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Reimagining the Role of State Actors in Implementing the African Union Migration Policy in South Africa

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Abstract

Over the years, migration has become an important issue in South Africa's policymaking and public discourse. The unresolved migration question in the country has been compounded by the failure of the government to effectively implement the African Union Migration Policy Framework for Africa (AU MPFA). The continental framework, adopted in 2006 to guide AU Member States in managing migration, responds to Africa's current migration trend and dynamics. While it sees migration as a continental phenomenon, the effectiveness of the migration framework depends on the commitment of national actors, including parliamentarians, government officials, law enforcement agencies, and immigration authorities, each playing a crucial role in

translating the AU migration objectives into specific policies and actions. Thus, through unstructured interviews and data extracted from existing studies and other documents, the article explores South Africa's performance in executing the MPFA and interrogates the roles of lead political actors in framing migration policy in the country. The article found a disconnection between the provisions of the MPFA and the implementation of migration policy in the country.

Keywords: *Migration, AU MPFA, African Union, Immigration, Xenophobia, South Africa.*

Introduction

The African Union Migration Policy Framework for Africa (AU MPFA), originally introduced in 2006 and updated in 2018, is an initiative to address migration issues across African countries (African Union Commission, 2018). The framework aims to respond the challenges posed by migration in most African countries and transform migration into an instrument of national, regional, and continental development and stability, as well as an enabler of continental integration. South Africa, favoured by various migrant groups, confronts significant migration-related challenges. These include a rise in irregular migration involving women and unaccompanied minors, insufficient migration and border management policies, and escalating xenophobic sentiments that can lead to violence against migrants. The MPFA provides for a migration-friendly policy by AU members.

Based on the Westphalian philosophy, the state exists to protect its people (Cohen, 2007). Laski (1961) holds that the state is "the crowning point of the modern social edifice," while Weber (1946: 78) defines it as "that organisation that asserts a monopoly on the lawful expression of violent force within a defined jurisdiction". While the judiciary is involved in migration management, key state actors in policy implementation include executive members like the civil service, the armed forces, the civil service, the judicial system, and the police. Understanding these roles is crucial for analysing how state actors implement the AU MPFA in South Africa.

Ekekwe (1985) asserts that the state consolidates social classes by establishing dominance and submission within institutions. Miliband (1969) sees the state as a network of governmental institutions encompassing administration, coercive apparatus, courts, and lower

levels of government. These viewpoints aid in elucidating the intricacies that state actors encounter when implementing the AU MPFA. Oyovbaire (1980) posits that the state's core responsibility is to ensure the unity and sovereignty of the community. Marx and Engels (cited in Oyovbaire, 1980) hold that the state originated from conflicts between social classes and functions to benefit the ruling political elites, resulting in the exploitation of others. These dynamics curtail the state's capacity to ensure social justice.

Several studies have focused on the role of the state, particularly the political elites, in migration policies (Massey, 1999; Strikwerda, 1999; Akinola, 2018a). Many studies have highlighted how South African state actors, including some traditional authorities, influence migration through xenophobic statements and actions (Akinola, 2018b). These factors are crucial for assessing the implementation of the AU MPFA, which seeks a more inclusive approach to migration. Many countries, particularly destination countries such as Morocco, have attempted to influence migration narratives because of the benefits accruable to the country. For instance, the Maghreb countries have promoted emigration for development through remittances and skill transfers (Hassène et al., 2014). Migrants from such countries and other destination countries have experienced anti-migration postures and xenophobic acts in South Africa. This contrasts with the objectives of the AU MPFA.

Generally, governments influence migration by regulating labour markets, wages, and migration costs. South Africa's labour laws and migration policies, such as visa requirements, influence migration and are key to attaining AU migration initiatives. The new economics of labour migration (NELM) theory holds that countries could shape migration trajectories by expanding capital and insurance markets and encouraging investment in origin communities (Abreu, 2012). National policies affecting income distribution and inequality perceptions also influence migration. These factors are crucial in evaluating how state actors in South Africa implement the AU MPFA to promote a mutually beneficial migration for migrants and the host community.

Thus, through unstructured interviews and data extracted from existing studies and other documents, the article explores South Africa's performance in implementing the MPFA and examines the specific roles of key national actors in responding to migration issues. By analysing the roles of the state and its institutions, including the activities of key political actors, this article provides a comprehensive understanding of the challenges and successes in implementing the AU MPFA. Several

studies have discussed South African migration policy, but there is scanty literature on the country's performance in implementing the continental migration policy. This article fills this important gap in knowledge.

Methodology

This research adopts a qualitative approach, drawing from primary and secondary data sources. Through purposive sampling, six key actors were interviewed to explore the implementation of the AU MPFA in South Africa. The interviews comprised two AU officials with experience in continental migration policy, who provided insights into the AU MPFA's goals and harmonisation efforts; a South African migrant, whose experiences shed light on the social dynamics and practical challenges of migration regulations; a university lecturer specialising in public policy, who contextualised the framework within migration theories; and two South African government officials overseeing national migration policies, who offered practical information on policy administration and operations. Conducted from May to June 2023, these unstructured interviews were supported by secondary data to ensure a thorough data presentation and analysis.

Migration Management and the AU MPFA

The AU MPFA is a multifaceted initiative designed to address the numerous and intricate issues associated with migration within the African continent (African Union Commission, 2018). The strategic framework offers guidance to member states of the AU in the formulation and execution of migration policies. These policies aim to prioritise the welfare of migrants, protect their rights, and effectively harness the benefits that migration can offer migrants and host communities.

As Strikwerda (1999) notes, remittances and skill transfers improve the economies of countries of origin. This supports the AU MPFA's goal of economic development through migration, brain drain prevention, and sustainable integration. Misago (2017) investigates migration's social dynamics, particularly xenophobia in South Africa, which complicates inclusive migration policy. To minimise social tensions and local-migrant hostility, the AU MPFA coordinates member-state efforts to integrate migrants into the host communities and combat xenophobia. Through the lens of neoclassical economics, Scholten (2022) studies how labour

market laws and migration costs affect migration. As reflected in the NELM theory, Abreu (2012) proposes that capital and insurance markets may promote investments in origin communities, influencing migration preferences.

To reinforce the nexus between migration and development and enhance labour mobility, the AU MPFA promotes labour market-migrant rights policies. The contributions of migrants to the economy of host countries provide a deeper understanding of migration, as advanced by the continental migration strategy. The framework prioritises migration integration and governance, labour mobility, and response to the root causes of displacement. The policy aims to enhance cooperation on migration issues and its effective management on the continent (African Union Commission, 2018). Additionally, it seeks to boost regional stability and development.

Before adopting the AU MPFA, the AU actors established the African Common Position on Migration and Development and the Migration Policy Framework for Africa in 2006. The policy presents a comprehensive AU position on migration by highlighting how member countries should manage migration flows, effectively handle migration issues and avoid discriminatory policies against immigrants. Even though both statements emphasise AU member states' compliance with regional and international law, compelling evidence shows its jettisoning by AU member states. Apart from these frameworks, involuntary migration is governed by the Kampala Convention and the Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa (African Union, 2006).

The Common Position on Migration and Development and Migration Policy Framework include migration-related humanitarian concerns under the universal human rights legal framework (African Union Commission, 2018). This means migrants, refugees, and displaced people's rights and privileges are safeguarded according to international human rights norms. These frameworks emphasise the importance of maintaining and enhancing the human rights of all individuals, regardless of migration status, and the need for compassionate, human rights-based migration governance. As provided for in the MPFA, member states must protect and promote migrants' human rights and fight prejudice and xenophobia through public awareness and education programs in the labour migration and education section (African Union, 2018: 16).

It is crucial to emphasise that policy implementation and change are complementary processes. Implementation is the process of executing a

policy decision, often outlined in a statute or through executive orders or court rulings, and many change efforts fail due to confusion between understanding the causes of change and strategies for influencing them (Mazmanian and Sabatier, 1983: 20; Fullan, 2007: 14). This means that even if comprehensive migration policies address human rights abuses, xenophobia, and integration in South Africa or abroad, their success depends on how successfully they are implemented. According to a participant (AU Official Two, Interview, June 2023), the need for AU to engage in monitoring activities is because,

We need to begin to implement. We are very good at making policies, but nobody is willing to consider implementation. South Africa is not doing much to implement the AU MPFA. The RECs recently sent their secretaries to develop migration frameworks that are based on the AU MPFA; IGAD has recently done the same; it is beginning to happen, but it is a bit slow. South Africa has its challenges as a major receiving country, and they're too busy to pay attention to the AU MPFA.

Despite the efforts of the AU to implement the migration policy in South Africa, there is a dearth of knowledge of protocol.

In the South African Development Community (SADC) zone, the regional organisation has adopted the Protocol on the Facilitation of Movement of People, which includes the right to enter, residency, and establishment without requiring a visa. The primary challenge lies in establishing essential institutions and programmes that facilitate the process, such as appropriate immigration laws, regulations, new institutions, and accurate population records. As a result of the regionally delayed timeline, individuals from 11 countries within the SADC are currently granted visa-free entry into South Africa. Additionally, it issues special permits to irregular immigrants from Lesotho and Zimbabwe.

While considering the interconnectedness of Africans, a participant (AU Official Two, Interview, June 2023) notes that implementing free movement of people would gradually diminish the state borders, which are cut across cultures and languages. He further buttresses his point, "For instance, the Sotho people in Lesotho are the same as the Sotho people in the Free State province of South Africa, and they owe their allegiance to the king in Lesotho. Sotho people in South Africa attend every traditional ceremony that involves the king". The colonially constructed state borders have divided this community into two states.

Pressman and Wildavsky (1984) duly established the importance of implementation in determining policy results. They contend that the

mere formulation of policies does not ensure their efficient implementation. Various factors, including the complex nature of implementation, variances in interpretation and execution among different stakeholders, unusual circumstances, allocation of resources, feedback networks, and external impacts, can strongly influence the outcomes of policies. Like others, South Africa faces migration challenges such as xenophobia, border control, refugee protection, and labour migration involving all levels of government.

Modern States and Migration Management

In international relations, the impact of migration, especially forced migration, in state formation and state-building, particularly in post-colonial contexts, is often under-theorised. The fall of multi-ethnic societies like the Ottoman Empire led to the emergence of new nation-states requiring national identity formation and sovereignty assertion, often involving migration regulation. Despite this, economic development objectives have often prioritised migration, with states increasingly using both forced and voluntary migration as diplomatic tools. Current literature offers conflicting assumptions on global migration, citing factors like economic inequality and government policies but failing to comprehensively understand migration's root causes and implications. Social sciences theories sometimes ignore the role of states in shaping migration and how governments initiate and manage international migration trends (Teitelbaum, 2002).

Some argue that global migration forces overwhelm state influence, while others recognise migration's importance in political processes. Large-scale migration can disrupt societal cohesion, leading to political and social turmoil and highlighting the security issues of international migration. Many of these scholars emphasise how people's perceptions influence the political consequences of migration (Teitelbaum, 2002). Torpey (1998) holds that modern states control not only the legal means of violence but also travel and communication, driven by territorial logic to safeguard borders. Border control is essential to maintaining state sovereignty, with porous borders threatening domestic sovereignty in South Africa.

Throughout history, states' population management methods have evolved due to various influences, including state development stages and international order positions. Border security has become part of the core responsibilities of the modern states. Like other states, South Africa

uses passports, visas, and identity documents to differentiate citizens from foreigners, maintaining a monopoly over legal movement (Torpey, 1998). The state cannot refrain from managing migration; however, as stated in the AU MPFA, migration should be seen as an instrument of development and socio-economic stability. Thus, member states should devise a working formula to promote continental development through migration policies.

South African State and Immigration

Almost every government in the world, regardless of their wealth or poverty, implements policies aimed at restricting immigration and modifying the composition of migrants. These measures encompass both direct interventions, such as police checks, to deter unauthorised immigration and indirect tactics to shape behaviour outside of national boundaries. Indirect tactics encompass the acquisition of information on and the retribution of individuals involved in human trafficking, as well as the examination of individuals seeking refugee status.

After failing to protect migrants in the 1930s and 1940s, the 1951 UN Convention on the Status of Refugees and its 1967 Protocol restricted state sovereignty by protecting refugees (Teitelbaum, 2002). Sovereign states are constructed on the notion of citizenship and the provision of security. The Convention and Protocol define refugees as people living abroad who are vulnerable to harm or inhuman treatment because of their nationality, ethnicity, race, social group, or political beliefs (Teitelbaum, 2002).

In recent studies, some authors expressed the acknowledgement of transcendent human rights that guarantee individuals the ability to enter and reside in any nation they prefer. These statements reacted to a recent backlash against immigration policies. Barsky supports the view that it is unethical for states to place restrictions on migrants because “the idea of a nation and the limits placed on people who want to go from one part of their globe to another is both foolish and cruel. Boundaries between states are an anomaly” (Teitelbaum, 2002).

Over the decades, Sub-Saharan Africa has experienced diverse migratory patterns. Most African states are indifferent or unfavourable to migration. South Africa, like Nigeria and Kenya, has had periods of xenophobia, anti-immigrant sentiments and hostilities against refugees. In response to the Ghanaian government's 1969 'Aliens Compliance Order,' which led to the expulsion of numerous Nigerians from Ghana,

Nigeria enacted a xenophobic decree, popularly known as the 'Ghana-Must-Go' policy in the early 1980s (Akinola, 2018). During this period, the Nigerian military regime expelled millions of Ghanaian migrants.

In South Africa, the African National Congress (ANC) controls policy and dictates the nature of governance, including migration policy. Since assuming government in 1994, the ANC has encountered several challenges, including implementing an immigration policy regime that satisfies the country's developmental and transformative process requirements. A participant (Citizen Four, Interview, May 2023) argues that the ANC shapes South African policies through policy conferences, turning resolutions into government actions. While these policies are well-received in theory, they are often adopted without proper consideration of how to effectively localise them for practical implementation.

In South Africa, there have been difficulties in implementing immigration regulations. However, in the recent years, there has been experienced a strong emphasis on minimising irregular migration in political discussions (Tati, 2008). Since the late 1980s, the percentage of foreign workers in South Africa's workforce has decreased due to structural changes in migration patterns. Chipenta (2000) reported a decline of around 54,000 foreign workers in South African mines between 1984 and 1994. Thus, there was a rise in competition for mining employment and a decrease in the need for African workers.

At the dawn of majority rule in 1994, the ANC planned to reduce dependence on immigrant labour, but South Africa's status as a destination country increased. This aligns with the NELM theory, which holds that the preponderance of labour migration flows from countries deficient in capital but abundant in labour to countries replete with capital but scarce in labour. Therefore, economic indicators and opportunities for employability are important pull factors for migration.

Conversely, the ANC's political discussion and policy on immigration have prioritised the goal of high-value and highly skilled migrants. The decreasing reliance on foreign workers post-1994 can be attributed, in part, to the political objective of reorganising the local labour market to generate employment prospects for South Africans who were previously marginalised under the apartheid regime. In contrast to the apartheid era, where foreign labour was employed to stifle black activity, the ANC has implemented policies that prioritise the use of local labour. The enforcement of disciplinary actions against hiring foreign workers, as described in the 1974 internalisation policy, demonstrates this change

(Tati, 2008). While the central government primarily manages migration policy, its tangible impacts are felt locally. Conflicts have arisen between the local population and foreigners due to the perception that jobs are being 'stolen' by migrants. The MPFA anticipates this, and the AU urges its members to respond to the local manifestations of migration-related issues (African Union Commission, 2018: 7).

Many of these actions are included in the 'affirmative action' espoused by the ANC government under the 'Black Economic Empowerment' (BEE) banner as part of its transformation agenda, aimed at increasing the number of black South Africans working in the mining industry.

Highlighting the primary focus on citizens, a participant (Government Staff One, Interview, May 2023) said,

I can say with all assurance that the post-apartheid government of South Africa inherited constitutional democracy with a strong set of formal checks and balances. Institutional efforts have ensured commitment to the rule of law, especially protection of private properties, and to economic transformation, especially through the Black Economic Empowerment (BEE) program, for citizens as well as migrants.

Yet, as the number of local job seekers continues to increase, it has become more difficult for African migrants from peripheral countries to obtain employment in the mines. Planned recruitment of migrants from the Southern Africa region to the mining industry and other sectors has significantly decreased since the early 1990s, shifting from a controlled and predominantly homogeneous movement to a varied and unmanaged migration (Polzer, 2008). This change in movement has also generated a new political conversation on immigration. Examining the issues related to the country's composition of immigration is crucial to understanding the government's emphasis on acting highly skilled migrants.

Institutional Structures and Migration Policy Implementation

As a constitutional democracy, the country has three levels of government and other organs, such as the independent courts. The Constitution defines federal, provincial, and municipal governments as distinct, interconnected, and related bodies with legislative and executive power. Traditional leaders serve on national and provincial advisory committees in a country where the system is built on cooperative

governance and inclusivity.

In the contemporary world, research on policy change has stressed the need to think about policy change from a multi-level perspective that considers a wide range of actors. The mobility of actors between national, regional, and local levels of authority and action has made policymaking harder. This has made the process harder (Hooghe and Marks, 2003).

Government reforms are vital for South Africa's transformation agenda. The country prides itself on multi-level governance, representing a system of continuous negotiation among several levels –national, provincial/regional, and municipal. This original understanding has since extended to include much more in South Africa. Although top-down and bottom-up approaches have been used at both stages of policymaking, multi-level governance bridges the gap between policy change and implementation. However, bottom-up processes involve local policymaking and its impact on higher levels. Bottom-up processes include local policymaking, while top-down processes transfer national policy decisions to lesser levels. Top-down mechanisms transfer national policy decisions to lesser levels.

The country's policy on migration, particularly about service delivery and integration, reflects a mix of top-down national decisions and bottom-up local authorities and communities. The multi-level governance structure works together to address complex migration concerns. Migration policy and management in South Africa are multi-level. The Department of Home Affairs executes national immigration policies based on government priorities. Municipal governments can control migration by offering community services to migrants and refugees.

Policy Implementation at the National Level

The National Assembly and the National Council of Provinces (NCOP) make laws and approve policies, including those on migration. Their primary role is to facilitate communication across government levels. Members are appointed by municipal and provincial administrations, ensuring provincial interests are represented. Migration policies are shaped by the National Assembly and NCOP, which discuss, approve, and examine their impact across regions to create a balanced migration management approach.

The AU migration policy is directly implemented by the national government. The Department of Home Affairs (DHA) oversees immigration, issuing visas and permits and regulating foreign nationals' admission, stay, and exit. The DHA enforces immigration rules, while border security and immigration cases are handled by the South African Police Service (SAPS). South Africa's political and administrative framework impacts migration issues. The President, appointed by Parliament, shapes migration policies and appoints ministers to the Cabinet to manage them. Departments implement Parliament and Cabinet-approved migration laws and policies, producing budgets with Treasury and Parliament approval. Financial planning and resource allocation for migration management depends on Treasury involvement, balancing finances with other government priorities.

The presidency provides the required leadership and oversight on migration issues, monitoring and evaluating national goals and policy performance (Government of South Africa, 2022). Some departments, like military and foreign affairs, operate at the national level, while others, like social development and healthcare, operate provincially. This framework highlights the importance of cross-government collaboration in addressing migration challenges and implementing related policies and services. Under Aaron Motsoaledi (Minister of Home Affairs, 2019-2024), South Africa's immigration policy aimed to promote regional integration within SADC and the AU. South Africa's White Paper on International Migration, released in July 2017, anticipated a relaxation of work visa requirements for citizens of African countries and advocated for skilled migration and regional integration (Krensels, 2020). However, implementing legislation that aligns with the liberal and open ideas proposed in this White Paper remains challenging. The White Paper provides for skilled immigration, acknowledging that South Africa has struggled to attract sufficient highly skilled foreign workers, leading to visa processing difficulties (Fraser, 2023).

The White Paper on Citizenship, Immigration, and Refugee Protection, published by the Department of Home Affairs in 2023, further emphasises the need for comprehensive policy reforms that balance national interests with regional cooperation, addressing the opportunities and complexities of skilled immigration. The document states that South Africa should review or withdraw from the 1951 Convention and 1967 Protocol to reconsider its migration obligations. It proposes Refugee Protection and Immigration legislation with

reservations and exceptions, citing limited resources for socio-economic rights (Home Affairs, 2024).

Generally, South Africa's migration strategy was disconnected from its investment and skill development goals because of a rigid permitting regime and the lack of an inter-sectoral and intergovernmental approach. While the White Paper purportedly aims to establish a straightforward and predictable immigration system that fosters the country's economic development, a cross-section of the citizens, including its industrial and business sectors, have criticised the Department of Home Affairs on its migration posture, noting its contribution to the country's economic crisis. (Krensel, 2020).

Following the above-stated position, incorporating the AU MPFA with the country's national migration policies should be prioritised. However,

Every country is sovereign and reserves the right for admission. Every country is trying to solve its problems. Perhaps a declaration of a quota system would ease the misinterpretation of a country's protectionist stand on its economic basis. This can be related to the work visa system. This can also help people from war-affected areas to seek refuge at agreeable amounts (Academic One, Interview, June 2023).

This participant further recommends a grading system for evaluating immigration applications based on education, work experience, age, investment amounts, business type, and the ability and willingness to transfer skills to South Africans. This system would use a points-based approach alongside critical skill lists or quotas. The key point is that hiring skilled foreign workers should include mechanisms to ensure skills transfer to South Africans through training initiatives. Investors planning to start businesses in South Africa would benefit from a more liberal approach toward entrepreneurs, as the minimum investment of 5 million rand is considered inflexible. However, details on implementation were not specified (Krensel, 2020).

Policy Implementation at the Provincial Level

South Africa has nine provincial governments, each with a Legislature of 30 to 90 Members of the Provincial Legislative Assembly (MPL). Provincial legislatures influence migration by passing laws and approving budgets to fund migration management and support services. The Premier, selected by the Legislative Assembly, appoints political heads of

provincial departments, including those handling migration and shaping provincial strategies. The Provincial Executive Council, led by the Premier and including Members of the Executive Council (MECs), deliberates on migration issues. Each province creates a Provincial Growth and Development Plan (PGD) to impact patterns of migration and employment prospects.

Provincial governments can legislate on issues like housing, healthcare, and education within the national government's framework. While migration rules are set nationally, provinces implement policies and provide social assistance to migrants, requiring coordination between national and provincial entities. Provinces have some autonomy, but they must reflect the overreaching state policies to ensure a common agenda on migration (Murray, 2006). Highly placed political officers of some of the provinces, like Limpopo Province, have been accused of xenophobic acts. For instance, Limpopo Health MEC Phophi Ramathuba, reinforcing the narratives by many political actors such as Herman Mashaba (former Mayor of Johannesburg), was recorded on camera (during her visit to Bela Bela Hospital in August 2022) commenting that migrants from Zimbabwe place a "huge strain" on the province's medical infrastructures (Mthethwa, 2023). This was condemned by the South African Health Professions Council, well-meaning South Africans, and foreigners.

South Africa's democratic environment, under the leadership of the ANC and centralised governance, affects migration management (RSA, 2016). Without checks and balances, a single party can heavily influence migration policy decisions. A lack of qualified administrators at provincial and municipal levels may hinder migration policy implementation and service delivery. Provincial governments often adopt national policies directly, limiting responsiveness to regional migration issues. Ambiguities in roles and responsibilities affect accountability and oversight in migration management, leaving room for redundancies and wrong interpretations of national policies.

South Africa, noted for its high anti-migration posture in the contemporary dispensation, has frantically attempted to restrict immigration and balance immigrant rights and natives' concerns. At the same time, a cross-section of its citizens has engaged in violent xenophobia, leading to killings of foreign nationals during many instances, including protests to force those who are categorised as undocumented foreigners to "go back to their countries". Therefore, comprehensive and regionally integrated migration policies like AU's

migration agenda are needed to address the complexity of migration in South Africa and across the continent.

In South Africa, the anti-migration or vigilante group – Operation Dudula – persisted in curtailing the rights of refugees and migrants, notably by obstructing their access to healthcare. This contravenes the AU MPFA, which provides for a humanistic approach to handling refugees and calls for member states to fulfil their international protection (African Union Commission, 2018). In January 2023, members of this group ousted foreign nationals from the Jeppe Clinic in Johannesburg (Amnesty International, 2023). Additionally, several health facilities in Gauteng province continued to deny access to migrant women who are pregnant or breastfeeding, as well as children under six. The group has consistently reinforced their readiness to cover for the negligence of the government, its political institutions, and its security apparatus in preventing the high rate of foreigners in a country with about a 31.9 per cent rate of unemployment (Amnesty International, 2023).

Policy Implementation at the Local Level

South Africa is geographically partitioned into local administrative units called municipalities. Each is governed by a council responsible for endorsing local laws and regulations. Immigration and border control at the national level in South Africa are managed by Home Affairs and the South African Police Service (SAPS). Meanwhile, provinces and municipalities provide services and supervision at their respective local spaces. Municipal governments appoint a Mayor to oversee day-to-day operations and facilitate local services, including those for migrants. However, national authorities determine immigration policy.

Mayors can exert influence over migration-related matters through their actions and pronouncements. During his tenure as the Mayor of Johannesburg, Herman Mashaba made contentious remarks against immigration that exacerbated xenophobia and anti-immigrant prejudice (Machinya, 2022). He stigmatised undocumented immigrants as "criminals" and carried out operations to apprehend them in informal settlements and foreign-owned enterprises, intensifying the apprehension among immigrants and fuelling xenophobic violence (Machinya, 2022).

Municipalities in South Africa have significant challenges, such as poverty, unemployment, insufficient services, and stagnating economies, which result in the migration of people from rural to urban areas (Koma,

2012). Municipal governments have a constitutional obligation to foster social and economic development, which impacts foreigners. In many instances, other key actors, such as traditional rulers, have been accused of using anti-migration sentiments in their attempts to respond to the plights of South Africans, thereby scapegoating foreigners for the country's socio-economic ills. For instance, the Zulu King, Goodwill Zwelithini, was accused of inciting violent xenophobia when he allegedly declared to a crowd that “foreigners must pack their bags and go home” (Smith, 2015).

Shortly after media reports of the ‘clarion calls’ by the traditional leader, a tide of xenophobic violence erupted in Durban and quickly spread to Johannesburg, sweeping across the country, claiming lives and leading to the arrest of 307 people (Smith, 2015). As noted in this report, some media outfits have also aggravated anti-migration sentiments with their sensational news reporting and scapegoating of the migrant community. For an extended period, South African leaders, traditional authorities, and certain media practitioners have either turned a blind eye to xenophobia (which claimed the lives of about 60 people in 2008 and seven in 2015) or actively fuelled the flames of animosity.

Policy Coordination across the Administrative Levels

In the last few decades, increasing the size of governments and atomising administrative institutions have made it more difficult for the public sector to coordinate its administrative efforts (Seidman, 1997). The rise in the number of actors, including their influence on the decision-making process, is associated with these occurrences (Slack, 2007). Governmental obligations are growing and having more difficulty enhancing policy coherence through increased coordination among different sectors and institutional entities

Stronger coordination mechanisms are now largely acknowledged as one of the key drivers of excellent public governance (OECD, 2020). The multilayered approach to migration governance in the country has also accounted for significant challenges. In the 25-Year Review (1994 - 2019), President Cyril Ramaphosa stated that the review reinforces the imperativeness to address these challenges, enhance economic growth, accelerate national transformation, strengthen South Africa's social compact, and advance the goals of the National Development Plan (NDP). Policy inconsistency is a significant concern in South Africa, partly due to poor policy formulation and siloed departmental

operations. According to the National Policy Development Framework (2020), the foundations of South African society are the democratic principles of human equality, freedom, and dignity. However, the existing immigration law favours skilled migrants, thereby promoting social injustice.

Since 1994, South Africa has made impressive efforts to build a democratic state. Despite progress, there remains an uneven capacity for policy management. This results in uneven policy performance. A participant (Government Three, Interview, June 2023) reveals,

In South Africa, the spheres of government do not speak to each other. National, Provincial and Local governments do not have the same understanding of issues, which makes them difficult to enforce. For example, before immigrants come to Johannesburg, they must have travelled from another bordering province. No border links Gauteng Province to another country. These immigrants must have come in from a border, either the Mpumalanga Province border or the Northwest Province border. Their treatment at those borders differs because of shared culture and the perception that immigrants always return home. These reservations given to certain nationals create imbalance, stereotype and different experiences of immigrants.

Government departments rely on internal expertise and specialised knowledge from various disciplines when developing and adopting public policy. While major policy thinking can be done quickly, delays often occur due to consultations and the approval process. Parliamentary liaison officers and policy coordination groups assist with policy approvals. Non-state actors such as civil society, academia, media, and the commercial sector also play crucial roles in shaping policymaking, making the process complex and lengthy. These factors, including pressures from different actors, including traditional and social media, have hindered South Africa's ability to align its migration policy with regional frameworks like the AU MPFA.

Conclusion

This article interrogates South Africa's performance in implementing the AU MPFA and highlights the status of its migration policy. It presents the factors responsible for its inability to significantly adapt its migration policy to the continental framework. Despite the critical stance of the articles, South Africa, an AU member and signatory to the AU MPFA,

has made some strides to align its migration policy with the AU MPFA through initiatives like stakeholder engagements and public awareness campaigns to tackle impediments to mutually beneficial migration. On the one hand, there have been growing partnerships between the AU and civil society organisations, as well as international partners, to facilitate the successful implementation of the AU MPFA objectives. These collaborations have involved the provision of various services to migrants and the promotion of social cohesion. On the other hand, there have been documented instances of anti-immigrant sentiments, xenophobia, and occurrences involving law enforcement authorities that do not consistently adhere to the tenets outlined in the AU MPFA. Yet, the AU has been accused of indifference in its response to violent xenophobia in South Africa.

South African police and immigration officials have been implicated in anti-migrant actions, with some accused of hostility toward foreigners. Undocumented immigrants face challenges in reporting crimes and experiencing victimisation. The fear and threat of deportation and a lack of trust in law enforcement often discourage immigrants from reporting crimes, denying them justice and hindering crime-solving efforts. Additionally, the evolving nature of the South African government's diaspora participation strategy presents challenges of selective treatment. This elaborates on the unpleasant perspective of certain state actors on migration issues. Given the multifaceted nature of these issues and complications, South Africa must adopt a more pragmatic, logically structured, and developmental-driven strategy for managing migration and exploring the benefits of migration in accordance with the principles outlined in the AU MPFA. In conclusion, until the AU evolves into a supranational organisation with binding authority over its member states, its policies will continue to depend on the discretion of those states.

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