Imagining Immigration:
Inclusive Identities and Exclusive
Policies in Post-1994 South Africa
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The re-creation of South Africa in 1994 as an inclusive democracy in which the state, for the first time, represents all of the country's citizens has led to a new interest in immigration. This paper documents the development of new state discourses and exclusionary immigration policies since 1994. This paper examines these new fears about immigration, and the seeming contradiction between the immigration policies of the post-1994 South African state and its apparent commitment to democracy, inclusivity, and human rights. These developments are placed within the context of the construction of its new nation-building project and national identity. This paper argues that a shift toward citizenship and inclusivity as markers of belonging has led, paradoxically, to an exclusive and increasingly restrictionist immigration policy.

The [migration situation in South Africa] has been further aggravated by the influx of illegal aliens from the neighbouring countries in particular, where conditions of economic deprivation and depression occur and who are consequently prepared to work for meagre wages. With whatever empathy and understanding one may judge the underlying reasons and motivation why people are compelled to leave their fatherland and to seek refuge here, the interests of the RSA and her citizens and legal residents must be our first and foremost consideration.

—Mangosuthu Buthelezi,
South African Minister of Home Affairs, 1995.[1]

In 1994, South Africa was reinvented as a nonracial and democratic "rainbow nation." For the first time since the formation of the Union of South Africa in 1910, all South African citizens have been able to vote, participate in the life and affairs of the state, and enjoy equal access to its resources. The

newly inclusive vision of South Africa is embedded in the Preamble to the new Constitution: "South Africa belongs to all who live in it, united in our diversity" (Republic of South Africa [RSA] 1996a:1). At the same time, President Thabo Mbeki has launched what he calls an "African Renaissance" to strengthen South African ties with the rest of the continent.

Yet despite this talk of diversity, inclusivity, and Afritude, official attitudes to immigration and migration have been slow to change. Indeed, South Africa is increasingly characterized by powerful xenophobic and exclusionary discourses centered on migration from the rest of Africa. This language of exclusion has been accompanied by vigorous attempts to control and discourage both legal and undocumented immigration and migration. The state has taken a draconian approach to border and heartland policing, involving well-documented abuse of the human rights of non–South Africans (although these are in no way comparable with those of the previous regime).[2]

This paper attempts to explain what some might see as a puzzling development. Why has immigration policy remained impervious to the new political dispensation and its stated commitment to inclusivity, diversity, human rights, and forging and fostering ties with the region and the rest of Africa? The Inkatha Freedom Party (IFP) and the Democratic Alliance make no apology for their "get tough" policy platforms on immigration. However, explanations which focus on the ideological baggage of the Minister of Home Affairs (leader of the IFP) and an untransformed bureaucracy are only part of the story (Crush 1999). Although recent policy statements by the President and his office in 2001 suggest a shift toward encouraging skilled immigration, anti-immigrant sentiment, though contested and contradictory, reaches to the highest levels of the African National Congress (ANC)–dominated Cabinet.

Here, I suggest that immigration policy must be seen in the context of the nation-building project of the post-1994 state and the effort to construct a new inclusive national identity based on citizenship and national territorial integrity. South Africa is certainly not the first or only country whose immigration policies are intertwined with the construction of national identity. Control over the movement of people into and out of national territory is integral to the exercise and maintenance of state power (Cohen 1994; Peberdy 1999). These material and symbolic processes of inclusion and exclusion are embedded in the nation-building projects and national identity of states (Peberdy 1999; Manzo 1996; Cohen 1994; Anthias and Yuval-Davis 1993; Gilroy 1987). Immigrant selection may be tied overtly to criteria of productivity, class, wealth, and skills of potential immigrants, but the process of selection conveys powerful ideas about the self-image of the destination state, race, national identity, and the stereotyping of non-nationals and their places of origin.

Excluding Legal Migrants

South Africa's post-1994 immigration regime has been based on one of "the dying acts of apartheid," the 1991 Aliens Control Act (Peberdy and Crush 1998a). The Act remains (in the words of its principal drafter) "a negative piece of legislation" (Tredoux 1997). Although the procedures for immigration to South Africa have not changed radically since 1994, barriers to entry have been raised. Legislative amendments, new regulations and a computerized National Movement Control System are all designed to build higher and stronger hurdles and control. New categories of permanent and temporary residence have been introduced in an attempt to gain better control over the kinds of immigrants and migrants entering South Africa. Restrictive policies have been accompanied by an unwelcoming attitude to immigrants and migrants, particularly those from the SADC region and the rest of Africa.

The Aliens Control Act was amended in 1995 (Act No. 76) and 1996 (Act No. 32). The rationale, according to the Deputy Minister of Home Affairs, was to "improve control over immigration" (*Hansard* 1995). All applications for immigration and work permits had to be made from outside South Africa to prevent people from using visitors visas to look for work. Applicants also had to start paying large nonrefundable fees for applications for permanent residence and for temporary residence permits. Airlines and shipping companies now face heavy fines if they carry passengers without documents or with fraudulent documents.

The Department of Home Affairs declared in 1998 that "no one in the unskilled and semi-skilled categories would normally be accepted as an immigrant worker." Employers wishing to introduce skills, even on a temporary basis, have to justify why the positions cannot be filled by South African citizens or permanent residents. The former Deputy Minister suggested that skilled foreigners were only welcome temporarily, saying that government policy should only allow "South Africa to import skills in the short term" (Sisulu 1997:2). She has also indicated that specific restrictions apply to skilled southern Africans, saying that South Africa has "bound itself to an agreement with its neighbors not to poach its skills" (Sisulu 1997:1).[3] ANC and Departmental policy statements in 2001 suggest a move toward facilitating the movement of skilled migrants into the country. The policy toward skilled migrants from the region remains unclear.

Immigration policies are managed by a mass of internal regulations and circulars. New procedures and regulations have also been introduced at South African embassies and consulates outside the country to attempt to reduce the number of people entering South Africa on temporary permits. These restrictions target certain countries and nationalities. On 1 July 1996, for example, the Department of Home Affairs introduced new entry procedures for citizens of Mozambique and Zimbabwe (Brewis 1997; Meiring 1997; Peberdy and Crush 1998b). These include new application fees on Mozambicans applying for visitors visas; restrictions on the issue

of multiple entry visas for both countries; and requirements to show bank statements and other forms of documentation. The Department argues that the restrictions were imposed to deal with the problem of people overstaying their visas and that the fees are reciprocal. Ironically, however, the restrictions may have increased undocumented migration as people who have been refused visas become "border jumpers."

The number of new immigrants to South Africa has fallen markedly since the early 1990s as illustrated by Table 1. It is difficult to know for certain if the fall is a result of a change in policy or a drop in the number of applications. Katz (1998) argues that the Immigrants Selection Committees have dealt with a declining number of applications (although, until recently, the Committees did not see all permanent residence applications). Furthermore, the number of applications rejected by the Selection Committees between 1994 and 1996 is two and a half times greater than between 1990 and 1992. This is consistent with the argument that the government is implementing a much stricter legal immigration regime than previously, as Table 2 demonstrates. Significantly, the number of African immigrants has also decreased, although it is hard to believe that African interest in South Africa has fallen away so quickly (see Table 1).

Although the barriers to entry have been raised for all applicants, permanent and temporary, the new regulations and restrictions are directed primarily at people from other African countries. The fee structures create much higher barriers of entry for African immigrants than, say, those from Europe and North America. Furthermore, the new government has not only had a negative and exclusionary attitude to skilled immigrants in general,

Table 1

Immigrants by selected country/region of previous permanent residence and as a proportion of all immigrants 1993–1997

Country	1993		1994		1995		1996		1997	
	No.	%	No.	%	No.	%	No.	%	No.	%
Africa	1,701	17.3	1,628	25.4	1,343	26.5	1,601	29.6	1,155	28.2
Lesotho	261	2.7	227	3.5	222	4.4	233	4.3	124	3.0
Zaire	243	2.6	244	3.8	78	1.5	98	1.8	71	1.7
Zimbabwe	642	6.5	556	8.7	405	8.0	394	7.3	237	5.8
W. Europe	4,547	46.3	2,784	40.1	2,272	44.9	2,315	42.8	1,494	36.4
E. Europe	1,412	14.4	800	12.5	255	5.0	370	6.8	n/a	
Germany	391	4.0	294	4.6	249	4.9	253	4.7	162	3.9
U.K.	1,794	18.3	1,047	15.1	1,046	20.7	1,052	19.5	623	15.2
Asia	3,159	32.2	1,645	25.7	1,063	21.0	1,137	21.0	1,034	31.7
China	409	.2	264	4.1	—		23	>1.0	180	4.4
Taiwan	1,471	14.9	584	9.3	247	4.9	244	4.5	182	4.4
India	347	3.5	395	6.1	303	6.1	342	6.3	367	8.9
Americas	321	3.3	249	3.9	281	5.5	257	4.8	228	5.5
Total	9,824		6,398		5,064		5,407		4,103	

Source: Peberdy 1999.

but to Southern Africans in particular. However, it is in the administration of temporary permits that the exclusionary character of post-1994 migration policy is most evident. This undoubtedly reflects the state's anxieties about documented and undocumented migration from the region.

Excluding Undocumented Migrants

Since 1994 there has been a marked shift in state discourse around immigration that now centers almost exclusively on the "problem" of undocumented migrants and immigrants (or "illegal immigrants" and "illegal aliens" in state parlance). In practice, "illegal immigrants" are usually seen as African; undocumented migrants from elsewhere are largely ignored (Jacobs 1997). Matching this rhetoric, the state has taken a draconian approach to policing, focusing on the arrest and repatriation of Africans, particularly those from the region (see Table 3). Before we examine these measures, however, it is necessary to consider what some have designated as the progressive side of post-immigration policy.

Table 2
Rejected applications for permanent residence, 1990–1997

1990	1991	1992	1993	1994	1995	1996	1997*
282	194	229	1,703	556	596	680	129

Source: Department of Home Affairs
*January to September only.

Table 3
Repatriation of undocumented migrants, 1993–1997

Nationality	1993	1994	1995	1996	1997
Africa	96,515	90,458	156,625	180,265	176,184
Lesotho	3,090	4,073	4,087	3,344	4,077
Malawi	250	398	1,154	1,920	2,284
Mozambique	80,926	71,279	131,689	131,689	146,285
Swaziland	789	981	837	1,589	1,055
Zimbabwe	10,861	12,931	17,549	14,651	21,673
Asia	74	111	153	169	152
N. America	0	2	11	7	6
W. Europe	3	22	53	43	64
E. Europe	2	34	46	51	23
Total	96,600	90,692	157,084	180,713	176,351

Source: Department of Home Affairs.

Between 1996 and 2000, the South African state implemented three separate immigration amnesties. All three were designed to give target populations permanent residence status in South Africa. The first amnesty in 1995–96 offered permanent residence to contract mineworkers from Southern African Development Community (SADC) countries who had worked in South Africa for at least ten years and who had voted in the 1994 elections. Of the estimated 130,000 eligible miners, only 47,364 applied for permanent resident status (Crush 1997). The second amnesty in 1996 was granted to undocumented citizens of SADC member states who had lived in South Africa for more than five years (i.e., who had entered the country clandestinely during the apartheid period). This amnesty was strenuously opposed by the Minister of Home Affairs and by Home Affairs officials on what have been called "extremely spurious grounds" (Crush 1999:9; Peberdy 1999). The Department predicted over one million applicants with an add-on effect, through family reunification, of twelve million. In fact, only 201,602 applications were received, of which the Department approved 124,079 (Crush and Williams 1999:7). The third amnesty was for ex-Mozambican refugees who had entered South Africa before 1992 and were still resident. The amnesty was announced in mid-1997 but, for various bureaucratic reasons, not implemented until February 2000.

International experience suggests that amnesties are more likely to work when the cutoff date is as close to the present as possible. By setting a qualification date at least five years earlier, the state made the political motivations of the amnesty process transparent (Crush and Williams 1999). The granting of amnesties to contract and undocumented workers recognized the discriminatory immigration practices of the apartheid era, as well as the contribution and sacrifices made by non–South Africans to South Africa's economic development. However, rather than being an inclusive policy, recognizing the claims of migrants from the region to permanent residence, the amnesty for SADC citizens and Mozambican refugees resident in South Africa merely regularized a de facto situation. In so doing, the government was setting the ground rules and defining the boundaries from which it could "work to exclude all new undocumented migrants" (*Hansard* 1997). More importantly, the amnesties defined which migrants from the region would and would not be included in the new nation. This in turn paved the way for the introduction of draconian measures to police the heartland and borders of South Africa to protect the nation from the perceived "influx" of undocumented migrants from the region.

Undocumented migrants may enter South Africa clandestinely as "border jumpers" by crossing the largely unguarded 7,000 kilometer land border. People can simply walk across the border (usually at well-defined crossing points), swim, or wade across the Limpopo and other rivers that demarcate some borders. They are also, more rarely, smuggled in at legitimate border control points, or they enter from the sea, either as stowaways or in their own boats. Other routes include entering legally on a visitor's permit and then overstaying, entry on false papers, providing false information, or obtaining false papers once a person has entered the country.

As the focus shifted to controlling undocumented migration, the state introduced increasingly draconian measures to raise the rates of identification, arrest, detention, and repatriation of undocumented migrants. These heartland policing measures comprise a four-pronged attack, directed primarily at migrants from neighboring countries. First, the Department increased its capacity to track down and deport undocumented migrants. The number of Internal Tracing Units increased from three to fourteen and the South African Police Services (SAPS) began to play a major role in identifying and arresting undocumented migrants (Crush 1999:8). The South African National Defense Force (SANDF) also became involved. Migrants are targeted in general anticrime operations (such as Operation Crackdown) and arrest figures are reported as crime statistics. Other operations specifically target non–South Africans and have been given names like Operation Passport (*Star* 1998a). These measures are disturbingly evocative of the old pass law or *dompas* operations employed by the apartheid state. Identity books are checked and those without South African identity books on their persons may be arrested, detained, and repatriated without any right of access to the judicial system.

Although these operations should, theoretically, pick up any and all undocumented migrants, African migrants and immigrants are the most often targeted. Operations are usually conducted in areas where police believe they will find African migrants. Foreign black Africans are identified by a range of superficial physical features: by skin color (as Africans from further north are held to be darker or "blacker" than South Africans); by vaccination marks; by "traditional" scarification marks; and by accent, language ability, and dress (Minnaar and Hough 1996:165–7).

The second element of the state's control strategy is the introduction of a computer-based surveillance system, the ominously titled National Movement Control System (Malutshana 1997). According to the Department, the primary purpose of the surveillance system is to "ensure proper control" over immigrants and migrants and "contribute towards addressing the problem of illegal aliens" (*Hansard* 1996). It is also intended to streamline the processing of visas and prevent forgery. The National Movement Control system will eventually be used in all offices that issue visas and permits, inside and outside South Africa, and has been introduced gradually since 1994. The schedule and locations chosen for its introduction reflect the focus of the state's anxieties about undocumented immigrants. The first offices to be computerized were the Head Office in Pretoria followed by the missions in Harare (Zimbabwe) and Maputo (Mozambique) in 1994 and 1995. The next destinations to go on-line were Kinshasa, Bombay, New Delhi, and Islamabad (1995 and 1996), followed by Moscow, St. Petersburg, Frankfurt, Bonn, and Munich (1996 and 1997). The major border posts (air, sea, and land) are also now part of the Movement Control System.

Third, the Department of Home Affairs has called on all government departments to deny access to services like health care, education, and utilities to undocumented (and other) migrants. Other government departments and service providers are thus being brought into the heartland policing

system. Strategy is coordinated by the Interdepartmental Committee on Illegal Aliens with representation from the departments of Home Affairs, Justice, Correctional Services, and Foreign Affairs, the SAPS, the SANDF, and National Intelligence. Government service providers at provincial, municipal, and national levels are introducing measures to control the access of noncitizens to services. The Minister has called on all government departments to "request the identity documents or passports of all foreigners requesting services subsidized by the government" to "ensure that they do not gain access to services in short supply to our own people" (*Facts* 1997).

Finally, even though it is difficult to see how this could help, the amending 1995 Act was hailed as another step toward controlling "illegal aliens" and "to enhance our capacity . . . to deal more effectively with the problem of unlawful immigrants" (*Hansard* 1995). The 1995 Act supposedly brought the relevant sections of the 1991 Aliens Control Act in line with the new Constitution, although many procedures still contravene the human and constitutional rights of non–South Africans (Klaaren 1998a). Non–South Africans without documents can still be arrested, detained and repatriated by officials of the Department of Home Affairs without access to a court of law. Arrested migrants are held in a special detention center outside Johannesburg, run by a private security company, or in police cells and prisons before being repatriated. Migrants are "processed" by officials while they are detained. The methods used in arrest, detention, and repatriation are certainly reminiscent of past apartheid practices, and contravene some of the most basic human rights of migrants (Human Rights Watch 1998).

Policing the Borders

Since 1994, the state's attempts to stop undocumented migration have extended beyond South Africa's heartland. The new government has paid increasing attention to policing the nation's borders, introducing a new border control policy. The purpose of the policy is to exert state authority over national territory, as well as control the entry of undocumented migrants, contraband goods, and illegal drugs and guns. The policy has included measures such as appointing an interdepartmental working team; strengthening border control; mobilizing the armed forces to patrol the borders; and reducing recognized border crossing points. Border-policing targets undocumented migrants from the region who, because of geographical proximity, are most likely to be "border jumpers."

When the new government came to power, South Africa's land borders with Namibia, Botswana, Zimbabwe, and Lesotho could be crossed through fifty-two land border posts designated as "ports/posts of entry." There were also seven sea ports and thirty-six airports which could receive international traffic (Operational Working Team on Border Control [OWT] 1997:2). The land borders with Zimbabwe, Botswana, and Mozambique are intermit-

tently "protected" by 220 kilometers of potentially lethal electric fence that, running along sections of the border, was erected in 1986 by the apartheid government (*Star* 1997). The fence has been set at "nonlethal mode" since 1993, but it still administers an electric shock. Other sections of the border are protected and demarcated by the Kruger National Park, the Limpopo and Orange Rivers, and by a dense sisal barrier planted in the 1970s.

Sections of the border are also patrolled by the army (SANDF). In 1994, the SANDF located about 5,000 of its 90,000 troops on the border. In 1995, it increased the number of soldiers posted on the border to about 8,200 plus thirty-four sections of part-time troops. From December 1996, the South African Airforce started keeping a helicopter and light plane on the border "to stem the flow of illegal immigrants" (*Star* 1994; 1996a,b).

Between 1996 and 1997 the state initiated four studies into border control, and the United States also undertook an assessment of border controls for the South African government (Border Control Operational Coordinating Working Team [BCOC] 1997; OWT 1997). Following the recommendations of the various reports on border control, in May 1997 Cabinet reduced the fifty-two land border posts to nineteen and the number of airports allowed to receive international flights to ten.

The effectiveness of these heartland and border-policing measures in controlling undocumented migration from neighboring countries is doubtful. However, the post-1994 emphasis on "sealing" the borders does reflect the post-apartheid policy shift from legal immigration and immigrant selection policy to "illegal immigration." This obsession is only partly explained by the fact that the numbers of migrants have undoubtedly increased in the 1990s. It does not, for example, explain why the state also became hostile to legal immigration.[4] What these policies and measures suggest is that the new post-1994 South African state has quickly developed a very clearly defined spatial identity and sense of territorial integrity and that this, in turn, has been shaped by notions of nation building and national identity.

Imagining Immigrants and Migrants

The new immigration anxieties of the state are exemplified by changes in the way that officials imagine and describe immigrants and migrants. The new state is relentlessly negative in the language it uses to describe the impact of migrants and immigrants on South Africa. Post-1994 immigration discourse caricatures migrants and immigrants through a series of conceptual conflations and unsubstantiated assertions.

In the new rhetoric of the state, immigrants and migrants are persistently referred to as "illegal aliens," "aliens," and "illegal immigrants." This kind of language does three things. First, although the term "alien" has been used by the South African state to describe immigrants since the 1930s, it has never been used as overtly and as regularly as it is today (Peberdy 1999). The term "alien," as used in the 1990s, not only implies that non–South

Africans are extraterrestrial—not of this earth (let alone this country)—but also implies difference, strangeness, and otherness.

Second, the language of the Act creates a single undifferentiated category of "alien." More often than not, the state fails to distinguish between immigrants and migrants (or permanent and temporary residents) and refugees. The conflation assumes that all "aliens" are "immigrants," planning to spend the rest of their lives in South Africa. Thus the Department has declared that once in the country legally or illegally, "they leave no stone unturned to remain here." And so, ignoring research that suggests otherwise, the state assumes that all undocumented migrants enter with the intention of settling permanently (Rogerson 1997; Sechaba Consultants 1997; Peberdy and Crush 1998b; McDonald 2000).

Finally, the state constructs most post-1994 immigrants as "illegals," as if most non–South Africans and all undocumented migrants are criminals. The contradiction in this position is rarely addressed: if undocumented migrants are indeed criminals why are they not accorded the benefits of due process under law guaranteed by the Constitution?

These conceptual conflations in the language of immigration hide another implicit construction: that most "aliens" and "illegals" are (black) Africans. The state's negative attitudes to both immigrants and migrants is most evident in its stereotyping of African migrants. These foreigners supposedly threaten "the nation" by endangering its physical and moral health, and its ability to provide services, employment, and to control crime. The discourse is replete with images of Africans as carriers of disease. When listing the potential threats that immigrants pose to South Africans, Departmental documents consistently refer to the impact of African immigrants on the rapid spread of infectious diseases such as malaria, yellow fever, and AIDS. The rest of Africa is an impoverished and unhealthy wasteland where health measures have ceased to be operative and whose diseased population should therefore be kept out of South Africa.

The promise of resource and service delivery and equal access to state resources is intrinsic to the post-apartheid state's nation-building project: "Nation building is . . . the basis on which to ensure that our country takes up an effective role in the world community. Only a program that develops economic, political, and social viability can ensure our national sovereignty" (ANC 1994:6). Economic, political, and social viability for the "new" nation is linked to the provision of services and jobs to all South African citizens. Immigrants and migrants, legal and undocumented, are portrayed as an inherent threat to this nation-building project, and therefore a threat to the nation itself.

Certainly, the state has faced considerable social and economic problems since it came to power in 1994. It is trying to redress decades of unequal resource allocation and service delivery which have left South Africa a highly divided society. The 1996 Census recorded an unemployment rate of 33.9 percent (RSA 1998:46). About a quarter of the adult population is illiterate or semiliterate (RSA 1998:7). Millions of (mainly black) South

Africans live in shacks in peri-urban and urban areas; many others live in inadequate and/or overcrowded housing or on the street (RSA 1998:64–66). In 1994 an estimated twelve million people in South Africa lacked access to clean drinking water, and twenty-one million lacked adequate sanitation (ANC 1994:28). As the state now tries to provide adequate education and health services to all of its population, instead of less than ten percent of it, state resources are stretched to the limit.

Despite these inequalities and the enormous problems in delivering services to all, when it comes to immigration the state sees itself as exceptionally well endowed with infrastructure, resources, and services in comparison to other African countries. South Africa is thus represented as a "magnet" or "land of milk and honey" in Africa. In the words of an ex-Deputy Minister of Home Affairs, African immigrants are pushed to South Africa by hunger and fear, two "driving forces which are much stronger than even the most sophisticated alien control measures" (Maduna 1995). And so, "South Africa has become the country of survival for many people from countries within Africa and also from other parts of the world" (Maduna 1995).

Although research suggests otherwise, the state argues that these "poverty stricken" immigrants place a heavy burden on South Africa's housing, welfare, education, and health services (McDonald 1998, 2000; Peberdy and Crush 1998b). Consequently, it is argued, they have a detrimental effect on the employment situation and deprive South African workers of employment opportunities. Immigrants and migrants are seen as takers, not creators, of opportunity, a view that fails to recognize the role of migrants and immigrants in generating employment opportunities for South Africans and contributing to the skills base (Rogerson 1997; Peberdy and Crush 1998b; Peberdy 2000; Peberdy and Rogerson 2000).

The participation of less-skilled migrants and immigrants in South Africa's labor market feeds another of the South African state's fears about cross-border migration. One of the most pressing issues faced by South Africa is control of a high crime rate. Crime is generally held to be a hindrance to nation building, as it not only does away with economically active members of society, but discourages foreign investment and economic productivity. The state asserts that migrants are heavily responsible for crime; not only are they disproportionately represented in the criminal ranks, they push South Africans into criminal activity by taking their jobs (Maduna 1995). Undoubtedly some migrants and immigrants are involved in criminal activity within South Africa. However, the ways in which they are associated with crime creates deceptive connections which fail to separate criminals from law abiding, if undocumented, migrants and immigrants.

Criminalization, and the supposedly parasitical relationship of non–South Africans to national resources, suggests that the post-apartheid state sees most immigrants, and particularly undocumented migrants, as a severe threat to the nation and to the post-1994 nation-building process. State discourses around immigration conceptualize most immigrants as Africans,

and Africans as potentially the most dangerous of all "aliens." It is difficult to reconcile the attitudes, language, and exclusionary practices of the post-1994 state around African migration, with its discourses around the constitution, democracy, human rights, multiculturalism, and inclusivity. One route to understanding the contradictions and incongruities between the discourse of xenophobia and the discourse of multiculturalism and human rights is to look at how the post-1994 South African state envisions the nation, the nation-building project, and national identity.

New Nationalism and Xenophobia

> *Ours is a remarkable country. Let us celebrate our diversity,*
> *our differences. . . . South Africa wants and needs the Afri-*
> *kaner, the English, the coloured, the Indian, the black . . .*
> *Let us move into the glorious future of a new kind of society*
> *where people count, not because of biological irrelevancies or*
> *other extraneous attributes, but because they are persons of*
> *infinite worth created in the image of God. Let that society*
> *be a new society—more compassionate, more caring, more*
> *gentle, more given to sharing—because we have left "the past*
> *for a deeply divided society characterised by strife, conflict,*
> *untold suffering and injustice" and are moving to a future*
> *"founded on the recognition of human rights, democracy*
> *and peaceful coexistence and development opportunities for*
> *all South Africans, irrespective of colour, race, class, belief*
> *or sex."*
> —Archbishop Desmond Tutu, 1998 (*Star* 1998b)

Archbishop Tutu's words are reproduced at length because they articulate a more general vision of the reinvention of South African national identity after 1994. Tutu emphasizes the inclusiveness of the "rainbow nation" of the "new" South Africa. He identifies the government's commitment to human rights and democracy in a society which constitutionally protects its citizens from discrimination. At the same time, he constructs this new national vision by reference to a shared history, even if one of division, conflict, war, human rights abuses, and suffering. The process of the Truth and Reconciliation Commission (TRC), which addressed the abuse of human rights by both sides in the struggle to liberate South Africa, recreates South Africa's divided history as a common history, shared by all. Tutu also talks of "development opportunities for all South Africans" as part of this nation-building process. Together with the RDP (and its replacement, the Growth Employment and Reconstruction strategy), he and the TRC argue for a national vision which allows all citizens access to economic and other resources to develop a more equal society.

Similarly, South Africa's new Constitution, enacted in 1996, invokes the past, the present, the future, an inclusive identity, human rights, democracy, and development while emphasizing the sovereignty of the nation (RSA 1996a). The Preamble recognizes that "the injustices of our past," honors "those who suffered for justice and freedom," respects "those who have worked to build and develop our country," and believes "that South Africa belongs to all who live in it, united in our diversity" (RSA1996a:1). The Preamble also lays out the national vision of the new state, saying that the purpose of the Constitution is to:

- Heal the divisions of the past and establish a society based on democratic values, social justice, and universal human rights;
- Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;
- Improve the quality of life of all citizens; and
- Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations (RSA 1996a).

So, both the TRC (through Tutu) and the Constitution emphasize South Africans' shared but contested history.

The invocation of a shared, if divided (even divisive) history, echoes Anderson (1991) and Chatterjee's (1986, 1993) discussions of the continuities between the past, present, and future in the creation of nationalisms and national identities in colonial and postcolonial states. The reinvented nationalism and national identity of the "new South Africa" is "derivative" in that it continues to identify with the territorial boundaries and national models of the apartheid state, and has retained the institutions of the apartheid state, although with modifications (Chatterjee 1993:6–8; see also Loomba 1998).

But, by emphasizing a commitment to constructing an inclusive democracy and by developing a "culture of human rights" the new state defines its "difference" from the apartheid past (Chatterjee 1993). South Africa's history of racial oppression and human rights abuse stands in contrast to the construction of a new identity, built on principles of inclusion, democracy, and human rights for all citizens. At the same time, this divided but shared history is used to identify true "South Africans," theoretically reconciling them within the nation. Those who are deemed to stand outside this shared history are excluded from its unifying implications.[5]

The emphasis on the inclusion of all South Africans in the new nation, irrespective of color, culture, religion, class, and sexual orientation marks a significant break with the past. The state no longer predicates South Africa's national identity on the "racial" criteria of the 1910s, 1920s, and 1930s; or the primordial ethnic criteria of the Afrikaner nationalism of the 1950s; or

indeed the white Protestantism that followed the formation of the Republic in 1961 (Peberdy 1999). Because the state is trying to "forge a nation" out of a multiethnic, multicultural society, "it cannot rely on common culture, ethnicity, or primordial identities to create its imagined community" (Reitzes 1995). Instead, it is constructing a national identity which embraces the differences between South Africans, their shared but divided history, and loyalty to the state and nation. So the "imagined community" of the new South Africa focuses on citizenship; the participation of all citizens, regardless of difference, in the rights and obligations of citizenship, is a unifying force.

Citizenship is more than a relationship between the individual and the state; it includes fundamental notions of who "belongs" and who does not (Cohen 1994; Anthias and Yuval-Davis 1993; Gilroy 1987; Kofman 1995:122). Reitzes argues for the development of an "inclusive democratic citizenship" in South Africa which would "stress the building of a state and the creation of a constitutional democracy." In this way, the state would promote "patriotism" rather than "nationalism" (Reitzes 1995:19–20, 1996). In some ways the state is following its prescription by constructing South African national identity through an inclusive citizenship—but with different results. Contrary to Reitzes' expectations, a South African national identity based on citizenship appears to feed, not challenge, xenophobic tendencies.

The "new" democratic South Africa will be built by and for citizens alone. New legislation makes citizenship, rather than culture or ethnicity, the basic legal marker of national identity. Restrictions on dual citizenship have been tightened (Klaaren 1998b). Similarly, entitlement to state and private resources is determined by citizenship. Accompanying the new emphasis on citizenship in the construction of South African identity is a much clearer demarcation of the line between citizen and noncitizen. The Constitution, through the Bill of Rights, differentiates between the rights of citizens and noncitizens—some rights are held by all, others are for citizens only (RSA 1996a:6–24). In 1994, permanent residents, and some contract mineworkers, were allowed to vote in the elections. In the 1999 elections, only citizens could vote, a distinction now enshrined in the Constitution.

In this context, the country's exclusionary immigration and temporary residence policies indicate that the benefits of South African citizenship are only for citizens, not noncitizens who are also "here" or want to be "here" (Reitzes 1995). The draconian measures being used by the state to police South Africa's heartland and borders challenge the human rights of noncitizens, documented and undocumented. The failure to protect the rights of noncitizens runs counter to assertions that South Africa is a nation which is building a "culture of human rights."

The restrictionism of the post-apartheid immigration regime is clear evidence of the belief in a bounded identity where South Africans, however diverse, are identified by their citizenship, history, relationship to the state, and entitlements. The question of access to resources is seen as

acute, because the new nation-building project emphasizes development as a means to building a unified nation out of a highly stratified society. By stressing the entitlements of citizens to state resources within the new nation-building project, the emphasis has shifted to keeping out those who do not belong and preventing anyone else from joining, especially those who have the "wrong citizenship."

After 1994, for the first time in South African history, black South Africans have enjoyed a framework of full citizenship with all its rights and obligations. Black Africans from outside the borders are threatening because, also for the first time, they can become part of the nation (legally or otherwise), and therefore deprive citizens of their hard-won rights, entitlements, and access to state resources.[6] Previously, foreign black Africans (like black South Africans) could not become citizens. They were not, for the most part, seen as a threat to the nation per se or a threat to its interests. Now that South Africa's national vision only encompasses all citizens, (black) Africans have been redefined as a "threat" to the nation and its resources.

The focus of South Africa's "frontier guards" on restricting the entry of African migrants and immigrants stands in contrast to the government's stated commitment to forging ties to the region and the rest of the African continent, and to Mbeki's idea of an African renaissance. The introduction of visa fees, restrictions on skilled migration from the region, and visitors visas for Mozambicans and Zimbabweans, heartland and border-policing measures, and the rhetoric of state discourses suggests that South Africa's new national identity, while African, is still firmly South African.

Conclusion

The reinvention of South Africa following the 1994 election has been shaped by the state's construction of a new South African national identity. No longer based on race, primordial ethnicities, or color and religion, the new state has laid the foundations of a national identity based on a shared if divided history. Notions of democracy, human rights, and constitutional guarantees and protections are part of an inclusive citizenship.

The simultaneous development of new and increasingly xenophobic discourses around immigration, particularly undocumented migration from the SADC region, similarly reflects the construction of a new national identity based on citizenship. By using citizenship as a criterion for belonging, the "frontier guards" of South African national identity can abrogate the rights of noncitizens when policing the nation's heartland and borders. Now that all South Africans are members of the nation, entitled to all the benefits that accrue to citizens, South Africa's immigration anxieties focus on all those nonnationals who could become members of the nation, and claim access to state resources. Black Africans have thus become the focus of the new state's fears.

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NOTES

1. Dr. Buthelezi, leader of the Inkatha Freedom Party (IFP), was appointed Minister of Home Affairs as part of the post-1994 Government of National Unity and was reappointed following the 1999 elections. His Deputy has always been a member of the African National Congress (ANC).
2. These are in *no* way comparable to those of the previous regime. First, the apartheid regime did not confine its abuse of human rights to migrants and immigrants. Second, by statute, it denied access to black immigrants until 1986, and after that date was highly selective when choosing black immigrants. Furthermore, the post-1994 government has put in place machinery (primarily the Constitutional Court) which can be, and is being, used to challenge the actions of the state (see Human Rights Watch 1998; Crush 1998).
3. The desire to admit only skilled immigrants is a significant, and welcome, break with the previous eighty years of immigration history, when most white immigrants were welcomed whatever their skills and qualifications (Peberdy 1999). The restrictions on applications for immigration permits (and work permits) from within South Africa closes an old, well-established route to permanent residence used by white immigrants in the past.
4. There are signs in the White Paper and Draft Immigration Bill that the economic irrationality of this position is now recognized, if not acted upon.
5. This nationalistic definition of a history exclusive to South Africans would probably be rejected by those whom it excludes, particularly citizens of neighboring countries who also suffered under apartheid and help to contest it.
6. It should be emphasized that not all black South Africans share these sentiments. SAMP research shows that a sizable minority (25–30%) takes a consistently more generous attitude and approach.

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