi 2014:109; Oloka-Onyango & Tamale 1995:693). African feminist also acknowledge that the suffering of women is a legacy of colonialism that created gender hierarchies in the education and professional

sectors. As a result, African feminist challenge and critique government policies and systems that enforce gender injustice because their goal is to eradicate patriarchy in all its forms so that gender equality prevails in all spheres of life (Mikell 1997: 335).

Statement of the Problem

This study analyses the gender biases of the South African immigration regulations, with reference to career-wives who join their husbands during migration for work purposes under the critical skills work visa.

Research Methodology

This qualitative study is a non-empirical study that analyses literature on migration. Published literature, unpublished literature and some government reports on migration were analysed. Few studies explore the specific situation of “career-wives” who join their husbands in migration. I did not specifically find literature on career-wives and migration. Therefore, this paper seeks to present how the South African migration regulations de-skill and subjugate career-wives who join their husbands in migration to South Africa.

Gender biased Migration Regulations

The shortage of skilled and professional human resources in South Africa requires the country to source skilled and professional people from other countries (Department of Home Affairs of South Africa (DHA) 2007, cf. Department of Labour of South Africa 2007). This then saw the country amending its immigration regulations in 2004 and 2014 respectively to accommodate a search for scarce skills from other countries. The amendment of the immigration regulations 2004 and 2014 correspondingly; saw the birth of different categories of work permits⁴ such as quota, general, exceptional skills and intra-company transfer (DHA 2007; cf. DHA 2014a). All these permits have their own red tape or significant administrative barriers. The introduction of

⁴ Permits and visas will be used parallel with each other because the 2002 immigration act amended in 2004 uses permit to refer to documents allowing someone temporary resident or work in South Africa and the amended 2014 immigration regulations use visa to refer to documents allowing temporary residents or work with the South Africa

these work permits attracted many people from across the world and particularly across the African continent to migrate into South Africa for economic purposes on different work permits. Search for scarce skills attracted holders of those skills to apply for a quota work permit now known as critical skills work visa.⁵ Those who meet the requirements of these permits or visas are mainly male migrants.

Like many industrialised countries most African countries' educational systems prepare boys for scientific, engineering and technical careers, with special focus on Mathematics and Science while girls are trained in home economics, arts, nursing and education careers (McAdoo & Were 1996:139). Though countries are increasingly encouraging girls to take Science, Mathematics, engineering and technical subjects these subjects are still predominantly male dominated in most African countries including South Africa. This means that the call by South Africa for professional people in the field of Science, Mathematics and engineering etc attracts men. It is clear that the field of Science, Mathematics, engineering and other technical and engineering subjects are male dominated in any country. The immigration regulations overlook this, as focus is profit rather than gender equality and human reformation.

South Africa's immigration policy is highly restrictive on issuing work permits to migrants who have skills on occupations that already have sufficient South African citizens to meet the country's economic and development needs. The 2002 immigration Act's amended regulations in 2004 and 2014 correspondingly; allows families to migrate together, but the family members who do not possess skills that are scarce in South Africa are not allowed to apply for a work visa rather they can only apply for a relative permit or spouse permit. If they wish to work, relatives or spouses of a principal work permit holder can only apply for a general work permit after they get a job offer. The administrative barriers of this permit is that the prospective employer should conform with a range of related requirements such as; needing to show that they first made a reasonable and thorough search to find a suitable citizen or permanent resident with qualifications or skills and experience equivalent to those of the applicant (DHA 2014b).⁶ The

⁵ <http://www.dha.gov.za/index.php/types-of-temp-res-permits> General information about temporary residence visas (accessed 23 April 2014).

⁶ <http://www.home-affairs.gov.za/index.php/types-of-temp-res-permits> accessed on 2 May 2015

process is not friendly to companies hence some companies try to avoid this at any cost. This means that despite “career-wives” level of education, many of them who join their husbands in South Africa end up limited in domestic spheres as house wives, their education and capabilities are of no use to the socio-economic and development of a country that needs their husbands’ skills.

Therefore, such women may venture into domestic work, waitressing or vending though the spouse permit prohibits any work or form of business (International Organization of Migration (IOM) 2013). Research indicate that migrant women always look for things to do in foreign countries in order to contribute in the family’s economic situation because in their countries they were used in being self-reliant and taking care of themselves and their children (Terborg-Penn 1996:218). According to Terborg-Penn (1996:218) African women always develop survival strategies and encourage self-reliance through female networks. The legacy of colonialism that pushed them into Arts and home economics subjects taught them to develop survival strategies that boost their resourcefulness. However, women’s resourcefulness is not acknowledged by the social order. The social order constructs differences in interpreting men as “assertive and professional and women as emotional, motherly and weak” (Kaitesi 2014:98). Studies confirm that migration of women is likely to be linked to the occupations of their husbands than their own; due to the gendered social systems and structures that favour men in education and employment opportunities (Halfacree & Boyle 1999). The patriarchal nature of labour migration has influenced some countries particularly Southern African Development Community (SADC) countries’ migration policies to be used to protect traditional gender roles. This reflects that in Africa women’s educational achievements and occupational achievements are still undermined. A wife is referred to as a ‘tied migrant’ (Li & Findlay 1999:143) and if skilled and professional this “tied migrant is at risk of de-skilling.

Gender concerns are very much evident in the migration policy of the SADC countries and are a result of the neo-liberal agenda adopted by many governments in 1980s. The migration policies of some SADC countries lack an egalitarian gender position by explicitly producing and reproducing what their colonial masters introduced. The regulations use a gender inclusive

language but practically undermine women's educational achievements. The problem of the South African immigration regulations is the gap that exists between theory and practice. This gap does not affect women from other countries only but it also affects South African women. Where educated women experience the consequences of gender norms such as unequal division of labour, discrimination in terms of employment practices and wage discrimination (Department of Women 2015). Colonial gender constructions are still active in the employment sector and migration sector of many African countries.

A Contradiction to the Convention on the Elimination of All forms of Discrimination against Women (CEDAW)

South Africa is signatory to and have adopted almost all the existing international and regional instruments that promote and protect gender equality including the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) of 18 December 1979. The South African Parliament adopted the CEDAW without reservations. By adopting CEDAW the country through its parliament committed itself to the obligations of the international law. It agreed to take responsibilities against any form of women oppression and gender discrimination. However, the immigration regulations are contrary to that. CEDAW Article 2 [5,6] condemns discrimination against women in all forms and states that parties should: 5) *...take appropriate measures to eliminate discrimination against women by any person, organization or enterprise.* 6) *...take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices, which constitute discrimination against women* (CEDAW, Article 2:5,6). A proper analysis of the immigration regulations of South Africa and other countries that are signatory to CEDAW indicate that migration in these countries is gendered and discriminates against women's careers and potentials.

Article 3 of CEDAW call on states to: *take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.* As I have argued above that colonialist created gender stereotypes in education and professional sector, the

migration regulations are no different. Though so much have been done to fight gender inequality but immigration regulations pushes this process backwards by ignoring the colonial legacies of education. “Career-wives” are more affected because the decision to migrate is influenced by a husband’s career (Halfacree & Boyle 1999:8).

African feminist argue that women’s struggles are linked to ‘herstory’ as a continent, diverse pre-colonial contexts, colonisation, liberation struggles, neo colonialism among the many oppressive systems of the time (Mama 1997:47).⁷ Therefore, the struggle by career-wives is not only experienced by foreign women, but it is interwoven to the continent’s struggle for gender justice. A system cannot empower one woman and disempower another based on her citizenship and a system cannot empower a man and disempower a woman because of her gender.

The South African constitution is enshrined with women’s rights, empowerment and gender equality statements;⁸ as a result gender, even in immigration regulations should be prioritized. According to the South African History Online⁹ the South African parliament has passed a Women’s Empowerment and Gender Equality Bill which strongly call for equal participation of women in positions of decision-making and 50/50 on both the private and public sector. Therefore, if applicants of critical skills work permit are predominantly male, surely this should raise some questions on how the African continent will be able to achieve gender justice, if policies constantly empower one gender.

Whether migrant career-wives’ skills are not scarce in South Africa that is not the case, but the case is that these women migrated to South Africa because South Africa offered their husbands employment. So what does the country have to offer them in return? Respect for the family or marriage institution should not enforce patriarchy that position women in domestic roles, but it should respect and promote women’s full development, economic advancement and independence. The Charter of Feminist principles for African feminists states that African

⁷Women protection and representation in South Africa after 20 years of democracy
<http://www.sahistory.org.za/article/women-protection-and-representation-south-africa-after-20-years-democracy>
accessed on 13 May 2015

⁸ The Constitution of the Republic of South Africa (1996)

⁹ Women protection and representation in South Africa after 20 years of democracy
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accessed on 13 May 2015

women are committed to dismantling patriarchy in all its forms in Africa and they are reminded of their duty to defend and respect the rights of all women.¹⁰ In addition African feminist argue that patriarchy should not be challenged in isolation from other systems of oppression and exploitation that mutually support each other.¹¹ The critical gender differences are highlighted by African feminist in their struggle for gender justice as they name and shame inequality in its substance form.

Implications of South African Immigration Regulations to Career-wives: An African Feminist View

The traditional patriarchal social understandings particularly the Chinese and African saying that “when you are married to a chicken, you follow the chicken” (Li & Findlay 1999:143) encourage women to prioritise their marriage over their careers. Li & Findlay (1999:143) say this saying depicts a very submissive role socialised to and played by women or wives. Significantly African women value their fertility, motherhood and wifhood roles, this challenges them to protect their marriage at any cost, even if it means deskilling. In the history of African migration, male migrants were prohibited from bringing spouses and dependents to mines, and Maphela Ramphela (1993) observes this as a characterization of gender discrimination and oppression. This was a threat to women’s fertility, motherhood and wifhood. On the other hand the prohibition of family migration contributed to the intensity of the HIV epidemic in Sub-Saharan Africa, studies have identified the link of migration and mines as the epicenter for HIV (Deane, Parkhurst & Johnston 2010, cf. IOM 2010). Migration increased married couples’ vulnerability to HIV infections and threatened the lives of their children. African feminism campaign for life enhancing systems and cultures; anything that destroys life and undermines women and children is condemned (Chisale & Buffel 2014: 288). AIDS destroys life hence this epidemic can be reduced or prevented if the socio-economic, political policies and systems can treat couples equal and encourage them to spouses to stay together. African feminism campaign for the equality of women and men and they say in the struggle against gender equality men and women should

¹⁰ The Charter of Feminist principles for African Feminists <http://www.africafeministforum.org> accessed 12 February 2015

¹¹ ibid

stand side by side as they did in the fight against colonialism (Kaitesi 2014:109; cf. Mekgwe 2008:16).

It is clear that the immigration policy of South Africa enforces androcentric culture. Thus, a feminist standpoint is critical within studies of migration, since migration contributes to the gendering of families and societies. Interestingly, while women's professions in the field of arts and home economics are not recognized as critical skills, soccer is considered a critical skill. Though there is now female soccer, but male soccer widely recruits male expatriate skills. This indicates that women are still under the yoke of patriarchy that was introduced and imposed by colonialists.

Education is understood to be a critical weapon towards women empowerment and emancipation. However, if African countries that support this statement overlook the significance of this statement in policy development and implementations, then I argue that Africa is still far from eradicating the scourge of gender inequality. The spouse visa ties a wife to her husband who is given power to control everything she does. It reinforces the masculinisation of marriage where a wife is expected to submit to her husband at all times. Studies indicate that women who economically and socially depend on men "sweat even blood so as to keep their *patriarchal* marriages" emphasis added (Moyo 2005:63). Economic dependence on men forces women or wives to accept patriarchal domination that locates them in culturally-defined confinements. Wife abuse is fertile where women economically depend on their husbands. As a result, the high figures of gender based violence that are recorded in South African Police files could be that of the voiceless, vulnerable and unrecognized wife or career-wife of a migrant laborer who is forced by the immigration regulations to economically and socially depend on her husband.

Some women have managed against all odds to use migration to their benefits. They used the time at home to pursue their careers. According to Jolly and Reeves (2005) migration has a potential of deconstructing gender roles, by providing new opportunities and improving women women's lives by transforming oppressive gender relations. The risks of migration overpower the benefits. There are numerous studies that describe the deskilling and disempowering of

women by migration (IOM 2012). Raghuram (2004) and Raghuram & Kofman (2004) describe how migration has contributed to the deskilling of Asian women migrants. Additionally, the IOM report (2012) reviews literature on the reasons of deskilling of female migrants which according to the report is a result of the economic policies of the host country and the sending country. Accordingly, Man's (2004: 145) study on the deskilling of Chinese immigrant women in Canada reveal that there the country's neoliberal policies, labor market, employment practices which require "Canadian experience", restrictive professional accreditation processes and the lack of recognition of immigrant women's foreign credentials and work experience disadvantage Chinese immigrant women and limits their chances of getting professional jobs relevant to their careers. This indicates that all countries have their own red tape measures to protect citizens of their states. However, this they do in a gender-insensitive way where migrant men seem to be easily absorbed in the countries' employment systems.

Conclusion and Recommendations

The trends of career-wives who follow their husbands during migration reveal that women have internalised the ideologies of marriage that were shaped by colonialism and traditional culture. Gender politics that were taught under the colonial administrative system need to be challenged and deconstructed. It is a reality that patriarchy does not only exist in the family structures but it exists everywhere including the State governing policies as public patriarchy. In this article it is clear that the immigration policy of South Africa has overlooked that women's professions and careers have links to colonialism. In the development and implementation of the migration policy this reality is ignored. Though I am guilty of subjectivity, I stand on my argument that gender biased policies are a threat to the common goal of gender justice.

In order to achieve gender justice and women's emancipation countries, particularly African countries like South Africa who are economically and politically stable should walk the talk. If the country is committed to gender equality, this must be implemented across all sectors. There is a need for immigration policies which combat and eradicate gender injustice and women oppression despite the nationality of the migrants. Dual-career households challenge and provide countries with a model for degendering labour immigration policies (Halfacree & Boyle 2005:8).

Career-wives or women are capable of bringing different skills, qualities and attributes in South Africa that promote the country's growth and economic development just like their husbands. The degendering of immigration policies requires a more refined and improved gender sensitive approach. Implementation should be monitored as lack of implementation creates some inconsistencies in the country's governing policies and ability to achieve gender justice.

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