

Inside Illegality: Migration Policing in South Africa after Apartheid

Author(s): Jonathan Klaaren and Jaya Ramji

Source: *Africa Today*, Vol. 48, No. 3, Evaluating South African Immigration Policy after Apartheid (Autumn, 2001), pp. 35-47

Published by: [Indiana University Press](#)

Stable URL: <http://www.jstor.org/stable/4187432>

Accessed: 15/01/2015 09:33

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at
<http://www.jstor.org/page/info/about/policies/terms.jsp>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.



Indiana University Press is collaborating with JSTOR to digitize, preserve and extend access to *Africa Today*.

<http://www.jstor.org>

Inside Illegality: Migration Policing in South Africa after Apartheid

Jonathan Klaaren and Jaya Ramji

South Africa's migration policing policy has not changed substantially since the demise of apartheid. Tactics used by the police in recent operations are dramatically similar to apartheid policing practices. While some amendments to the legislative regime have aimed to protect human rights, the structures introduced have failed to make any impact. The discretion allowed to police has contributed to the institutional and symbolic entrenchment of the lack of legal status for undocumented migrants. At the level of implementation, the police and the army have played major roles in migration policing with no more than administrative oversight from the Department of Home Affairs. The policing strategy pursued has been one of border control backed up with intrusive and extensive internal military-style policing. Corruption is an institutional feature of both the arrest and detention of undocumented migrants. Numerous human rights abuses occur in the arrest and detention of undocumented migrants as well as of refugees. Despite the embarrassing attention of domestic and foreign human rights organizations exposing certain instances of abuse, the principal features of this policing strategy have remained intact and human rights abuses have continued through to the present.

South Africa's migration policing policy has not changed substantially since the demise of apartheid. While some amendments to the legislative regime have been made that have aimed to protect human rights, the amendments were minor and the structures introduced have failed to make any significant impact. Indeed, the fundamental contribution made by the legislative framework has remained the entrenchment of the lack of legal status of undocumented migrants. At the level of implementation the police and, to a lesser extent, the army, have played larger roles in migration policing.

Despite the formation of a national coordination initiative, migration policing has been a disjointed effort. The cumulative effect has been numerous human rights violations and ethical abuses in the arrest and detention of undocumented migrants as well as refugees. These rights violations have

led to the embarrassing attention of domestic and foreign human rights organizations. Moreover, corruption is an institutional feature of both the arrest and detention of undocumented migrants. This paper argues that the principal features of this policing strategy are likely to remain intact and that human rights abuses are likely to continue in terms of the government's policy initiatives presently under discussion.

Operation Crackdown

Operation Crackdown was the name given to a crime blitz begun in March 2000 and planned to last for three years. The Operation provides a stark example of the similarities between South Africa's current migration policing policy and the policing of the apartheid state. The policing policy operative from 1994 to 1999 has created an underclass of individuals whose basic human rights could be abused by the police with impunity. Operation Crackdown focused on areas predominantly populated by black immigrants, and on whether individuals in these areas had the proper "passes" or immigration papers. Police reportedly also operated in a manner to "make immigrants illegal" through the destruction of valid documents and other similar illegal tactics. Arrested individuals were sent to the Lindela Detention and Repatriation Centre (operated by a private body on behalf of the Department of Home Affairs) for deportation, often without a chance to provide evidence of their legitimate immigration status. Little distinction was made between refugees and asylum-seekers and other immigrants. All of this took place against a background whereby the Department of Home Affairs and other government bodies repeatedly and publicly characterized undocumented immigrants as "criminals."

During March 2000, the South Africa Police Services (SAPS) arrested a reported 7,068 "illegal immigrants" in the Hillbrow and Berea areas of Johannesburg (Cilliers 2000). According to widespread reports, the SAPS refused to allow these arrested persons the opportunity to go home to collect their valid immigration documents. Members of SAPS ripped up the valid documents of others. It appeared to many that orders to destroy documents had come from above, as the practice was systematic. Further, immigrants reported that SAPS officers assaulted many individuals prior to and during arrest. Lengthy delays in processing at the Braamfontein Office of the Department of Home Affairs also meant that many immigrants were unable to retain their legal status despite their best efforts (*Sapa* 2000a). The police detained some persons arrested temporarily in police stations and then sent them to the Lindela Detention and Repatriation Centre to be deported. The majority of the over 7,000 detained were sent to Lindela despite the fact that the facility was only designed to hold approximately 4,500 persons at maximum capacity. At least 400 of these individuals were then released as they possessed valid documentation. Many others were deported (*Dispatch* 2000).

Speaking for the South African Human Rights Commission (SAHRC), Chairperson Barney Pityana criticized the unwarranted nature of many of the arrests as well as the violent tactics used by the police (*Sapa* 2000b). Further, the SAHRC spoke out against the arbitrary nature of arrests, which generally depended on the physiognomy rather than the criminal record of the individual concerned (*WOZA/Sapa* 2000). According to Pityana, the speedy expulsion of immigrants prevented individuals from establishing their lawful status and violated their rights to due process of law.

The South African government took great umbrage at this criticism of the abuse of migrants and asylum-seekers. In an extraordinary statement, the cabinet criticized the SAHRC for undermining the government's efforts to control crime in South Africa and for "creating the impression of being sympathetic" to undocumented immigrants (*Business Day* 2000). Police Commissioner Jackie Selebi likewise stated that "There is no issue of human rights" in Operation Crackdown. Gauteng Premier Shilowa applauded the police for "sending a strong message to criminals" (*Sapa* 2000b). A SAPS spokesperson revealed the dubious assumptions informing the operation and its implementation, stating that "offenders of less serious crimes were arrested in an attempt to deter them from turning to more serious crime" (*Sapa* 2000c). Thus, immigrants were viewed as criminals per se, and arrested as a prophylactic measure. To further ensure that these "criminals" would be eliminated from South African society, Steve Tshwete, Minister of Safety and Security, stated that border controls would be strengthened so that deported migrants could not return (*Sapa* 2000d). Tshwete also asked civilians to "assist in the war against crime," thus encouraging vigilante justice and exacerbating xenophobia (*Sapa* 2000e).

Operation Crackdown exemplifies the process of criminalization of being black and foreign, just as apartheid criminalized blackness. As has happened before (Human Rights Watch 1998), migrants and asylum-seekers have been treated without regard to domestic and international human rights standards. Caught in a Kafka-esque web of bureaucracy, such persons are often prevented from maintaining their lawful status and they are consequently imprisoned and deported. Operation Crackdown exemplifies some of the major features of migration policing from 1994 to 1999 explored in the remainder of this article.

The Aliens Control Act and its Amendments

The major piece of legislation governing migration policing is the aptly named Aliens Control Act. Enacted in 1991, this Act consolidated into one piece of legislation a number of provisions regulating entry and residence (Peberdy and Crush 1998:33). The only significant attention given to the Act since the formal 1994 transition from apartheid occurred in 1995 with amending legislation. The substantive changes introduced at that time eliminated one or two of the most blatant violations of rights—such as the

elimination of a clause purporting to oust judicial review—but did little beyond that. The Aliens Control Act is a piece of legislation that is riddled with unconstitutional provisions (Klaaren 1998). It remains essentially as it was at the time of transition. Overall, the 1995 amendment legislation was not presented in Parliament as having the primary purpose of effecting a constitutional audit. Instead, the primary purpose was the tightening up of control (Buthelezi 1996:6).

One innovation introduced in the 1995 amending legislation was a mechanism designed to protect the rights of persons in detention with a view toward deportation. According to Section 55(5) of the Act as revised, persons in detention beyond thirty days needed to have their cases reviewed (although not necessarily in person) in a court of law. This procedure was introduced at the specific request of the Parliamentary Portfolio Committee on Home Affairs and was intended to safeguard the rights of detainees. However well intentioned, this legislative policy has had practically no effect at the level of state administration. More than a year and a half after the commencement of this section, most courts reported that they had had no matters referred to them for review. Indeed, it has been the rare exception where this legislative directive has been observed (Human Rights Watch 1998:98–102).

On 4 December 1997, a research visit to the Lindela Repatriation Centre in Krugersdorp revealed that all twenty-seven persons there had been detained beyond the thirty-day limit and had not been afforded the opportunity of review. On two other occasions, representatives of the Law Clinic at the School of Law at the University of the Witwatersrand also found groups of detainees held at Lindela beyond the thirty-day limit required by Section 55(5). This pattern of neglect and maladministration led the South African Human Rights Commission to successfully bring a lawsuit against the Minister of Home Affairs.¹

The Aliens Control Act has conferred extensive discretion upon the Department of Home Affairs and upon other implementing state bodies such as the police and the army. The extensive discretionary element to the Act has been noted by many commentators (Peberdy and Crush 1998; Klaaren 1998). The extensive use of discretion within the immigration bureaucracy does not derive solely from the content of the legislative policy contained in the Aliens Control Act. Indeed, this discretion is buttressed by the policy's essentially unchanged status from preapartheid days, and the weakness of most oversight institutions such as the Parliamentary Committees, the Public Protector, and even the South African Human Rights Commission.

The experience of those caught within the bureaucracy focuses on this extensive official discretion (Johnston and Simbine 1998). As Sheena Duncan once stated, "It is not easy to write an article about the application of the Aliens Control Act. Its administration is haphazard, ad hoc, arbitrary, and by no means transparent" (Duncan 1998). This discretion has also been the subject of a recent and far-reaching Constitutional Court

decision sharply critical of such discretion. The Constitutional Court decision attacked the rights-infringing use of discretion by Department of Home Affairs officials and struck down one provision in the Act. However, the Court ordered that its declaration of invalidity be suspended for two years in order to allow the legislature the opportunity to remedy the constitutional violation (Constitutional Court 2000).

There is a second principal effect of the legislative policy that goes beyond the granting of enormous and unaccountable discretion to the state bodies charged with enforcing the Aliens Control Act. This is the institutional and symbolic effect of the Act, which can be seen in part through a comparison of South African immigration policy with that of Spain. In a recent article, Kitty Calavita has argued that Spanish immigration laws are constructed in a way to marginalize third world immigrants, to regularize the notion of the "irregulars." In her study, she shows how Spanish immigration law actively and regularly irregularizes people. This is done by making it all but impossible to retain legal status over time (Calavita 1998: 531). There are several mechanisms for this institutionalized illegality. They include a long wait for citizenship, the temporary and contingent nature of legal status, as well as various Catch-22s where a residence permit is needed for a work permit which is needed for an accommodation permit which is needed for a residence permit and so on (Calavita 1998:548).

The institutionalized mechanisms of "illegality" in South Africa are somewhat different from those in Spain, although they operate to much the same effect. The South African mechanisms include the following: (a) South African citizenship is difficult to obtain, leading to a large number of persons who are present in the country without any formal citizenship rights; (b) regularization programs are hampered by bureaucratic inefficiency and lack of political support (Crush and Williams 1999; Handmaker, Johnston, and Schneider 2000); (c) the lack of resources and the inefficiency of Home Affairs contributes to the production of illegality (through late, incorrect, or invalid delivery of citizenship and/or residence services); further, the narrow focus of the Department of Home Affairs on residence services and its failure to take the lead in the coordination of government departments in delivering other services such as health or housing often means that such services are unavailable to non-South Africans; and (d) the essential continuation of the "two-gates" system for temporary labor in South Africa (Crush and Tshitereke, in this issue).

The symbolic effect of the Aliens Control Act in the construction of illegality may be even greater than the institutionalized mechanisms of the Spanish case. Unlike the Spanish example, there is simply no rhetoric of integration in the South African legislation. The themes of control and illegality run rampant. Certainly in this symbolic sense, the South African immigration legislation *produces* the "illegal immigrant." In South Africa, the illegal immigrant is not merely illegal in the sense of being unregulated or beyond legal institutions (although that too is often true). The illegal immigrant is illegal in the sense of being contrary to law, of

being prohibited. The illegal immigrant is not merely *beyond* law but is instead *against* law.

The most pure example of this is the concept of the “prohibited person.” The Aliens Control Act is built around this legal category. This concept has its origins in South Africa’s first national immigration legislation and the discretion allowed to immigration officials at ports of entry to declare prospective permanent residents to be undesirable (Peberdy and Crush 1998:20). Since its inception, the concept has expanded from its original purpose of applying a set of criteria to prospective permanent residents and has instead become an operative assumption for all government officials implementing migration control legislation. The assumption is that persons who are in violation of any provision of the Aliens Control Act (especially Section 39) are prohibited persons. As understood, the concept of prohibited persons means that such persons are without legal standing as persons. Many of the operative legislative provisions involved with apprehension, detention, and deportation either declare persons to be prohibited persons or allow government officials to deal with persons as prohibited persons.²

Indeed, the legal route of illegality was one that until very recently had to be taken by asylum applicants. In order to potentially take advantage of the refugee status determination procedure, persons would need to become prohibited persons, be issued with a section forty-one permit to prohibited persons, and only then be eligible to be determined as a refugee (de la Hunt 1998:132). This led to considerable insecurity of legal tenure for refugee applicants. Ironically, with the recognition of the legitimacy of refugee applicants within the migration policing apparatus, there has been a sharp reinforcement of the illegality of persons (such as undocumented migrants) who fall outside the category of asylum-seekers (Grobler 2000). Refugees are fine; illegals are not.

The total number of persons removed from South Africa has been increasing fairly steadily. In 1994, the removal figure for “illegal aliens” was 90,692. In 1995, it jumped sharply to 157,084. In 1996, the figure increased significantly again to 180,713. Over the next three years, it has essentially remained at this level, inching upward each year but the first. In 1997, the figure was 176,351. In 1998, 181,286 persons were removed and in 1999, 186,861 (Department of Home Affairs 1994–1999). However, basic statistics regarding what proportion of persons are apprehended by which government body are not available (Klaaren 1997). Nor are there statistics on the number of repeat deportations of the same person and therefore repeated infringements of basic rights.

There are four principal bodies engaged in migration policing: the South African National Defense Force (SANDF), the South African Police Service (SAPS), the SAPS Border Policing component, and the Department of Home Affairs. The police play an extremely significant role in enforcing the ACA. For instance, a 1995 bilateral between Home Affairs officials of South Africa and Zimbabwe resolved to convene a joint technical committee involving the police services of both countries to discuss deporta-

tion procedures. It confirmed that a representative of SAPS would attend all future meetings of the bilateral (Klaaren 1997). By 1996–1997, SAPS was represented on five bi- or trilateral forums as well as on regional and international border control structures (SAPS 1996–1997). A large number of police officers have been appointed by the Minister as immigration officers with the capacity to exercise the removal powers given under that Act (Klaaren 1997).

Institutionally, a separate component of the police dealing with border control was set up in July 1995 following several years of pushing for such a step within the police. The core function of this component is “to address the illegal crossborder movement of persons and goods into South Africa as well as the internal tracing of undocumented migrants/illegal aliens and illegal goods within the Republic” (SAPS 1997). One part of this component consists of specialized units—Internal Tracing Units of the Border Police—which operate both in the major urban areas and in border areas with high concentrations of undocumented migrants. Additionally, a national Aliens Investigation Unit concentrates on national level immigrant-smuggling and other criminal organizations closely involved with international migration (SAPS 1997; Human Rights Watch 1998:44).

The SANDF also has a large role to play in migration policing (Klaaren 1997). In general, neither Home Affairs nor SAPS police the borders, leaving that task to the SANDF.³ The SANDF uses roadblocks both within short distances of the border and within the central economic region of Gauteng to detect and arrest suspected undocumented migrants. Additionally, the SANDF operates and patrols the electrified fence that is set up along part of the border between South Africa and Mozambique. While more than one hundred persons were killed by the lethal operation of this fence before 1990, since that time it has operated at a nonlethal voltage.⁴ Nonetheless, there are reports of persons injured by the fence’s operation (Human Rights Watch 1998:46–47).

The coordination among these migration policing agencies has been minimal. For instance, SAPS internal tracing units have not had access to Home Affairs computerized information after-hours. This has led some SAPS officers from Johannesburg to drive out to Johannesburg International Airport to use the Home Affairs information system available there after-hours. Such a disjointed approach led members of the migration policing agencies to acknowledge that there was no effective border control (Grobler 2000). The Border Police led the way in attempting to address the fragmentation and lack of coordination in migration policing (SAPS 1997). Approved by Cabinet, the primary national initiative to coordinate migration policing has been the National Inter-Departmental Structure on Border Control (NIDS). This initiative has involved the Department of Home Affairs, SAPS, and the South African Revenue Services (SARS) (Operational Working Team on Border Control 1997). Since its establishment in 1997, NIDS has had a focus broader than the migration policing covered here, focusing additionally on customs regulation and enforcement. Nonetheless, the

lack of coordination essentially remains. After several years of operation, informed observers discount the effectiveness of the NIDS structures (Cilliers 2000). Instead of coordination, the border control system exhibits a situation of systemic crisis and is unlikely to sort itself out, at least within the foreseeable future.

Operation Crackdown is but one of numerous examples of police and security force abuses in migration control.⁵ South African police forces, in coalition with the DHA and the SANDF, operate in a manner that make people illegal. Arrests of undocumented migrants are then used to boost police arrest statistics and to line the pockets of police forces. Indeed, the economic aspects of the migration policing regime (e.g., individual and institutional corruption) need to be highlighted as much as the more conventional human rights violations. Ironically, many victims of police brutality and corruption are documented migrants and South African citizens.

In one form of abuse, police forces use irrational standards to determine whether individuals are “illegal immigrants,” including skin color and location of vaccination marks (SAHRC 1999:48–54; Crush 1996; Minnaar and Hough 1996). Individuals who do not have money to bribe the police forces are arrested, regardless of their true immigration status. According to one study, ten percent of detainees at the Lindela Detention and Repatriation Centre were released after arrest but prior to intake because they had lawful status in South Africa. Fourteen percent of those detained were released after intake because they were South African citizens or lawful residents (Human Rights Watch 1998:52–54). While the sample size was small, these numbers suggest the police force’s failure to properly investigate individuals’ status prior to arrest.

One instance of the application of irrational standards by the police and its consequences for an ordinary citizen was detailed by the South African Human Rights Commission:

Nelsa was apprehended in Bara, Soweto about noon on 7 April 1998, where she was selling goods. A police officer approached her and asked her for her ID. She produced her ID, and the officer then asked her where she was born. She said that she was born in South Africa, and then the officer said that she was not born in S.A. She replied that he should phone her grandmother to check. The police officer asked her to show him her hands, which she did. He saw the inoculation mark on her left forearm and said that she is born in Mozambique. She started to explain to the police officer how she got the mark (a product of mixed South African and Mozambican family who moved back and forth between the countries over several generations). He told her that she lied and that she should accompany him to the police station. She gave him her ID and did not accompany him. The police officer took her ID to Dube Police Station and Nelsa phoned her grandmother and explained the

situation. Eventually, Nelsa went with her uncle, who had been at the place with Nelsa's grandmother in Orlando, to the Dube police station to retrieve her identification document. Upon arrival at the station, Nelsa identified the officer who had taken her ID to her uncle. The police officer spoke to her and said that nobody could take her. Nelsa believed that he was happy to see her as she had previously said that she wouldn't go to the police station. The officer spoke to her uncle . . . Her uncle told the officer that he was from Orlando East, and in reply to how he knows her, Nelsa's uncle said that he married her aunt (father's sister). The police officer then said that Nelsa was from Mozambique, and the uncle said that she was born in South Africa. The officer asked Nelsa to give Zulu words for various body parts—and she replied correctly. Police officer then still said that she was lying and must go back to Mozambique. The officer did not want to return her ID to her, instead he took her to a small room. After she started crying and told the officer that he was abusing her, he repeated the statement that she must return to Mozambique. The officer then told her uncle that he would take her to New Canada [a Department of Home Affairs district office] to check her ID and would return her. But he took her to Lindela instead. At Lindela, she was not told nor was she allowed to make one free phone call. (SAHRC 1997:17)

In certain instances, DHA officials not only apply irrational standards but actively “make people illegal” through refusal of access to buildings, endless lines, and failure to provide proper documentation. Police commonly destroy or confiscate the documents of individuals whom they have arrested (Human Rights Watch 1998:54–55). Further, police do not allow immigrants or citizens access to their homes to retrieve their documents establishing their legal status (SAHRC 1999: 51–57). The police frequently do not provide reasons for their arrest of individuals, and people therefore are unaware that the production of valid immigration documents could terminate their arrest and detention (SAHRC 1999:57–59):

I was marketing in D.F. Malan street. The police came from the back and stopped their truck. They asked me where I come from. I told them that I am from Kagiso. They asked me for my ID. I produced it and handed it to Mageza (a Venda police officer). He took it and put it in his pocket and told me that I am a “Kalanga” (illegal). They told me to get inside the truck but I demanded my ID. They refused and told me that they want to check it in the computer. I got into the van. We moved for about 3 hours going around. From there they took me to Newlands police station. They took our fingerprints and

put us in cells. I asked about my ID and they told me that it was in the car (truck). They took me from the police station to Lindela. At the police they put that I am from Zimbabwe in my file. At Lindela they asked me about my ID and I told them that it is with the police who apprehended me. They told me that I can phone my wife and tell her to bring some sort of proof that I am South African. I could not because her work telephone numbers are in my ID. I don't know how I am going to get out from here and how am I going to get my ID. (SAHRC 1999:57–59)

Some aspects of the production of illegality are also a feature of the inefficient and dignity-destroying operating procedures at the Department of Home Affairs. As an example, the Refugee Reception Office in Braamfontein, Johannesburg, only accepts approximately twenty individuals per day. Asylum-seekers line up outside the office as early as three a.m. in order to obtain access to the building (*Sowetan* 2000). The majority of those individuals are denied access and are at risk of arrest and detention by police who wait outside the DHA office specifically to arrest such individuals.

Once individuals have been arrested and detained, further mechanisms ensure their “illegality.” Police commonly do not allow undocumented migrants in Lindela to apply for refugee status, in violation of domestic and international law (SAHRC 1999:69–72). As pointed out above, migrants are frequently held in unlawful detention for over a month, contrary to the law, which states that any detention longer than thirty days must be reviewed by a High Court judge (SAHRC 1999:74–84). During detention, some immigrants’ legal status will expire while they are unable to renew their documentation. The DHA then releases these individuals from Lindela with “must leave” papers, allowing them fourteen days to leave the country.

These sources of the condition of illegality lead to further abuse. During the arrest and detention process, undocumented migrants are subject to physical abuse and at the mercy of corrupt officials. Police commonly assault migrants and steal their money and other goods during arrest (SAHRC 1999:59–66). Corruption and bribery are widespread; immigrants must pay to be released from detention or even to access the telephone (SAHRC 1999:88–95). Once the individuals are in detention, they are subject to routine abuse at the hands of the police and the army, including physical assault and degrading language (SAHRC 1999:99–103, 107–109). Deaths of undocumented immigrants have occurred in police custody (Human Rights Watch 1998:55–64, 121).

At the end of the day, police turn arrests of undocumented migrants to their own advantage. Police use arrest statistics for “illegal immigrants” to increase their overall crime fighting figures. The SANDF also engages in this statistical enterprise. The police encourage South African citizens to join in the anti-immigrant game by participating in vigilante justice.

The DHA has even established a toll-free number and offers reward money to those who report undocumented migrants (Human Rights Watch 1998: 47). The business of migration control has proved to be a lucrative one for employees of the SAPS, the SANDF, and the DHA, providing bribe money, increased statistics, and a convenient scapegoat to direct the general public's attention away from the high crime rates in South Africa.

Conclusion

In versions of the new Draft Immigration Bill released in July 2000, increased discretion is given to agencies of the government implementing international migration legislation. Further, the Bill arguably increases the control aspects of the present legislation by shifting the focus of migration policing from one directed exclusively at border control and heartland policing to incorporate community policing. This Bill has not been received favorably by the Minister's colleagues in Cabinet and unqualified approval of the draft legislation by Parliament appears extremely unlikely. In addition, the Portfolio Committee in Parliament charged with oversight of the Department of Home Affairs pronounced negatively on the White Paper on International Migration upon which the Minister's Draft Immigration Bill is purportedly based. While it is unclear where this fractured policy process will lead, it is relatively clear that for the foreseeable future migration policing will continue to be governed by the ACA, characterized by discretion and by both institutional and symbolic illegality with continuing human rights and good government violations as results. There is no guarantee that things will be any different if the Draft Immigration Bill becomes law.

NOTES

1. This litigation is ongoing at the time of writing.
2. The Draft Immigration Bill in the version made public by the Minister of Home Affairs in July 2000 not only carries over the concept of a "prohibited person" used in the previous Aliens Control Act, but also adds two new concepts, that of an "illegal foreigner" and that of "undesirable persons." In this Bill, the term "illegal foreigner" does the work of the "prohibited person" term in the Aliens Control Act.
3. Of the total number of persons apprehended in 1995, 164,971, Home Affairs arrested 49,098. 28,541 were apprehended by the SANDF. SAPS arrested 83,079: 29,544 by Border Control and the rest, 53,535, by ordinary station commanders. A final 4,253 were "received from other offices" (Klaaren 1997).
4. The SANDF reported that four persons were killed in the course of their enforcement of the Aliens Control Act during 1995, three by shooting and one by shock (Klaaren 1997).
5. As detailed in the main text, allegations of abuse at the hands of immigration officers are common. However, there is apparently no institutionalized law enforcement complaints

investigation mechanism within the Department. According to Home Affairs: "Written complaints may be forwarded to Head Office or to any office of the Regional Director of Home Affairs, in whose region the alleged abuse occurred. Such complaints will be investigated and, where necessary, acted upon" (Klaaren 1997).

REFERENCES CITED

- Business Day*. 2000. HRC under Fire from Government over Police, 30 March.
- Buthelezi, Mangosuthu. 1996. Introductory Speech. Speech given at Policy Debate, National Assembly, 4 June.
- Calavita, Kitty. 1998. Immigration, Law, and Marginalization in a Global Economy: Notes from Spain. *Law and Society Review* 32:529–566.
- Cilliers, Jakkie. 2000. Speech given at Regulating Migration in the Twenty-First Century: A South African Perspective Conference, Cape Town.
- Constitutional Court of South Africa. 2000. *Dawood and Another v. Minister of Home Affairs and Others: Constitutional Court CCT 35/99* (7 June).
- Crush, Jonathan. 1996. Migrancy: The Colour Of Alien-ation. *Democracy in Action* 10:6.
- Crush, Jonathan and Vincent Williams, eds. 1999. *The New South Africans? Immigration Amnesties and their Aftermath*. Cape Town: Idasa.
- de la Hunt, Lee Anne. 1998. Refugees and Immigration Law in South Africa. In *Beyond Control: Immigration and Human Rights in a Democratic South Africa* edited by Jonathan Crush. Cape Town and Kingston: Idasa and Southern African Migration Project.
- Department of Home Affairs. 1994–1999. *Annual Reports*. Pretoria: Government Printer.
- Dispatch*. 2000. Aliens Languish in Dire State in Lindela Camp, 23 March.
- Grobler, Piet. 2000. A Collective Approach to Border Control: Policing and Refugees. Unpublished paper.
- Handmaker, Jeff, Nicola Johnston and James Schneider. 2000. The Status Regularisation Programme for Former Mozambican Refugees in South Africa. Unpublished paper, Wits Rural Facility.
- Human Rights Watch. 1998. *Prohibited Persons: Abuse of Undocumented Migrants, Asylum-seekers, and Refugees in South Africa*. New York: Human Rights Watch.
- Klaaren, Jonathan. 1997. Institutional Reform and Immigrant Management. In *Transforming South African Migration and Immigration Policy*, edited by J. Crush and F. Veriava. Cape Town and Kingston: Southern African Migration Project.
- . 1998. Immigration and the South African Constitution. In *Beyond Control: Immigration and Human Rights in a Democratic South Africa*, edited by Jonathan Crush. Cape Town and Kingston: Idasa and Southern African Migration Project.
- Minnaar, Anthony and Mike Hough. 1996. *Who Goes There? Perspectives on Clandestine Migration and Illegal Aliens in Southern Africa*. Pretoria: Human Science Research Council.
- Operational Working Team on Border Control. 1997. *Border Control Collective Approach: Implementation Plan*. Pretoria: Heads of the National Inter-Departmental Structure on Border Control.
- Peberdy, Sally and Jonathan Crush. 1998. Rooted in Racism: The Origins of the Aliens Control Act. In *Beyond Control: Immigration and Human Rights in a Democratic South Africa*, edited by Jonathan Crush. Cape Town and Kingston: Idasa and Southern African Migration Project.
- Sapa. 2000a. SAHRC Concerned about Police Search and Seizure Procedures, 20 March.

- . 2000b. Selebi, Tshwete Say Aliens Not Assaulted in Swoop, 20 March.
- . 2000c. Over 1,000 Arrested in First Two Days of Operation Crackdown, 30 March.
- . 2000d. SA Police in Position to Eliminate Crime: Tshwete, 20 March.
- . 2000e. Sunnyside Residents Encouraged to Expose Criminals, 4 May.
- South African Human Rights Commission. 1999. *Illegal? Report on the Arrest and Detention of Persons in Terms of the Aliens Control Act*. Braamfontein: SAHRC (<http://www.lhr.org.za/refugee/hrcreport.htm>).
- South African Police Services. 1997. *Annual Report 1996/1997*. Pretoria: Government Printer.
- Sowetan. 2000. Asylum Seekers Walk the Tightrope. 11 May.
- WOZA/Sapa. 2000. Humanitarian Organizations to Visit Lindela Detention Centre, 21 March.